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

FORM 8-K

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

Date of Report (Date of earliest event reported): January 25, 2024

FORWARD AIR CORPORATION
(Exact name of registrant as specified in its charter)

Tennessee	**000-22490**	**62-1120025**
(State or other jurisdiction of incorporation)	**(Commission File Number)**	**(I.R.S. Employer Identification No.)**

1915 Snapps Ferry Road, Building N
Greeneville, Tennessee 37745
(423) 636-7000
(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

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

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

☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)

☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))

☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Stock, $0.01 par value	FWRD	NASDAQ

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

Emerging Growth Company ☐

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

Introductory Note

On January 25, 2023 (the "Closing Date"), Forward Air Corporation, a Tennessee corporation ("Forward"), Omni Newco LLC, a Delaware limited liability company ("Omni"), and certain other parties completed the previously announced acquisition of Omni by Forward. Pursuant to the Agreement and Plan of Merger, dated as of August 10, 2023 (as amended by Amendment No. 1, dated as of January 22, 2024, the "Amended Merger Agreement"), among Forward, Omni and the other parties thereto, Forward, through a series of transactions involving Forward's direct and indirect subsidiaries (collectively, with the other transactions contemplated by the Amended Merger Agreement and the other Transaction Agreements referred to therein, the "Transactions"), acquired Omni for a combination of (a) $20 million in cash and (b) (i) common equity consideration representing 5,135,008 shares of Forward's outstanding common stock, par value $0.01 per share ("Forward Common Stock") on an as-converted and as-exchanged basis (the "Common Equity Consideration") and (ii) non-voting, convertible perpetual preferred equity consideration representing, if Forward's shareholders give the Conversion Approval (as defined below), an additional 8,880,010 shares of Forward Common Stock on an as-exchanged basis (the "Convertible Preferred Equity Consideration" and, together with the Common Equity Consideration, the "Merger Consideration"). The Common Equity Consideration represents, as of the closing of the Transactions (the "Closing") and before any Conversion Approval, approximately 16.5% of Forward Common Stock, on a fully diluted, as-exchanged basis. If Forward's shareholders approve the conversion of the Convertible Preferred Equity Consideration to Forward Common Stock in accordance with the listing rules of NASDAQ (the "Conversion Approval"), the Common Equity Consideration and the Convertible Preferred Equity Consideration together will represent as of the Closing 35.0% of Forward Common Stock on a fully diluted and as-exchanged basis.

Item 1.01 Entry into a Material Definitive Agreement.

The disclosure set forth in the Introductory Note of this Current Report on Form8-K is incorporated by reference into this Item 1.01.

Assumption and Guarantees of Clue Opco LLC's 9.500% Senior Secured Notes

As previously disclosed, on October 2, 2023, GN Bondco, LLC (the "Escrow Notes Issuer"), a Delaware limited liability company and wholly owned subsidiary of Omni, closed its private offering (the "Notes Offering") of $725,000,000 aggregate principal amount of its 9.500% senior secured notes due 2031 (the "Notes"), in a transaction exempt from registration under the Securities Act of 1933, as amended (the "Securities Act"). The Notes were issued pursuant to an indenture (the "Base Indenture"), dated as of October 2, 2023, between the Escrow Notes Issuer and U.S. Bank Trust Company, National Association (the "Trustee"), as trustee and notes collateral agent.

Pursuant to the Base Indenture, the proceeds of the Notes Offering were deposited into an escrow account along with certain other funds required to be deposited into the escrow account from time to time (collectively, the "Escrowed Notes Funds"), pending the satisfaction of certain escrow release conditions, including the consummation of the Transactions. On January 25, 2024, in connection with the Closing and in accordance with the terms of the Base Indenture, the Escrowed Notes Funds were released and, together with the Escrowed Loan Funds (as defined below) and cash on hand, were used (a) to pay the cash consideration and any other amounts payable by Forward in connection with the Closing, (b) to repay certain existing indebtedness of Forward and Omni and (c) to pay the fees, premiums, expenses and other transaction costs incurred in connection with the Transactions.

In connection with the Closing and as a condition to the release of the Escrowed Notes Funds, (a) the Escrow Notes Issuer merged with and into Clue Opco LLC, a Delaware limited liability company ("Opco"), with Opco surviving the merger as a controlled subsidiary of Forward and (b) Opco, the Notes Guarantors (as defined below) and the Trustee entered into the First Supplemental Indenture, dated as of January 25, 2024 (the "Supplemental Indenture" and, the Base Indenture as supplemented by the Supplemental Indenture, the "Indenture"), to the Base Indenture, pursuant to which (i) Opco assumed all obligations of the Escrow Issuer under the Notes and the Indenture and became the "Issuer" thereunder and (ii) Forward and Opco's domestic subsidiaries that guarantee the New Senior Secured Credit Facilities (as defined below) (collectively, the "Notes Guarantors") agreed to guarantee, jointly and severally, fully and unconditionally, on a senior secured basis, all of Opco's obligations under the Notes and the Indenture.

The Notes and the related guarantees have not been, and will not be, registered under the Securities Act or the securities laws of any other jurisdiction and may not be offered or sold in the United States absent registration or an applicable exemption from the registration requirements of the Securities Act and applicable state laws.

Interest and Maturity

The Notes bear interest at a rate of 9.500% per annum, payable semiannually in cash in arrears on April 15 and October 15 of each year, commencing April 15, 2024. The Notes will mature on October 15, 2031.

Guarantee and Security

The Notes are required to be guaranteed, jointly and severally, fully and unconditionally, on a senior secured basis, by Forward and each of Opco's existing and future domestic subsidiaries that guarantee the New Senior Secured Credit Facilities or any capital markets indebtedness of Opco or any Notes Guarantor in an aggregate principal amount in excess of $100 million. The Notes and related guarantees are secured by a first priority lien on substantially all assets of Opco and the Notes Guarantors (subject to a shared lien of equal priority with Opco's and the Notes Guarantors' obligations under the Notes and the New Senior Secured Credit Facilities and subject to other prior ranking liens permitted by the Indenture).

Optional Redemption

Prior to October 15, 2026, Opco may redeem some or all of the Notes at any time and from time to time at a redemption price equal to 100.000% of the principal amount thereof plus the applicable "make-whole" premium as set forth in the Indenture plus accrued and unpaid interest, if any, to, but excluding, the redemption date. On or after October 15, 2026, Opco may redeem some or all of the Notes at any time and from time to time at the following prices (expressed as a percentage of principal), plus in each case accrued and unpaid interest, if any, to, but excluding, the redemption date: (a) in the case of a redemption occurring during the 12-month period commencing October 15, 2026, at a redemption price of 104.750%; (b) in the case of a redemption occurring during the 12-month period commencing on October 15, 2027, at a redemption price of 102.375%; and (c) in the case of a redemption occurring on or after October 15, 2028, at a redemption price of 100.000%. In addition, at any time and from time to time prior to October 15, 2026, Opco may redeem up to 40.000% of the original aggregate principal amount of the Notes in an amount not to exceed the amount of net cash proceeds from one or more equity offerings at a redemption price equal to 109.500 % of the principal amount thereof, plus accrued and unpaid interest, if any, to, but excluding, the redemption date.

Change of Control

Upon the occurrence of a "change of control", Opco will be required to offer to repurchase all of the outstanding principal amount of the Notes at a purchase price of 101.000% of the principal amount thereof, plus accrued and unpaid interest, if any, to, but excluding, the date of repurchase.

Covenants and Events of Default

The Indenture contains customary events of default, including, among other things, payment default, cross default, judgment default and certain provisions related to bankruptcy events, subject to cure and grace periods in certain cases. The Indenture also contains customary high yield affirmative and negative covenants, including negative covenants that will, among other things, limit Opco and its restricted subsidiaries' ability to incur additional indebtedness, create liens on, sell or otherwise dispose of assets, engage in certain fundamental corporate changes, make certain investments or material acquisitions, repurchase common stock, pay dividends or make similar distributions on capital stock, repay certain indebtedness, engage in certain affiliate transactions and enter into agreements that restrict the ability of subsidiaries to pay dividends or make loans.

Assumption and Guarantees of Opco's Credit Agreement

As previously disclosed, on December 19, 2023, GN Loanco, LLC (the "Escrow Loan Borrower"), a Delaware limited liability company and wholly owned subsidiary of Omni, entered into a credit agreement (the "Credit Agreement") with Citibank, N.A., as administrative agent and collateral agent (in such capacities, the "Credit Agreement Agent") and as initial term loan lender. Pursuant to the Credit Agreement, the Escrow Loan Borrower obtained senior secured term B loans in an aggregate principal amount of $1,125,000,000 (the "New Term Loans").

In connection with the Credit Agreement, Forward and the Escrow Loan Borrower also entered into an escrow agreement with U.S. Bank National Association, as escrow agent, and the Credit Agreement Agent pursuant to which the proceeds of the New Term Loans were deposited into an escrow account along with certain other funds required to be deposited into the escrow account from time to time (collectively, the "Escrowed Loan Funds"), pending the satisfaction of certain escrow release conditions, including the consummation of the Transactions. On January 25, 2024, in connection with the Closing and in accordance with the terms of the Credit Agreement, the Escrowed Loan Funds were released and, together with the Escrowed Notes Funds and cash on hand, were used (a) to pay the cash consideration and any other amounts payable by Forward in connection with the Closing, (b) to repay certain existing indebtedness of Forward and Omni and (c) to pay the fees, premiums, expenses and other transaction costs incurred in connection with the Transactions.

In connection with the Closing and as a condition to the release of the Escrowed Loan Funds, (a) the Escrow Loan Borrower entered into that certain Escrow Release Date Assumption and Joinder Agreement, dated as of January 25, 2024 (the "Assumption and Joinder Agreement"), with Opco, the Loan Guarantors (as defined below) and the Credit Agreement Agent, pursuant to which Opco assumed all obligations of the Escrow Loan Borrower under the Credit Agreement and the Loan Guarantors guaranteed, jointly and severally, fully and unconditionally, on a senior secured basis, Opco's obligations under the Credit Agreement, (b) the Escrow Loan Borrower merged with and into Opco, with Opco surviving the merger as a controlled subsidiary of Forward and (c) Opco entered into that certain Escrow Release Date Incremental Revolving Amendment, dated as of January 25, 2024 (the "Incremental Revolving Amendment"), with the credit parties party thereto, the lenders party thereto (the "Revolving Lenders") and the Credit Agreement Agent, pursuant to which the Revolving Lenders provided revolving credit commitments in an aggregate principal amount of $400,000,000 (the "Revolving Credit Facility" and, together with the New Term Loans, the "New Senior Secured Credit Facility"). No borrowings under the Revolving Credit Facility were made in connection with the consummation of the Transactions.

Interest and Maturity

The New Term Loans will mature on December 19, 2030. The New Term Loans bear interest based, at Opco's election, on (a) a secured overnight financing rate ("Term SOFR") plus an applicable margin or (b) the base rate plus an applicable margin. The base rate is equal the highest of the following: (i) the prime rate; (ii) 0.50% above the overnight federal funds rate; and (iii) the one-month Term SOFR plus 1.00%. The applicable margin for Term SOFR loans is 4.50% and the applicable margin for base rate loans is 3.50%. The New Term Loans are subject to customary amortization of 1.00% per year.

The Revolving Credit Facility will mature on January 25, 2029. Loans made under the Revolving Credit Facility bear interest based, at Opco's election, on (a) Term SOFR plus an applicable margin or (b) the base rate plus an applicable margin. Until delivery of a compliance certificate in respect of the fiscal quarter ending June 30, 2024, the applicable margin for Term SOFR loans is 4.25% and the applicable margin for base rate loans is 3.25%. Thereafter, the applicable margin can range from 3.75% to 4.25% for Term SOFR loans and from 2.75% to 3.25% for base rate loans, in each case depending on Opco's first lien net leverage ratio, as set forth in the Credit Agreement.

Guarantee and Security

Opco's obligations under the Credit Agreement (a) are and will be guaranteed, jointly and severally, fully and unconditionally, on a senior secured basis, by Forward and each of Opco's existing and future domestic subsidiaries (subject to customary exceptions) (collectively, the "Loan Guarantors") and (b) are and will be secured by a lien on substantially all assets of Opco and the Loan Guarantors (subject to customary exceptions, and subject to (i) a shared lien of equal priority with Opco's and the Loan Guarantors' obligations under the Indenture and (ii) other prior ranking liens permitted by the Indenture and the Credit Agreement).

Guarantee and Events of Default

The Credit Agreement includes a customary financial covenant that will require Opco and its restricted subsidiaries to comply with a maximum first lien net leverage ratio from and after the fiscal quarter ending June 30, 2024. The Credit Agreement also includes customary affirmative and negative covenants, including negative covenants that, among other things, restrict Opco and its restricted subsidiaries' ability to incur additional indebtedness, create liens on, sell or otherwise dispose of assets, engage in certain fundamental corporate changes, make certain investments or material acquisitions, repurchase common stock, pay dividends or make similar distributions on capital stock, repay certain indebtedness, engage in certain affiliate transactions and enter into agreements that restrict the ability of subsidiaries to pay dividends or make loans.

The Credit Agreement also contains customary events of default, including, among other things, payment default, cross default, judgment default and certain provisions related to bankruptcy events, subject to cure and grace periods in certain cases.

Shareholders Agreements

At the Closing, Forward entered into (a) a shareholders agreement (the "REP Shareholders Agreement") with affiliates of Ridgemont Equity Partners ("REP"), which provides, among other things, that REP has the right to nominate two directors to the Board of Directors of Forward (the "Board") and (b) a shareholders agreement (the "EVE Shareholders Agreement" and, together with the REP Shareholders Agreement, each a "Shareholders Agreement") with certain indirect equity holders of Omni related to EVE Omni Investor, LLC ("EVE Related Holders" and, together with REP, the "Shareholders"), which provides, among other things, that the EVE Related Holders have the right to nominate one director to the Board. The

Shareholders Agreements provide the Shareholders the right to nominate their respective nominees, subject to terms and conditions related to ongoing ownership of Forward equity securities by each respective Shareholder. Each Shareholder Agreement, among other things, (i) requires each of the Shareholders to vote such Shareholder's voting securities of Forward in favor of directors nominated by the Board and against any other nominees, (ii) provides that each of the Shareholders is subject to standstill restrictions, subject to certain exceptions, and (iii) prohibits the Shareholders from transferring equity securities of Forward, subject to certain exceptions, to certain competitors of Forward and to other shareholders of Forward beneficially owning more than 10% of Forward's voting power. Each of REP and the EVE Related Holders received Merger Consideration representing approximately 13% and 5%, respectively, of Forward's voting power as of the Closing, on a fully-diluted basis and assuming the receipt of the Conversion Approval. Certain other indirect holders of Omni received Merger Consideration representing approximately 6% of Forward's voting power as of the Closing, on a fully-diluted basis and assuming the receipt of the Conversion Approval. Such other indirect holders are subject to the voting obligations, standstill restrictions and transfer restrictions of the EVE Shareholders Agreement until the first anniversary of the Closing.

In addition, at the Closing, Forward entered into a separate investor rights agreement (the "Investor Rights Agreement") with the Shareholders and certain other Omni Holders (as defined below), pursuant to which the Shareholders and such other Omni Holders have customary registration rights, including certain demand and piggyback registration rights, and are subject to a lock-up preventing transfers of Forward's equity securities, subject to certain exceptions, for up to one year following closing.

Termination of Employment Agreement

Forward and John J. Schickel, Jr. entered into an employment agreement (the "Employment Agreement") and restrictive covenants agreement (the "Restrictive Covenants Agreement") on August 10, 2023 (each of which became effective at the Closing). In addition to Mr. Schickel's perpetual obligation to keep confidential information and trade secrets, the Restrictive Covenants Agreement includes provisions covering his obligations with respect to non-competition, non-solicitation of employees and customers and non-disparagement, each of which apply to Mr. Schickel for the later of (a) a period of four years following the Closing or (b) a period of two years following a termination of employment.

In connection with the Closing, Mr. Schickel and Forward mutually agreed that he would not serve in the role of President of Forward or as a member of the Board in connection therewith and Mr. Schickel has accordingly declined these appointments. As a result, Mr. Schickel's employment with Forward and the Employment Agreement terminated effective as of January 30, 2024 and Mr. Schickel is eligible to receive, contingent upon the execution and non-revocation of a mutual general release of claims, a lump sum payment of $1,168,854 and outplacement services in an amount up to $20,000 pursuant to a Release and Separation Agreement, dated as of January 26, 2024, between Forward and Mr. Schickel.

Tax Receivable Agreement

At the Closing, Forward, Opco, Omni Holders and certain other parties entered into a tax receivable agreement (the "Tax Receivable Agreement"), which sets forth the agreement among the parties regarding the sharing of certain tax benefits realized by Forward as a result of the Transactions. Pursuant to the Tax Receivable Agreement, Forward is generally obligated to pay certain Omni Holders 83.5% of (a) the total tax benefit that Forward realizes as a result of increases in tax basis in Opco's assets resulting from certain actual or deemed distributions and the future exchange of units of Opco for shares of securities of Forward (or cash) pursuant to the Opco LLCA (as defined below), (b) certain pre-existing tax attributes of certain Omni Holders that are corporate entities for tax purposes, (c) the tax benefits that Forward realizes from certain tax allocations that correspond to items of income or gain required to be recognized by certain Omni Holders, and (d) other tax benefits attributable to payments under the Tax Receivable Agreement. Payment obligations under the Tax Receivable Agreement rank *pari passu* with all unsecured obligations of Forward but senior to any future tax receivable or similar agreement entered into by Forward.

The term of the Tax Receivable Agreement will continue until all such tax benefits have been utilized or expired unless Forward elects to terminate the Tax Receivable Agreement early (or it is terminated early due to a change of control or insolvency event with respect to Forward or a material breach by Forward of a material obligation under the Tax Receivable Agreement). Upon such an early termination, Forward will be required to make a payment equal to the present value of the anticipated future payments to be made by it under the Tax Receivable Agreement (based upon certain assumptions and deemed events set forth in the Tax Receivable Agreement). In the event of a change of control, under certain circumstances, Forward may elect to pay the early termination payment over a period of 15 years, with the payments increased to reflect the time value of money.

The foregoing descriptions of the Amended Merger Agreement, Base Indenture and Supplemental Indenture, the Credit Agreement, the Assumption and Joinder Agreement and the Incremental Revolving Amendment, the Shareholders Agreements, the Investor Rights Agreement and the Tax Receivable Agreement do not purport to be complete and are subject to, and qualified in each case in their entirety by, the full text of such agreements, copies of which are attached hereto as Exhibits 2.1, 2.2, 4.1, 4.2, 10.1 through 10.7 and are incorporated herein by reference.

Item 1.02 Termination of a Material Definitive Agreement.

On January 25, 2024, in connection with the Closing, Forward terminated its existing credit agreement, dated as of September 29, 2017 (as amended, the "Terminated Credit Agreement"), among Forward, Forward Air, Inc., the guarantors party thereto, the lenders party thereto and Bank of America, N.A., as administrative agent, swing line lender and L/C issuer. The Terminated Credit Agreement provided for $150,000,000 in term loan commitments and $300,000,000 in revolving credit commitments.

Item 2.01 Completion of Acquisition or Disposition of Assets.

The disclosure set forth in the Introductory Note of this Current Report on Form8-K is incorporated by reference into this Item 2.01.

Prior to the consummation of the Transactions, Forward completed a restructuring, pursuant to which, among other things, Forward contributed all of its operating assets to Opco. Opco has been structured as an umbrella partnership C corporation through which the existing direct and certain indirect equityholders of Omni ("Omni Holders"), as of the Closing, hold a portion of the Common Equity Consideration and Convertible Preferred Equity Consideration in the form of Opco units that are exchangeable for Forward Common Stock and Forward Series C Preferred Units as described below.

The portion of the transaction consideration paid to Omni Holders that is Common Equity Consideration consists of (a) shares of Forward Common Stock and (b) Opco Class B Units (as defined below) and corresponding Forward Series B Preferred Units (as defined below) that will be exchangeable at the option of the holders thereof into shares of Forward Common Stock pursuant to the Opco LLCA (as defined below). The portion of the transaction consideration paid to the Omni Holders that is Convertible Preferred Equity Consideration consists of (a) Forward Series C Preferred Units (as defined below) that will automatically convert into shares of Forward Common Stock upon the receipt of the Conversion Approval and (b) Opco Series C-2 Preferred Units (as defined below) that are economically equivalent to the Forward Series C Preferred Units and will automatically convert into Opco Class B Units and corresponding Forward Series B Preferred Units upon the receipt of the Conversion Approval pursuant to the Opco LLCA. The Forward Common Stock issued at Closing and prior to any Conversion Approval represents 19.99% of the fully diluted voting power of Forward as of immediately prior to the Closing. The Convertible Preferred Equity Consideration has an aggregate liquidation preference of $976,801,100 at the Closing (based on a liquidation preference per unit of $110.00 at the Closing as described further below) which, as described above, will convert if Forward's shareholders provide the Conversion Approval into (i) Forward Common Stock and (ii) Opco Class B Units and corresponding Forward Series B Preferred Units.

Opco LLCA

Effective as of the Closing, Forward will operate its business through Opco, which indirectly holds all the assets and operations of Forward and Omni and is governed by an operating agreement that became effective at the Closing (the "Opco LLCA"). Opco is managed by and under the direction of Forward, as the manager of Opco.

The limited liability company interests of Opco are represented by units (collectively, the "Units"), comprised of Units designated as: "Class A Units" ("Opco Class A Units"); "Class B Units" ("Opco Class B Units"); "Series C-1 Preferred Units" ("Opco Series C-1 Preferred Units"); and "Series C-2 Preferred Units" ("Opco Series C-2 Preferred Units"). All Units are non-voting unless otherwise required by law and except for certain amendments and a limited number of other matters.

As a result of the Transactions, as of the Closing, (a) Forward and Clue Parent Merger Sub LLC, a subsidiary of Forward, hold all of the Opco Class A Units and all of the Opco Series C-1 Preferred Units and (b) the Omni Holders hold (i) a portion of the Common Equity Consideration in the form of Opco Class B Units and corresponding Forward Series B Preferred Units and (ii) a portion of the Convertible Preferred Equity Consideration in the form of units of Opco designated as Opco Series C-2 Preferred Units. Subject to certain exceptions permitted under the Opco LLCA, the number of Opco Class A Units outstanding from time to time will equal the number of shares of Forward Common Stock, the number of Opco Class B Units held by the Omni Holders from time to time will equal the number of shares of Forward Series B Preferred Stock and the number of Series C-1 Preferred Units from time to time will equal the number of shares of Forward Series C Preferred Stock. An Opco Class B Unit, together with a corresponding Forward Series B Preferred Unit, generally is equivalent economically and in respect of voting power to one share of Forward Common Stock. The Opco Series C-2 Preferred Units will have substantially the same terms as the Forward Series C Preferred Units except, as described in more detail below, Opco Series C-2 Preferred Units will automatically convert upon the Conversion Approval into Opco Class B Units and corresponding Forward Series B Preferred Units instead of Forward Common Stock.

Pursuant to the Opco LLCA, (a) Opco Class A units are not exchangeable or convertible and (b) a holder of Opco Class B Units (other than Forward or its affiliates) has the right to exchange all or a portion of its Opco Class B Units (together with a corresponding number of Forward Series B Preferred Units) for, at Forward's option (in its capacity as the manager of Opco), an equal number of shares of Forward Common Stock or cash. Prior to the Conversion Approval, Opco Series C-2 Preferred Units will be exchangeable by the holders thereof for an equivalent number of Forward Series C Preferred Units. Immediately after the Conversion Approval, Opco Series C-2 Preferred Units will automatically convert to Opco Class B Units based on liquidation preference of such units and the same Conversion Price as the Forward Series C Preferred Units (as increased by any accrued and unpaid dividends on such Opco Series C-2 Preferred Units) and Forward will issue the holder thereof corresponding Forward Series B Preferred Units on a one-for-one basis for each such Opco Class B Unit.

Pursuant to the Opco LLCA, the Units are subject to customary transfer restrictions, including restrictions on transfers to persons other than certain "Permitted Transferees" described in the Investor Rights Agreement, that are not in accordance with the Shareholders Agreements and certain other transfers specified in the Opco LLCA, subject to certain limited exceptions described in the Opco LLCA.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangements or Registrant.

The disclosure set forth in the Introductory Note and Item 1.01 of this Current Report on Form8-K is incorporated by reference into this Item 2.03.

Item 3.01. Unregistered Sale of Equity Securities.

The disclosure set forth in the Introductory Note, Item 1.01 and Item 5.03 of this Current Report on Form8-K is incorporated by reference into this Item 3.01.

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

As contemplated by the Amended Merger Agreement and pursuant to the bylaws of Forward, effective as of the Closing, the Board (a) increased the size of the Board from 11 directors to 15 directors and (b) appointed Charles Anderson, Robert Edwards, Jr. and Michael Hodge to serve on the Board. The compensation of Mr. Anderson, Mr. Edwards and Mr. Hodge for their service as non-employee directors will be substantially consistent with that of Forward's other non-employee directors, as described in Forward's proxy statement for its 2023 annual meeting of shareholders.

The disclosure set forth in Item 1.01 of this Current Report on Form 8-K under the section titled "Termination of Employment Agreement" (regarding Forward and Mr. Schickel's mutual agreement that he would not serve in the role of President of Forward or as a member of the Board in connection therewith (and Mr. Schickel had accordingly declined these appointments), and the termination of the Employment Agreement) is incorporated by reference herein.

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

Forward Series B Preferred Stock

Pursuant to the Articles of Amendment to the Restated Charter of Forward filed by Forward with the Secretary of State of the State of Tennessee (the "Charter Amendment") at the Closing, Forward established the terms of a new series of preferred stock of Forward designated as "Forward Series B Preferred Stock" (the "Forward Series B Preferred Stock"), and, at the Closing, certain Omni Holders received fractional units (the "Forward Series B Preferred Units") each representing one one-thousandth of a share of Forward Series B Preferred Stock. Each Series B Preferred Unit, together with a corresponding Opco Class B Unit, is exchangeable at the option of the holder thereof into one share of Forward Common Stock.

Holders of Forward Series B Preferred Units and holders of Forward Common Stock will vote together as a single class on all matters to be voted on by Forward's shareholders, subject to limited exceptions. Each holder of record of Forward Series B Preferred Units is entitled to cast one vote for each such unit.

Pursuant to the Charter Amendment, the Forward Series B Preferred Units have a liquidation preference of $0.01 per unit and are not entitled to receive any dividends independent of their corresponding Opco Class B Units. A Series B Preferred Unit and its corresponding Opco Class B Unit may only be transferred together as a single, combined unit.

Forward Series C Preferred Stock

Pursuant to the Charter Amendment, Forward also established the terms of a new series of convertible preferred stock of Forward designated as "Forward Series C Preferred Stock" (the "Forward Series C Preferred Stock"), and, at the Closing, certain Omni Holders received fractional units (each, a "Series C Preferred Unit") each representing one one-thousandth of a share of Forward Series C Preferred Stock. The liquidation preference of a Series C Preferred Unit will be equal to $110.00 per unit, subject to adjustment for any in-kind payment of the Annual Coupon as described below (the "Liquidation Preference").

In connection with the Transactions, Forward has agreed to use its reasonable best efforts to obtain the Conversion Approval at the first annual meeting of Forward's shareholders following the Closing. If Forward does not obtain the Conversion Approval at such annual meeting, then, so long as any Forward Series C Preferred Units remain outstanding, Forward has agreed to continue to use its reasonable best efforts to obtain the Conversion Approval at each annual meeting of shareholders thereafter until the Conversion Approval is obtained.

If the Conversion Approval is obtained, a Series C Preferred Unit will automatically convert into a number of shares of Forward Common Stock equal to the quotient of the aggregate Liquidation Preference of such Series C Preferred Unit ($110.00 at the Closing) and a conversion price of $110.00 (subject to customary anti-dilution adjustments, the "Conversion Price"). If the Conversion Approval is obtained prior to the first anniversary of closing, each Series C Preferred Unit is expected to automatically convert into one share of Forward Common Stock.

The Forward Series C Preferred Units are perpetual and rank senior to the Forward Common Stock with respect to dividend rights and with respect to rights on liquidation, winding-up and dissolution. The Forward Series C Preferred Units are entitled to receive dividends declared or paid on the Forward Common Stock on an as-converted basis. In addition, the Forward Series C Preferred Units accrue on each anniversary of issuance a cumulative annual dividend (without any interim accrual) equal to the product of (a) 14.0% multiplied by (b) the Liquidation Preference (the "Annual Coupon"). The Annual Coupon will be paid, at Forward's option, in cash or in-kind by automatically increasing the Liquidation Preference in an equal amount. For so long as the Forward Series C Preferred Units remain outstanding, subject to certain limited exceptions, Forward will not be able to declare, make or pay dividends or distributions unless all accrued and unpaid dividends have been paid in cash or in kind on the Forward Series C Preferred Units.

In the event of any liquidation, dissolution or winding-up of Forward, each holder of Forward Series C Preferred Units will be entitled to receive an amount equal to the sum of (a) the greater of (i) the aggregate Liquidation Preference attributable to such holder's Forward Series C Preferred Units, and (ii) the product of (x) the amount per share that would have been payable upon such liquidation, dissolution or winding-up to the holders of shares of Forward Common Stock or such other class or series of securities into which such holder's Forward Series C Preferred Units is then convertible

(assuming the conversion of each Series C Preferred Unit), multiplied by (y) the number of shares of Forward Common Stock or such other securities into which the Forward Series C Preferred Units are then convertible, plus (b) an amount of all declared and unpaid dividends with respect thereto.

The Forward Series C Preferred Units are generallynon-voting, except that the consent of the holders of a majority of the outstanding Forward Series C Preferred Units, voting as a separate class, is required for certain matters adversely affecting the rights and privileges of the Forward Series C Preferred Units.

Commencing on the sixth anniversary of the Closing (and, thereafter, only duringthe 60-day period following any anniversary of the Closing), the Forward Series C Preferred Units will be callable at Forward's option in whole (and not in part), at a call price per Series C Preferred Unit equal to (a) the product of (i) the greater of (A) the outstanding liquidation preference of such Series C Preferred Unit and (B) the product of (x) the number of shares of Forward Common Stock into which such Series C Preferred Unit would be convertible upon the receipt of the Conversion Approval, and (y) the 20-day volume-weighted average price per share of Forward Common Stock during a defined period prior to the call, and (ii) 103%, plus (b) the amount of all declared and unpaid dividends in respect of such Series C Preferred Unit.

The foregoing description of the Charter Amendment does not purport to be complete and are subject to, and qualified in each case in its entirety by, the full text of the Charter Amendment, a copy of which is attached hereto as Exhibit 3.1 and is incorporated herein by reference.

Item 7.01. Regulation FD Disclosure.

On the Closing Date, Forward issued a press release announcing the completion of the Transactions, a copy of which is attached as Exhibit 99.1 to this Current Report on Form 8-K and is incorporated herein by reference.

The information contained in this Item 7.01 and Exhibit 99.1 attached hereto shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that Section, nor shall it be deemed incorporated by reference in any filing under the Securities Act or the Exchange Act, except as expressly set forth by specific reference in such filing.

Item 9.01. Financial Statements and Exhibits.

(a) Financial statements of business acquired.

The financial statements of the acquired business will be filed by an amendment to this Current Report on Form 8-K no later than 71 calendar days after the date on which this Current Report on Form 8-K must be filed.

(b) Pro forma financial information.

Pro forma financial information giving effect to the Transactions will be filed by an amendment to this Current Report on Form 8-K no later than 71 calendar days after the date on which this Current Report on Form 8-K must be filed.

(d) Exhibits

2.1*	Agreement and Plan of Merger, dated as of August 10, 2023, by and among, among others, Forward Air Corporation and Omni Newco, LLC (filed as Exhibit 2.1 to Forward's Current Report on Form 8-K filed with the Securities and Exchange Commission on August 14, 2023 and incorporated herein by reference)
2.2*	Amendment No. 1 to the Original Merger Agreement, dated as of January 22, 2024, by and among Forward Air Corporation and Omni Newco, LLC (filed as Exhibit 2.1 to Forward's Current Report on Form 8-K filed with the Securities and Exchange Commission on January 24, 2024 and incorporated herein by reference)
3.1	Articles of Amendment to the Restated Charter of Forward Air Corporation, as filed with the Secretary of State of the State of Tennessee
4.1	Indenture, dated as of October 2, 2023, by and among Clue Opco LLC (as successor to GN Bondco, LLC), as issuer, and U.S. Bank Trust Company, National Association, as trustee and notes collateral agent

4.2	First Supplemental Indenture, dated as of January 25, 2024, by and among Clue Opco LLC, as issuer, Forward Air Corporation and the other guarantors party thereto, as guarantors, and U.S. Bank Trust Company, National Association, as trustee and notes collateral agent
10.1*	Credit Agreement, dated as of December 19, 2023, by and among, GN Loanco, LLC, the other credit parties party thereto from time to time, Citibank, N.A. and the lenders and L/C issuers party thereto from time to time
10.2	Escrow Release Date Assumption and Joinder Agreement, dated as of January 25, 2024, among GN Loanco, LLC, Clue Opco LLC, Forward Air Corporation, the subsidiary guarantors party thereto and Citibank, N.A.
10.3*	Escrow Release Date Incremental Revolving Amendment, dated as of January 25, 2024, among Clue Opco LLC, the credit parties party thereto from time to time, the lenders party thereto from time to time and Citibank, N.A.
10.4*	Shareholder Agreement, dated as of January 25, 2024, by and among, Forward Air Corporation, REP Omni Holdings, L.P. and the other parties thereto
10.5*	Shareholder Agreement, dated as of January 25, 2024, by and among, Forward Air Corporation, EVE Omni Investor, LLC and Omni Investor Holdings, LLC and the other parties thereto
10.6*	Investor Rights Agreement, dated as of January 25, 2024, by and among Forward Air Corporation, REP Omni Holdings, L.P. and Omni Investor Holdings L.P.
10.7	Tax Receivable Agreement, dated as of January 25, 2024, by and among Forward Air Corporation, Central States Logistics, Inc., Clue Opco LLC and the members from time to time party thereto
99.1	Press Release of Forward Air Corporation dated as of January 25, 2024
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

* Schedules and exhibits omitted pursuant to Item 601(a)(5) of Regulation S-K. Forward agrees to furnish supplementally a copy of any omitted schedule or exhibit to the Securities and Exchange Commission upon request.

SIGNATURES

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

FORWARD AIR CORPORATION

Date: January 31, 2024

By: /s/ Thomas Schmitt
Name: Thomas Schmitt
Title: President and Chief Executive Officer

Exhibit 3.1

ARTICLES OF AMENDMENT
TO THE
RESTATED CHARTER
OF
FORWARD AIR CORPORATION

In accordance with the provisions of Sections 48-16-102 and 48-20-106 of the Tennessee Business Corporation Act, the undersigned corporation adopts the following Articles of Amendment (the "Articles of Amendment") to its Restated Charter (the "Charter"):

1. The name of the corporation is Forward Air Corporation, a Tennessee corporation (the "Corporation").

2. Article 7 of the Charter is amended by adding the following new subsections (d) and (e) to Article 7 stating the number, designation, relative rights, preferences and limitations of two new series of preferred stock as fixed by the Board of Directors of the Corporation, which sections shall read in their entirety as follows:

"(d) Series B Preferred Stock and Series B Preferred Units

1. Designation and Number of Shares and Units. There is hereby created out of the authorized and unissued shares of Preferred Stock a series of preferred stock designated as the "Series B Preferred Stock" (hereinafter called "Series B Preferred Stock"). The authorized number of shares of Series B Preferred Stock shall initially be 15,000 and such shares shall have a par value of $0.01 per share. Each share of Series B Preferred Stock shall be issued in fractional units of one one-thousandth (1/1000) of one share of Series B Preferred Stock (hereafter called "Series B Preferred Units"), and the par value of each Series B Preferred Unit shall be $0.00001.

2. Series B Standard Provisions. The Series B Standard Provisions contained in Annex A (the "Series B Standard Provisions") attached hereto are incorporated herein by reference in their entirety and shall be deemed to be a part of this Charter to the same extent as if such provisions had been set forth in full herein.

(e) Series C Preferred Stock and Series C Preferred Units

1. Designation and Number of Shares and Units. There is hereby created out of the authorized and unissued shares of Preferred Stock a series designated as the "Series C Preferred Stock" (hereinafter called "Series C Preferred Stock"). The authorized number of shares of Series C Preferred Stock shall initially be 10,000 and such shares shall have a par value of $0.01 per share. Each share of Series C Preferred Stock shall be issued in fractional units of one one-thousandth (1/1000) of one share of Series C Preferred Stock (hereafter called "Series C Preferred Units"), and the par value of each Series C Preferred Unit shall be $0.00001.

2. Series C Standard Provisions. The Series C Standard Provisions contained in Annex B (the "Series C Standard Provisions") attached hereto are incorporated herein by reference in their entirety and shall be deemed to be a part of this Charter to the same extent as if such provisions had been set forth in full herein.

3. Except as amended by these Articles of Amendment, the Charter of the Corporation shall remain in full force and effect.

4. These Articles of Amendment were duly adopted by the Board of Directors of the Corporation (at a meeting duly convened and held on August 9, 2023) without shareholder approval as such approval was not required.

5. These Articles of Amendment to the Charter of the Corporation will be effective upon the filing thereof with the Secretary of State of the State of Tennessee.

[*Remainder of Page Intentionally Left Blank*]

Date: January 25, 2024

FORWARD AIR CORPORATION

/s/ Michael L. Hance
Name: Michael L. Hance
Title: Chief Legal Officer and Secretary

[*Signature Page to Charter Amendment*]

Forward Air Corporation
Series B Standard Provisions for Series B Preferred Stock

Section 1. Ranking; Term; Nature.

(a) Each share of Series B Preferred Stock shall be identical in all respects to every other share of Series B Preferred Stock, and each Series B Preferred Unit shall be identical in all respects to every other Series B Preferred Unit. The Series B Preferred Stock (and Series B Preferred Units) shall rank, with respect to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Corporation, (i) senior to the common stock, par value $0.01 per share, of the Corporation (the "Common Stock"), whether now outstanding or hereafter issued, and to each other class or series of stock of the Corporation (including any series of Preferred Stock currently established or established hereafter, but excluding the Series C Preferred Stock) the terms of which do not expressly provide that such class or series ranks senior to, or pari passu with, the Series B Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Corporation (collectively referred to as "Junior Stock"); (ii) pari passu with each other class or series of stock of the Corporation (including any series of Preferred Stock established after the Issue Date by the Board of Directors) the terms of which expressly provide that such class or series ranks pari passu with the Series B Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Corporation; and (iii) junior to the Series C Preferred Stock and each other class or series of stock of the Corporation (including any series of Preferred Stock established after the Issue Date by the Board of Directors) the terms of which expressly provide that such class or series ranks senior to the Series B Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Corporation. The Corporation's ability to issue Capital Stock that rankspari passu with or senior to the Series B Preferred Stock shall be subject to the provisions of Section 2.

(b) The Series B Preferred Units shall be perpetual.

(c) Since one Series B Preferred Unit and one Class B Unit together represent an economic and voting unit, Series B Preferred Units shall only be issued to, and registered in the name of, a holder of Class B Units and a Series B Preferred Unit only may be transferred together with a corresponding Class B Unit in accordance with the terms of the Opco LLCA.

Section 2. Voting Rights. Subject to applicable law and the rights, if any, of the holders of any outstanding Series B Preferred Units, the Holders and the holders of outstanding shares of Common Stock shall vote together as a single class on all matters with respect to which shareholders are entitled to vote under applicable law, this Charter or the Bylaws, or upon which a vote of shareholders generally entitled to vote is otherwise duly called for by the Corporation. At each annual or special meeting of shareholders, each Holder on the relevant record date shall be entitled to cast one vote in person or by proxy for each Series B Preferred Unit standing in such Holder's name on the stock transfer records of the Corporation. The Holders shall not have cumulative voting rights. Except as may otherwise be required by law or as specifically set forth in this Section 2, Section 3 or Section 5, the Series B Preferred Units shall not have any other special voting powers and the voting powers of the Holders and holders of shares of Common Stock shall be in all respects identical.

Section 3. Amendments Affecting Stock. So long as any Series B Preferred Units are outstanding, in addition to any other vote of shareholders of the Corporation required under applicable law or the Charter, the affirmative vote or consent of the holders of at least a majority of the outstanding number of Series B Preferred Units, voting separately as a single class, will be required for any amendment, alteration or repeal of (a) the Charter (including as a result of a merger, reorganization, consolidation, or other similar or extraordinary transaction) if the amendment, alteration or repeal would alter or change the powers, preferences, privileges or rights of the Holders so as to affect them adversely or (b) the Bylaws (including as a result of a merger, reorganization, consolidation, or other similar or extraordinary transaction) if the amendment, alteration or repeal would alter or change the powers preferences or rights of the Holders so as to adversely affect them differently in any material respect than the holders of Common Stock are so affected.

Section 4. No Dividends. The Holders shall not be entitled to receive any dividends (including cash, stock or property) in respect of their Series B Preferred Units; provided, that in the event of a dividend to holders of Common Stock in the form of shares of Common Stock or rights to acquire Common Stock, the holders of Series B Preferred Units shall simultaneously receive a dividend of Series B Preferred Units or rights to acquire Series B Preferred Units, in each case in the same proportion and manner, pursuant to the terms of the Opco LLCA or otherwise.

Section 5. Stock Splits. Without the prior vote of the holders of a majority of the Series B Preferred Units then outstanding and the holders of a majority of the shares of Common Stock then outstanding, each voting separately as a single class, no reclassification, subdivision, split or combination (whether by merger, reorganization, consolidation, or other similar or extraordinary transaction) shall be effected on the Series B Preferred Units or the Common Stock unless the same reclassification, subdivision, split or combination, in the same proportion and manner, is made on the other.

Section 6. Liquidation Preference. In the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, each Holder shall be entitled to receive out of the assets of the Corporation available for distribution to shareholders of the Corporation, before any distribution of assets is made on the Common Stock or any other Junior Stock, an amount equal to the aggregate Liquidation Preference attributable to Series B Preferred Units held by such Holder. After the payment to the Holders of the full preferential amounts provided for above, the Holders as such shall have no right or claim to any of the remaining assets of the Corporation.

Section 7. Merger or Consolidation. Subject to Section 5, in the event of a merger, reorganization, consolidation, or other similar or extraordinary transaction of the Corporation with or into another entity (whether or not the Corporation is the surviving entity), the Holders shall not be entitled to receive any economic consideration in respect of a Series B Preferred Unit; provided, however; that the Corporation shall comply with the terms of the Opco LLCA, including with respect to any redemption or exchange of the Class B Units in connection with such merger, reorganization, consolidation, or other similar or extraordinary transaction.

Section 8. No Preemptive Rights. No Holder shall be entitled to preemptive rights.

Section 9. Exchange and Cancellation of Series B Preferred Units. To the extent that either (a) any Person exercises its rights pursuant to the terms of the Opco LLCA to have its Class B Units (as defined in the Opco LLCA and hereinafter, the "Class B Units") (together with a corresponding Series B Preferred Unit) redeemed, purchased or exchanged by Holdco for Common Stock pursuant to the terms of the Opco LLCA or (b) the Corporation otherwise requires any holder of Class B Units to redeem or exchange its Class B Units pursuant to the terms of the Opco LLCA, then simultaneous with the payment of, at the Holdco's election, cash or shares of Common Stock to such Person for such redemption or exchange pursuant to the terms of the Opco LLCA, the Series B Preferred Units so redeemed or exchanged in connection therewith (or otherwise corresponding thereto) shall be automatically (and without any further action on the part of the Corporation or the Holder thereof) cancelled for no consideration.

Section 10. Transfer of Series B Preferred Units.

(a) The transfer of a Class B Unit pursuant to the terms of the Opco LLCA shall result in the automatic transfer of an equal number of Series B Preferred Units to the same transferee. No Holder shall transfer a Series B Preferred Unit other than with an equal number of Class B Units (in each case, as such number may be adjusted to reflect equitably any stock split, subdivision, combination or similar change with respect to the Series B Preferred Units or Class B Units) pursuant to the terms of the Opco LLCA. The transfer restrictions described in this Section 10(a) are referred to as the "Restrictions".

(b) Any purported transfer of Series B Preferred Units in violation of the Restrictions shall, to the fullest extent permitted by applicable law, be null and void. If, notwithstanding the Restrictions, a Person shall, voluntarily or involuntarily, purportedly become or attempt to become the purported transferee of Series B Preferred Units (the "Purported Owner") in violation of the Restrictions, then the Purported Owner shall, to the fullest extent permitted by applicable law, not obtain any rights in and to such Series B Preferred Units (the "Restricted Shares"), and the purported transfer of the Restricted Shares to the Purported Owner shall, to the fullest extent permitted by applicable law, not be recognized by the Corporation or the Transfer Agent.

(c) Upon a determination by the Board of Directors that a Person has attempted or is attempting to transfer or to acquire Series B Preferred Units, or has purportedly transferred or acquired Series B Preferred Units, in violation of the Restrictions, the Board of Directors may take such lawful action as it deems advisable to refuse to give effect to such attempted or purported transfer or acquisition on the books and records of the Corporation, including, to the fullest extent permitted by applicable law, to cause the Corporation's Transfer Agent to refuse to record the Purported Owner's transferor as the record owner of the Series B Preferred Units, and to institute proceedings to enjoin any such attempted or purported transfer or acquisition, or reverse any entries or records reflecting such attempted or purported transfer or acquisition.

(d) Notwithstanding the Restrictions, (i) in the event that any outstanding Series B Preferred Units shall cease to be held by a registered holder of Class B Units, such Series B Preferred Units shall be automatically (and without action on the part of the Corporation or the Holder thereof) cancelled for no consideration and (ii) in the event that any Holder no longer holds an equal number of Series B Preferred Units and of Class B Units (as such numbers may be adjusted to reflect equitably any stock split, subdivision, combination or similar change with respect to Series B Preferred Units or Class B Units), the Series B Preferred Units registered in the name of such Holder that exceed the number of Class B Units held by such Holder shall be automatically (and without further action on the part of the Corporation or such Holder) cancelled for no consideration.

(e) The Board of Directors may, to the fullest extent permitted by applicable law, from time to time establish, modify, amend or rescind, by bylaw or otherwise, regulations and procedures that are consistent with the provisions of this Section 10 and the Opco LLCA, for determining whether any transfer or acquisition of Series B Preferred Units would violate the Restrictions and for the orderly application, administration and implementation of the provisions of this Section 10. Any such procedures and regulations shall be kept on file with the Secretary and with the Transfer Agent and shall be made available for inspection by any prospective transferee of Series B Preferred Units and, promptly after being implemented, shall be mailed or otherwise delivered, as determined by the Corporation, to a Holder.

(f) The Board of Directors shall, to the fullest extent permitted by applicable law, have all powers necessary to implement the Restrictions, including without limitation the power to prohibit the transfer of any Series B Preferred Units in violation thereof.

Section 11. Series B Preferred Units Legend. All book-entries representing Series B Preferred Units shall bear a legend substantially in the following form (or in such other form as the Board of Directors may determine):

THE SECURITIES REPRESENTED BY THIS BOOK ENTRY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO A REGISTRATION STATEMENT RELATING THERETO IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

Section 12. Status of Converted, Redeemed, Repurchased or Cancelled Units Series B Preferred Units that have been cancelled have the status of authorized but unissued shares or units of Preferred Stock undesignated as to series and may be designated or redesignated and issued or reissued, as the case may be, as part of any series of Preferred Stock; provided that any issuance of such Series B Preferred Units must be in compliance with the terms hereof.

Section 13. Notices. All notices or communications in respect of Series B Preferred Units shall be sufficiently given if given in writing and delivered in person or by first class mail, postage prepaid, or if given in such other manner as may be permitted in the Charter or Bylaws or by applicable law.

Section 14. Definitions. As used in this Annex A, the following terms have the meanings specified below:

(a) "Articles of Amendment" has the meaning set forth in the first paragraph of the Articles of Amendment.

(b) "Board of Directors" means the Board of Directors of the Corporation.

(c) "Bylaws" means the Bylaws of the Corporation (as amended and restated from time to time).

(d) "Capital Stock" of any Person means any and all shares, units, interests, participations or other equivalents however designated of corporate stock or other equity participations, including partnership interests, whether general or limited, of such Person and any rights (other than debt securities convertible or exchangeable into an equity interest), warrants or options to acquire an equity interest in such Person.

(e) "Charter" means the Restated Charter of the Corporation (as modified by these Articles of Amendment and as further amended and restated from time to time).

(f) "Corporation" has the meaning set forth in the first paragraph of the Articles of Amendment.

(g) "Common Stock" has the meaning set forth in Section 1.

(h) "Holder" means the Person in whose name a Series B Preferred Unit is registered in its capacity as a holder of Series B Preferred Units.

(i) "Holdco" means Central States Logistics, Inc. an Illinois corporation and wholly owned subsidiary of the Corporation.

(j) "Issue Date" means January 25, 2024.

(k) "Junior Stock" has the meaning set forth in Section 1

(l) "Liquidation Preference" means an amount equal to $0.01 per Series B Preferred Unit.

(m) "Merger Agreement" means that certain Agreement and Plan of Merger, dated as of August 10, 2023, among the Corporation, Holdco, Opco, Omni Newco, LLC and the other parties thereto, as amended prior to the Issue Date.

(n) "Opco" means Clue Opco LLC, a Delaware limited liability company.

(o) "Opco LLCA" means the amended and restated limited liability company agreement of Opco in effect from time to time; provided, that for so long as the definitive agreement constituting the amended and restated limited liability company agreement of Opco contemplated by Section 7.22(a)(i) of the Merger Agreement is not in effect, "Opco LLCA" shall refer to the terms and conditions set forth on Exhibit C to the Merger Agreement.

(p) "Opco Series C-2 Preferred Units" means the units of Opco designated as "Series C-2 Preferred Units" pursuant to the terms of the Opco LLCA.

(q) "Person" means any natural person, corporation, limited liability company, partnership, joint venture, trust, business association, governmental entity or other entity.

(r) "Purported Owner" has the meaning set forth in Section 10(b).

(s) "Restricted Shares" has the meaning set forth in Section 10(b).

(t) "Restrictions" has the meaning set forth in Section 10(a).

(u) "Securities Act" means the Securities Act of 1933, as amended.

(v) "Series C Preferred Stock" has the meaning set forth in the Charter.

(w) "Series C Preferred Units" has the meaning set forth in the Charter.

(x) "Shareholders Agreement" means, collectively (i) that certain Shareholders Agreement, dated as of the Issue Date, by and among the Corporation, the E Investor referred to in the Merger Agreement and the other parties thereto, as amended from time to time, (ii) that certain Shareholders Agreement, dated as of the Issue Date, by and among the Corporation, the R Investors referred to in the Merger Agreement and the other parties thereto, as amended from time to time or (iii) the Investor Rights Agreement, dated as of the Issue Date, by and among the Corporation and other parties thereto, in each case, as applicable to a particular Holder.

(y) "Shareholder Approval" means the approval of the Corporation's shareholders for (i) the conversion of the Series C Preferred Units into Common Stock as described in this Charter, (ii) the issuance of Common Stock issuable upon an exchange of Opco Class B Units (and corresponding Series B Preferred Units) resulting from the conversion of Opco Series C-2 Preferred Units, in each case, pursuant to the terms of this Charter and the Opco LLCA and (iii) the issuance of additional Series B Preferred Units contemplated by the Opco LLCA, in each case pursuant to and in accordance with the listing rules of NASDAQ, including for all applicable purposes of NASDAQ Listing Rule 5635.

(z) "Transfer Agent" means Computershare Trust Corporation, N.A. unless and until a successor is selected by the Corporation, and then such successor.

Section 15. Miscellaneous.

(a) The Corporation covenants that it will at all times reserve and keep available, free from preemptive rights, (i) out of its authorized but unissued shares of Common Stock (in addition to any amounts reserved for any other purpose, including the conversion of the

Series C Preferred Units but without duplication), for the purpose of effecting the exchange or redemption of Series B Preferred Units in accordance with Section 9 not theretofore converted, the aggregate number of shares of Common Stock deliverable upon the exchange or redemption of (x) all outstanding Class B Units (and corresponding Series B Preferred Units) pursuant to the terms of the Opco LLCA and (y) all Class B Units (and corresponding Series B Preferred Units) issuable upon conversion of the Opco Series C-2 Preferred Units pursuant to the terms of the Opco LLCA upon receipt of the Shareholder Approval, and (ii) out of its authorized but unissued Series B Preferred Units, for the purpose of effecting the issuance of Series B Preferred Units pursuant to the terms of the Opco LLCA, the aggregate number of Series B Preferred Units to be issued pursuant to the terms of the Opco LLCA upon receipt of the Shareholder Approval.

(b) The Corporation covenants that any shares of Common Stock issued upon exchange or redemption of the Series B Preferred Units (and the corresponding Class B Units) pursuant to the terms of the Opco LLCA will be duly and validly issued, fully paid, and nonassessable, and free of any Encumbrances (as defined in the Merger Agreement) other than restrictions under the Transaction Agreements (as defined in the Merger Agreement), any Organizational Documents (as defined in the Merger Agreement) and under applicable law, including blue sky laws and the Securities Act.

(c) The Corporation shall cause Opco to pay all transfer, stamp and other similar taxes due with respect to the issuance or delivery of shares of Common Stock or other securities or property upon redemption or exchange by Opco of the Series B Preferred Units and any issuance of Series B Preferred Units pursuant to the Transaction Agreements (as defined in the Merger Agreement); provided, however, that the Opco shall not be required to pay any tax that may be payable with respect to any transfer involved in the issuance or delivery of shares of Common Stock, Series B Preferred Units or other securities or property in a name other than that of the Holder of the Series B Preferred Units to be redeemed or exchanged (as applicable), and the Holder shall be responsible for any such tax.

(d) Notwithstanding anything to the contrary contained in these Articles of Amendment, no Series B Preferred Units shall be issued in physical, certificated form. All Series B Preferred Units shall be evidenced by book-entry on the record books maintained by the Corporation or its Transfer Agent.

(e) The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

(f) Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction should determine that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as shall be necessary to render the provision in question effective and valid under applicable law. If any of the voting powers, preferences and relative, participating, optional and other special rights of the Series B Preferred Units and qualifications, limitations and restrictions thereof set forth

herein is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other voting powers, preferences and relative, participating, optional and other special rights of Series B Preferred Units and qualifications, limitations and restrictions thereof set forth herein which can be given effect without the invalid, unlawful or unenforceable voting powers, preferences and relative, participating, optional and other special rights of Series B Preferred Units and qualifications, limitations and restrictions thereof shall, nevertheless, remain in full force and effect, and no voting powers, preferences and relative, participating, optional or other special rights of Series B Preferred Units and qualifications, limitations and restrictions thereof herein set forth shall be deemed dependent upon any other such voting powers, preferences and relative, participating, optional or other special rights of Series B Preferred Units and qualifications, limitations and restrictions thereof unless so expressed herein.

(g) To the fullest extent permitted by applicable law, the Corporation and the Transfer Agent may deem and treat the Holders as the true and lawful owner of the Series B Preferred Units for all purposes, and neither the Corporation nor the Transfer Agent shall be affected by any notice to the contrary.

[*Remainder of Page Intentionally Left Blank*]

Forward Air Corporation
Series C Standard Provisions for Series C Preferred Stock

Section 1. Ranking; Term.

(a) Each share of Series C Preferred Stock shall be identical in all respects to every other share of Series C Preferred Stock, and each Series C Preferred Unit shall be identical in all respects to every other Series C Preferred Unit. The Series C Preferred Stock (and Series C Preferred Units) shall rank, with respect to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Corporation, (i) senior to the common stock, par value $0.01 per share, of the Corporation (the "Common Stock"), whether now outstanding or hereafter issued, and to each other class or series of stock of the Corporation (including any series of Preferred Stock currently established or established hereafter) the terms of which do not expressly provide that such class or series ranks senior to, or pari passu with, the Series C Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Corporation (collectively referred to as "Junior Stock"); (ii) pari passu with each other class or series of stock of the Corporation (including any series of Preferred Stock established after the Issue Date by the Board of Directors) the terms of which expressly provide that such class or series ranks pari passu with the Series C Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Corporation (collectively referred to as "Parity Stock"); and (iii) junior to each other class or series of stock of the Corporation (including any series of Preferred Stock established after the Issue Date by the Board of Directors) the terms of which expressly provide that such class or series ranks senior to the Series C Preferred Stock as to payment of dividends and distribution of assets upon the liquidation, winding-up or dissolution of the Corporation (collectively referred to as "Senior Stock"). The Corporation's ability to issue Capital Stock that ranks pari passu with or senior to the Series C Preferred Stock shall be subject to the provisions of Section 4.

(b) The Series C Preferred Units shall be perpetual.

Section 2. Dividends.

(a) Generally. Holders of Series C Preferred Units shall be entitled to participate equally and ratably with the holders of shares of Common Stock in all dividends on the shares of Common Stock as if immediately prior to each record date for the Common Stock, Series C Preferred Units then outstanding were converted into shares of Common Stock in accordance with these Series C Standard Provisions ("Common Dividends"). Dividends payable pursuant to this Section 2(a) shall be payable on the same date and in the same form that such dividends are payable to holders of shares of Common Stock (each, a "Common Payment Date"), and no dividends shall be payable to holders of shares of Common Stock unless dividends contemplated by this Section 2(a) are also paid at the same time in respect of Series C Preferred Units. Each dividend shall be payable to the holders of record of Series C Preferred Units as they appear on the stock records of the Corporation at the close of business on the same day as the record date for the payment of dividends to the holders of shares of Common Stock (each, a "Common Record Date").

(b) Annual Dividend.

(i) Amount of Annual Dividend. In addition to Common Dividends (if any), Holders shall be entitled, in preference and priority to the holders of all Junior Stock, to cumulative dividends on each Series C Preferred Unit, which dividend shall accrue annually on each anniversary of the Issue Date (the "Annual Accrual Date") at the rate per annum of 14% on the Liquidation Preference of such Series C Preferred Unit at such time (the "Annual Coupon Dividend"), whether or not declared by the Board of Directors, and shall be paid in accordance with Section 2(b)(ii). There shall be no partial accrual of the Annual Coupon Dividend on any day between each Annual Accrual Date. The Annual Coupon Dividend shall be payable to Holders of record on the close of business on the Business Day immediately preceding the Annual Accrual Date.

(ii) Payment of Annual Dividends. The Corporation may make each Annual Coupon Dividend on each Series C Preferred Unit at the Corporation's option either (A) in cash, if so elected by declaration by the Corporation prior to such Annual Accrual Date, or (B) otherwise, by an increase on such Annual Accrual Date of the Liquidation Preference of such Series C Preferred Unit by an amount equal to such Annual Coupon Dividend. If the Corporation does not elect to pay the full amount of the Annual Coupon Dividend in cash by declaration thereof on or prior to the Annual Accrual Date, such dividend shall automatically be paid by increasing the Liquidation Preference of the Series C Preferred Units on the Annual Accrual Date as described in clause (B) of the immediately preceding sentence. If the Corporation so elects to pay the Annual Coupon Dividend in cash (the "Annual Cash Dividends"), it must do so in full and with respect to all then outstanding Series C Preferred Units by declaration thereof on or prior to the Annual Accrual Date, in which case such cash dividends will be payable by the Corporation on the fifth calendar day (or the following Business Day if the fifth is not a Business Day) following the Annual Accrual Date (each such date being referred to herein as a "Dividend Payment Date").

(c) Payment Restrictions. No dividends or other distributions (other than a dividend or distribution payable solely in shares of Parity Stock or Junior Stock (in the case of Parity Stock) or Junior Stock (in the case of Junior Stock) and other than cash paid in lieu of fractional shares) may be declared, made or paid, or set apart for payment upon, any Parity Stock or Junior Stock, nor may any Parity Stock or Junior Stock be redeemed, purchased or otherwise acquired for any consideration (or any money paid to or made available for a sinking fund for the redemption of any Parity Stock or Junior Stock) by or on behalf of the Corporation (except by conversion into or exchange for shares of Parity Stock or Junior Stock (in the case of Parity Stock) or Junior Stock (in the case of Junior Stock)), unless all accrued and unpaid dividends shall have been, or contemporaneously are, declared and paid (in cash or in kind), or are declared and a sum of cash sufficient for the payment thereof is set apart for such payment, on the Series C Preferred Units and any Parity Stock for all dividend payment periods terminating on or prior to the date of such declaration, payment, redemption, purchase or acquisition. Notwithstanding the foregoing, if full dividends have not been paid on the Series C Preferred Units and any Parity Stock, dividends may be declared and paid on the Series C Preferred Units and such Parity Stock

so long as the dividends are declared and paid pro rata so that the aggregate amounts of dividends declared per share or unit, as applicable, on, and the amounts of such dividends declared in cash or in kind, as applicable, per share or unit, as applicable, on, the Series C Preferred Units and such Parity Stock will in all cases bear to each other the same ratio that accrued and unpaid dividends per share on or unit, as applicable, the Series C Preferred Units and such other Parity Stock bear to each other.

Section 3. Liquidation Preference. In the event of any voluntary or involuntary liquidation, dissolution or winding-up of the Corporation, each Holder shall be entitled to receive out of the assets of the Corporation available for distribution to shareholders of the Corporation, before any distribution of assets is made on the Common Stock or any other Junior Stock, an amount equal to the sum of (a) the greater of (i) the aggregate Liquidation Preference attributable to Series C Preferred Units held by such Holder, and (ii) the product of (x) the amount per share that would have been payable upon such liquidation, dissolution or winding-up to the holders of shares of Common Stock or such other class or series of securities into which the Series C Preferred Units are then convertible (assuming the conversion of each Series C Preferred Unit), multiplied by (y) the number of shares of Common Stock or such other securities into which the Series C Preferred Units held by such Holder are then convertible, plus (b) an amount of all declared and unpaid Common Dividends and Annual Cash Dividends with respect thereto. A Reorganization shall not constitute a voluntary or involuntary liquidation, dissolution or winding-up of the Corporation for the purposes of the immediately preceding sentence.

In the event the assets of the Corporation available for distribution to Holders upon any liquidation,winding-up or dissolution of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such Holders are entitled pursuant to this Section 3, no such distribution shall be made on account of any shares or units of Parity Stock upon such liquidation, dissolution or winding-up unless proportionate distributable amounts shall be paid on account of the Series C Preferred Units, ratably, in proportion to the full distributable amounts for which Holders and holders of any Parity Stock are entitled upon such liquidation, winding-up or dissolution, with the amount allocable to each series of such stock determined on a pro rata basis of the aggregate liquidation preference of the outstanding shares or unit of each series and any declared and unpaid dividends to which each series is entitled.

After the payment to the Holders of the full preferential amounts provided for above, the Holders as such shall have no right or claim to any of the remaining assets of the Corporation.

Section 4. Voting Rights.

(a) The Holders of Series C Preferred Units will not have any voting rights, including the right to elect any directors, except (i) voting rights required by law, and (ii) voting rights described in this Section 4.

(b) So long as any Series C Preferred Units are outstanding, in addition to any other vote of shareholders of the Corporation required under applicable law or the Charter, the affirmative vote or consent of the holders of at least a majority of the outstanding number of Series C Preferred Units, voting separately as a single class, will be required (i) for any amendment, alteration or repeal of (A) the Charter (including as a result of a merger,

reorganization, consolidation, or other similar or extraordinary transaction) if the amendment, alteration or repeal would alter or change the powers, preferences, privileges or rights of the Holders so as to affect them adversely or (B) the Bylaws (including as a result of a merger, reorganization, consolidation, or other similar or extraordinary transaction) if the amendment, alteration or repeal would alter or change the powers, preferences or rights of the Holders so as to adversely affect them differently in any material respect than the holders of Common Stock so affected, (ii) to issue, authorize or increase the authorized amount of, or issue or authorize any obligation or security convertible into or evidencing a right to purchase any Parity Stock (including any Series C Preferred Units issued after the Issue Date) or Senior Stock; provided that no such consent shall be required for any issuance of Series C Preferred Units issued upon exchange of Opco Series C-2 Preferred Units or (iii) to reclassify any authorized stock of the Corporation into any Parity Stock (including any Series C Preferred Units) or Senior Stock, or any obligation or security convertible into or evidencing a right to purchase any Senior Stock or Parity Stock.

(c) It is agreed that no such vote shall be required for the Corporation to issue, authorize or increase the authorized amount of, or issue or authorize any obligation or security convertible into or evidencing a right to purchase, any Junior Stock.

Section 5. Conversion.

(a) Mandatory Conversion. Effective as of the close of business on the Shareholder Approval Date, with respect to the Series C Preferred Units of a Holder, such Holder's Series C Preferred Units shall automatically, without any action of such Holder, convert into a number of shares of Common Stock equal to the quotient of (i) the aggregate Liquidation Preference of such Series C Preferred Units and (ii) the Conversion Price then in effect (such number of shares, the "Conversion Shares").

(b) No Holder may convert Series C Preferred Units other than pursuant to Section 5(a).

(c) Conversion Procedures.

(i) In the event of conversion pursuant to Section 5(a), the Corporation shall deliver as promptly as practicable written notice (the "Notice of Conversion") to each Holder specifying: (A) the Shareholder Approval Date; (B) the number of shares of Common Stock to be issued in respect of each Series C Preferred Unit that is converted; (C) the place or places where evidence of book-entry notation for such Series C Preferred Units are to be surrendered for issuance of certificates or evidence of book-entry notation representing shares of Common Stock; and (D) that dividends on the Series C Preferred Units to be converted will not accrue on the next Annual Accrual Date or on any subsequent Annual Accrual Date. The calculations and entries set forth in the Notice of Conversion shall control in the absence of manifest or mathematical error. Series C Preferred Units converted into Common Stock shall be canceled and shall not be reissued as Series C Preferred Units. Unless the shares of Common Stock issuable upon conversion are to be issued in the same name as the name in which such Series C Preferred Units are registered, each Series C Preferred Unit surrendered for mandatory conversion shall be accompanied by instruments of transfer, in form satisfactory to the Corporation, duly executed by the holder thereof or such Holder's duly authorized attorney and an amount sufficient to pay any transfer or similar tax in accordance with Section 14(f).

(ii) The conversion shall be deemed to have been effected at the close of business on the Shareholder Approval Date. At such time: (A) the person in whose name or names any certificate or certificates for shares of Common Stock shall be issuable upon such mandatory conversion shall be deemed to have become the holder of record of the shares of Common Stock represented thereby at such time; and (B) such Series C Preferred Units so converted shall no longer be deemed to be outstanding, and all rights of a holder with respect to such Series C Preferred Units shall immediately terminate except the right to receive the Common Stock and other amounts payable pursuant to this Section 5 and the right to receive any dividends declared but not yet paid pursuant to Section 2 (i.e., any declared and unpaid Common Dividends or Annual Cash Dividends with respect thereto).

(iii) Holders of Series C Preferred Units at the close of business on (A) an Annual Accrual Date shall be entitled to receive any Annual Cash Dividend declared and payable on such Series C Preferred Units on the corresponding Dividend Payment Date and (B) a Common Record Date shall be entitled to receive any Common Dividends declared and payable on such Series C Preferred Units on the corresponding Common Payment Date notwithstanding the mandatory conversion thereof following such Annual Accrual Date and prior to such Dividend Payment Date or following such Common Record Date and prior to such Common Payment Date.

(iv) In connection with the mandatory conversion of Series C Preferred Units, no fractions of shares of Common Stock shall be issued, but in lieu thereof the Corporation shall pay an amount of cash in respect of such fractional interest equal to such fractional interest multiplied by the Market Value per share of Common Stock on the Shareholder Approval Date.

Section 6. Settlement upon Conversion. The Corporation shall satisfy its obligation to deliver Conversion Shares (or such other class or series of securities into which the Series C Preferred Units are then convertible), upon conversion of Series C Preferred Units by delivering to each Holder surrendering Series C Preferred Units for conversion a number of shares of Common Stock (or such other class or series of securities into which the Series C Preferred Units are then convertible) equal to the Conversion Shares to which such Holder is entitled pursuant to Section 5 (provided that the Corporation shall deliver cash in lieu of fractional shares, as soon as practicable after the third Trading Day (but in no event later than the fifth Business Day) following the Shareholder Approval Date pursuant to Section 5(c)(iv)).

Section 7. Anti-dilution Adjustments.

(a) The Conversion Price shall be subject to the following adjustments from time to time:

(i) Stock Dividends. In case the Corporation shall pay or make a dividend or other distribution on the Common Stock in Common Stock, the Conversion Price, as in effect at the opening of business on the day following the date fixed for the determination of

shareholders of the Corporation entitled to receive such dividend or other distribution, shall be adjusted by multiplying such Conversion Price by a fraction of which the numerator shall be the number of shares of Common Stock (excluding any treasury shares of the Corporation) outstanding at the close of business on the date fixed for such determination and the denominator shall be the sum of such number of shares and the total number of shares constituting such dividend or other distribution, such adjustment to become effective immediately after the opening of business on the day following the date fixed for such determination; provided, however, that no such adjustment to the Conversion Price shall be made in the event and to the extent that the Holders are entitled to receive such dividend or other distribution pursuant to Section 2 and are permitted to receive such dividend or other distribution under applicable law and listing standards (in which case such dividend or other distribution shall be paid in lieu of a separate adjustment with respect thereto).

(ii) Stock Purchase Rights. In case the Corporation shall issue to all holders of its Common Stock options, warrants or other rights entitling them to subscribe for or purchase shares of Common Stock for a period expiring within 60 days from the date of issuance of such options, warrants or other rights at a price per share of Common Stock less than 95% of the Market Value on the date fixed for the determination of shareholders of the Corporation entitled to receive such options, warrants or other rights (other than pursuant to a dividend reinvestment, share purchase or similar plan), the Conversion Price in effect at the opening of business on the day following the date fixed for such determination shall be adjusted by multiplying such Conversion Price by a fraction, the numerator of which shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock which the aggregate consideration expected to be received by the Corporation upon the exercise, conversion or exchange of such options, warrants or other rights (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) would purchase at such Market Value and the denominator of which shall be the number of shares of Common Stock outstanding at the close of business on the date fixed for such determination plus the number of shares of Common Stock so offered for subscription, exercise, conversion or exchange, either directly or indirectly, such adjustment to become effective immediately after the opening of business on the day following the date fixed for such determination; provided, however, that no such adjustment to the Conversion Price shall be made in the event and to the extent that the Holders are entitled to receive such options, warrants or other rights pursuant to Section 2 and are permitted to receive such options, warrants or other rights under applicable law and listing standards (in which case such options, warrants or other rights shall be so issued in lieu of a separate adjustment with respect thereto); provided, further, however, that if any of the foregoing options, warrants or other rights are only exercisable upon the occurrence of a Triggering Event, then the Conversion Price will not be adjusted until such Triggering Event occurs; provided, further, however, that in the event the conversion of Series C Preferred Units into Common Stock occurs prior to the Triggering Event and the Triggering Event subsequently occurs, adequate provisions will be made by the Corporation such that the Holders of such converted Series C Preferred Units shall receive the benefits they would have received had the Triggering Event occurred prior to such conversion and the Conversion Price adjustment had occurred with respect thereto pursuant to this Section 7(a)(ii).

(iii) Stock Splits, Reverse Splits and Combinations. In case outstanding shares of Common Stock shall be subdivided, split or reclassified into a greater number of shares of Common Stock, the Conversion Price in effect immediately prior to any such subdivision, split or reclassification becomes effective shall be proportionately reduced, and, conversely, in case outstanding shares of Common Stock shall be combined or reclassified into a smaller number of shares of Common Stock, the Conversion Price immediately prior to any such combination or reclassification becomes effective shall be proportionately increased, such reduction or increase, as the case may be, to become effective immediately after the opening of business on the day following the day upon which such subdivision, split, reclassification or combination becomes effective.

(iv) Debt, Asset or Security Distributions. (A) In case the Corporation shall, by dividend or otherwise, distribute to all holders of its Common Stock evidences of its or its Subsidiaries' indebtedness, assets or securities (but excluding any dividend or distribution of options, warrants or other rights referred to in paragraph (ii) of this Section 7(a), any dividend or distribution paid exclusively in cash, any dividend or distribution of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit in the case of a Spin-off referred to in paragraph (B) of this Section 7(a)(iv), or any dividend or distribution referred to in paragraph (i) of this Section 7(a)), the Conversion Price shall be reduced by multiplying the Conversion Price in effect immediately prior to the close of business on the date fixed for the determination of shareholders of the Corporation entitled to receive such distribution by a fraction, the numerator of which shall be such Market Value minus the fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) of the portion of the assets or evidences of indebtedness so distributed applicable to one share of Common Stock and the denominator of which shall be the Market Value on the date fixed for such determination, such adjustment to become effective immediately prior to the opening of business on the day following the date fixed for the determination of shareholders of the Corporation entitled to receive such distribution. In any case in which this subparagraph (iv)(A) is applicable, subparagraph (iv)(B) of this Section 7(a) shall not be applicable. No adjustment to the Conversion Price shall be made in the event and to the extent that the Holders are entitled to receive such dividend or distribution pursuant to Section 2 and are permitted to receive such dividend or distribution under applicable law and listing standards (in which case such dividend or distribution shall be paid in lieu of a separate adjustment with respect thereto).

(b) In the case of a Spin-off, the Conversion Price in effect immediately prior to the close of business on the date fixed for determination of shareholders of the Corporation entitled to receive such distribution shall be reduced by multiplying the Conversion Price by a fraction, the numerator of which shall be the Market Value *minus* the fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) of the shares (or fractions thereof) of Capital Stock or similar equity interests so distributed applicable to one share of Common Stock and the denominator of which shall be the Market Value. Any adjustment to the Conversion Price under this subparagraph (iv)(B) will occur on the date that is the earlier of (1) the tenth Trading Day from, and including, the effective date of the Spin-off and (2) the date of the Initial Public Offering of the securities being distributed in the Spin-off, if that Initial Public Offering is effected simultaneously with the Spin-off. No adjustment to the Conversion Price shall be made in the

event and to the extent that the Holders are entitled to receive such dividend or distribution pursuant to Section 2 and are permitted to receive such dividend or distribution under applicable law and listing standards (in which case such dividend or distribution shall be paid in lieu of a separate adjustment with respect thereto).

(i) Tender Offers. In the case that a tender or exchange offer made by the Corporation or any Subsidiary of the Corporation for all or any portion of the Common Stock shall expire and such tender or exchange offer (as amended through the expiration thereof) shall require the payment to shareholders of the Corporation (based on the acceptance (up to any maximum specified in the terms of the tender or exchange offer) of Purchased Shares) of aggregate consideration having a fair market value (as determined in good faith by the Board of Directors, whose determination shall be conclusive and described in a Board Resolution) per share of Common Stock that exceeds the Closing Sale Price of the Common Stock on the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer, then, immediately prior to the opening of business on the day after the date of the last time (the "Expiration Time") tenders or exchanges could have been made pursuant to such tender or exchange offer (as amended through the expiration thereof), the Conversion Price shall be reduced by multiplying the Conversion Price immediately prior to the close of business on the date of the Expiration Time by a fraction (A) the numerator of which shall be equal to the product of (x) the Market Value on the date of the Expiration Time and (y) the number of shares of Common Stock outstanding (including any tendered or exchanged shares) on the date of the Expiration Time, and (B) the denominator of which shall be equal to (x) the product of (I) the Market Value on the date of the Expiration Time and (II) the number of shares of Common Stock outstanding (including any tendered or exchanged shares) on the date of the Expiration Time less the number of all shares validly tendered or exchanged, not withdrawn and accepted for payment on the date of the Expiration Time (such validly tendered or exchanged shares, up to any such maximum, being referred to as the "Purchased Shares") plus (y) the amount of cash plus the fair market value (determined as aforesaid) of the aggregate consideration payable to shareholders of the Corporation pursuant to the tender or exchange offer (assuming the acceptance, up to any maximum specified in the terms of the tender or exchange offer, of Purchased Shares).

(c) De Minimis Adjustments. Notwithstanding anything herein to the contrary, no adjustment under this Section 7 need be made to the Conversion Price unless such adjustment would require an increase or decrease of at least 1.0% of the Conversion Price then in effect. Any lesser adjustment shall be carried forward and shall be made upon the earlier of (i) the time of and together with the next subsequent adjustment, if any, which, together with any adjustment or adjustments so carried forward, shall result in an increase or decrease of at least 1.0% of such Conversion Price and (ii) immediately prior to any conversion of such Series C Preferred Units. No adjustment under this Section 7 shall be made if such adjustment will result in a Conversion Price that is less than the par value of the Common Stock.

(d) Tax-Related Adjustments. The Corporation may make such reductions in the Conversion Price, in addition to those required by this Section 7, as the Board of Directors considers advisable in order to avoid or diminish any income tax to any holders of shares of Common Stock resulting from any dividend or distribution of stock or issuance of rights or warrants to purchase or subscribe for stock or from any event treated as such for income tax

purposes. In the event the Corporation elects to make such a reduction in the Conversion Price, the Corporation will comply with the requirements of Rule 14e-1 under the Exchange Act and any other securities laws and regulations thereunder if and to the extent that such laws and regulations are applicable in connection with the reduction in the Conversion Price.

(e) Shareholder Rights Plans. Upon conversion of the Series C Preferred Units, to the extent that the Holders receive Common Stock, such Holders shall receive, in addition to the shares of Common Stock, the rights issued under any shareholder rights plan of the Corporation whether or not such rights are separated from the Common Stock prior to conversion. A distribution of rights pursuant to any shareholder rights plan will not result in an adjustment to the Conversion Price pursuant to Section 7(a)(ii) or 7(a)(iv); provided that the Corporation has provided for the Holders to receive such rights upon conversion.

(f) Notice of Adjustment. Whenever the Conversion Price is adjusted in accordance with this Section 7, the Corporation shall (i) compute the Conversion Price in accordance with this Section 7 and prepare and transmit to the Transfer Agent an Officer's Certificate setting forth the Conversion Price, the method of calculation thereof in reasonable detail, and the facts requiring such adjustment and upon which such adjustment is based and (ii) as soon as practicable following the occurrence of an event that requires an adjustment to the Conversion Price pursuant to this Section 7 (or if the Corporation is not aware of such occurrence, as soon as practicable after becoming so aware), the Corporation or, at the request and expense of the Corporation, the Transfer Agent shall provide a written notice to the Holders of the occurrence of such event and a statement setting forth in reasonable detail the method by which the adjustment to the Conversion Price was determined and setting forth the adjusted Conversion Price.

(g) Reversal of Adjustment. If the Corporation takes a record of the holders of its Common Stock for the purpose of entitling them to receive a dividend or other distribution, and thereafter (and before the dividend or distribution has been paid or delivered to shareholders) legally abandons its plan to pay or deliver such dividend or distribution, then thereafter no adjustment in the Conversion Price then in effect shall be required by reason of the taking of such record.

(h) Exceptions to Adjustment. The Conversion Price shall not be adjusted:

(i) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Corporation's securities and the investment of additional optional amounts in shares of Common Stock under any such plan;

(ii) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Corporation or any of its Subsidiaries;

(iii) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security outstanding as of the Issue Date;

(iv) upon the issuance of any shares of Common Stock or any other security of the Corporation in connection with acquisitions of assets or securities of another Person, including with respect to any merger or consolidation or similar transaction;

(v) for a change in the par value of the Common Stock;

(vi) for a sale of Common Stock, or securities convertible or exercisable for Common Stock, for cash, other than in a transaction described in Section 7(a)(i) through Section 7(a)(iv);

(vii) for ordinary course of business stock repurchases that are not tender offers referred to in Section 7(b)(i), including structured or derivative transactions or pursuant to a stock repurchase program approved by the Board of Directors;

(viii) for a third-party tender or exchange offer, other than a tender or exchange offer by one of the Corporation's Subsidiaries as described in Section 7(b)(i); or

(ix) for accrued and unpaid dividends on the Series C Preferred Units.

Section 8. Reorganization.

(a) The Corporation, without the consent of the Holders, may (i) consolidate with or merge into any other Person or convey, transfer or lease all or substantially all its assets to any Person or may permit any Person to consolidate with or merge into, or transfer or lease all or substantially all its properties to, the Corporation or (ii) engage in any statutory share exchange of the Corporation's securities with another person (other than in connection with a merger or acquisition described in the immediately preceding clause (i)) or any recapitalization, reclassification or change in Common Stock (other than a change in par value, or from par value to no par value, or from no par value to par value, or changes resulting from a subdivision or combination), in each case, as a result of which Common Stock would be converted into, or exchanged for, stock, other securities or other property or assets (including cash or any combination thereof) (any of the foregoing, a "Reorganization"); provided, however, that (A) at the election of each Holder (as to itself) pursuant to procedures reasonably instituted by the Corporation either (I) the Series C Preferred Units will become the kind and amount of securities of such successor, transferee or lessee, cash and other property receivable by a holder of the number of shares of Common Stock into which such Series C Preferred Units were convertible immediately prior to such Reorganization (including, for the avoidance of doubt, an amount equal to the sum of all declared and unpaid dividends in respect of such shares or units) or (II) the Holders shall receive in cash upon the consummation of such Reorganization, for each Series C Preferred Unit, an amount equal to the greater of (x) the outstanding Liquidation Preference of such Series C Preferred Unit plus an amount equal to the sum of all declared and unpaid dividends in respect of such Series C Preferred Unit (with adjustments to Liquidation Preferences deemed to be payment of dividends) and (y) the value of such Series C Preferred Unit as if immediately prior to the Reorganization, Series C Preferred Units then outstanding were converted into shares of Common Stock pursuant to the conversion; and (B) the Corporation delivers to the Transfer Agent an Officer's Certificate and an Opinion of Counsel, acceptable to the Transfer Agent, stating that such Reorganization complies with the Series C Standard Provisions.

(b) Upon any Reorganization, the successor resulting from such Reorganization will succeed to, and be substituted for, and may exercise every right and power of, the Corporation under the Series C Preferred Units, and thereafter, except in the case of a lease, the predecessor (if still in existence) will be released from its obligations and covenants with respect to the Series C Preferred Units.

(c) The provisions of this Section 8 shall apply to successive Reorganizations.

Section 9. Call Right.

(a) On or after the sixth anniversary of the Issue Date (but only during the 60-day period immediately following such anniversary of the Issue Date and during the 60-day period immediately following each successive anniversary of the Issue Date thereafter), the Corporation shall have the right, but not an obligation, upon five days prior written notice by the Corporation to all Holders (such period, the "Call Notice Period", and such notice, the "Call Notice") setting forth the estimated Call Price, to repurchase all (but not less than all) of the Series C Preferred Units held by the Holders at a price per Series C Preferred Unit in cash (the "Call Price") equal to the sum of (i) the product of (A) the greater of (I) the outstanding Liquidation Preference of such Series C Preferred Unit and (II) the product of (x) the number of shares of Common Stock into which such Series C Preferred Unit would be converted pursuant to Section 5 in a mandatory conversion and (y) the Current Market Price and (B) 103%, plus (ii) the amount of all declared and unpaid dividends in respect of such unit (a "Preferred Stock Repurchase").

(b) Consummation of the Preferred Stock Repurchase shall occur immediately upon expiration of the Call Notice Period and be effected through the Transfer Agent's book entry system, upon which the aggregate Call Price for the Series C Preferred Units shall be immediately due and payable in cash to the record holders of the Series C Preferred Units.

Section 10. Notices. All notices or communications in respect of Series C Preferred Units shall be sufficiently given if given in writing and delivered in person or by first class mail, postage prepaid, or if given in such other manner as may be permitted in the Articles of Amendment or these Series C Standard Provisions, in the Charter, in the Bylaws or by applicable law.

Section 11. Transfer of Securities.

(a) The Series C Preferred Units and the shares of Common Stock issuable upon conversion of the Series C Preferred Units (collectively, the "Securities") have not been registered under the Securities Act or any other applicable securities laws and may not be offered or sold except in compliance with the registration requirements of the Securities Act and any other applicable securities laws, or pursuant to an exemption from registration under the Securities Act and any other applicable securities laws, or in a transaction not subject to such laws. The Series C Preferred Units and shares of Common Stock issuable upon conversion of the Series C Preferred Units will have the benefit of certain registration rights under the

Securities Act pursuant to the Investor Rights Agreement, a copy of which may be obtained from the Corporation by writing to it at Forward Air Corporation, 1915 Snapps Ferry Road, Building N, Greeneville, Tennessee 37745.

(b) No Series C Preferred Units shall be issued in physical, certificated form. All Series C Preferred Units shall be evidenced by book-entry on the record books maintained by the Corporation or its Transfer Agent.

(c) Shares of Common Stock issued upon a conversion of the Series C Preferred Units bearing the Restricted Stock Legend, prior to the date that is six months following the Issue Date, shall be in global form and bear a restricted common stock legend that corresponds to the Restricted Stock Legend (the "Restricted Common Stock Legend").

(d) The Corporation will refuse to register any transfer of Securities that is not made in accordance with the provisions of the Restricted Stock Legend or the Restricted Common Stock Legend, as applicable; provided that, subject to applicable law, including the Securities Act, the provisions of this Section 11(d) shall not be applicable to any Security that does not bear any Restricted Stock Legend or any Restricted Common Stock Legend and the Corporation will take such action as any Holder may reasonably request for removal of the Restricted Stock Legend or Restricted Common Stock Legend from all Securities held thereby to the extent such Securities may then be sold without registration under the Securities Act.

Section 12. Certain Tax Matters. The Corporation and the Holders acknowledge and agree that it is intended that the Series C Preferred Units not constitute "preferred stock" within the meaning of Section 305 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations promulgated thereunder (and corresponding or similar provisions of state and local law), and that neither the Corporation nor the Holders shall treat the Series C Preferred Units as such. In accordance with the provisions of Section 3.01(h) of the Merger Agreement (applied *mutatis mutandis* hereto), the Corporation shall be entitled to deduct and withhold from any payment of cash, Series C Preferred Units, shares of Common Stock or other consideration deliverable to a Holder, any amounts required to be deducted or withheld under applicable U.S. federal, state, local or foreign tax laws with respect to such payment or issuance. In the event the Corporation paid withholding taxes in accordance with the immediately preceding sentence to a governmental authority in respect of any amount treated as a distribution on a Series C Preferred Unit, the Corporation shall be entitled to deduct any such taxes from any subsequent payment of cash, Series C Preferred Units, shares of Common Stock or other consideration otherwise deliverable to a Holder.

Section 13. Definitions. As used in this Annex B, the following terms have the meanings specified below:

(a) "Annual Accrual Date" has the meaning set forth in Section 2(b).

(b) "Articles of Amendment" means the Articles of Amendment adopted by the Board of Directors on August 9, 2023.

(c) "Board of Directors" means the Board of Directors of the Corporation.

(d) "Board Resolution" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Corporation to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Transfer Agent.

(e) "Business Day" means any day other than a Saturday or Sunday or any other day on which banks in the City of New York are authorized or required by law or executive order to close.

(f) "Call Notice" has the meaning set forth in Section 9(a).

(g) "Call Notice Period" has the meaning set forth in Section 9(a).

(h) "Call Price" has the meaning set forth in Section 9(a).

(i) "Capital Stock" of any Person means any and all shares, units, interests, participations or other equivalents however designated of corporate stock or other equity participations, including partnership interests, whether general or limited, of such Person and any rights (other than debt securities convertible or exchangeable into an equity interest), warrants or options to acquire an equity interest in such Person.

(j) "Charter" has the meaning set forth in the first paragraph of the Articles of Amendment.

(k) "Class B Units" means the units of Opco designated as "Class B Units" pursuant to the terms of the Opco LLCA.

(l) "Closing Sale Price" means, with respect to the Common Stock on any date, the closing sale price per share (or if no closing sale price is reported, the average of the closing bid and ask prices or, if more than one in either case, the average of the average closing bid and the average closing ask prices) on such date as reported on the over-the-counter "Pink Sheets" market or, if the Common Stock is listed on a national securities exchange, the principal national securities exchange on which the Common Stock is traded as displayed under the heading Bloomberg FWRD US <equity> on Bloomberg (or, if Bloomberg ceases to publish such price, any successor service reasonably chosen by the Corporation) page "FWRD US <equity>"(or its equivalent successor if such page is not available) in respect of the relevant date. In the absence of such a quotation, the Closing Sale Price of the Common Stock will be an amount determined by an Independent Financial Advisor retained by the Board of Directors to be the fair market value of such Common Stock, and such determination shall be conclusive.

(m) "Common Dividends" has the meaning set forth in Section 2(a).

(n) "Common Payment Date" has the meaning set forth in Section 2(a).

(o) "Common Record Date" has the meaning set forth in Section 2(a).

(p) "Common Stock" has the meaning set forth in Section 1(a).

(q) "Conversion Price" shall initially equal $110, and shall be subject to adjustment as set forth in Section 7.

(r) "Conversion Shares" has the meaning set forth in Section 5(a).

(s) "Corporation" has the meaning set forth in the first paragraph of the Articles of Amendment.

(t) "Current Market Price" means the arithmetic average of the VWAP per share of Common Stock for each of the twenty (20) consecutive Trading Days in the period ending on and including the Trading Day on which a Call Notice is delivered (or if such day is not a Trading Day, the first immediately preceding day that is a Trading Day).

(u) "Dividend Payment Date" has the meaning set forth in Section 2(b).

(v) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(w) "Expiration Time" has the meaning set forth in Section 7(b)(i).

(x) "Holder" means the Person in whose name a Series C Preferred Unit is registered in its capacity as a holder of Series C Preferred Units.

(y) "including" means "including, without limitation".

(z) "Independent Financial Advisor" means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing; provided, however, that such firm or consultant is not an affiliate of the Corporation and has not provided material services to the Corporation in the last three years prior to the date of appointment.

(aa) "Initial Public Offering" means, in the event of a Spin-off, the first time securities of the same class or type as the securities being distributed in the Spin-off are bona fide offered to the public for cash.

(bb) "Investor Rights Agreement" means that certain Investor Rights Agreement, dated as of the Issue Date, by and among the Corporation and the other parties thereto.

(cc) "Issue Date" means January 25, 2024

(dd) "Junior Stock" has the meaning set forth in Section 1(a).

(ee) "Liquidation Preference" means an amount equal to $110 per Series C Preferred Unit, as increased pursuant to Section 2(b).

(ff) "Market Value" means, with respect to any date of determination, the VWAP per share of the Common Stock for a five consecutive Trading Day period preceding the earlier of (i) the day preceding the date of determination and (ii) the day before the "ex date" with respect to the issuance or distribution requiring such computation. For purposes of this

definition, the term "ex date" when used with respect to any issuance or distribution, means the first date on which the Common Stock trades, regular way, on the over-the-counter "Pink Sheets" market or, if the Common Stock is listed on a national securities exchange, the principal national securities exchange on which the Common Stock is traded at that time, without the right to receive the issuance or distribution.

(gg) "Merger Agreement" means that certain Agreement and Plan of Merger, dated as of August 10, 2023, among the Corporation, Holdco, Opco, Omni Newco, LLC and the other parties thereto, as amended prior to the Issue Date.

(hh) "NASDAQ" means the NASDAQ Global Select Market or its successor.

(ii) "Notice of Conversion" has the meaning set forth in Section 5(c).

(jj) "Officer" means the Chairman of the Board, President, Chief Executive Officer, any Vice President, the Chief Financial Officer, the Chief Accounting Officer, the Treasurer, any Assistant Treasurer, the Controller, any Assistant Controller, the Secretary or any Assistant Secretary of the Corporation.

(kk) "Officer's Certificate" means a certificate signed by two Officers.

(ll) "Opco" means Clue Opco LLC, a Delaware limited liability company.

(mm) "Opco LLCA" means the amended and restated limited liability company agreement of Opco, in effect from time to time; provided, that for so long as the definitive agreement constituting the amended and restated limited liability company agreement of Opco contemplated by Section 7.22(a)(i) of the Merger Agreement is not in effect, "Opco LLCA" shall refer to the terms and conditions set forth on Exhibit C to the Merger Agreement.

(nn) "Opco Series C-2 Preferred Units" means the units of Opco designated as "Series C-2 Preferred Units" pursuant to the terms of the Opco LLCA.

(oo) "Opinion of Counsel" means a written opinion from legal counsel who is reasonably acceptable to the Corporation or the Transfer Agent. The counsel may be an employee of or counsel to the Corporation or the Transfer Agent.

(pp) "Parity Stock" has the meaning set forth in Section 2.

(qq) "Person" means any natural person, corporation, limited liability company, partnership, joint venture, trust, business association, governmental entity or other entity.

(rr) "Preferred Stock Repurchase" has the meaning set forth in Section 9(a).

(ss) "Purchased Shares" has the meaning set forth in Section 7(b)(i).

(tt) "Restricted Common Stock Legend" has the meaning set forth in Section 11(c).

(uu) "Restricted Stock Legend" means a legend to the following effect:

> THE SECURITIES REPRESENTED BY THIS BOOK ENTRY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR SECURITIES LAWS OF ANY STATE AND MAY NOT BE TRANSFERRED, SOLD OR OTHERWISE DISPOSED OF EXCEPT PURSUANT TO A REGISTRATION STATEMENT RELATING THERETO IN EFFECT UNDER SUCH ACT AND APPLICABLE STATE SECURITIES LAWS OR PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER SUCH ACT OR SUCH LAWS.

(vv) "Reorganization" has the meaning set forth in Section 8(a).

(ww) "Securities" has the meaning set forth in Section 11(a).

(xx) "Securities Act" means the Securities Act of 1933, as amended.

(yy) "Senior Stock" has the meaning set forth in Section 1(a).

(zz) "Series B Preferred Stock" has the meaning set forth in the Charter.

(aaa) "Series B Preferred Units" has the meaning set forth in the Charter.

(bbb) "Shareholders Agreement" means, collectively (i) that certain Shareholders Agreement, dated as of the Issue Date, by and among the Corporation, the E Investor referred to in the Merger Agreement and the other parties thereto, as amended from time to time, (ii) that certain Shareholders Agreement, dated as of the Issue Date, by and among the Corporation, the R Investors referred to in the Merger Agreement and the other parties thereto, as amended from time to time or (iii) the Investor Rights Agreement, in each case, as applicable to a particular Holder.

(ccc) "Shareholder Approval" means the approval of the Corporation's shareholders for (i) the conversion of the Series C Preferred Units into Common Stock as described in this Charter, (ii) the issuance of Common Stock issuable upon an exchange of Opco Class B Units (and corresponding Series B Preferred Units) resulting from the conversion of Opco Series C-2 Preferred Units, in each case, pursuant to the terms of this Charter and the Opco LLCA and (iii) the issuance of additional Series B Preferred Units contemplated by the Opco LLCA, in each case pursuant to and in accordance with the listing rules of NASDAQ, including for all applicable purposes of NASDAQ Listing Rule 5635.

(ddd) "Shareholder Approval Date" means the date on which the Shareholder Approval is obtained.

(eee) "Spin-off" means a dividend or other distribution of shares of Capital Stock of any class or series, or similar equity interests, of or relating to a Subsidiary or other business unit of the Corporation.

(fff) "Subsidiary" of any Person means any other Person (i) more than 50% of whose outstanding shares or securities representing the right to vote for the election of directors or other managing authority of such other Person are, now or hereafter, owned or controlled, directly or indirectly, by such first Person, but such other Person shall be deemed to be a Subsidiary only so long as such ownership or control exists, or (ii) which does not have outstanding shares or securities with such right to vote, as may be the case in a partnership, joint venture or unincorporated association, but more than 50% of whose ownership interest representing the right to make the decisions for such other Person is, now or hereafter, owned or controlled, directly or indirectly, by such first Person, but such other Person shall be deemed to be a Subsidiary only so long as such ownership or control exists.

(ggg) "Trading Day" means a day during which trading in securities generally occurs on the NASDAQ.

(hhh) "Transfer Agent" means Computershare Trust Corporation, N.A. unless and until a successor is selected by the Corporation, and then such successor.

(iii) "Triggering Event" means a specified event the occurrence of which entitles the holders of rights, options or warrants to exercise such rights, options or warrants.

(jjj) "VWAP" per share of Common Stock on any Trading Day means the per share volume-weighted average price as displayed under the heading Bloomberg VWAP on Bloomberg (or, if Bloomberg ceases to publish such price, any successor service reasonably chosen by the Corporation) page "FWRD US <equity> VWAP" (or its equivalent successor if such page is not available) in respect of the period from the open of trading on the relevant Trading Day until the close of trading on such Trading Day (or if such volume-weighted average price is unavailable, the market price of one share of Common Stock on such Trading Day determined, using a volume-weighted average method, by an Independent Financial Advisor retained for such purpose by the Corporation).

Section 14. Miscellaneous.

(a) The Liquidation Preference set forth herein each shall be subject to equitable adjustment whenever there shall occur a stock split, combination, reclassification or other similar event involving the Series C Preferred Units. Such adjustments and any adjustment pursuant to Section 7 shall be conclusively determined by the Board of Directors in good faith.

(b) For the purposes of Section 7, the number of shares of Common Stock at any time outstanding shall not include shares held in the treasury of the Corporation but shall include shares issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

(c) If the Corporation shall take any action affecting the Common Stock, other than any action described in Section 7, that in the opinion of the Board of Directors would materially adversely affect the conversion rights of the Holders, then the Conversion Price for the Series C Preferred Units may be adjusted, to the extent permitted by law, in such manner, and at such time, as the Board of Directors may determine to be equitable in the circumstances.

(d) The Corporation covenants that it will at all times reserve and keep available, free from preemptive rights, (i) out of its authorized but unissued shares of Common Stock for the purpose of effecting the conversion of the Series C Preferred Units (in addition to any amounts reserved for any other purpose, including the exchange of Class B Units and Series B Preferred Units pursuant to the terms of the Opco LLCA, but without duplication), the full number of shares of Common Stock deliverable upon the conversion of (A) all outstanding Series C Preferred Units not theretofore converted, (B) all Class B Units (and corresponding Series B Preferred Units) issuable upon conversion of the Opco Series C-2 Preferred Units pursuant to the terms of the Opco LLCA upon receipt of the Shareholder Approval not theretofore converted and (C) all Series C Preferred Units issuable pursuant to the terms of the Opco LLCA upon the exchange of Opco Series C-2 Preferred Units pursuant to the terms of the Opco LLCA not therefore converted, and (ii) out of its authorized but unissued Series C Preferred Units, for the purpose of effecting the exchange or redemption of Opco Series C-2 Preferred Units for Series C Preferred Units pursuant to the terms of the Opco LLCA, the full number of Series C Preferred Units deliverable upon the redemption or exchange of all such units.

(e) The Corporation covenants that (i) any shares of Common Stock issued upon conversion of the Series C Preferred Units and (ii) any Series C Preferred Units issued in connection with any exchange or redemption of Opco Series C-2 Preferred Units pursuant to the terms of the Opco LLCA shall be duly and validly issued and fully paid and nonassessable, free from preemptive rights and free from all taxes, liens, charges and security interests with respect to the issuance thereof, except for transfer restrictions imposed by applicable securities laws and the Shareholders Agreement.

(f) The Corporation shall cause Opco to pay all transfer, stamp and other similar taxes due with respect to the issuance or delivery of shares of Common Stock or other securities or property upon conversion of the Series C Preferred Units and any issuance of Series C Preferred Units in connection with any exchange or redemption of Opco Series C-2 Preferred Units pursuant to the terms of the Opco LLCA; provided, however, that Opco shall not be required to pay any tax that may be payable with respect to any transfer involved in the issuance or delivery of shares of Common Stock, Series C Preferred Units or other securities or property in a name other than that of the Holder of the Series C Preferred Units to be converted (or Opco Series C-2 Preferred Unit to be exchanged or redeemed, as applicable), and the Holder shall be responsible for any such tax.

(g) The Series C Preferred Units are not entitled to any preemptive or subscription rights in respect of any securities of the Corporation.

(h) Whenever possible, each provision hereof shall be interpreted in a manner as to be effective and valid under applicable law, but if any provision hereof is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating or otherwise adversely affecting the remaining provisions hereof. If a court of competent jurisdiction should determine that a provision hereof would be valid or enforceable if a period of time were extended or shortened or a particular percentage were increased or decreased, then such court may make such change as shall be necessary to render the provision in question effective and valid under applicable law. If

any of the voting powers, preferences and relative, participating, optional and other special rights of the Series C Preferred Units and qualifications, limitations and restrictions thereof set forth herein is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other voting powers, preferences and relative, participating, optional and other special rights of Series C Preferred Units and qualifications, limitations and restrictions thereof set forth herein which can be given effect without the invalid, unlawful or unenforceable voting powers, preferences and relative, participating, optional and other special rights of Series C Preferred Units and qualifications, limitations and restrictions thereof shall, nevertheless, remain in full force and effect, and no voting powers, preferences and relative, participating, optional or other special rights of Series C Preferred Units and qualifications, limitations and restrictions thereof herein set forth shall be deemed dependent upon any other such voting powers, preferences and relative, participating, optional or other special rights of Series C Preferred Units and qualifications, limitations and restrictions thereof unless so expressed herein.

(i) Subject to applicable escheat laws, any monies set aside by the Corporation in respect of any payment with respect to Series C Preferred Units, or dividends thereon, and unclaimed at the end of two years from the date upon which such payment is due and payable shall revert to the general funds of the Corporation, after which reversion the Holders of such units shall look only to the general funds of the Corporation for the payment thereof. Any interest accumulated on funds so deposited shall be paid to the Corporation from time to time.

(j) Except as may otherwise be required by law, the Series C Preferred Units shall not have any voting powers, preferences and relative, participating, optional or other special rights, other than those specifically set forth in the Articles of Amendment or the Charter.

(k) The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

(l) Series C Preferred Units that (i) have not been issued on or before the Shareholder Approval Date or (ii) have been issued and reacquired by the Corporation in any manner, including Series C Preferred Units purchased or converted, shall (upon compliance with any applicable provisions of the laws of Tennessee) have the status of authorized but unissued shares or units of Preferred Stock undesignated as to series and may be designated or redesignated and issued or reissued, as the case may be, as part of any series of Preferred Stock; provided that any issuance of such shares or units as Series C Preferred Units must be in compliance with the terms hereof.

(m) To the fullest extent permitted by applicable law, the Corporation and the Transfer Agent may deem and treat the Holders as the true and lawful owner of the Series C Preferred Units for all purposes, and neither the Corporation nor the Transfer Agent shall be affected by any notice to the contrary.

(n) Any rights of, or amounts due with respect to, Series C Preferred Units based on the shares of Common Stock "issuable upon conversion" thereof (or similar expressions) or Series C Preferred Units that "would be converted" or "convertible" into shares of Common Stock, "assuming the conversion" of Series C Preferred Units or similar expressions shall be determined on an as converted basis without regard to any limitation or restriction on conversion of the Series C Preferred Units.

[*Remainder of Page Intentionally Left Blank*]

Exhibit 4.1

Execution Version

INDENTURE

Dated as of October 2, 2023

Between

GN BONDCO, LLC
as the Escrow Issuer

the Guarantors party hereto from time to time

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Trustee and Notes Collateral Agent

$725,000,000 9.500% SENIOR SECURED NOTES DUE 2031

TABLE OF CONTENTS

EXHIBIT INDEX

INDENTURE, dated as of October 2, 2023, among GN Bondco, LLC, a Delaware limited liability company (the "Escrow Issuer"), the Guarantors party hereto from time to time and U.S. Bank Trust Company, National Association, as Trustee and Notes Collateral Agent.

W I T N E S S E T H

WHEREAS, the Escrow Issuer has duly authorized the creation of an issue of $725,000,000 aggregate principal amount of 9.500% Senior Secured Notes due 2031 (the "Initial Notes"); and

WHEREAS, upon the consummation of the Escrow Merger, (i) the Escrow Issuer will merge with and into the Ultimate Issuer, with the Ultimate Issuer continuing as the surviving entity and assuming the obligations of the Escrow Issuer under the Notes and this Indenture, and (ii) Forward and the Subsidiary Guarantors will guarantee the Issuer's Obligations under this Indenture and the Notes, in each case, pursuant to a supplemental indenture to this Indenture substantially in the form attached as Exhibit D hereto.

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

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

SECTION 1.01 Definitions.

"Acceptable Junior Intercreditor Agreement" means a senior priority/junior priority intercreditor agreement with (together with other relevant Persons) any collateral agent and/or other authorized representative of any Indebtedness which is by its terms secured by Junior Priority Liens and so long as such Indebtedness is not prohibited to be Incurred and so secured by the terms of this Indenture, which intercreditor agreement shall provide for the subordination of such Junior Priority Liens to the Liens securing the Notes and other intercreditor provisions with respect such Indebtedness secured by Junior Priority Liens that are reasonably customary in the good faith (as certified by a responsible officer of the Issuer in an Officers' Certificate delivered to the Trustee and Notes Collateral Agent) determination of the Issuer (for intercreditor agreements providing for junior priority liens).

"Accounting Change" has the meaning set forth in the definition of "GAAP."

"Acquired Indebtedness" means, with respect to any specified Person:

(1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, and

(2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person.

Acquired Indebtedness will be deemed to have been Incurred, with respect to clause (1) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary and, with respect to clause (2) of the preceding sentence, on the date of consummation of such acquisition of such assets.

"Additional Notes" means the Notes issued under the terms of this Indenture subsequent to the Issue Date (except for Notes authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of, Notes issued on the Issue Date pursuant to Section 2.07, 2.08, 2.09, 3.08, 4.06(e), 4.08(c) or Appendix A).

"Additional Refinancing Amount" means, in connection with the Incurrence of any Refinancing Indebtedness, the aggregate principal amount of additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay accrued and unpaid interest, premiums (including tender premiums), expenses, defeasance costs and fees in respect thereof.

"Additional Secured Parties" means the holders of any Additional Pari Passu Lien Obligations (as such term shall be defined in the Pari Passu Intercreditor Agreement) and any collateral agent named as authorized representative for such series in the joinder agreement to the Pari Passu Intercreditor Agreement.

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

"Applicable Premium" means, with respect to any Note, on any applicable redemption date, as determined by the Issuer, the greater of:

(1) 1% of the then outstanding principal amount of the Note; and

(2) the excess of:

(a) the present value at such redemption date of (i) the redemption price of the Note, at October 15, 2026 (such redemption price being set forth in Paragraph 5 of the reverse side of the Note), *plus* (ii) all required interest payments due on the Note through October 15, 2026 (excluding accrued but unpaid interest), discounted to the redemption date and computed using a discount rate equal to the Treasury Rate as of such redemption date, *plus* 50 basis points; over

(b) the then outstanding principal amount of the Note.

"Asset Sale" means:

(1) the sale, conveyance, transfer or other disposition (whether in a single transaction or a series of related transactions) of property or assets (including by way of Sale/Leaseback Transactions) outside the ordinary course of business of the Issuer or any Restricted Subsidiary (each referred to in this definition as a "disposition"); or

(2) the issuance or sale of Equity Interests (other than directors' qualifying shares and shares issued to foreign nationals or other third parties to the extent required by applicable law) of any Restricted Subsidiary (other than to the Issuer or another Restricted Subsidiary) (whether in a single transaction or a series of related transactions),

in each case other than:

(a) a disposition of Cash Equivalents or Investment Grade Securities or property that is no longer used or useful in the conduct of the business of the Issuer and the Restricted Subsidiaries, or obsolete, damaged, surplus, uneconomic, negligible or worn out property or equipment in the ordinary course of business (including the abandonment of any intellectual property or surrender or transfer for no consideration) or otherwise as may be required pursuant to the terms of any lease, sublease, license or sublicense;

(b) any disposition permitted pursuant to Section 5.01 or any disposition that constitutes a Change of Control;

(c) any Restricted Payment or Permitted Investment that is permitted to be made, and is made, under Section 4.04;

(d) any disposition of assets of the Issuer or any Restricted Subsidiary or issuance or sale of Equity Interests of the Issuer or any Restricted Subsidiary, which assets or Equity Interests so disposed or issued in any single transaction or series of related transactions have an aggregate Fair Market Value (as determined in good faith by the Issuer) of less than $50 million per transaction or series of related transactions;

(e) any disposition of property or assets, or the sale or issuance of securities, by the Issuer or a Restricted Subsidiary to the Issuer or a Restricted Subsidiary;

(f) any disposition of an Investment in, or the Capital Stock of, any joint venture to the extent required by the terms of customary buy-sell type arrangements entered into in connection with the formation of such joint venture;

(g) any exchange of assets (including a combination of assets and Cash Equivalents) for assets related to a Similar Business of comparable or greater market value or usefulness to the business of the Issuer and the Restricted Subsidiaries as a whole, as determined in good faith by the Issuer;

(h) foreclosure or any similar action with respect to any property or other asset of the Issuer or any of its Restricted Subsidiaries;

(i) any disposition of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(j) the lease, assignment or sublease of any real or personal property in the ordinary course of business;

(k) any sale of inventory or other assets in the ordinary course of business;

(l) any grant in the ordinary course of business of any license or sublicense of patents, trademarks,know-how or any other intellectual property;

(m) any swap of assets, or lease, assignment or sublease of any real or personal property, in exchange for services (including in connection with any outsourcing arrangements) of comparable or greater value or usefulness to the business of the Issuer and the Restricted Subsidiaries as a whole, as determined in good faith by the Issuer;

(n) a transfer of assets of the type specified in the definition of "Securitization Financing" (or a fractional undivided interest therein), including by a Securitization Subsidiary in a Qualified Securitization Financing;

(o) any financing transaction with respect to property built or acquired by the Issuer or any Restricted Subsidiary after the Completion Date, including any Sale/Leaseback Transaction or asset securitization permitted by this Indenture;

(p) dispositions in connection with Permitted Liens;

(q) any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Issuer or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(r) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(s) any surrender, expiration or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims of any kind;

(t) any of the Transactions;

(u) any transfer of accounts receivable and related assets in connection with any factoring or similar arrangements entered into by Foreign Subsidiaries on arm's length terms;

(v) dispositions of real property (i) for the purpose of (A) resolving minor title disputes or defects, including encroachments and lot line adjustments, or (B) granting easements, rights of way or access and egress agreements, or (ii) to any governmental authority in consideration of the grant, issuance, consent or approval of or

to any development agreement, change of zoning or zoning variance, permit or authorization in connection with the conduct of any business of the Issuer and its Subsidiaries, in each case which does not materially interfere with the business conducted on such real property; and

(w) transfers of property to the extent subject to a Casualty Event.

"Bankruptcy Code" means Title 11 of the United States Code, as now or hereinafter in effect.

"Bankruptcy Law" 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.

"Board of Directors" means, as to any Person, the board of directors or managers, as applicable, of such Person or any direct or indirect parent of such Person (or, if such Person is a partnership, the board of directors or other governing body of the general partner of such Person) or any duly authorized committee thereof.

"Business Day" means a day other than a Saturday, Sunday or other day on which banking institutions are authorized or required by law to close in New York City or the place of payment.

"Capital Markets Indebtedness" means any Indebtedness consisting of bonds, debentures, notes or other similar debt securities issued in (a) a public offering registered under the Securities Act, (b) a private placement to institutional investors that is resold in accordance with Rule 144A or Regulation S of the Securities Act, whether or not it includes registration rights entitling the holders of such debt securities to registration thereof with the SEC or (c) a placement to institutional investors. The term "Capital Markets Indebtedness" shall not include any Indebtedness under commercial bank facilities or similar Indebtedness, Capitalized Lease Obligation or recourse transfer of any financial asset or any other type of Indebtedness Incurred in a manner not customarily viewed as a "securities offering."

"Capital Stock" means:

(1) in the case of a corporation, corporate stock or shares;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

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

as in effect on December 31, 2018; *provided* that, for the avoidance of doubt, obligations of the Issuer or the Restricted Subsidiaries, or of a special purpose or other entity not consolidated with the Issuer and the Restricted Subsidiaries, that (a) initially were not included on the consolidated balance sheet of the Issuer as capital lease obligations and were subsequently characterized as capital lease obligations or, in the case of such a special purpose or other entity becoming consolidated with the Issuer and the Restricted Subsidiaries were required to be characterized as capital lease obligations upon such consolidation, in either case, due to a change in accounting treatment or otherwise, or (b) were required to be characterized as capital lease obligations but would not have been required to be treated as capital lease obligations on December 31, 2018 had they existed at that time, shall for all purposes not be treated as Capitalized Lease Obligations or Indebtedness.

"Cash Equivalents" means:

(1) U.S. dollars, pounds sterling, euros, Canadian dollars, Singapore dollars, the national currency of any member state in the European Union or such other local currencies held by the Issuer or a Restricted Subsidiary from time to time in the ordinary course of business;

(2) securities issued or directly and fully guaranteed or insured by the U.S. government, Canada, Switzerland or any country that is a member of the European Union or any agency or instrumentality thereof in each case maturing not more than two years from the date of acquisition;

(3) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances, in each case with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus in excess of $250 million and whose long-term debt is rated at least "A" or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency);

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

(5) commercial paper issued by a corporation (other than an Affiliate of the Issuer) rated at least "A-1" or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) and in each case maturing within one year after the date of acquisition;

(6) readily marketable direct obligations issued by any state of the United States of America or any political subdivision thereof or any Canadian province having at least a rating of Aa3 from Moody's or a rating of AA- from S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;

(7) Indebtedness issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;

(8) investment funds investing at least 95% of their assets in securities of the types described in clauses (1) through (7) above; and

(9) instruments equivalent to those referred to in clauses (1) through (8) above denominated in any foreign currency comparable in credit quality and tenor to those referred to above and commonly used by corporations for cash management purposes in any jurisdiction outside the United States of America to the extent reasonably required in connection with any business conducted by any Subsidiary organized in such jurisdiction.

"cash management services" means cash management services for collections, treasury management services (including controlled disbursement, overdraft, netting services, automated clearing house fund transfer services, return items and interstate depository network services), any demand deposit, payroll, trust or operating account relationships, cash posting arrangements, commercial credit cards, merchant card, purchase or debit cards, non-card e-payables services, and other cash management services, including electronic funds transfer services, lockbox services, stop payment services and wire transfer services.

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

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

"Change of Control" means the occurrence of any of the following:

(1) the sale, lease or transfer (other than by way of merger or consolidation), in one or a series of related transactions, of all or substantially all the assets of the Issuer and its Subsidiaries, taken as a whole, to any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision) other than to the Issuer or its Subsidiaries; or

(2) the Issuer becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other than any Parent, in a single transaction or in a series of related transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Issuer; *provided*, however, that (x) so long as the Issuer is a Subsidiary of any Parent, no Person or group shall be deemed to be or become a "beneficial owner", directly or indirectly, of more than 50% of the total voting power of the Voting Stock of the Issuer unless such Person or group shall be or become a "beneficial owner" of more than 50% of the total voting power of the Voting Stock of such Parent (other than a Parent that is a Subsidiary of another Parent) and (y) a Person or group shall not be deemed the beneficial owner of, or to own beneficially, (A) any securities tendered

pursuant to a tender or exchange offer made by or on behalf of such Person or group or any of such Person's or group's Affiliates until such tendered securities are accepted for purchase or exchange thereunder, or (B) any securities if such beneficial ownership (i) arises solely as a result of a revocable proxy delivered in response to a proxy or consent solicitation made pursuant to the applicable rules and regulations under the Exchange Act, and (ii) is not also then reportable on Schedule 13D (or any successor schedule) under the Exchange Act.

Notwithstanding the foregoing, a transaction will not be considered to be a Change of Control if (A) the Issuer becomes a direct or indirect Wholly Owned Subsidiary of another Person and (B) either (i) the shares of the Issuer's Voting Stock outstanding immediately prior to such transaction constitute, or are converted into or exchanged for, a majority of the Voting Stock of such Person immediately after giving effect to such transaction or (ii) immediately following such transaction, no Person (other than a Person or a Wholly Owned Subsidiary of a Person satisfying the requirements of this sentence) is the beneficial owner, directly or indirectly of more than 50% of the Voting Stock of such Person.

Notwithstanding the foregoing, none of the Transactions will constitute a Change of Control.

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

"Collateral" means all assets and interests in assets and proceeds thereof now owned or hereafter acquired by the Issuer or any Guarantor in or upon which a Lien is granted or purported to be granted by such Person in favor of the Notes Collateral Agent under any of the Collateral Documents.

"Completion Date" means the Escrow Release Date.

"Consolidated Depreciation and Amortization Expense" means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of intangible assets and deferred financing fees and amortization of unrecognized prior service costs and actuarial gains and losses related to pensions and other post-employment benefits, of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

"Consolidated EBITDA" means, as of any date of determination, the EBITDA of the Issuer and its Restricted Subsidiaries for the most recently ended four full fiscal quarters for which internal financial statements are available, on a consolidated basis, calculated on a *pro forma* basis consistent with the calculations made under the definitions of "Fixed Charge Coverage Ratio," "Consolidated First Lien Net Leverage Ratio," "Consolidated Secured Net Leverage Ratio" and "Consolidated Total Net Leverage Ratio."

"Consolidated First Lien Indebtedness" means Consolidated Total Indebtedness secured by a Lien on the Collateral that is not subordinated in lien priority to the Liens on the Collateral securing the Notes Obligations.

"Consolidated First Lien Net Leverage Calculation Date" has the meaning set forth in the definition of "Consolidated First Lien Net Leverage Ratio."

"Consolidated First Lien Net Leverage Ratio" means, with respect to any Person, at any date, the ratio of (i) Consolidated First Lien Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents that do not constitute Restricted Cash held by such Person and its Restricted Subsidiaries as of the end of the most recent fiscal quarter ending prior to the date of such determination for which internal financial statements of such Person are available to (ii) EBITDA of such Person for the four full fiscal quarters for which internal financial statements of such Person are available immediately preceding such date on which such additional Indebtedness is Incurred.

(1) In the event that the Issuer or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Consolidated First Lien Net Leverage Ratio is being calculated but prior to the event for which the calculation of the Consolidated First Lien Net Leverage Ratio is made (the "Consolidated First Lien Net Leverage Calculation Date"), then the Consolidated First Lien Net Leverage Ratio shall be calculated giving pro forma effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that the Issuer may elect pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred at such time, in which case any subsequent Incurrence of Indebtedness (or Liens secured by such Indebtedness) under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time.

(2) To the extent (i) the Issuer elects pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred or (ii) the Issuer or any Restricted Subsidiary elects to treat Indebtedness as having been Incurred prior to the actual Incurrence thereof pursuant to Section 4.03(c)(3), the Issuer shall deem all or such portion of such commitment or such Indebtedness, as applicable, as having been Incurred and to be outstanding for purposes of calculating the Consolidated First Lien Net Leverage Ratio for any period in which the Issuer makes any such election and for any subsequent period until such commitments or such Indebtedness, as applicable, are no longer outstanding or such notice is withdrawn.

(3) For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP and including, for each applicable period and for the avoidance of doubt, any of the foregoing occurring in connection with the Transactions), in each case with respect to any company, any business or any group of assets constituting an operating unit of a business, that the Issuer or any Restricted Subsidiary has made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Consolidated First Lien Net Leverage Calculation Date (each, for purposes of this definition, a "pro forma event") shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period; *provided* that,

notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, the Issuer shall not make such computations on a pro forma basis for any such classification for any period until such sale, transfer or other disposition has been consummated. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Issuer or any Restricted Subsidiary since the beginning of such period shall have consummated any pro forma event that would have required adjustment pursuant to this definition, then the Consolidated First Lien Net Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such pro forma event had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Consolidated First Lien Net Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

(4) For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of the Issuer . Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of the Issuer as set forth in an Officers' Certificate, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event within 18 months of the date the applicable event is consummated.

(5) If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Consolidated First Lien Net Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

(6) For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

"Consolidated Interest Expense" means, with respect to any Person for any period, the sum, without duplication, of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted in computing Consolidated Net Income (including the interest component of Capitalized Lease Obligations and net payments and receipts (if any) pursuant to interest rate Hedging Obligations, amortization of deferred financing fees and original issue discount, debt issuance costs, commissions, fees and expenses, expensing of any bridge, commitment or other financing fees and non-cash interest expense attributable to movement in mark to market valuation of Hedging Obligations or other derivatives (in each case permitted hereunder) under GAAP); *plus*

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; *plus*

(3) commissions, discounts, yield and other fees and charges Incurred in connection with any Securitization Financing which are payable to Persons other than the Issuer and the Restricted Subsidiaries; *minus*

(4) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis; *provided*, *however*, that:

(1) any net after-tax extraordinary, nonrecurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses or charges shall be excluded;

(2) any severance expenses, relocation expenses, restructuring expenses, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, any expenses related to any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facilities closing costs, acquisition integration costs, facilities opening costs, project start-up costs, business optimization costs, signing, retention or completion bonuses, expenses, commissions or charges related to any issuance, redemption, repurchase, retirement or acquisition of Equity Interests, Investment, acquisition, disposition, recapitalization or issuance, repayment, refinancing, amendment or modification of Indebtedness (in each case, whether or not successful), and any fees, expenses or charges related to the Transactions;

(3) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such Person and such Subsidiaries and including, without limitation, the effects of adjustments to (A) Capitalized Lease Obligations or (B) any other deferrals of income) in amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded;

(4) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period;

(5) any net after-tax income or loss from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax gains or losses on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets shall be excluded;*provided*, that notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, the Issuer shall not exclude any such net after-tax income or loss or any such net after-tax gains or losses attributable thereto until such sale, transfer or other disposition has been consummated;

(6) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of the Issuer) shall be excluded;

(7) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of Indebtedness, Hedging Obligations or other derivative instruments shall be excluded;

(8) (a) the Net Income for such period of any Person that is not a Subsidiary of such Person, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the referent Person or a Restricted Subsidiary thereof in respect of such period and (b) the Net Income for such period shall include any dividend, distribution or other payment in cash (or to the extent converted into cash) received by the referent Person or a Subsidiary thereof (other than an Unrestricted Subsidiary of such referent Person) from any Person in excess of, but without duplication of, the amounts included in subclause (a);

(9) solely for the purpose of determining the amount available for Restricted Payments under clause (1) of the definition of "Cumulative Credit," the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded to the extent that the declaration or payment of dividends or similar distributions by such Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restrictions with respect to the payment of dividends or similar distributions have been legally waived; *provided* that the Consolidated Net Income of such Person shall be increased by the amount of dividends or other distributions or other payments actually paid in cash (or converted into cash) by any such Restricted Subsidiary to such Person, to the extent not already included therein;

(10) an amount equal to the amount of Tax Distributions actually made to any parent or equity holder of such Person in respect of such period in accordance with Section 4.04(b)(xi) shall be included as though such amounts had been paid as income taxes directly by such Person for such period;

(11) any impairment charges or asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments arising pursuant to GAAP shall be excluded;

(12) any non-cash expense realized or resulting from management equity plans, stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights shall be excluded;

(13) any (a) non-cash compensation charges, (b) costs and expenses related to employment of terminated employees, or (c) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights of officers, directors and employees, in each case of such Person or any Restricted Subsidiary, shall be excluded;

(14) accruals and reserves that are established or adjusted within 12 months after the Completion Date and that are so required to be established or adjusted in accordance with GAAP or as a result of adoption or modification of accounting policies shall be excluded;

(15) non-cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations shall be excluded;

(16) any currency translation gains and losses related to currency remeasurements of Indebtedness, and any net loss or gain resulting from hedging transactions for currency exchange risk, shall be excluded;

(17) (a) to the extent covered by insurance and actually reimbursed, or, so long as such Person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable carrier in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded and (b) amounts in respect of which such Person has determined that there exists reasonable evidence that such amounts will in fact be reimbursed by insurance in respect of lost revenues or earnings in respect of liability or casualty events or business interruption shall be included (with a deduction for amounts actually received up to such estimated amount, to the extent included in Net Income in a future period); and

(18) non-cash charges for deferred tax asset valuation allowances shall be excluded.

Notwithstanding the foregoing, for the purpose of Section 4.04 only, there shall be excluded from Consolidated Net Income any dividends, repayments of loans or advances or other transfers of assets from Unrestricted Subsidiaries or Restricted Subsidiaries to the extent such dividends, repayments or transfers increase the amount of Restricted Payments permitted under Section 4.04 pursuant to clauses (4) and (5) of the definition of "Cumulative Credit."

"Consolidated Non-Cash Charges" means, with respect to any Person for any period, thenon-cash expenses (other than Consolidated Depreciation and Amortization Expense) of such Person and its Restricted Subsidiaries reducing Consolidated Net Income of such Person for such period on a consolidated basis and otherwise determined in accordance with GAAP, *provided* that if any such non-cash expenses 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 EBITDA in such future period to the extent paid, but excluding from this proviso, for the avoidance of doubt, amortization of a prepaid cash item that was paid in a prior period.

"Consolidated Secured Net Leverage Calculation Date" has the meaning set forth in the definition of "Consolidated Secured Net Leverage Ratio."

"Consolidated Secured Net Leverage Ratio" means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation (determined on a consolidated basis in accordance with GAAP) *less* the amount of cash and Cash Equivalents that do not constitute Restricted Cash held by such Person and its Restricted Subsidiaries as of the end of the most recent fiscal quarter ending prior to the date of such determination for which internal financial statements of such Person are available to (ii) EBITDA of such Person for the four full fiscal quarters for which internal financial statements of such Person are available immediately preceding such date on which such additional Indebtedness is Incurred.

(1) In the event that the Issuer or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Consolidated Secured Net Leverage Ratio is being calculated but prior to the event for which the calculation of the Consolidated Secured Net Leverage Ratio is made (the "Consolidated Secured Net Leverage Calculation Date"), then the Consolidated Secured Net Leverage Ratio shall be calculated giving*pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that the Issuer may elect pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred at such time, in which case any subsequent Incurrence of Indebtedness (or Liens secured by such Indebtedness) under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time.

(2) To the extent (i) the Issuer elects pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred or (ii) the Issuer or any Restricted Subsidiary elects to treat Indebtedness as having been Incurred prior to the actual Incurrence thereof pursuant to Section 4.03(c)(3), the Issuer shall deem all or such portion of such commitment or such Indebtedness, as applicable, as having been Incurred and to be outstanding for purposes of calculating the Consolidated Secured Net Leverage Ratio for any period in which the Issuer makes any such election and for any subsequent period until such commitments or such Indebtedness, as applicable, are no longer outstanding or such notice is withdrawn.

(3) For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP and including, for each applicable period and for the avoidance of doubt, any of the foregoing occurring in connection with the Transactions), in each case with respect to any company, any business or any group of assets constituting an operating unit of a business, that the Issuer or any Restricted Subsidiary has made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Consolidated Secured Net Leverage Calculation Date (each, for purposes of this definition, a "*pro forma* event") shall be calculated on a *pro forma* basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period; *provided* that, notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, the Issuer shall not make such computations on a *pro forma* basis for any such classification for any period until such sale, transfer or other disposition has been consummated. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Issuer or any Restricted Subsidiary since the beginning of such period shall have consummated any *pro forma event* that would have required adjustment pursuant to this definition, then the Consolidated Secured Net Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such *pro forma event* had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Consolidated Secured Net Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

(4) For purposes of this definition, whenever *pro forma* effect is to be given to any *pro forma* event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Issuer. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Issuer as set forth in an Officers' Certificate, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event within 18 months of the date the applicable event is consummated.

(5) If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Consolidated Secured Net Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be

determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

(6) For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

"Consolidated Taxes" means, with respect to any Person for any period, the provision for taxes based on income, profits or capital, including, without limitation, state, franchise, property and similar taxes, foreign withholding taxes (including penalties and interest related to such taxes or arising from tax examinations) and any Tax Distributions actually taken into account in calculating Consolidated Net Income.

"Consolidated Total Indebtedness" means, as of any date of determination, an amount equal to the sum (without duplication) of (1) the aggregate principal amount of all outstanding Indebtedness of the Issuer and the Restricted Subsidiaries (excluding any undrawn letters of credit) consisting of bankers' acceptances and Indebtedness for borrowed money, plus (2) the aggregate amount of all outstanding Disqualified Stock of the Issuer and the Restricted Subsidiaries and all Preferred Stock of Restricted Subsidiaries, with the amount of such Disqualified Stock and Preferred Stock equal to the greater of their respective voluntary or involuntary liquidation preferences, in each case determined on a consolidated basis in accordance with GAAP.

"Consolidated Total Net Leverage Calculation Date" has the meaning set forth in the definition of "Consolidated Total Net Leverage Ratio."

"Consolidated Total Net Leverage Ratio" means, with respect to any Person, at any date, the ratio of (i) Consolidated Total Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation (determined on a consolidated basis in accordance with GAAP) *less* the amount of cash and Cash Equivalents that do not constitute Restricted Cash held by such Person and its Restricted Subsidiaries as of the end of the most recent fiscal quarter ending prior to the date of such determination for which internal financial statements of such Person are available to (ii) EBITDA of such Person for the four full fiscal quarters for which internal financial statements of such Person are available immediately preceding such date on which such additional Indebtedness is Incurred.

(1) In the event that the Issuer or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Consolidated Total Net Leverage Ratio is being calculated but prior to the event for which the calculation of the Consolidated Total Net Leverage Ratio is made (the "Consolidated Total Net Leverage Calculation Date"), then the Consolidated Total Net Leverage Ratio shall be calculated giving*pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that the Issuer may elect pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred at such time, in which case any

subsequent Incurrence of Indebtedness (or Liens secured by such Indebtedness) under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time.

(2) To the extent (i) the Issuer elects pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred or (ii) the Issuer or any Restricted Subsidiary elects to treat Indebtedness as having been Incurred prior to the actual Incurrence thereof pursuant to Section 4.03(c)(3) the Issuer shall deem all or such portion of such commitment or such Indebtedness, as applicable, as having been Incurred and to be outstanding for purposes of calculating the Consolidated Total Net Leverage Ratio for any period in which the Issuer makes any such election and for any subsequent period until such commitments or such Indebtedness, as applicable, are no longer outstanding or such notice is withdrawn.

(3) For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP and including, for each applicable period and for the avoidance of doubt, any of the foregoing occurring in connection with the Transactions), in each case with respect to any company, any business or any group of assets constituting an operating unit of a business, that the Issuer or any Restricted Subsidiary has made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Consolidated Total Net Leverage Calculation Date (each, for purposes of this definition, a "*pro forma* event") shall be calculated on a *pro forma* basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period; *provided* that, notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, the Issuer shall not make such computations on a *pro forma* basis for any such classification for any period until such sale, transfer or other disposition has been consummated. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Issuer or any Restricted Subsidiary since the beginning of such period shall have consummated any *pro forma* event that would have required adjustment pursuant to this definition, then the Consolidated Total Net Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such *pro forma* event had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Consolidated Total Net Leverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

(4) For purposes of this definition, whenever *pro forma* effect is to be given to any *pro forma* event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Issuer. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Issuer as set forth in an Officers' Certificate, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event within 18 months of the date the applicable event is consummated.

(5) If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Consolidated Total Net Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

(6) For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

"Contingent Obligations" means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent:

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor;

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

"Corporate Trust Office" means the designated office of the Trustee in the United States of America at which any time its corporate trust business shall be administered, or such other address as the Trustee may designate from time to time by notice to the holders and the Issuer, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the holders and the Issuer).

"Credit Agreement" means (i) the Senior Secured Credit Agreement and (ii) whether or not the credit agreement referred to in clause (i) remains outstanding, if designated by the Issuer to be included in this definition of "Credit Agreement," one or more (A) debt facilities or commercial paper facilities, providing for revolving credit loans, term loans, securitization or receivables financing (including through the sale of receivables to lenders or to special purpose entities formed to borrow from lenders against such receivables) or letters of credit, (B) debt securities, indentures or other forms of debt financing (including convertible or exchangeable debt instruments or bank guarantees or bankers' acceptances), or (C) instruments or agreements evidencing any other Indebtedness, in each case, with the same or different borrowers or issuers and, in each case, as amended, supplemented, modified, waived, extended, restructured, repaid, renewed, refinanced, restated, replaced (whether or not upon termination, and whether with the original lenders or otherwise) or refunded in whole or in part from time to time.

"Credit Agreement Documents" means the collective reference to any Credit Agreement, any notes issued pursuant thereto and the guarantees thereof, and the collateral documents relating thereto, as amended, supplemented, restated, renewed, refunded, replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refinanced or otherwise modified, in whole or in part, from time to time.

"Credit Facilities" means any debt facilities (including the Senior Secured Credit Agreement), commercial paper facilities, debt securities, indentures or other forms of debt financing (including convertible or exchangeable debt instruments or bank guarantees or bankers' acceptances), in each case providing for revolving credit loans, term loans, securitization or receivables financing (including through the sale of receivables to lenders or to special purpose entities formed to borrow from lenders against such receivables) or letters of credit, in each case, as amended, supplemented, modified, waived, extended, restructured, repaid, renewed, refinanced, restated, replaced (whether or not upon termination, and whether with the original lenders or otherwise) or refunded in whole or in part from time to time.

"Cumulative Credit" means the sum of (without duplication):

(1) 50% of the Consolidated Net Income of the Issuer for the period (taken as one accounting period) from the first day of the first full fiscal quarter commencing after the Completion Date occurs to the end of the Issuer's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit), *plus*

(2) 100% of the aggregate net proceeds, including cash and the Fair Market Value (as determined in good faith by the Issuer) of property other than cash, received by the Issuer after the Completion Date (other than net proceeds to the extent such net proceeds have been used to Incur Indebtedness, Disqualified Stock or Preferred Stock pursuant to Section 4.03(b)(xiii)) from the issue or sale of Equity Interests of the Issuer or any direct or indirect parent entity of the Issuer (excluding Refunding Capital Stock, Designated Preferred Stock, Excluded Contributions and Disqualified Stock), including Equity Interests issued upon exercise of warrants or options (other than an issuance or sale to the Issuer or a Restricted Subsidiary), *plus*

(3) 100% of the aggregate amount of contributions to the capital of the Issuer received in cash and the Fair Market Value (as determined in good faith by the Issuer) of property other than cash received by the Issuer after the Completion Date (other than Excluded

Contributions, Refunding Capital Stock, Designated Preferred Stock and Disqualified Stock and other than contributions to the extent such contributions have been used to Incur Indebtedness, Disqualified Stock, or Preferred Stock pursuant to Section 4.03(b)(xiii)), *plus*

(4) 100% of the principal amount of any Indebtedness, or the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock of the Issuer or any Restricted Subsidiary issued on or after the Completion Date (other than Indebtedness or Disqualified Stock issued to a Restricted Subsidiary) which has been converted into or exchanged for Equity Interests in the Issuer (other than Disqualified Stock) or any Parent (*provided*, that in the case of any such Parent, such Indebtedness or Disqualified Stock is retired or extinguished),*plus*

(5) 100% of the aggregate amount received by the Issuer or any Restricted Subsidiary on or after the Completion Date in cash and the Fair Market Value (as determined in good faith by the Issuer) of property other than cash received by the Issuer or any Restricted Subsidiary from:

(A) the sale or other disposition (other than to the Issuer or a Restricted Subsidiary) of Restricted Investments made by the Issuer and the Restricted Subsidiaries and from repurchases and redemptions of such Restricted Investments from the Issuer and the Restricted Subsidiaries by any Person (other than the Issuer or any Restricted Subsidiary) and from repayments of loans or advances, and releases of guarantees, which constituted Restricted Investments,

(B) the sale (other than to the Issuer or a Restricted Subsidiary) of the Capital Stock of any joint venture or Unrestricted Subsidiary, or

(C) a distribution or dividend from any joint venture or Unrestricted Subsidiary,*plus*

(6) in the event any joint venture or Unrestricted Subsidiary has been redesignated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into the Issuer or a Restricted Subsidiary, the lesser of (x) the Fair Market Value (as determined in good faith by the Issuer) of the Investment of the Issuer or the Restricted Subsidiaries in such joint venture or Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable) (other than in each case to the extent that the designation of such Subsidiary as an Unrestricted Subsidiary constituted a Permitted Investment), and (y) the Fair Market Value (as determined in good faith by the Issuer) of the original Investment made by the Issuer or the Restricted Subsidiaries in such joint venture or Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable) (other than in each case to the extent that the designation of such Subsidiary as an Unrestricted Subsidiary constituted a Permitted Investment).

"Custodian" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

"Default" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"Derivative Instrument" with respect to a Person, means any contract, instrument or other right to receive payment or delivery of cash or other assets to which such Person or any Affiliate of such Person that is acting in concert with such Person in connection with such Person's investment in the Notes (other than a Screened Affiliate) is a party (whether or not requiring further performance by such Person), the value and/or cash flows of which (or any material portion thereof) are materially affected by the value and/or performance of the Notes and/or the creditworthiness of the Issuer and/or any one or more of the Guarantors (the "Performance References").

"Designated Non-cash Consideration" means the Fair Market Value (as determined in good faith by the Issuer) ofnon-cash consideration received by the Issuer or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officers' Certificate, setting forth such valuation, less the amount of Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

"Designated Preferred Stock" means Preferred Stock of the Issuer or any direct or indirect parent of the Issuer (other than Disqualified Stock), that is issued for cash (other than to the Issuer or any of its Subsidiaries or an employee stock ownership plan or trust established by the Issuer or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officers' Certificate, on the issuance date thereof.

"Disqualified Stock" means, with respect to any Person, any Capital Stock of such Person which, by its terms (or by the terms of any security into which it is convertible or for which it is redeemable or exchangeable), or upon the happening of any event:

(1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than as a result of a change of control or asset sale),

(2) is convertible or exchangeable for Indebtedness or Disqualified Stock of such Person or any of its Restricted Subsidiaries, or

(3) is redeemable at the option of the holder thereof, in whole or in part (other than solely as a result of a change of control or asset sale), in each case prior to 91 days after the earlier of the maturity date of the Notes or the date the Notes are no longer outstanding; *provided*, *however*, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; *provided*, *further*, *however*, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees of the Issuer or their Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by such Person in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability; *provided*, *further*, that any class of Capital Stock of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Capital Stock that is not Disqualified Stock shall not be deemed to be Disqualified Stock;

provided, that, for the avoidance of doubt, no Preferred Stock issued by the Ultimate Issuer in connection with the Transactions shall be deemed to be Disqualified Stock.

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

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

"EBITDA" means, with respect to any Person for any period, the Consolidated Net Income of such Person and its Restricted Subsidiaries for such period *plus*, without duplication, to the extent the same was deducted in calculating Consolidated Net Income:

(1) Consolidated Taxes; *plus*

(2) Fixed Charges and costs of surety bonds in connection with financing activities; *plus*

(3) Consolidated Depreciation and Amortization Expense; *plus*

(4) Consolidated Non-Cash Charges; *plus*

(5) any expenses or charges (other than Consolidated Depreciation and Amortization Expense) related to any issuance of Equity Interests, Investment, acquisition, disposition, recapitalization or the Incurrence, modification or repayment of Indebtedness permitted to be Incurred by this Indenture (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the Notes or any other Indebtedness or the Transactions, (ii) any amendment or other modification of the Notes or other Indebtedness and (iii) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Qualified Securitization Financing; *plus*

(6) business optimization expenses and other restructuring charges, reserves or expenses (which, for the avoidance of doubt, shall include, without limitation, the effect of facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges); *provided* that the aggregate amount added to EBITDA pursuant to this clause (6), together with the aggregate amount added to EBITDA pursuant to clauses (9) and (10) below, shall not exceed 20% of EBITDA for such period (determined after giving effect to such adjustments); *plus*

(7) the amount of loss or discount on sale of assets and any commissions, yield and other fees and charges, in each case in connection with a Qualified Securitization Financing; *plus*

(8) any costs or expenses incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of the Issuer or any Guarantor or net cash proceeds of an issuance of Equity Interests of the Issuer (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the calculation of the Cumulative Credit; *plus*

(9) the amount of net cost savings, operating improvements or synergies projected by the Issuer in good faith to be realized within eighteen months following the date of any operational changes, business realignment projects or initiatives, restructurings or reorganizations which have been or are intended to be initiated (other than those operational changes, business realignment projects or initiatives, restructurings or reorganizations entered into in connection with any *pro forma* event (as defined in the definition of "Fixed Charge Coverage Ratio") (calculated on a*pro forma* basis as though such cost savings had been realized on the first day of such period)), net of the amount of actual benefits realized during such period from such actions; *provided* that such net cost savings and operating improvements or synergies are reasonably identifiable and quantifiable;*provided, further*, that the aggregate amount added to EBITDA pursuant to this clause (9) , together with the aggregate amount added to EBITDA pursuant to clause (6) above and clause (10) below, shall not exceed 20% of EBITDA for such period (determined after giving effect to such adjustments); plus

(10) add-backs and adjustments of the nature used in connection with the calculations of "pro forma EBITDA," "pro forma adjusted EBITDA" and "pro forma further adjusted EBITDA" (or similar pro forma non-GAAP measures) as set forth in the section titled "*Summary Unaudited Pro Forma Condensed Combined Financial Information*" in the Offering Memorandum to the extent such add-backs and adjustments, without duplication, continue to be applicable to such period; *provided*, *further*, that the aggregate amount added to EBITDA pursuant to this clause (10), together with the aggregate amount added to EBITDA pursuant to clauses (6) and (9) above, shall not exceed 20% of EBITDA for such period (determined after giving effect to such adjustments)

less, without duplication, to the extent the same increased Consolidated Net Income,

(11) non-cash items increasing Consolidated Net Income for such period (excluding the recognition of deferred revenue or any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced EBITDA in any prior period and any items for which cash was received in a prior period).

"Electronic Means" means the following communications methods: S.W.I.F.T., e-mail, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"Equity Offering" means any public or private sale after the Completion Date of common Capital Stock or Preferred Stock of the Issuer or any Parent, as applicable (other than Disqualified Stock), other than:

(1) public offerings with respect to the Issuer's or such direct or indirect parent's common stock registered on FormS-4 or Form S-8;

(2) issuances to any Subsidiary of the Issuer; and

(3) any such public or private sale that constitutes an Excluded Contribution.

"Escrow Agent" means U.S. Bank National Association, in its capacity as escrow agent under the Escrow Agreement, together with its successors in such capacity.

"Escrow Agreement" means the escrow agreement, dated as of the Issue Date, by and among the Forward, Escrow Issuer, the Trustee and the Escrow Agent, as amended, supplemented or modified from time to time.

"Escrow Release Date" means the date of the Escrow Release.

"Escrowed Property" means the initial funds deposited in the Escrow Account on the Issue Date, and all other funds, securities, interest, dividends, distributions, earnings and other property and payments credited to the Escrow Account in connection with the Notes.

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

"Excluded Assets" has the meaning set forth in the Security Agreement.

"Excluded Contributions" means the Cash Equivalents or other assets (valued at their Fair Market Value as determined in good faith by senior management or the Board of Directors of the Issuer) received by the Issuer after the Completion Date from:

(1) contributions to its common equity capital, and

(2) the sale (other than to a Subsidiary of the Issuer or to any Subsidiary management equity plan or stock option plan or any other management or employee benefit plan or agreement) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of the Issuer,

in each case designated as Excluded Contributions pursuant to an Officers' Certificate.

"Excluded Subsidiary" means (a) each Domestic Subsidiary that is prohibited from guaranteeing the Notes by any requirement of law or that would require consent, approval, license or authorization of a governmental authority to guarantee the Notes (unless such consent, approval, license or authorization has been received), (b) each Domestic Subsidiary that is prohibited by any applicable contractual requirement from guaranteeing the Notes on the Completion Date or at the time such Subsidiary becomes a Subsidiary (to the extent not Incurred in connection with becoming a Subsidiary and in each case for so long as such restriction or any replacement or renewal thereof is in effect), (c) any Domestic Subsidiary (i) that owns no material assets (directly or through its Subsidiaries) other than Equity Interests of one or more Foreign Subsidiaries that are CFCs or (ii) that is a direct or indirect Subsidiary of a Foreign Subsidiary that is a CFC, (d) any Foreign Subsidiary, (e) any Securitization Subsidiary and any other special purpose subsidiary, (f) any CFC, (g) any Unrestricted Subsidiary, (h) any Immaterial Subsidiary, (i) any Subsidiary that is a captive insurance company and (j) any not-for-profit Subsidiary.

"Fair Market Value" means, with respect to any asset or property on any date of determination, the price which could be negotiated in an arm's-length transaction on such date of determination, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction. Except as otherwise set forth in this Indenture, such value shall be determined in good faith by the Issuer.

"Fitch" means Fitch Ratings Inc. or any successor entity.

"Fixed Charge Calculation Date" has the meaning set forth in the definition of "Fixed Charge Coverage Ratio."

"Fixed Charge Coverage Ratio" means, with respect to any Person for any period, the ratio of EBITDA of such Person for such period to the Fixed Charges of such Person for such period.

(1) In the event that the Issuer or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Fixed Charge Calculation Date"), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that the Issuer may elect pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred at such time, in which case any subsequent Incurrence of Indebtedness under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time.

(2) To the extent (i) the Issuer elects pursuant to an Officers' Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness as being Incurred or (ii) the Issuer or any Restricted Subsidiary elects to treat Indebtedness as having been Incurred prior to the actual Incurrence thereof pursuant to Section 4.03(c)(3), the Issuer shall deem all or such portion of such commitment or such Indebtedness, as applicable, as having been Incurred and to be outstanding for purposes of calculating the Fixed Charge Coverage Ratio for any period in which the Issuer makes any such election and for any subsequent period until such commitments or such Indebtedness, as applicable, are no longer outstanding or such notice is withdrawn.

(3) For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP and including, for each applicable period and for the avoidance of doubt, any of the foregoing occurring in connection with the Transactions), in each case with respect to any company, any business or any group of assets constituting an operating unit of a business, that the Issuer or any Restricted Subsidiary has made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Calculation Date (each, for purposes of this definition, a "*pro forma* event") shall be calculated on a *pro forma* basis assuming that all such Investments, acquisitions,

dispositions, mergers, amalgamations, consolidations, or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period; *provided* that, notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, the Issuer shall not make such computations on a *pro forma* basis for any such classification for any period until such sale, transfer or other disposition has been consummated. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Issuer or any Restricted Subsidiary since the beginning of such period shall have consummated any *pro forma* event, that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such *pro forma* event had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

(4) For purposes of this definition, whenever *pro forma* effect is to be given to any *pro forma* event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Issuer. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of the Issuer as set forth in an Officers' Certificate, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event within 18 months of the date the applicable event is consummated.

(5) If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Issuer to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Issuer may designate.

(6) For purposes of this definition, any amount in a currency other than U.S. dollars will be converted to U.S. dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

"Fixed Charges" means, with respect to any Person for any period, the sum, without duplication, of: (1) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, and (2) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person.

"Foreign Subsidiary" means a Restricted Subsidiary not organized or existing under the laws of the United States of America or any state thereof or the District of Columbia. For the avoidance of doubt, any Subsidiary incorporated or organized under the laws of a territory of the United States (including the Commonwealth of Puerto Rico) shall constitute a "Foreign Subsidiary."

"Forward" means Forward Air Corporation, a Tennessee corporation.

"FSHCO" means any Subsidiary that owns no material assets other than the Equity Interest (including for this purpose any debt or other instruments treated as equity for U.S. federal income tax purposes) in one or more Foreign Subsidiaries that are CFCs and/or of one or more FSHCOs.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time (unless otherwise specified herein). For the purposes of this Indenture, the term "consolidated" with respect to any Person shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment. If there occurs a change in generally accepted accounting principles and such change would cause a change in the method of calculation of any term or measure used in this Indenture (an "Accounting Change"), then the Issuer may elect, as evidenced by a written notice of the Issuer to the Trustee, that such term or measure shall be calculated as if such Accounting Change had not occurred.

"Grantor" means the Issuer and the Guarantors as of the Completion Date and each other direct or indirect Subsidiary of the Issuer that shall have granted any Lien in favor of the Notes Collateral Agent.

"guarantee" means a guarantee (other than by endorsement of negotiable instruments for collection in the ordinary course of business), direct or indirect, in any manner (including, without limitation, letters of credit and reimbursement agreements in respect thereof), of all or any part of any Indebtedness or other Obligations. The amount of any guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness in respect of which such guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such Person in good faith.

"Guarantee" means any guarantee of the Obligations of the Issuer under this Indenture and the Notes by any Guarantor in accordance with the provisions of this Indenture.

"Guarantor" means Forward and each Subsidiary Guarantor.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person under:

(1) currency exchange, interest rate or commodity swap agreements, currency exchange, interest rate or commodity cap agreements and currency exchange, interest rate or commodity collar agreements; and

(2) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange, interest rates or commodity prices.

"holder" or "noteholder" means the Person in whose name a Note is registered on the Registrar's books.

"Immaterial Subsidiary" means, at any date of determination, any Restricted Subsidiary that (i) has total assets of less than 2.5% of the Total Assets, and, together with all other Immaterial Subsidiaries (as determined in accordance with GAAP), has total assets of less than 5% of the Total Assets, in each case measured at the end of the most recent fiscal period for which internal financial statements are available and on a *pro forma* basis after giving effect to any acquisitions or dispositions of companies, division or line of business since such balance sheet and on or prior to the date of acquisition of such Subsidiary and (ii) has revenue for the period of four consecutive fiscal quarters ending on such date of less than 2.5% of the combined revenue of the Issuer and its Restricted Subsidiaries for such period and, together with all other Immaterial Subsidiaries (as determined in accordance with GAAP), has revenue for the period of four consecutive fiscal quarters ending on such date of less than 5% of the combined revenue of the Issuer and its Restricted Subsidiaries for such period (in each case, measured for the four quarters ended most recently for which internal financial statements are available and on a *pro forma* basis giving effect to any acquisitions or dispositions of companies, division or lines of business since the start of such four quarter reference period).

"Incur" means issue, assume, guarantee, incur or otherwise become liable for;*provided*, *however*, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary. "Incurred" and "Incurrence" shall have like meanings.

"Indebtedness" means, with respect to any Person:

(1) the principal of any indebtedness of such Person, whether or not contingent, (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers' acceptances (or, without duplication, reimbursement agreements in respect thereof), (c) representing the deferred and unpaid purchase price of any property (except any such balance that constitutes (i) a trade payable or similar obligation to a trade creditor Incurred in the ordinary course of business, (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (iii) liabilities accrued in the ordinary course of business), which purchase price is due more than twelve months after the date of placing the property in service or taking delivery and title thereto, (d) in respect of Capitalized Lease Obligations, (e) in respect of Securitization Financings or (f) representing any Hedging Obligations, if and to the extent that any of the foregoing indebtedness would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;

(2) to the extent not otherwise included, any obligation of such Person to be liable for, or to pay, as obligor, guarantor or otherwise, the obligations referred to in clause (1) of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and

(3) to the extent not otherwise included, Indebtedness of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); *provided*, *however*, that the amount of such Indebtedness will be the lesser of: (a) the Fair Market Value (as determined in good faith by the Issuer) of such asset at such date of determination, and (b) the amount of such Indebtedness of such other Person;

provided, *however*, that, notwithstanding the foregoing, Indebtedness shall be deemed not to include (1) Contingent Obligations Incurred in the ordinary course of business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; (4) trade and other ordinary course payables, accrued expenses and intercompany liabilities arising in the ordinary course of business; (5) obligations in respect of cash management services; (6) in the case of the Issuer and the Restricted Subsidiaries (x) all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business and (y) intercompany liabilities in connection with cash management, tax and accounting operations of the Issuer and the Restricted Subsidiaries; and (7) any obligations under Hedging Obligations; *provided* that such agreements are entered into for bona fide hedging purposes of the Issuer or the Restricted Subsidiaries (as determined in good faith by the Board of Directors or senior management of the Issuer, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement, such agreements are related to business transactions of the Issuer or the Restricted Subsidiaries entered into in the ordinary course of business and, in the case of any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement, such agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Indebtedness of the Issuer or the Restricted Subsidiaries Incurred without violation of this Indenture.

Notwithstanding anything in this Indenture to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Indenture as a result of accounting for any embedded derivatives created by the terms of such Indebtedness; and any such amounts that would have constituted Indebtedness under this Indenture but for the application of this sentence shall not be deemed an Incurrence of Indebtedness under this Indenture.

"Indenture" means this Indenture as amended or supplemented from time to time.

"Independent Financial Advisor" means an accounting, appraisal or investment banking firm or consultant, in each case of nationally recognized standing, that is, in the good faith determination of the Issuer, qualified to perform the task for which it has been engaged.

"Intellectual Property" means any and all patents, copyrights and trademarks.

"Intercreditor Agreements" means the Pari Passu Intercreditor Agreement and any Acceptable Junior Intercreditor Agreement.

"Interest Payment Date" has the meaning set forth in paragraph 1 on the reverse side of the applicable Note.

"Investment Grade Rating" means a rating equal to or higher than: (a) Baa3 (or the equivalent) by Moody's, (b) BBB- (or the equivalent) by S&P, (c) BBB- (or the equivalent) by Fitch, or (d) an equivalent rating by any other Rating Agency selected by the Issuer.

"Investment Grade Securities" means:

(1) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents),

(2) securities that have a rating equal to or higher than Baa3 (or equivalent) by Moody's and BBB- (or equivalent) by S&P, but excluding any debt securities or loans or advances between and among the Issuer and its Subsidiaries,

(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold material amounts of cash pending investment and/or distribution, and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments and in each case with maturities not exceeding two years from the date of acquisition.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit and advances to customers and commission, travel and similar advances to officers, employees and consultants made in the ordinary course of business and any assets or securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and any prepayments and other credits to suppliers made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet of such Person in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of "Unrestricted Subsidiary" and Section 4.04:

(1) "Investments" shall include the portion (proportionate to the Issuer's Equity Interest in such Subsidiary) of the Fair Market Value (as determined in good faith by the Issuer) of the net assets of such Subsidiary at the time that such Subsidiary is designated an Unrestricted Subsidiary; *provided*, *however*, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Issuer shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary equal to an amount (if positive) equal to:

(a) its "Investment" in such Subsidiary at the time of such redesignation less

(b) the portion (proportionate to its Equity Interest in such Subsidiary) of the Fair Market Value (as determined in good faith by the Issuer) of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value (as determined in good faith by the Issuer) at the time of such transfer, in each case as determined in good faith by the Board of Directors of the Issuer.

"Issue Date" means the date on which the Notes are originally issued.

"Issuer" means, (i) prior to the Escrow Merger, the Escrow Issuer, and (ii) from and after the Escrow Merger, the Ultimate Issuer.

"Junior Priority Liens" means Liens on the Collateral that are intended to be junior in priority to the Liens on the Collateral securing the Pari Passu Lien Obligations (it being understood that junior priority Liens are not required to rank equally and ratably with other junior priority Liens, and that Indebtedness secured by junior priority Liens may be secured by Liens that are senior in priority to, or rank equally and ratably with, or junior in priority to, other Liens constituting junior priority Liens).

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or similar encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement or any lease in the nature thereof); *provided* that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

"Limited Condition Acquisition" means any acquisition or other investment by the Issuer or one or more of the Restricted Subsidiaries permitted pursuant to this Indenture, the consummation of which is not conditioned on the availability of, or on obtaining, third party financing.

"Long Derivative Instrument" means a Derivative Instrument (i) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with positive changes to the Performance References and/or (ii) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with negative changes to the Performance References.

"Material Intellectual Property" means any Intellectual Property owned by Forward, the Issuer or any Restricted Subsidiary that is material to the business of Forward, the Issuer and its Restricted Subsidiaries, taken as a whole (as determined by the Issuer in good faith).

"Merger" means the merger of Opco Merger Sub with and into Omni with Omni surviving the merger as a wholly owned subsidiary of the Ultimate Issuer pursuant to the Merger Agreement.

"Merger Agreement" means that certain Agreement and Plan of Merger, dated as of August 10, 2023 (as amended, restated, supplemented or otherwise modified from time to time), by and among Forward, the Ultimate Issuer, Omni, the Escrow Issuer and the other entities party thereto.

"Moody's" means Moody's Investors Service, Inc. or any successor to the rating agency business thereof.

"Net Income" means, with respect to any Person, the net income (loss) of such Person and its Restricted Subsidiaries, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

"Net Proceeds" means the aggregate cash proceeds received by the Issuer or any Restricted Subsidiary in respect of any Asset Sale (including, without limitation, any cash received in respect of or upon the sale or other disposition of any Designated Non-cash Consideration received in any Asset Sale and any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise, but only as and when received, but excluding the assumption by the acquiring Person of Indebtedness relating to the disposed assets or other consideration received in any other non-cash form), net of the direct costs relating to such Asset Sale and the sale or disposition of such DesignatedNon-cash Consideration (including, without limitation, legal, accounting and investment banking fees, and brokerage and sales commissions), and any relocation expenses Incurred as a result thereof, taxes paid or payable as a result thereof (including Tax Distributions and after taking into account any available tax credits or deductions and any tax sharing arrangements related solely to such disposition), amounts required to be applied to the repayment of principal, premium (if any) and interest on Indebtedness required (other than pursuant to Section 4.06(b)) to be paid as a result of such transaction, and any deduction of appropriate amounts to be provided by the Issuer and the Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by the Issuer and the Restricted Subsidiaries after such sale or other disposition thereof, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction.

"Net Short" means, with respect to a holder or beneficial owner, as of a date of determination, either (i) the value of its Short Derivative Instruments exceeds the sum of the (x) the value of its Notes plus (y) the value of its Long Derivative Instruments as of such date of determination or (ii) it is reasonably expected that such would have been the case were a Failure to Pay or Bankruptcy Credit Event (each as defined in the 2014 ISDA Credit Derivatives Definitions) to have occurred with respect to the Issuer or any Guarantor immediately prior to such date of determination.

"Notes" means the Initial Notes and any Additional Notes that are actually issued.

"Notes Collateral Agent" means the party named as such in the preamble to this Indenture until a successor replaces it in accordance with the applicable provisions of this Indenture and, thereafter, means the successor serving hereunder.

"Notes Documents" means the Notes (including Additional Notes), this Indenture, the Security Documents and the Intercreditor Agreements.

"Notes Obligations" means Obligations in respect of the Notes, this Indenture, the Guarantees and the Security Documents.

"Obligations" means any principal, interest (including Post-Petition Interest, fees and expenses accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Issuer or any Guarantor whether or not a claim for Post-Petition Interest, fees or expenses is allowed or allowable in such proceedings), penalties, fees, indemnifications, reimbursements (including, without limitation, reimbursement obligations with respect to letters of credit and bankers' acceptances), damages and other liabilities payable under the documentation governing any Indebtedness; *provided* that Obligations with respect to the Notes shall not include fees or indemnifications in favor of third parties other than the Trustee and the holders of the Notes.

"Offering Memorandum" means the offering memorandum, dated September 22, 2023, relating to the issuance of the Initial Notes.

"Officer" means, with respect to any Person, the Chairman of the Board, Chief Executive Officer, Chief Financial Officer, Chief Legal Officer, Chief Accounting Officer, President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of such Person.

"Officers' Certificate" means, with respect to any Person, a certificate signed on behalf of such Person by two Officers of such Person, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of such Person.

"Omni" means Omni Newco, LLC, a Delaware limited liability company.

"Opco Merger Sub" means Clue Opco Merger Sub LLC, a Delaware limited liability company and wholly owned subsidiary of the Ultimate Issuer.

"Opinion of Counsel" means, with respect to any Person, a written opinion reasonably acceptable to the Trustee from legal counsel. The counsel may be an employee of or counsel to such Person.

"Parent" means Forward and any other Person that is a Subsidiary of Forward and of which the Issuer is a Subsidiary, in each case, solely for so long as the Issuer remains a Subsidiary of Forward or such other Person.

"Pari Passu Intercreditor Agreement" means that certain pari passu intercreditor agreement, to be dated as of the Completion Date, among the Ultimate Issuer, the Guarantors, the Notes Collateral Agent, the Senior Secured Credit Agreement Collateral Agent, and the other agents, representatives and Guarantors party thereto from time to time, as amended, supplemented or modified from time to time.

"Pari Passu Lien Obligations" means (i) the Senior Secured Credit Agreement Obligations, (ii) the Notes Obligations and (iii) any Additional Pari Passu Lien Obligations.

"Performance References" has the definition set forth in the definition of "Derivative Instrument."

"Permitted Investments" means:

(1) any Investment in the Issuer or any Restricted Subsidiary;

(2) any Investment in Cash Equivalents or Investment Grade Securities;

(3) any Investment by the Issuer or any Restricted Subsidiary in a Person if as a result of such Investment (a) such Person becomes a Restricted Subsidiary, or (b) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, the Issuer or a Restricted Subsidiary;

(4) any Investment in securities or other assets not constituting Cash Equivalents and received in connection with an Asset Sale made pursuant to Section 4.06 or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on, or made pursuant to binding commitments existing on, the Completion Date or an Investment consisting of any extension, modification or renewal of any Investment existing on the Completion Date; *provided* that the amount of any such Investment may be increased (x) as required by the terms of such Investment as in existence on the Completion Date or (y) as otherwise permitted under this Indenture;

(6) loans and advances to officers, directors, employees or consultants of the Issuer or any of its Subsidiaries or any Parent (i) in the ordinary course of business in an aggregate outstanding amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed $10 million at the time of Incurrence, (ii) in respect of payroll payments and expenses in the ordinary course of business and (iii) in connection with such Person's purchase of Equity Interests of the Issuer or any Parent solely to the extent that the amount of such loans and advances shall be contributed to the Issuer in cash as common equity;

(7) any Investment acquired by the Issuer or any Restricted Subsidiary (a) in exchange for any other Investment or accounts receivable held by the Issuer or such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable, or (b) as a result of a foreclosure by the Issuer or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

(8) Hedging Obligations permitted under Section 4.03(b)(x);

(9) any Investment by the Issuer or any Restricted Subsidiary in a Similar Business having an aggregate Fair Market Value (as determined in good faith by the Issuer), taken together with all other Investments made pursuant to this clause (9) that are at that time outstanding, not to exceed the sum of (x) the greater of $140 million and 25% of Consolidated EBITDA at the time

such Investment is made, plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); *provided*, *however*, that if any Investment pursuant to this clause (9) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (9) for so long as such Person continues to be a Restricted Subsidiary;

(10) additional Investments by the Issuer or any Restricted Subsidiary having an aggregate Fair Market Value (as determined in good faith by the Issuer), taken together with all other Investments made pursuant to this clause (10) that are at that time outstanding, not to exceed the sum of (x) the greater of $165 million and 30% of Consolidated EBITDA as of the date of such Investment, plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); *provided*, *however*, that if any Investment pursuant to this clause (10) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (10) for so long as such Person continues to be a Restricted Subsidiary;

(11) loans and advances to officers, directors or employees of the Issuer or any of its Subsidiaries or any Parent for business-related travel expenses, moving expenses and other similar expenses, in each case Incurred in the ordinary course of business or consistent with past practice or to fund such Person's purchase of Equity Interests of the Issuer or any Parent;

(12) Investments the payment for which consists of Equity Interests of the Issuer (other than Disqualified Stock) or any Parent, as applicable; *provided*, *however*, that such Equity Interests will not increase the amount available for Restricted Payments under clause (3) of the definition of "Cumulative Credit";

(13) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 4.07(b) (except transactions described in clauses (ii), (iv), (vi), (viii)(B) and (xv) of Section 4.07(b));

(14) guarantees issued in accordance with Section 4.03 and Section 4.11, including, without limitation, any guarantee or other Obligation issued or Incurred under any Credit Agreement in connection with any letter of credit issued for the account of the Issuer or any of its Subsidiaries (including with respect to the issuance of, or payments in respect of drawings under, such letters of credit);

(15) Investments consisting of or to finance purchases and acquisitions of inventory, supplies, materials, services or equipment or purchases of contract rights or licenses or leases of intellectual property;

(16) any Investment in a Securitization Subsidiary or any Investment by a Securitization Subsidiary in any other Person in connection with a Qualified Securitization Financing, including Investments of funds held in accounts permitted or required by the arrangements governing such Qualified Securitization Financing or any related Indebtedness;

(17) any Investment in an entity which is not a Restricted Subsidiary to which a Restricted Subsidiary sells Securitization Assets pursuant to a Securitization Financing;

(18) Investments of a Restricted Subsidiary acquired after the Completion Date or of an entity merged into, amalgamated with, or consolidated with the Issuer or a Restricted Subsidiary in a transaction that is not prohibited by Section 5.01 after the Completion Date to the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(19) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers;

(20) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of the Issuer or the Restricted Subsidiaries;

(21) Investments in joint ventures or Unrestricted Subsidiaries having an aggregate Fair Market Value (as determined in good faith by the Issuer), taken together with all other Investments made pursuant to this clause (21), not to exceed the sum of (x) the greater of (A) $110 million and (B) 20% of Consolidated EBITDA in the aggregate as of the date of such Investment, plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); *provided, however*, that if any Investment pursuant to this clause (21) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (21) for so long as such Person continues to be a Restricted Subsidiary;

(22) any Investment in any Subsidiary of the Issuer or any joint venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business;

(23) guaranteed Obligations of the Issuer or any Restricted Subsidiary of leases or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business; and

(24) other Investments; *provided* that the Consolidated Total Net Leverage Ratio of the Issuer for the most recently ended four full fiscal quarters for which internal financial statements are available, determined on a pro forma basis, is less than 3.30 to 1.00.

"Permitted Liens" means, with respect to any Person:

(1) pledges or deposits and other Liens granted by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds, performance and return of money bonds, or deposits as security for contested taxes or import duties or for the payment of rent, in each case Incurred in the ordinary course of business;

(2) Liens imposed by law, such as landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, construction or other like Liens securing obligations that are not overdue by more than 30 days or that are being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review;

(3) Liens for taxes, assessments or other governmental charges not yet overdue by more than 30 days or that are being contested in good faith by appropriate proceedings;

(4) Liens in favor of issuers of performance and surety bonds or bid bonds or with respect to other regulatory requirements or letters of credit, bankers' acceptances or similar obligations issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

(5) minor survey exceptions, minor encumbrances, trackage rights, special assessments, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, servicing agreements, development agreements, site plan agreements and other similar encumbrances Incurred in the ordinary course of business or zoning or other restrictions as to the use of real properties or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which were not Incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(6) (A) Liens on assets of a Subsidiary that is not a Guarantor securing Indebtedness of a Subsidiary that is not a Guarantor not prohibited from being Incurred by Section 4.03;

(B) Liens securing (x)(i) other than during a Suspension Period, Indebtedness Incurred pursuant to Section 4.03(b)(i) (other than Indebtedness Incurred under Section 4.03(b)(i)(3)(z)); *provided*, that, in the case of Indebtedness Incurred under Section 4.03(b)(i)(3)(y), such Liens shall rank junior in priority to the Liens on the Collateral pursuant to an Acceptable Junior Priority Intercreditor Agreement, and (y) any other Indebtedness up to additional amounts, if, in the case of this clause (y), as of the date such Indebtedness was Incurred, and after giving pro forma effect thereto and the application of the net proceeds therefrom, (1) other than during a Suspension Period, such Liens rank (A) junior in priority with the Liens securing the Notes Obligations and the

Consolidated Secured Net Leverage Ratio of the Issuer does not exceed 3.30 to 1.00 or (B) equal in priority with the Liens securing the Notes Obligations and the Consolidated First Lien Net Leverage Ratio of the Issuer does not exceed 2.80 to 1.00 or (2) during a Suspension Period, the Consolidated Secured Net Leverage Ratio of the Issuer does not exceed 3.30 to 1.00; and

(C) (x) other than during a Suspension Period, Liens securing Obligations in respect of Indebtedness permitted to be Incurred pursuant to clause (iv) or (xiv) (to the extent such guarantees are issued in respect of any Indebtedness) of Section 4.03(b) and (y) thereafter, Liens securing (i) Indebtedness (including Capitalized Lease Obligations) Incurred by the Issuer or any Restricted Subsidiary to finance (whether prior to or within 270 days after) the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) that, when aggregated with the principal amount of all other Indebtedness then outstanding and Incurred pursuant to this clause (6)(C)(y)(i) does not exceed at any one time outstanding the greater of $275 million and 50% of Consolidated EBITDA as of the date such Indebtedness is Incurred and (ii) any guarantee by the Issuer or any Restricted Subsidiary of Indebtedness or other obligations of the Issuer or any Restricted Subsidiary so long as the Incurrence of such Indebtedness Incurred by the Issuer or such Restricted Subsidiary is not prohibited under the terms of this Indenture; *provided* that if such Indebtedness is by its express terms subordinated in right of payment to the Notes any such guarantee with respect to such Indebtedness shall be subordinated in right of payment to the Notes substantially to the same extent as such Indebtedness is subordinated to the Notes;

(7) Liens existing on the Completion Date (other than Liens in favor of the lenders under the Senior Secured Credit Agreement);

(8) Liens on assets, property or shares of stock of a Person at the time such Person becomes a Subsidiary; *provided*, *however*, that such Liens are not created or Incurred in connection with, or in contemplation of, such other Person becoming a Subsidiary; *provided*, *further*, *however*, that such Liens may not extend to any other property owned by the Issuer or any Restricted Subsidiary (other than pursuant to after-acquired property clauses in effect with respect to such Lien at the time of acquisition on property of the type that would have been subject to such Lien notwithstanding the occurrence of such acquisition);

(9) Liens on assets or property at the time the Issuer or a Restricted Subsidiary acquired the assets or property, including any acquisition by means of a merger, amalgamation or consolidation with or into the Issuer or any Restricted Subsidiary; *provided*, *however*, that such Liens are not created or Incurred in connection with, or in contemplation of, such acquisition; *provided*, *further*, *however*, that the Liens may not extend to any other property owned by the Issuer or any Restricted Subsidiary (other than pursuant to after-acquired property clauses in effect with respect to such Lien at the time of acquisition on property of the type that would have been subject to such Lien notwithstanding the occurrence of such acquisition);

(10) (x) other than during a Suspension Period, Liens securing Indebtedness or other obligations of the Issuer or a Restricted Subsidiary owing to the Issuer or another Restricted Subsidiary permitted to be Incurred in accordance with Section 4.03 and (y) thereafter, Liens securing Indebtedness or other obligations of the Issuer or a Restricted Subsidiary owing to the Issuer or another Restricted Subsidiary;

(11) Liens securing Hedging Obligations not Incurred in violation of this Indenture;

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

(13) leases, subleases, licenses and sublicenses of real property which do not materially interfere with the ordinary conduct of the business of the Issuer or any of the Restricted Subsidiaries;

(14) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases or other obligations not constituting Indebtedness;

(15) Liens in favor of the Issuer or any Subsidiary Guarantor (or, during a Suspension Period, any Restricted Subsidiary);

(16) Liens on assets of the type specified in the definition of "Securitization Financing" Incurred in connection with a Qualified Securitization Financing;

(17) pledges and deposits and other Liens made in the ordinary course of business to secure liability to insurance carriers;

(18) Liens on the Equity Interests of Unrestricted Subsidiaries;

(19) leases or subleases, and licenses or sublicenses (including with respect to intellectual property) granted to others in the ordinary course of business, and Liens on real property which is not owned but is leased or subleased by the Issuer or any Restricted Subsidiary;

(20) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6), (7), (8), (9), (10), (11), (15), (25) and (35) of this definition; *provided*, *however*, that (x) such new Lien shall be limited to all or part of the same property (including any after acquired property to the extent it would have been subject to the original Lien) that secured the original Lien (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to the after-acquired property clauses to the extent such assets secured (or would have secured) the Indebtedness being refinanced, refunded, extended, renewed or replaced), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount (or accreted value, if applicable) or, if greater, committed amount of the applicable Indebtedness described under

clauses (6), (7), (8), (9), (10), (11), (15), (25) and (35) of this definition at the time the original Lien became a Permitted Lien under this Indenture, (B) unpaid accrued interest and premiums (including tender premiums), and (C) an amount necessary to pay any underwriting discounts, defeasance costs, commissions, fees and expenses related to such refinancing, refunding, extension, renewal or replacement; *provided*, *further*, *however*, that (X) in the case of any Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clause (6)(B), (6)(C) or (25) of this definition, the principal amount of any Indebtedness Incurred for such refinancing, refunding, extension or renewal shall be deemed secured by a Lien under clause (6)(B), (6)(C) or (25) of this definition and not this clause (20) for purposes of determining the principal amount of Indebtedness outstanding under clause (6)(B), (6)(C) or (25) of this definition and (Y) other than during a Suspension Period, in the case of Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clause (6)(B) or (25) of this definition, such new Lien shall have priority equal to or more junior in priority than the Lien securing such refinanced, refunded, extended or renewed Indebtedness;

(21) Liens on equipment of the Issuer or any Restricted Subsidiary granted in the ordinary course of business to the Issuer's or such Restricted Subsidiary's client at which such equipment is located;

(22) judgment and attachment Liens not giving rise to an Event of Default and notices of lis pendens and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made;

(23) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale or purchase of goods entered into in the ordinary course of business;

(24) Liens Incurred to secure cash management services or to implement cash pooling arrangements in the ordinary course of business;

(25) other Liens securing Obligations the outstanding principal amount of which does not, taken together with the principal amount of all other Obligations secured by Liens Incurred under this clause (25) that are at that time outstanding, exceed the greater of $165 million and 30% of Consolidated EBITDA at the time of Incurrence;

(26) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any joint venture or similar arrangement securing obligations of such joint venture or pursuant to any joint venture or similar agreement;

(27) any amounts held by a trustee in the funds and accounts under any indenture issued in escrow pursuant to customary escrow arrangements pending the release thereof, or under any indenture pursuant to customary discharge, redemption or defeasance provisions;

(28) Liens (i) arising by virtue of any statutory or common law provisions relating to banker's Liens, rights ofset-off or similar rights and remedies as to deposit accounts or other funds maintained with a depository or financial institution, (ii) attaching to commodity trading accounts or other commodity brokerage accounts Incurred in the ordinary course of business or

(iii) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to brokerage accounts Incurred in the ordinary course of business and not for speculative purposes;

(29) Liens (i) in favor of credit card companies pursuant to agreements therewith and (ii) in favor of customers;

(30) Liens disclosed by the title commitments or title insurance policies delivered pursuant to any Credit Agreement and any replacement, extension or renewal of any such Lien; *provided* that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal; *provided*, *further*, that the Indebtedness and other obligations secured by such replacement, extension or renewal Lien are permitted under this Indenture;

(31) Liens that are contractual rights of set-off relating to purchase orders and other agreements entered into with customers, suppliers or service providers of the Issuer or any Restricted Subsidiary in the ordinary course of business;

(32) in the case of real property that constitutes a leasehold or subleasehold interest, (x) any Lien to which the fee simple interest (or any superior leasehold interest) is subject or may become subject and any subordination of such leasehold or subleasehold interest to any such Lien in accordance with the terms and provisions of the applicable leasehold or subleasehold documents, and (y) any right of first refusal, right of first negotiation or right of first offer which is granted to the lessor or sublessor;

(33) agreements to subordinate any interest of the Issuer or any Restricted Subsidiary in any accounts receivable or other prices arising from inventory consigned by the Issuer or any such Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business;

(34) Liens on securities that are the subject of repurchase agreements constituting Cash Equivalents under clause (4) of the definition thereof;

(35) Liens securing the Notes (other than any Additional Notes) and the related Guarantees;

(36) Liens securing insurance premium financing arrangements; *provided* that such Liens are limited to the applicable unearned insurance premiums;

(37) Liens granted in the ordinary course of business consistent with past practice to lessors of trucks, trailers or tractors, leased by the Issuer or any Restricted Subsidiary thereof pursuant to arrangements which are intended to be true leases; and

(38) during a Suspension Period, Liens that were created or Incurred when not in a Suspension Period in reliance on Section 4.12(a)(i) (and any Lien to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by such Subject Lien).

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Post-Petition Interest" means any interest or entitlement to fees or expenses or other charges that accrue after the commencement of any insolvency or liquidation proceeding, whether or not allowed or allowable as a claim in any such insolvency or liquidation proceeding.

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

"Qualified Securitization Financing" means any Securitization Financing that meets the following conditions:

(1) the Issuer shall have determined in good faith that such Qualified Securitization Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to the Issuer or the applicable Subsidiary, as the case may be;

(2) all sales of Securitization Assets and related assets by the Issuer or the applicable Subsidiary (other than a Securitization Subsidiary) either to the applicable Securitization Subsidiary or directly to the applicable third-party financing providers (as the case may be) are made at Fair Market Value (as determined in good faith by the Issuer); and

(3) the financing terms, covenants, termination events and other provisions thereof shall be market terms (as determined in good faith by the Issuer) and may include Standard Securitization Undertakings.

"Rating Agency" means (1) any of Moody's, S&P or Fitch and (2) if any of Moody's, S&P or Fitch ceases to rate the Notes or to make a rating of the Notes publicly available for reasons outside of the Issuer's control, a "nationally recognized statistical rating organization" within the meaning of Section 3(a)(62) under the Exchange Act selected by the Issuer or any Parent as a replacement agency for Moody's, S&P or Fitch, as the case may be.

"Record Date" has the meaning set forth in paragraph 2 on the reverse side of the applicable Note.

"Regulated Bank" means a commercial bank with a consolidated combined capital surplus of at least $500,000,000 that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board of Governors under 12 C.F.R. part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

"Responsible Officer" means:

(1) any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject, and

(2) who shall have direct responsibility for the administration of this Indenture.

"Restricted Cash" means cash and Cash Equivalents held by the Issuer and the Restricted Subsidiaries that would appear as "restricted" on a consolidated balance sheet of the Issuer or any of the Restricted Subsidiaries.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Subsidiary" means, with respect to any Person, any Subsidiary of such Person other than an Unrestricted Subsidiary of such Person. Unless the context otherwise requires, the term "Restricted Subsidiary" shall mean a Restricted Subsidiary of the Issuer.

"S&P" means Standard & Poor's Ratings Group or any successor to the rating agency business thereof.

"Sale/Leaseback Transaction" means an arrangement relating to property now owned or hereafter acquired by the Issuer or a Restricted Subsidiary whereby the Issuer or such Restricted Subsidiary transfers such property to a Person, the Issuer or such Restricted Subsidiary leases it from such Person, other than leases between any of the Issuer and a Restricted Subsidiary or between Restricted Subsidiaries.

"Screened Affiliate" means any Affiliate of a holder (i) that makes investment decisions independently from such holder and any other Affiliate of such holder that is not a Screened Affiliate, (ii) that has in place customary information screens between it and such holder and any other Affiliate of such holder that is not a Screened Affiliate and such screens prohibit the sharing of information with respect to the Issuer or its Subsidiaries, (iii) whose investment policies are not directed by such holder or any other Affiliate of such holder that is acting in concert with such holder in connection with its investment in the Notes, and (iv) whose investment decisions are not influenced by the investment decisions of such holder or any other Affiliate of such holder that is acting in concert with such holder in connection with its investment in the Notes.

"SEC" means the Securities and Exchange Commission.

"Secured Indebtedness" means any Consolidated Total Indebtedness secured by a Lien.

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

"Securitization Assets" means any of the following assets (or interests therein) from time to time originated, acquired or otherwise owned by the Issuer or any Restricted Subsidiary or in which the Issuer or any Restricted Subsidiary has any rights or interests, in each case, without regard to where such assets or interests are located:

(1) receivables, payment obligations, installment contracts, and similar rights, whether currently existing or arising or estimated to arise in the future, and whether in the form of accounts, chattel paper, general intangibles, instruments or otherwise (including any drafts, bills of exchange or similar notes and instruments),

(2) royalty and other similar payments made related to the use of trade names and other intellectual property, business support, training and other services, including, without limitation, licensing fees, lease payments and similar revenue streams,

(3) revenues related to distribution and merchandising of the products of the Issuer and its Restricted Subsidiaries,

(4) intellectual property rights relating to the generation of any of the foregoing types of assets,

(5) parcels of or interests in real property, together with all easements, hereditaments and appurtenances thereto, all improvements and appurtenant fixtures and equipment, incidental to the ownership, lease or operation thereof and

(6) any other assets and property to the extent customarily included in securitization transactions or factoring transactions of the relevant type in the applicable jurisdictions (as determined by the Issuer in good faith).

"Securitization Fees" means distributions or payments made directly or by means of discounts with respect to any participation interests issued or sold in connection with, and all other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Securitization Financing.

"Securitization Financing" means any transaction or series of related transactions that may be entered into by the Issuer or any of its Subsidiaries pursuant to which the Issuer or any of its Subsidiaries may sell, assign, convey or otherwise transfer to any other Person, or may grant a security interest in, any Securitization Assets (whether now existing or arising in the future) of the Issuer or any of its Subsidiaries, and any assets related thereto including, without limitation, all collateral securing such Securitization Assets, all contracts and all guarantees or other obligations in respect of such Securitization Assets, proceeds of such Securitization Assets and other assets which are customarily sold, assigned, conveyed, or transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions or factoring transactions involving Securitization Assets and any Hedging Obligations entered into by the Issuer or any such Subsidiary in connection with such Securitization Assets.

"Securitization Repurchase Obligation" means any obligation of a seller of Securitization Assets in a Qualified Securitization Financing to repurchase Securitization Assets arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a Securitization Asset or portion thereof becoming subject to any asserted defense, dispute, dilution, off-set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

"Securitization Subsidiary" means a Wholly Owned Restricted Subsidiary (or another Person formed for the purposes of engaging in a Qualified Securitization Financing with the Issuer or any of its Subsidiaries in which the Issuer or any of its Subsidiaries makes an Investment and to which the Issuer or any of its Subsidiaries transfers Securitization Assets and related assets) which engages in no activities other than in connection with the financing of Securitization Assets of the Issuer and its Subsidiaries, all proceeds thereof and all rights (contractual or other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by the Issuer (as provided below) as a Securitization Subsidiary and:

(a) no portion of the Indebtedness or any other Obligations (contingent or otherwise) of which (i) is guaranteed by the Issuer or any other Restricted Subsidiary (excluding guarantees of Obligations (other than the principal of and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates the Issuer or any other Restricted Subsidiary in any way other than pursuant to Standard Securitization Undertakings, or (iii) subjects any property or asset of the Issuer or any other Restricted Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings;

(b) with which neither the Issuer nor any Restricted Subsidiary has any material contract, agreement, arrangement or understanding other than on terms which the Issuer reasonably believes to be no less favorable to the Issuer or such Restricted Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of the Issuer (other than pursuant to Standard Securitization Undertakings); and

(c) to which neither the Issuer nor any Restricted Subsidiary has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results (other than pursuant to Standard Securitization Undertakings).

"Security Agreement" means the security and pledge agreement, to be dated as of the Completion Date, by and among the Ultimate Issuer, the Notes Collateral Agent and the other grantors and pledgors from time to time party thereto, as amended, supplemented or modified from time to time.

"Security Documents" means the security agreements, pledge agreements, collateral assignments and related agreements, including the Security Agreement, in each case as amended, supplemented, restated, renewed, refunded, replaced, restructured or otherwise modified from time to time, creating or perfecting the security interests in the Collateral in favor of the Notes Collateral Agent for the benefit of the Trustee and the holders of the Notes as contemplated by this Indenture.

"Senior Indebtedness" means, (a) with respect to the Issuer, the Notes and any Indebtedness which ranks*pari passu* in right of payment to the Notes; and (b) with respect to any Guarantor, its Guarantee of the Notes and any Indebtedness which ranks *pari passu* in right of payment to such Guarantor's Guarantee.

"Senior Secured Credit Agreement" means the Credit Agreement, to be dated as of the Completion Date, as amended from time to time, by and among the Ultimate Issuer, Citibank, N.A., as agent, and the other parties thereto, as amended, restated, supplemented, waived, replaced (whether or not upon termination, and whether with the original lenders or otherwise), restructured, repaid, refunded, refinanced or otherwise modified from time to time, including any agreement or indenture extending the maturity thereof, refinancing, replacing or otherwise restructuring all or any portion of the Indebtedness under such agreement or agreements or indenture or indentures or any successor or replacement agreement or agreements or indenture or indentures or increasing the amount loaned or issued thereunder or altering the maturity thereof (except to the extent any such refinancing, replacement or restructuring is designated by the Ultimate Issuer to not be included in this definition of "Senior Secured Credit Agreement").

"Senior Secured Credit Agreement Collateral Agent" means Citibank, N.A., in its capacity as administrative agent and collateral agent for the "Secured Parties" (as defined in the Senior Secured Credit Agreement), together with its successors and permitted assigns.

"Senior Secured Credit Agreement Obligations" means "Obligations" (as defined in the Senior Secured Credit Agreement) together with any refinancing thereof.

"Short Derivative Instrument" means a Derivative Instrument (i) the value of which generally decreases, and/or the payment or delivery obligations under which generally increase, with positive changes to the Performance References and/or (ii) the value of which generally increases, and/or the payment or delivery obligations under which generally decrease, with negative changes to the Performance References.

"Significant Subsidiary" means any Restricted Subsidiary that would be a "Significant Subsidiary" within the meaning of Rule1-02 under Regulation S-X promulgated by the SEC (or any successor provisions).

"Similar Business" means any business (x) the majority of whose revenues are derived from business or activities conducted by the Issuer and its Subsidiaries on the Completion Date (after giving effect to the Merger), (y) that is a natural outgrowth or reasonable extension, development, expansion of any business or activities conducted by the Issuer and its Subsidiaries on the Completion Date (after giving effect to the Merger) or any business similar, reasonably related, incidental, complementary or ancillary to any of the foregoing and (z) any business that in the Issuer's good faith business judgment constitutes a reasonable diversification of businesses conducted by the Issuer and its Subsidiaries.

"Standard Securitization Undertakings" means representations, warranties, covenants, indemnities, reimbursement obligations, performance undertakings, guarantees of performance, and other customary payment obligations entered into by the Issuer or any of its Subsidiaries, whether joint and several or otherwise, which the Issuer has determined in good faith to be customary in a Securitization Financing including, without limitation, those relating to the servicing of the assets of a Securitization Subsidiary, it being understood that any Securitization Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking.

"Stated Maturity" means, with respect to any security, the date specified in such security as the fixed date on which the final payment of principal of such security is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such security at the option of the holder thereof upon the happening of any contingency beyond the control of the issuer unless such contingency has occurred).

"Subordinated Indebtedness" means (a) with respect to the Issuer, any Indebtedness of the Issuer which is by its terms subordinated in right of payment to the Notes, and (b) with respect to any Guarantor, any Indebtedness of such Guarantor which is by its terms subordinated in right of payment to its Guarantee.

"Subsidiary" means, with respect to any Person, (1) any corporation, association or other business entity (other than a partnership, joint venture or limited liability company) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, and (2) any partnership, joint venture or limited liability company of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity. Unless the context otherwise requires, the term "Subsidiary" shall mean a Subsidiary of the Issuer.

"Subsidiary Guarantee" means a Guarantee by a Subsidiary Guarantor.

"TIA" means the Trust Indenture Act of 1939 (15 U.S.C. Sections 77aaa-77bbbb) as in effect on the date of this Indenture.

"Total Assets" means, as of any date, the total consolidated assets of the Issuer and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of the Issuer and its Restricted Subsidiaries, determined on a *pro forma* basis in a manner consistent with the *pro forma* basis contained in the definition of "Fixed Charge Coverage Ratio."

"Transactions" means (i) the Merger, the Escrow Merger, the payments of amounts payable by Forward and its Subsidiaries pursuant to the Merger Agreement and all other transactions contemplated by the terms of the Merger Agreement and the various other agreements and documents contemplated therein, (ii) the issuance of the Notes, (iii) the entering into and borrowing of loans under the Senior Secured Credit Agreement in connection with the Merger, (iv) the refinancing of certain of Omni's and Forward's existing Indebtedness substantially concurrently with the Merger and (v) the payment of fees and expenses in connection with the foregoing.

"Treasury Rate" means, with respect to any Note, as of the applicable redemption date, as determined by the Issuer, the yield to maturity as of such redemption date of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (519) that has become publicly available at least two Business Days prior to such redemption date (or, if such Statistical Release is no longer published, any publicly available source of similar market data)) most nearly equal to the period from such redemption date to October 15, 2026; *provided*, *however*, that if the period from such redemption date to October 15, 2026, as applicable, is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used.

"Trustee" means the party named as such in the preamble to this Indenture until a successor replaces it in accordance with the applicable provisions of this Indenture and, thereafter, means the successor serving hereunder.

"UCC" or "Uniform Commercial Code" means the Uniform Commercial Code (or any successor statute) as in effect from time to time in the relevant jurisdiction.

"Ultimate Issuer" means Clue Opco LLC, a Delaware limited liability company and Wholly Owned Subsidiary of Forward.

"Unrestricted Subsidiary" at any time, means:

(1) any Subsidiary of the Issuer that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors of the Issuer in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Issuer may designate any Subsidiary of the Issuer (including any newly acquired or newly formed Subsidiary of the Issuer) to be an Unrestricted Subsidiary unless at the time of such designation such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on any property of, the Issuer or any other Restricted Subsidiary that is not a Subsidiary of the Subsidiary to be so designated, in each case at the time of such designation; *provided*, *however*, that the Subsidiary to be so designated and its Subsidiaries do not at the time of designation have and do not thereafter Incur any Indebtedness pursuant to which the lender has recourse to any of the assets of the Issuer or any of the Restricted Subsidiaries unless otherwise permitted under Section 4.04; *provided*, *further*, *however*, that either:

(a) the Subsidiary to be so designated has total consolidated assets of $1,000 or less; or

(b) if such Subsidiary has consolidated assets greater than $1,000, then such designation would be permitted under Section 4.04.

The Issuer may designate any Unrestricted Subsidiary to be a Restricted Subsidiary;*provided*, *however*, that immediately after giving effect to such designation:

(x) (1) the Issuer could Incur $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.03(a) or (2) the Fixed Charge Coverage Ratio of the Issuer would be no less than such ratio immediately prior to such designation, in each case on a *pro forma* basis taking into account such designation, and

(y) no Event of Default shall have occurred and be continuing.

"U.S. Government Obligations" means securities that are:

(1) direct obligations of the United States of America for the timely payment of which its full faith and credit is pledged, or

(2) obligations of a Person controlled or supervised by and acting as an agency or instrumentality of the United States of America, the timely payment of which is unconditionally guaranteed as a full faith and credit obligation by the United States of America, which, in each case, are not callable or redeemable at the option of the issuer thereof, and shall also include a depository receipt issued by a bank (as defined in Section 3(a)(2) of the Securities Act) as custodian with respect to any such U.S. Government Obligations or a specific payment of principal of or interest on any such U.S. Government Obligations held by such custodian for the account of the holder of such depository receipt; *provided* that (except as required by law) such custodian is not authorized to make any deduction from the amount payable to the holder of such depository receipt from any amount received by the custodian in respect of the U.S. Government Obligations or the specific payment of principal of or interest on the U.S. Government Obligations evidenced by such depository receipt.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness or Disqualified Stock or Preferred Stock, as the case may be, at any date, the number of years obtained by dividing (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment of principal of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock, including payment at final maturity, if applicable, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment (with the amount of any such required scheduled payment prior to the final maturity thereof to be determined disregarding the effect thereon of any prepayment made in respect of such Indebtedness); by (b) the then outstanding principal amount of such Indebtedness, Disqualified Stock or Preferred Stock.

"Wholly Owned Restricted Subsidiary" is any Wholly Owned Subsidiary that is a Restricted Subsidiary.

"Wholly Owned Subsidiary" of any Person means a Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares or shares required pursuant to applicable law) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

SECTION 1.02 Other Definitions.

Term	Section
$	1.03(j)
Affiliate Transaction	4.07(a)
Agent Members	Appendix A
Applicable Law	13.21
Asset Sale Offer	4.06(b)
Authentication Order	2.03
Authorized Officer	13.02
Bankruptcy Law	6.01
bankruptcy provision	6.01(f)
Change of Control Offer	4.08(a)
Change of Control Payment Date	4.08(a)
Company	Preamble
covenant defeasance option	8.01(b)
cross-acceleration provision	6.01(e)
Custodian	6.01
Declined Proceeds	4.06(b)
Definitive Note	Appendix A
Directing Holder	6.01
Escrow Account	11.01
Escrow Conditions	11.01
Escrow Merger	11.02
Escrow Outside Date	11.01
Escrow Release	11.02
Escrow Release Officers' Certificate	11.02
Event of Default	6.01
Excess Proceeds	4.06(b)
Fall-Away Event	4.16
Fixed Amounts	1.05
Foreign Disposition	4.06(g)
Global Notes	Appendix A
Global Notes Legend	Appendix A
Guaranteed Obligations	12.01(a)
IAI	Appendix A
Increased Amount	4.12(d)
Initial Notes	Preamble
Instructions	13.02(c)
Judgment default provision	6.01(g)
LCA Election	1.04
LCA Test Date	1.04
legal defeasance option	8.01(b)
Noteholder Direction	6.01
Notes	Preamble
Notes Custodian	Appendix A

Term	Section
Notice of Default	6.01
Offer Period	4.06(d)
Paying Agent	2.04(a)
Permitted Jurisdictions	5.01(a)
Position Representation	6.01
Position Representation and Verification Form	6.01
protected purchaser	2.08
QIB	Appendix A
Refinancing Indebtedness	4.03(b)(xv)
Refunding Capital Stock	4.04(b)(ii)
Registrar	2.04(a)
Regulation S	Appendix A
Regulation S Global Notes	Appendix A
Regulation S Notes	Appendix A
Regulation S Permanent Global Note	Appendix A
Regulation S Temporary Global Note	Appendix A
Relevant Transaction	1.05
Restricted Notes Legend	Appendix A
Restricted Payments	4.04(a)
Restricted Period	Appendix A
Retired Capital Stock	4.04(b)(ii)
Rule 144A	Appendix A
Rule 144A Global Notes	Appendix A
Rule 144A Notes	Appendix A
Rule 501	Appendix A
Second Commitment	4.06(b)
Signature Law	13.12
Special Mandatory Redemption	3.09
Special Mandatory Redemption Date	3.09
Special Mandatory Redemption Price	3.09
Special Termination Date	3.09
Successor Company	5.01(a)(i)
Successor Guarantor	5.01(b)(i)
Tax Distributions	4.04(b)(xi)
Tax Group	4.04(b)(xi)
Terminated Covenants	4.16
Transfer Restricted Definitive Notes	Appendix A
Transfer Restricted Global Notes	Appendix A
Transfer Restricted Notes	Appendix A
U.S. dollars	1.03(j)
USA PATRIOT Act	13.19
Unrestricted Definitive Notes	Appendix A
Unrestricted Global Notes	Appendix A
Verification Covenant	6.01

SECTION 1.03 Rules of Construction.

Unless the context otherwise requires:

(a) a term has the meaning assigned to it;

(b) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(c) "or" is not exclusive;

(d) "including" means including without limitation;

(e) words in the singular include the plural and words in the plural include the singular;

(f) unsecured Indebtedness shall not be deemed to be subordinate or junior to Secured Indebtedness merely by virtue of its nature as unsecured Indebtedness;

(g) the principal amount of any non-interest bearing or other discount security at any date shall be the principal amount thereof that would be shown on a balance sheet of the issuer dated such date prepared in accordance with GAAP;

(h) the principal amount of any Preferred Stock shall be (i) the maximum liquidation value of such Preferred Stock or (ii) the maximum mandatory redemption or mandatory repurchase price with respect to such Preferred Stock, whichever is greater;

(i) unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP; and

(j) "$" and "U.S. dollars" each refer to United States dollars, or such other money of the United States of America that at the time of payment is legal tender for payment of public and private debts.

SECTION 1.04 Limited Condition Acquisitions

In connection with any action being taken in connection with a Limited Condition Acquisition, for purposes of:

(a) determining compliance with any provision of this Indenture that requires the calculation of the Fixed Charge Coverage Ratio, the Consolidated Total Net Leverage Ratio, the Consolidated First Lien Net Leverage Ratio or the Consolidated Secured Net Leverage Ratio;

(b) determining whether a Default or Event of Default shall have occurred and be continuing (or any subset of Defaults or Events of Default); or

(c) testing availability under baskets, ratios or financial metrics under this Indenture (including those measured as a percentage of Consolidated EBITDA or Fixed Charges or by reference to Cumulative Credit);

in each case, at the option of the Issuer (the election to exercise such option in connection with any Limited Condition Acquisition, an "LCA Election"), with such option to be exercised on or prior to the date of execution of the definitive agreements or letter of intent, as applicable, with respect to such Limited Condition Acquisition, the date of determination of whether any such action is permitted under this Indenture shall be deemed to be the date of entry into the definitive agreements or letter of intent for such Limited Condition Acquisition (such date, the "LCA Test Date"), and if, after giving *pro forma* effect to the Limited Condition Acquisition and the other transactions to be entered into in connection therewith (including any Incurrence of Indebtedness or Liens and the use of proceeds thereof) as if they had occurred at the beginning of the most recent four consecutive fiscal quarters of the Issuer ending prior to the LCA Test Date, the Issuer could have taken such action on the relevant LCA Test Date in compliance with such ratio, basket or financial metric, such ratio, basket or financial metric shall be deemed to have been complied with.

For the avoidance of doubt, if the Issuer has made an LCA Election and any of the ratios, baskets or financial metrics for which compliance was determined or tested as of the LCA Test Date are exceeded or not complied with as a result of fluctuations in any such ratio, basket or financial metrics, including due to fluctuations in Fixed Charges, Consolidated Net Income, Consolidated EBITDA or Consolidated Total Indebtedness of the Issuer, the target company or the Person subject to such Limited Condition Acquisition, at or prior to the consummation of the relevant transaction or action, such ratios, baskets or financial metrics will not be deemed to have been exceeded as a result of such fluctuations and such baskets, ratios or financial metrics shall not be tested at the consummation of the Limited Condition Acquisition except as contemplated in clause (a) of the immediately succeeding proviso; *provided*, *however*, that (a) if financial statements for one or more subsequent fiscal quarters shall have become available, the Issuer may elect, in its sole discretion, to re-determine all such baskets, ratios and financial metrics on the basis of such financial statements, in which case such date of redetermination shall thereafter be deemed to be the applicable LCA Test Date, (b) if any ratios or financial metrics improve or baskets increase as a result of such fluctuations, such improved ratios, financial metrics or baskets may be utilized and (c) Fixed Charges with respect to any Indebtedness expected to be Incurred in connection with such Limited Condition Acquisition will, for purposes of the Fixed Charge Coverage Ratio, be calculated using an assumed interest rate based on the available documentation therefor, as determined by the Issuer in good faith. If the Issuer has made an LCA Election for any Limited Condition Acquisition, then, in connection with any subsequent calculation of the ratios, baskets or financial metrics on or following the relevant LCA Test Date and prior to the earlier of (i) the date on which such Limited Condition Acquisition is consummated or (ii) the date that the definitive agreement or letter of intent for such Limited Condition Acquisition is abandoned, terminated or expires without consummation of such Limited Condition Acquisition, any such ratio, basket or financial metric shall be calculated on a *pro forma* basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any Incurrence of Indebtedness or Liens and the use of proceeds thereof) have been consummated. For the avoidance of doubt, if the Issuer has exercised its option pursuant to the foregoing and any Default or Event of Default occurs following the LCA Test Date (including any new LCA Test Date) for the applicable Limited Condition Acquisition and prior to or on the date of the consummation of such Limited Condition Acquisition, any such Default or Event of Default shall be deemed not to have occurred or be continuing for purposes of determining whether any action being taken in connection with such Limited Condition Acquisition is permitted under this Indenture.

SECTION 1.05 Certain Calculations

Notwithstanding anything to the contrary herein with respect to any amounts Incurred or transactions entered into (or consummated) in reliance on a provision of this Indenture under a restrictive covenant that does not require compliance with a financial ratio (including, without limitation, any Fixed Charge Coverage Ratio, Consolidated Total Net Leverage Ratio, Consolidated First Lien Net Leverage Ratio or Consolidated Secured Net Leverage Ratio) (any such amounts, the "Fixed Amounts") substantially concurrently with any amounts Incurred or transactions entered into (or consummated) in reliance on a provision of this Indenture that requires compliance with any such financial ratio (any such amounts, the "Incurrence Based Amounts"), in a single transaction or action or series of related transactions or actions (for the purposes of this paragraph, a "Relevant Transaction"), it is understood and agreed that the Fixed Amounts (and any cash proceeds thereof and the uses of such proceeds) shall be disregarded in the calculation of the financial ratio applicable to the Incurrence Based Amounts in connection with such Relevant Transaction.

ARTICLE II

THE NOTES

SECTION 2.01 Amount of Notes.

The aggregate principal amount of Notes which may be authenticated and delivered under this Indenture on the Issue Date is $725,000,000 (the "Initial Notes").

The Issuer may at any time and from time to time after the Issue Date issue Additional Notes under this Indenture in an unlimited principal amount, so long as (i) the Incurrence of the Indebtedness represented by such Additional Notes is at such time permitted by Section 4.03 (unless such issuance occurs during a Suspension Period) and the Liens securing such Additional Notes are at such time permitted by Section 4.12 and (ii) such Additional Notes are issued in compliance with the provisions set forth below. With respect to any Additional Notes issued after the Issue Date, there shall be (a) established in or pursuant to a resolution of the Board of Directors of the Issuer and (b) (i) set forth or determined in the manner provided in an Officers' Certificate or (ii) established in one or more indentures supplemental hereto, prior to the issuance of such Additional Notes:

(1) the aggregate principal amount of such Additional Notes which may be authenticated and delivered under this Indenture;

(2) the issue price and issuance date of such Additional Notes, including the date from which interest on such Additional Notes shall accrue; and

(3) if applicable, that such Additional Notes shall be issuable in whole or in part in the form of one or more Global Notes and, in such case, the respective depositaries for such Global Notes, the form of any legend or legends which shall be borne by such Global

Notes in addition to or in lieu of those set forth in Exhibit A hereto and any circumstances in addition to or in lieu of those set forth in Section 2.2 of Appendix A in which any such Global Note may be exchanged in whole or in part for Additional Notes registered, or any transfer of such Global Note in whole or in part may be registered, in the name or names of Persons other than the depositary for such Global Note or a nominee thereof.

If any of the terms of any Additional Notes are established by action taken pursuant to a resolution of the Board of Directors, a copy of an appropriate record of such action shall be certified by the Secretary or any Assistant Secretary of the Issuer and delivered to the Trustee at or prior to the delivery of the Officers' Certificate or an indenture supplemental hereto setting forth the terms of the Additional Notes.

The Initial Notes and any Additional Notes may, at the Issuer's election, be treated as a single class of securities for all purposes under this Indenture, including, without limitation, with respect to waivers, amendments, redemptions and offers to purchase; *provided* that if the Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, such Additional Notes will have a separate CUSIP and/or ISIN number.

For all purposes of this Indenture, references to the Notes include any Additional Notes actually issued.

SECTION 2.02 Form and Dating.

Provisions relating to the Notes are set forth in Appendix A, which is hereby incorporated in and expressly made a part of this Indenture. The Initial Notes and the Trustee's certificate of authentication shall each be substantially in the form of Exhibit A hereto, which is hereby incorporated in and expressly made a part of this Indenture. The Notes may have notations, legends or endorsements required by law, stock exchange rule, agreements to which the Issuer or any Guarantor is subject, if any, or usage (*provided* that any such notation, legend or endorsement is in a form acceptable to the Issuer). Each Note shall be dated the date of its authentication. The Notes shall be issuable only in registered form without interest coupons and in denominations of $2,000 and any integral multiples of $1,000 in excess thereof; *provided* that the Notes may be issued in denominations of less than $2,000 solely to accommodate book-entry positions that have been created by a DTC participant in denominations of less than $2,000.

SECTION 2.03 Execution and Authentication.

The Trustee shall authenticate and make available for delivery upon a written order of the Issuer signed by one Officer of the Issuer (an "Authentication Order") (a) Initial Notes for original issue on the date hereof in an aggregate principal amount of $725,000,000 and (b) subject to the terms of this Indenture, Additional Notes in an aggregate principal amount to be determined at the time of issuance and specified therein. Such Authentication Order shall specify the amount of separate Note certificates to be authenticated, the principal amount of each of the Notes to be authenticated, the date on which the original issue of Notes is to be authenticated, the registered holder of each of the Notes and delivery instructions. Notwithstanding anything to the contrary in this Indenture or Appendix A, any issuance of Additional Notes after the Issue Date shall be in a principal amount of at least $2,000 and integral multiples of $1,000 in excess thereof.

One Officer shall sign the Notes for the Issuer by manual or electronic (including PDF) signature.

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

A Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent as described immediately below) manually or electronically signs the certificate of authentication on the Note. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

The Trustee may appoint one or more authenticating agents reasonably acceptable to the Issuer to authenticate the Notes. Any such appointment shall be evidenced by an instrument signed by the Trustee, a copy of which shall be furnished to the Issuer. Unless limited by the terms of such appointment, an authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same rights as any Registrar, Paying Agent or agent for service of notices and demands.

SECTION 2.04 Registrar and Paying Agent.

(a) The Issuer shall maintain (i) an office or agency where Notes may be presented for registration of transfer or for exchange (the "Registrar") and (ii) an office or agency where Notes may be presented for payment (the "Paying Agent"). The Registrar shall keep a register of the Notes and of their transfer and exchange. The Issuer may have one or more co-registrars and one or more additional paying agents. The term "Registrar" includes any co-registrars. The term "Paying Agent" includes the Paying Agent and any additional paying agents. The Issuer initially appoints the Trustee as Registrar, Paying Agent and the Notes Custodian with respect to the Global Notes.

(b) The Issuer may enter into an appropriate agency agreement with any Registrar or Paying Agent not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee in writing of the name and address of any such agent. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.07. The Issuer or any of its wholly owned domestically organized Subsidiaries may act as Paying Agent or Registrar.

(c) The Issuer may remove any Registrar or Paying Agent upon written notice to such Registrar or Paying Agent and to the Trustee;*provided*, *however*, that no such removal shall become effective until (i) if applicable, acceptance of an appointment by a successor Registrar or Paying Agent, as the case may be, as evidenced by an appropriate agreement entered into by the Issuer and such successor Registrar or Paying Agent, as the case may be, and delivered to the Trustee or (ii) notification to the Trustee that the Trustee shall serve as Registrar or Paying Agent until the appointment of a successor in accordance with clause (i) above. The Registrar or Paying Agent may resign at any time upon written notice to the Issuer and the Trustee; *provided*, *however*, that the Trustee may resign as Paying Agent or Registrar only if the Trustee also resigns as Trustee in accordance with Section 7.08.

SECTION 2.05 Paying Agent to Hold Money in Trust.

Prior to 10:00 a.m., New York City time, on each due date of the principal of and interest on the Notes, the Issuer shall deposit with each Paying Agent (or if the Issuer or any of its wholly owned domestically organized Subsidiaries is acting as Paying Agent, segregate and hold in trust for the benefit of the Persons entitled thereto) a sum sufficient to pay such principal and interest when so becoming due. The Issuer shall require each Paying Agent (other than the Trustee) to agree in writing that a Paying Agent shall hold in trust for the benefit of holders or the Trustee all money held by a Paying Agent for the payment of principal of and interest on the Notes, and shall notify the Trustee in writing of any default by the Issuer in making any such payment. If the Issuer or any of its wholly owned domestically organized Subsidiaries acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it in trust for the benefit of the Persons entitled thereto. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon complying with this Section 2.05, a Paying Agent shall have no further liability for the money delivered to the Trustee.

SECTION 2.06 Holder Lists.

The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of holders. If the Trustee is not the Registrar, the Issuer shall furnish, or cause the Registrar to furnish, to the Trustee, in writing at least five Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of holders.

SECTION 2.07 Transfer and Exchange.

The Notes shall be issued in registered form and shall be transferable only upon the surrender of a Note for registration of transfer and in compliance with Appendix A. When a Note is presented to the Registrar with a request to register a transfer, the Registrar shall register the transfer as requested if its requirements (including, among other things, the furnishing of appropriate endorsements and transfer documents) therefor are met. When Notes are presented to the Registrar with a request to exchange them for an equal principal amount of Notes of other denominations, the Registrar shall make the exchange as requested if the same requirements are met. To permit registration of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate Notes at the Registrar's request. The Issuer may require payment of a sum sufficient to pay all taxes, assessments or other governmental charges in connection with any transfer or exchange pursuant to this Section 2.07. The Issuer shall not be required to make, and the Registrar need not register, transfers or exchanges of any Notes selected for redemption (except, in the case of Notes to be redeemed in part, the portion thereof not to be redeemed) or of any Notes for a period of 15 days before the sending of a notice of redemption of Notes to be redeemed.

Prior to the due presentation for registration of transfer of any Note, the Issuer, the Guarantors, the Trustee, the Paying Agent and the Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest, if any, on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuer, the Guarantors, the Trustee, the Paying Agent or the Registrar shall be affected by notice to the contrary.

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

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

The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among DTC participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

None of the Trustee, Registrar or Paying Agent shall have any responsibility for any actions taken or not taken by DTC.

SECTION 2.08 Replacement Notes.

If a mutilated Note is surrendered to the Registrar or if the holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue and the Trustee shall authenticate a replacement Note if the requirements of Section 8-405 of the Uniform Commercial Code are met, such that the holder (a) satisfies the Issuer and the Trustee within a reasonable time after such holder has notice of such loss, destruction or wrongful taking and the Registrar does not register a transfer prior to receiving such notification, (b) makes such request to the Issuer and the Trustee prior to the Note being acquired by a protected purchaser as defined in Section 8-303 of the Uniform Commercial Code (a "protected purchaser") and (c) satisfies any other reasonable requirements of the Issuer and the Trustee. Such holder shall furnish an indemnity bond sufficient in the judgment of the Trustee, with respect to the Trustee, and the Issuer, with respect to the Issuer, to protect the Issuer, the Trustee, the Paying Agent and the Registrar, as applicable, from any loss or liability that any of them may suffer if a Note is replaced and subsequently presented or claimed for payment. The Issuer and the Trustee may charge the holder for their expenses in replacing a Note (including without limitation, attorneys' fees and disbursements in replacing such Note). In the event any such mutilated, lost, destroyed or wrongfully taken Note has become or is about to become due and payable, the Issuer in its discretion may pay such Note instead of issuing a new Note in replacement thereof.

Every replacement Note is an additional obligation of the Issuer.

The provisions of this Section 2.08 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, lost, destroyed or wrongfully taken Notes.

SECTION 2.09 Outstanding Notes.

Notes outstanding at any time are all Notes authenticated by the Trustee except for those canceled by it, those delivered to it for cancellation and those described in this Section 2.09 as not outstanding. Subject to Section 13.06, a Note does not cease to be outstanding because the Issuer or an Affiliate of the Issuer holds the Note.

If a Note is replaced pursuant to Section 2.08 (other than a mutilated Note surrendered for replacement), it ceases to be outstanding unless the Trustee and the Issuer receive proof satisfactory to them that the replaced Note is held by a protected purchaser. A mutilated Note ceases to be outstanding upon surrender of such Note and replacement thereof pursuant to Section 2.08.

If a Paying Agent segregates and holds in trust, in accordance with this Indenture, on a redemption date or maturity date money sufficient to pay all principal and interest payable on that date with respect to the Notes (or portions thereof) to be redeemed or maturing, as the case may be, and no Paying Agent is prohibited from paying such money to the holders on that date pursuant to the terms of this Indenture, then on and after that date such Notes (or portions thereof) cease to be outstanding and interest on them ceases to accrue.

SECTION 2.10 Cancellation.

The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and each Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel all Notes surrendered for registration of transfer, exchange, payment or cancellation and shall dispose of canceled Notes in accordance with its customary procedures. The Issuer may not issue new Notes to replace Notes they have redeemed, paid or delivered to the Trustee for cancellation. The Trustee shall not authenticate Notes in place of canceled Notes other than pursuant to the terms of this Indenture.

SECTION 2.11 Defaulted Interest.

If the Issuer defaults in a payment of interest on the Notes, the Issuer shall pay the defaulted interest then borne by the Notes *plus* interest on such defaulted interest to the extent lawful) in any lawful manner. The Issuer may pay the defaulted interest to the Persons who are holders on a subsequent special record date. The Issuer shall fix or cause to be fixed any such special record date and payment date to the reasonable satisfaction of the Trustee and shall promptly deliver or cause to be delivered to each affected holder a notice that states the special record date, the payment date and the amount of defaulted interest to be paid.

SECTION 2.12 CUSIP Numbers, ISINs, Etc.

The Issuer in issuing the Notes may use CUSIP numbers and ISINs, and the Trustee shall use any such CUSIP numbers and ISINs in notices of redemption as a convenience to holders; *provided*, *however*, that any such notice may state that no representation is made as to the correctness of such numbers, either as printed on the Notes or as contained in any notice of a redemption, that reliance may be placed only on the other identification numbers printed on the Notes and that any such redemption shall not be affected by any defect in or omission of such numbers. The Issuer shall advise the Trustee in writing of any change in any such CUSIP numbers and ISINs.

SECTION 2.13 Calculation of Principal Amount of Notes.

The aggregate principal amount of the Notes, at any date of determination, shall be the principal amount of the Notes at such date of determination. With respect to any matter requiring consent, waiver, approval or other action of the holders of a specified percentage of the principal amount of all the Notes, such percentage shall be calculated, on the relevant date of determination, by dividing (a) the principal amount, as of such date of determination, of Notes, the holders of which have so consented, by (b) the aggregate principal amount, as of such date of determination, of the Notes then outstanding, in each case, as determined in accordance with the preceding sentence, and Section 13.06 of this Indenture. Any calculation of the Applicable Premium made pursuant to this Section 2.13 shall be made by the Issuer and delivered to the Trustee pursuant to an Officers' Certificate.

ARTICLE III

REDEMPTION

SECTION 3.01 Optional Redemption.

The Notes may be redeemed at the Issuer's option, in whole at any time or in part from time to time, subject to the conditions and at the redemption prices set forth in Paragraph 5 on the reverse side of the applicable Note, which is hereby incorporated by reference and made a part of this Indenture.

SECTION 3.02 Applicability of Article.

Redemption of Notes at the election of the Issuer or otherwise, as permitted or required by any provision of this Indenture, shall be made in accordance with such provision and this Article III.

SECTION 3.03 Notices to Trustee.

If the Issuer elects to redeem Notes pursuant to the optional redemption provisions of Section 3.01, the Issuer shall notify the Trustee in an Officers' Certificate of (i) the Section of this Indenture pursuant to which the redemption shall occur, (ii) the redemption date, (iii) the principal amount of Notes to be redeemed and (iv) the redemption price. The Issuer shall give notice to the Trustee provided for in this paragraph at least 10 days (or such shorter period as is acceptable to the Trustee) but not more than 60 days before a redemption date if the redemption is a redemption pursuant to Section 3.01. The Issuer may also include a request in such Officers' Certificate that the Trustee give the notice of redemption in the Issuer's name and at its expense and setting forth the information to be stated in such notice as provided in Section 3.05. Any such notice may be canceled if written notice from the Issuer of such cancellation is actually received by the Trustee on the Business Day immediately prior to notice of such redemption being mailed to any holder or otherwise delivered in accordance with the applicable procedures of DTC and shall thereby be void and of no effect.

SECTION 3.04 Selection of Notes to Be Redeemed

In the case of any partial redemption of Notes, selection of Notes for redemption will be made in such manner that complies with the requirements of DTC; *provided* that no Notes of $2,000 or less shall be redeemed in part. The Notes to be selected shall be selected from outstanding Notes not previously called for redemption. Notes and portions of them that are selected for redemption shall be in amounts of $2,000 or integral multiples of $1,000 in excess thereof. Provisions of this Indenture that apply to Notes called for redemption also apply to portions of Notes called for redemption. In the event of a partial redemption of any Notes represented by Definitive Notes, the Trustee shall notify the Issuer promptly of the Notes or portions of Notes to be redeemed.

SECTION 3.05 Notice of Optional Redemption.

(a) At least 10, but not more than 60 days before a redemption date pursuant to Paragraph 5 of the reverse side of the Note, the Issuer shall mail or cause to be mailed by first-class mail, or delivered electronically if held by DTC, a notice of redemption to each holder whose Notes are to be redeemed at its registered address (with a copy to the Trustee), except that redemption notices may be mailed or otherwise delivered more than 60 days prior to the redemption date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of this Indenture pursuant to Article VIII.

Any such notice shall identify the Notes to be redeemed and shall state:

(i) the redemption date and any conditions precedent to such redemption;

(ii) the redemption price and the amount of accrued interest to, but excluding, the redemption date;

(iii) the name and address of the Paying Agent;

(iv) that Notes called for redemption must be surrendered to the Paying Agent to collect the redemption price, plus accrued and unpaid interest;

(v) if fewer than all the outstanding Notes are to be redeemed, the aggregate principal amount of Notes to be redeemed and the aggregate principal amount of Notes to be outstanding after such partial redemption;

(vi) that, unless the Issuer defaults in making such redemption payment or the Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture, interest on Notes (or portion thereof) called for redemption ceases to accrue on and after the redemption date;

(vii) the CUSIP number and/or ISIN, if any, printed on the Notes being redeemed;

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

(ix) the Section of this Indenture pursuant to which the redemption shall occur.

(b) Notice of any redemption of Notes may, at the Issuer's discretion, be given prior to the completion of a transaction (including an Equity Offering, an Incurrence of Indebtedness, a Change of Control or other transaction) and any redemption notice may, at the Issuer's discretion, be subject to the satisfaction (or waiver by the Issuer) of one or more conditions precedent, including, but not limited to, completion of a related transaction. If such redemption is so subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Issuer's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied (or waived), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived) by the redemption date, or by the redemption date as so delayed. In addition, the Issuer may provide in such notice that payment of the redemption price and performance of the Issuer's obligations with respect to such redemption may be performed by another Person. If any such condition precedent has not been satisfied (or waived by the Issuer), the Issuer shall provide written notice to the Trustee on or prior to the redemption date. Upon receipt, the Trustee shall provide such notice to each holder in the same manner in which the notice of redemption was given. Upon receipt of such notice by holders, the notice of redemption shall be rescinded or delayed, and the redemption of the Notes shall be rescinded or delayed, in each case as provided in such notice.

(c) At the Issuer's request in an Officers' Certificate, the Trustee shall deliver the notice of redemption in the Issuer's name and at the Issuer's expense on the date specified in such request. In such event, the Issuer shall notify the Trustee of such request at least two days (or such shorter period as is acceptable to the Trustee) prior to the date such notice is to be provided to holders. Such notice may not be canceled once delivered to holders of Notes.

SECTION 3.06 Effect of Notice of Redemption.

Once notice of redemption is mailed or otherwise delivered in accordance with Section 3.05(a), Notes called for redemption become due and payable on the redemption date and at the redemption price stated in the notice, except as provided in the final paragraph of Paragraph 5 of the reverse side of the applicable Notes. Upon surrender to the Paying Agent, such Notes shall be paid at the redemption price stated in the notice, *plus* accrued and unpaid interest to, but excluding, the redemption date; *provided*, *however*, that if the redemption date is after a regular Record Date and on or prior to the next Interest Payment Date, the accrued interest shall be payable to the holder of the redeemed Notes registered on the relevant Record Date. Failure to give notice or any defect in the notice to any holder shall not affect the validity of the notice to any other holder.

SECTION 3.07 Deposit of Redemption Price.

With respect to any Notes, prior to 10:00 a.m., New York City time, on the redemption date, the Issuer shall deposit with the Paying Agent (or, if the Issuer or any of its wholly owned domestically organized Subsidiaries is the Paying Agent, shall segregate and hold in trust) money sufficient to pay the redemption price of and accrued and unpaid interest on all Notes or portions thereof to be redeemed on that date other than Notes or portions of Notes called for redemption that have been delivered by the Issuer to the Trustee for cancellation prior to such redemption date. On and after the redemption date, interest shall cease to accrue on Notes or portions thereof called for redemption so long as the Issuer has deposited with the Paying Agent funds sufficient to pay the redemption price of, *plus* accrued and unpaid interest on, the Notes or portions thereof to be redeemed, unless the Paying Agent is prohibited from making such payment pursuant to the terms of this Indenture.

SECTION 3.08 Notes Redeemed in Part.

If any Note is to be redeemed in part only, the notice of redemption relating to such Note shall state the portion of the principal amount thereof to be redeemed. If any Definitive Note is to be redeemed in part only, upon surrender and cancellation of such Note, the Issuer shall execute and the Trustee shall authenticate for the holder (at the Issuer's expense) a new Definitive Note equal in principal amount to the unredeemed portion of such Note surrendered and cancelled. If any Global Note is to be redeemed in part only, the records of the Trustee shall reflect such decrease in the principal amount of such Global Note.

SECTION 3.09 Special Mandatory Redemption.

(a) In the event that (i) the Escrow Outside Date occurs and the Escrow Agent shall not have received the Escrow Release Officers' Certificate on or prior to such date or (ii) Forward issues a press release indicating that the Merger shall not be consummated on or prior to the Escrow Outside Date (or at all) (the date of any such event in the foregoing clauses (i) and (ii) being the "Special Termination Date"), the Escrow Issuer shall redeem the Notes (the "Special Mandatory Redemption") at a price (the "Special Mandatory Redemption Price") equal to 100% of the initial issue price of the Notes, plus accrued and unpaid interest on the Notes to, but excluding, the Special Mandatory Redemption Date, subject to the right of holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date. If, on the Special Termination Date, the aggregate value of the Escrowed Property is less than the amount required to pay the Special Mandatory Redemption Price for all of the Notes, Forward shall be required to deposit or cause to be deposited into the Escrow Account an amount in cash equal to such shortfall so that the Escrowed Property shall be sufficient to pay the Special Mandatory Redemption Price for all of the Notes. For the avoidance of doubt, the Escrow Issuer shall not be required to effect a Special Mandatory Redemption following the Escrow Release.

(b) Notice of the Special Mandatory Redemption shall be delivered jointly by Forward and the Issuer no later than one Business Day following the Special Termination Date, to the Trustee, the holders and the Escrow Agent, and shall provide that the Notes shall be redeemed on a date that is no later than the third Business Day after such notice is given by Forward and the Issuer (the "Special Mandatory Redemption Date") in accordance with the terms of this Indenture or otherwise in accordance with the applicable procedures of DTC. The Escrow Agreement shall provide that, if a Special Termination Date occurs, the Escrow Agent shall, on or prior to the Special Mandatory Redemption Date, release all Escrowed Property to the Trustee for payment to each holder of Notes the Special Mandatory Redemption Price for such holder's Notes. The Trustee shall deliver any excess Escrowed Property (if any) to Forward substantially concurrently with the payment of the Special Mandatory Redemption Price to the holders of the Notes. Upon the deposit of funds sufficient to pay the Special Mandatory Redemption Price in respect of the Notes to be redeemed on the Special Mandatory Redemption Date with the Trustee on or before the Special Mandatory Redemption Date, the Notes shall cease to bear interest and all rights under the Notes shall terminate (other than the right to receive the applicable Special Mandatory Redemption Price).

(c) The Escrow Agreement shall provide that, in the event that the first interest payment date in respect of the Notes occurs prior to the earlier to occur of the Escrow Release Date and the Special Termination Date, the Escrow Agent shall release to the Trustee an amount of the Escrowed Property sufficient to fund the payment of interest required to be paid in respect of the Notes on such interest payment date.

(d) Upon the Escrow Release, this Section 3.09 will cease to apply.

ARTICLE IV

COVENANTS

SECTION 4.01 Payment of Notes.

The Issuer shall promptly pay the principal of and interest on the Notes on the dates and in the manner provided in the Notes and in this Indenture. An installment of principal of or interest shall be considered paid on the date due if on such date the Trustee or the Paying Agent holds as of 3:00 p.m., New York City time, money sufficient to pay all principal and interest then due and the Trustee or the Paying Agent, as the case may be, is not prohibited from paying such money to the holders on that date pursuant to the terms of this Indenture.

The Issuer shall pay interest on overdue principal at the rate specified therefor in the Notes, and it shall pay interest on overdue installments of interest at the same rate borne by the Notes to the extent lawful.

SECTION 4.02 Reports and Other Information.

(a) From and after the Escrow Merger, notwithstanding that the Issuer may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act or otherwise report on an annual and quarterly basis on forms provided for such annual and quarterly reporting pursuant to rules and regulations promulgated by the SEC, the Issuer shall file with the SEC (and upon written request provide the Trustee and holders with copies thereof, without cost to each holder, within 5 days after receipt of such request):

(i) within the time period specified in the SEC's rules and regulations fornon-accelerated filers, annual reports on Form 10-K (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form), except to the extent permitted to be excluded by the SEC;

(ii) within the time period specified in the SEC's rules and regulations fornon-accelerated filers (except for any delay permitted by Rule 13a-13(a) promulgated under the Exchange Act), reports on Form 10-Q (or any successor or comparable form) containing the information required to be contained therein (or required in such successor or comparable form), except to the extent permitted to be excluded by the SEC; and

(iii) within 15 days after the date of filing that would have been required for a current report on Form8-K, such other reports on Form 8-K (or any successor or comparable form) (if the Issuer were required to prepare and file such form) pursuant to Item 1.03 (Bankruptcy or Receivership), 2.01 (Completion of Acquisition or Disposition of Assets) or 5.01 (Changes in

Control of Registrant) of such form (and in any event excluding, for the avoidance of doubt, the financial statements, *pro forma* financial information and exhibits, if any, that would be required by Item 9.01 (Financial Statements and Exhibits) of such form;

provided, *however*, that the Issuer shall not be so obligated to file such reports with the SEC if the SEC does not permit such filing, in which event the Issuer shall make available such information to prospective purchasers of the Notes in addition to providing such information to the Trustee and the holders, in each case, within the time the Issuer would be required to file such information with the SEC if it were subject to Section 13 or 15(d) of the Exchange Act as provided above; *provided*, *further*, that such reports shall not be required to contain the financial information contemplated by Rule3-10 or Rule 3-16 under Regulation S-X promulgated by the SEC (or any successor provision). In addition to providing such information to the Trustee, the Issuer shall make available to the holders, prospective investors, market makers affiliated with any initial purchaser of the Notes and securities analysts the information required to be provided pursuant to clauses (i), (ii) and (iii) of this paragraph, by posting such information to its website or on IntraLinks or any comparable online data system or any website, it being understood that the Trustee shall have no responsibility to determine if such information has been posted on any website.

If the Issuer has designated any Subsidiary as an Unrestricted Subsidiary and if any such Unrestricted Subsidiary or group of Unrestricted Subsidiaries, if taken together as one Subsidiary, would constitute a Significant Subsidiary of the Issuer, then the annual and quarterly information required by clauses (i) and (ii) of the first paragraph of this Section 4.02(a) shall include a reasonably detailed presentation, either on the face of the financial statements or in the footnotes thereto, of the financial condition and results of operations of the Issuer and the Restricted Subsidiaries separate from the financial condition and results of operations of such Unrestricted Subsidiaries.

(b) In the event that:

(i) the rules and regulations of the SEC permit the Issuer and any direct or indirect parent of the Issuer to report at such parent entity's level on a consolidated basis and such parent entity is not engaged in any business in any material respect other than incidental to its ownership, directly or indirectly, of the capital stock of the Issuer, or

(ii) any direct or indirect parent of the Issuer is or becomes a Guarantor of the Notes,

consolidated reporting at such parent entity's level in a manner consistent with that described in this Section 4.02 for the Issuer will satisfy this Section 4.02, and the Issuer is permitted to satisfy its obligations in this Section 4.02 with respect to financial information relating to the Issuer by furnishing financial information relating to such direct or indirect parent; *provided* that in the event such direct or indirect parent is not a Guarantor, such financial information is accompanied by consolidating information that explains in reasonable detail the differences between the information relating to such direct or indirect parent and any of its Subsidiaries other than the Issuer and its Subsidiaries, on the one hand, and the information relating to the Issuer and its Subsidiaries on a standalone basis, on the other hand.

(c) In addition, the Issuer will make such information available to prospective investors upon request. In addition, the Issuer shall, for so long as any Notes remain outstanding during any period when it is not subject to Section 13 or 15(d) of the Exchange Act, or otherwise permitted to furnish the SEC with certain information pursuant to Rule 12g3-2(b) of the Exchange Act, furnish to the holders of the Notes and to prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(d) Notwithstanding the foregoing, the Issuer will be deemed to have furnished the reports referred to in this Section 4.02 to the Trustee and the holders if the Issuer has filed such reports with the SEC via the EDGAR filing system (or any successor thereto) and such reports are publicly available, it being understood that the Trustee shall have no responsibility to determine if such information has been posted on any website.

(e) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates), and the Trustee shall have no liability or responsibility for the filing, timeliness, or content of any such report.

SECTION 4.03 Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.

From and after the Escrow Merger,

(a) (i) The Issuer shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness (including Acquired Indebtedness) or issue any shares of Disqualified Stock; and (ii) the Issuer shall not permit any of the Restricted Subsidiaries (other than any Subsidiary Guarantor) to issue any shares of Preferred Stock; *provided*, *however*, that the Issuer and any Subsidiary Guarantor may Incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and any Restricted Subsidiary that is not a Guarantor may Incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock or issue shares of Preferred Stock, in each case if the Fixed Charge Coverage Ratio of the Issuer for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date on which such additional Indebtedness is Incurred or such Disqualified Stock or Preferred Stock is issued would have been at least 2.00 to 1.00 determined on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), as if the additional Indebtedness had been Incurred, or the Disqualified Stock or Preferred Stock had been issued, as the case may be, and the application of proceeds therefrom had occurred at the beginning of such four-quarter period; *provided*, that, the amount of Indebtedness (including Acquired Indebtedness), Disqualified Stock and Preferred Stock that may be Incurred or issued, as applicable, pursuant to the foregoing by Restricted Subsidiaries that are not Guarantors, together with all Indebtedness, Disqualified Stock or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors pursuant to Section 4.03(b)(xii) and (xvi)(A) below, together with any Refinancing Indebtedness in respect thereof, shall not exceed, in the aggregate, the greater of $330 million and 60% of Consolidated EBITDA as of the date on which such Indebtedness is Incurred (*plus*, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount).

(b) The limitations set forth in Section 4.03(a) will not apply to:

(i) the Incurrence of Indebtedness under Credit Facilities by the Issuer or any of its Restricted Subsidiaries and Guarantees in respect of such Indebtedness and the issuance and creation of letters of credit and bankers' acceptances thereunder (with letters of credit and bankers' acceptances being deemed to have a principal amount equal to the face amount thereof); provided that, immediately after giving effect to any such Incurrence, the aggregate principal amount of all Indebtedness Incurred under this clause (i) and outstanding at the time of such Incurrence (without duplication for Guarantees of such Indebtedness) does not exceed the sum of (1) $1,525 million plus (2) the greater of (x) $275 million and (y) 50% of Consolidated EBITDA as of the date of such Incurrence, plus (3) (x) if such Indebtedness constitutes Pari Passu Lien Obligations, at the time of such Incurrence, an amount equal to the maximum principal amount of such Indebtedness that could be Incurred such that after giving effect to the Incurrence of such Indebtedness, and the use of proceeds thereof, on a pro forma basis, the Consolidated First Lien Net Leverage Ratio of the Issuer for the most recently ended four full fiscal quarters for which internal financial statements are available would not exceed 2.80 to 1.00, (y) if such Indebtedness is secured by Junior Priority Liens, at the time of such Incurrence, an amount equal to the maximum principal amount of such Indebtedness that could be Incurred such that after giving effect to the Incurrence of such Indebtedness, and the use of proceeds thereof, on a pro forma basis, the Consolidated Secured Net Leverage Ratio of the Issuer for the most recently ended four full fiscal quarters for which internal financial statements are available would not exceed 3.30 to 1.00 or (z) if such Indebtedness is unsecured, at the time of such Incurrence, an amount equal to the maximum principal amount of such Indebtedness that could be Incurred such that after giving effect to the Incurrence of such Indebtedness, and the use of proceeds thereof, on a pro forma basis, the Consolidated Total Net Leverage Ratio of the Issuer for the most recently ended four full fiscal quarters for which internal financial statements are available would not exceed 3.30 to 1.00;

(ii) the Incurrence by the Issuer and the Subsidiary Guarantors of Indebtedness represented by the Notes (other than Additional Notes) and the Subsidiary Guarantees thereof;

(iii) Indebtedness, Preferred Stock and Disqualified Stock outstanding on the Completion Date (other than Indebtedness described in clauses (i) and (ii) of this Section 4.03(b));

(iv) Indebtedness (including Capitalized Lease Obligations) Incurred by the Issuer or any Restricted Subsidiary, Disqualified Stock issued by the Issuer or any Restricted Subsidiary and Preferred Stock issued by any Restricted Subsidiary to finance (whether prior to or within 270 days after) the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) that, when aggregated with the principal amount or liquidation preference of all other Indebtedness, Disqualified Stock or Preferred Stock then outstanding and Incurred pursuant to this clause (iv), together with any Refinancing Indebtedness in respect thereof then outstanding and Incurred pursuant to clause (xv) below, does not exceed at any one time outstanding the greater of $275 million and 50% of Consolidated EBITDA as of the date such Indebtedness is Incurred (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(v) Indebtedness Incurred by the Issuer or any Restricted Subsidiary (i) constituting reimbursement obligations with respect to letters of credit and bank guarantees issued in the ordinary course of business, including, without limitation, letters of credit in respect of workers' compensation claims, health, disability or other benefits to employees or former employees or their families or property, casualty or liability insurance or self-insurance, and letters of credit in connection with the maintenance of, or pursuant to the requirements of, environmental law or permits or licenses from governmental authorities, or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims or(ii) represented by cash-collateralized letters of credit issued in the ordinary course of business;

(vi) Indebtedness arising from agreements of the Issuer or any Restricted Subsidiary providing for indemnification, adjustment of acquisition or purchase price or similar obligations (including earn-outs), in each case, Incurred or assumed in connection with any Investments or any acquisition or disposition of any business, assets or a Subsidiary not prohibited by this Indenture, other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or Subsidiary for the purpose of financing such acquisition;

(vii) Indebtedness of the Issuer to a Restricted Subsidiary;*provided* that (except in respect of intercompany current liabilities Incurred in the ordinary course of business in connection with the cash management, tax and accounting operations of the Issuer and its Subsidiaries), any such Indebtedness owed to a Restricted Subsidiary that is not a Guarantor is subordinated in right of payment to the Obligations of the Issuer under the Notes; *provided*, *further*, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except any pledge of such Indebtedness constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (vii);

(viii) shares of Preferred Stock of a Restricted Subsidiary issued to the Issuer or another Restricted Subsidiary;*provided* that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary that holds such shares of Preferred Stock of another Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to the Issuer or another Restricted Subsidiary) shall be deemed, in each case, to be an issuance of shares of Preferred Stock not permitted by this clause (viii);

(ix) Indebtedness of a Restricted Subsidiary to the Issuer or another Restricted Subsidiary; *provided* that, except in respect of intercompany current liabilities Incurred in the ordinary course of business in connection with the cash management, tax and accounting operations of the Issuer and its Subsidiaries, any such Indebtedness owed by a Subsidiary Guarantor to a Restricted Subsidiary that is not a Guarantor is subordinated in right of payment to the Subsidiary Guarantee of such Subsidiary Guarantor; *provided*, *further*, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary holding such Indebtedness ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Issuer or another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (ix);

(x) Hedging Obligations that are not Incurred for speculative purposes but (A) for the purpose of fixing or hedging interest rate risk with respect to any Indebtedness that is permitted by the terms of this Indenture to be outstanding; (B) for the purpose of fixing or hedging currency exchange rate risk with respect to any currency exchanges; or (C) for the purpose of fixing or hedging commodity price risk with respect to any commodity purchases or sales and, in each case, extensions or replacements thereof;

(xi) obligations (including reimbursement obligations with respect to letters of credit, bank guarantees, warehouse receipts and similar instruments) in respect of performance, bid, appeal and surety bonds, completion guarantees and similar obligations provided by the Issuer or any Restricted Subsidiary in the ordinary course of business or consistent with past practice or industry practice;

(xii) Indebtedness or Disqualified Stock of the Issuer or Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and Incurred pursuant to this clause (xii), together with any Refinancing Indebtedness in respect thereof then outstanding and Incurred pursuant to clause (xv) below, does not exceed at any one time outstanding the greater of $330 million and 60% of Consolidated EBITDA as of the date such Indebtedness is Incurred (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount) (it being understood that any Indebtedness Incurred pursuant to this clause (xii) shall cease to be deemed Incurred or outstanding for purposes of this clause (xii) but shall be deemed Incurred for purposes of Section 4.03(a) from and after the first date on which the Issuer, or the Restricted Subsidiary, as the case may be, could have Incurred such Indebtedness under Section 4.03(a) without reliance upon this clause (xii)); *provided*, that, the amount of Indebtedness, Disqualified Stock and Preferred Stock that may be Incurred or issued, as applicable, pursuant to this clause (xii) by Restricted Subsidiaries that are not Guarantors, together with all Indebtedness, Disqualified Stock or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors pursuant to the first paragraph of this covenant or clause (xvi)(A) below, and any Refinancing Indebtedness of Restricted Subsidiaries that are not Guarantors Incurred in respect thereof, shall not exceed at any one time outstanding, in the aggregate, the greater of $330 million and 60% of Consolidated EBITDA (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xiii) Indebtedness or Disqualified Stock of the Issuer or any Restricted Subsidiary and Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference at any time outstanding, together with Refinancing Indebtedness in respect thereof then outstanding and Incurred pursuant to clause (xv) below, not greater than 100% of the net cash proceeds received by the Issuer and the Restricted Subsidiaries since immediately after the Completion Date from the issue or sale of Equity Interests of the Issuer or any Parent (which proceeds are contributed to the Issuer or a Restricted Subsidiary) or cash contributed to the capital of the Issuer (in each case other than proceeds of Disqualified Stock or sales of Equity Interests to, or contributions received from, the Issuer or any of its Subsidiaries) to the extent such net cash

proceeds or cash have not been applied to make Restricted Payments or to make other Investments, payments or exchanges pursuant to Section 4.04(b) or to make Permitted Investments (other than Permitted Investments specified in clauses (1) and (3) of the definition thereof) (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount) (it being understood that any Indebtedness Incurred pursuant to this clause (xiii) shall cease to be deemed Incurred or outstanding for purposes of this clause (xiii) but shall be deemed incurred for the purposes of Section 4.03(a) from and after the first date on which the Issuer or the Restricted Subsidiary, as the case may be, could have Incurred such Indebtedness under Section 4.03(a) without reliance upon this clause (xiii));

(xiv) any guarantee by the Issuer or any Restricted Subsidiary of Indebtedness or other Obligations of the Issuer or any Restricted Subsidiary so long as the Incurrence of such Indebtedness Incurred by the Issuer or such Restricted Subsidiary is permitted under the terms of this Indenture; *provided* that (A) if such Indebtedness is by its express terms subordinated in right of payment to the Notes or the Guarantee of such Restricted Subsidiary, as applicable, any such guarantee with respect to such Indebtedness shall be subordinated in right of payment to the Notes or such Guarantee, as applicable, substantially to the same extent as such Indebtedness is subordinated in right of payment to the Notes or such Guarantee, as applicable, and (B) if such guarantee is of Indebtedness of the Issuer, such guarantee is Incurred in accordance with, or not in contravention of, Section 4.11 solely to the extent Section 4.11 is applicable;

(xv) the Incurrence by the Issuer or any of the Restricted Subsidiaries of Indebtedness or Disqualified Stock, or by any Restricted Subsidiary of Preferred Stock of a Restricted Subsidiary, that serves to refund, refinance or defease any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued as permitted under Section 4.03(a) and clauses (3), (ii), (iii), (iv), (xii), (xiii), (xv), (xvi), (xx) and (xxiv) of this Section 4.03(b) up to the outstanding principal amount (or, if applicable, the liquidation preference, face amount, or the like) or, if greater, committed amount (only to the extent the committed amount could have been Incurred on the date of initial Incurrence and was deemed Incurred at such time for the purposes of this Section 4.03) of such Indebtedness or Disqualified Stock or Preferred Stock, in each case at the time such Indebtedness was Incurred or Disqualified Stock or Preferred Stock was issued pursuant to Section 4.03(a) or clauses (i)(3), (ii), (iii), (iv), (xii), (xiii), (xv), (xvi), (xx) and (xxiv) of this Section 4.03(b), or any Indebtedness, Disqualified Stock or Preferred Stock Incurred to so refund or refinance such Indebtedness, Disqualified Stock or Preferred Stock, plus any additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay premiums (including tender premiums), accrued and unpaid interest, expenses, defeasance costs and fees in connection therewith (subject to the following proviso, "Refinancing Indebtedness") prior to its respective maturity; *provided*, *however*, that such Refinancing Indebtedness:

(1) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced or defeased (*provided* that this subclause (1) will not apply to any refunding or refinancing of any (I) Secured Indebtedness or (II) Indebtedness of non-Guarantors);

(2) to the extent such Refinancing Indebtedness refinances (a) Indebtedness junior in right of payment to the Notes or a Guarantee, as applicable, such Refinancing Indebtedness is junior in right of payment to the Notes or such Guarantee, as applicable, or (b) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Disqualified Stock or Preferred Stock;

(3) shall not include (x) Indebtedness of a Restricted Subsidiary that is not a Guarantor that refinances Indebtedness of the Issuer or a Subsidiary Guarantor, or (y) Indebtedness of the Issuer or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary;

(xvi) Indebtedness, Disqualified Stock or Preferred Stock of (A) the Issuer or any Restricted Subsidiary Incurred to finance an acquisition or (B) Persons that are acquired by the Issuer or any Restricted Subsidiary or are merged, consolidated or amalgamated with or into the Issuer or any Restricted Subsidiary in accordance with the terms of this Indenture (so long as such Indebtedness is not Incurred in contemplation of such acquisition, merger, consolidation or amalgamation); *provided* that after giving effect to such acquisition or merger, consolidation or amalgamation, the Issuer would be permitted to Incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.03(a);

provided that the amount of Indebtedness, Disqualified Stock and Preferred Stock that may be Incurred or issued, as applicable, pursuant to clause (xvi)(A) by Restricted Subsidiaries that are not Guarantors, together with all Indebtedness, Disqualified Stock or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors pursuant the first paragraph of this covenant or clause (xii) above, together with any Refinancing Indebtedness of Restricted Subsidiaries that are not Guarantors Incurred in respect thereof, shall not exceed at any one time outstanding, in the aggregate, the greater of $330 million and 60% of Consolidated EBITDA (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xvii) [Reserved];

(xviii) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; *provided* that such Indebtedness is extinguished within five Business Days of its Incurrence;

(xix) Indebtedness of the Issuer or any Restricted Subsidiary supported by a letter of credit or bank guarantee, in a principal amount not in excess of the stated amount of such letter of credit;

(xx) Indebtedness of Restricted Subsidiaries of the Issuer that are not Guarantors not to exceed at any one time outstanding (together with any Refinancing Indebtedness of Restricted Subsidiaries that are not Guarantors Incurred in respect thereof pursuant to clause (xv) above) the greater of $165 million and 30% of Consolidated EBITDA as of the date on which such Indebtedness is Incurred (*plus*, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xxi) Indebtedness of the Issuer or any Restricted Subsidiary consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(xxii) Indebtedness consisting of Indebtedness of the Issuer or a Restricted Subsidiary to current or former officers, directors and employees thereof or any direct or indirect parent thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Issuer or any Parent to the extent described in Section 4.04(b)(iv);

(xxiii) Indebtedness in respect of Obligations of the Issuer or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such Obligations are Incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedging Obligations;

(xxiv) Indebtedness under asset-level financings, Capitalized Lease Obligations and purchase money indebtedness incurred by any Foreign Subsidiary, in each case in the ordinary course of business; *provided* that the amount of Indebtedness outstanding under this Section 4.03(b)(xxiv), together with any Refinancing Indebtedness in respect thereof incurred pursuant to Section 4.03(b)(xv) shall not exceed at any one time outstanding, in the aggregate, the greater of $5 million and 1% of Consolidated EBITDA (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount); and

(xxv) Indebtedness consisting of Qualified Securitization Financings in an aggregate amount not to exceed at any one time outstanding the greater of $140 million and 25% of Consolidated EBITDA;

provided that any Indebtedness owed to a Restricted Subsidiary that is not a Guarantor is subordinated in right of payment to the Obligations of the Issuer under the Notes.

(c) For purposes of determining compliance with this Section 4.03:

(1) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness described in clauses (i) through (xxv) of Section 4.03(b) above or is entitled to be Incurred pursuant to Section 4.03(a), then the Issuer may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if Incurred at such later time), such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) in any manner that complies with this Section 4.03; *provided* that Indebtedness outstanding under the Senior Secured Credit Agreement on or prior to the Completion Date shall be Incurred under clause (i) of Section 4.03(b) above and may not be reclassified;

(2) at the time of Incurrence, the Issuer will be entitled to divide and classify an item of Indebtedness in more than one of the categories of Indebtedness described in Section 4.03(a) or clauses (i) through (xxv) of Section 4.03(b) (or any portion thereof)

without giving *pro forma* effect to the Indebtedness Incurred pursuant to any other clause or paragraph of Section 4.03 (or any portion thereof) when calculating the amount of Indebtedness that may be Incurred pursuant to any such clause or paragraph (or any portion thereof); and

(3) in connection with the Incurrence (including with respect to any Incurrence on a revolving basis pursuant to a revolving loan commitment) of any Indebtedness under Section 4.03(a), Section 4.03(b)(i)(3) or Section 4.03(b)(xvi), the Issuer or the applicable Restricted Subsidiary may, by notice to the Trustee at any time prior to the actual Incurrence of such Indebtedness designate such Incurrence as having occurred on the date of such prior notice, and any related subsequent actual Incurrence will be deemed for all purposes under this Indenture to have been Incurred on the date of such prior notice.

Accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock, as applicable, amortization of original issue discount, the accretion of liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an Incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 4.03. Guarantees of, or Obligations in respect of letters of credit relating to, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included in the determination of such amount of Indebtedness; *provided* that the Incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was in compliance with this Section 4.03.

For purposes of determining compliance with any U.S. dollar-denominated restriction on the Incurrence of Indebtedness, the U.S. dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term debt, or first committed or first Incurred (whichever yields the lower U.S. dollar equivalent), in the case of revolving credit debt. However, if the Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and the refinancing would cause the applicable U.S. dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of the refinancing, the U.S. dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of the Refinancing Indebtedness does not exceed the principal amount of the Indebtedness being refinanced.

Notwithstanding any other provision of this Section 4.03, the maximum amount of Indebtedness that the Issuer and the Restricted Subsidiaries may Incur pursuant to this Section 4.03 shall not be deemed to be exceeded, with respect to any outstanding Indebtedness, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which the respective Indebtedness is denominated that is in effect on the date of the refinancing.

This Section 4.03 shall not apply during a Suspension Period.

SECTION 4.04 Limitation on Restricted Payments.

(a) From and after the Escrow Merger, the Issuer shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any distribution on account of any of the Issuer's or any of the Restricted Subsidiaries' Equity Interests, including any payment made in connection with any merger, amalgamation or consolidation involving the Issuer (other than (A) dividends or distributions payable solely in Equity Interests (other than Disqualified Stock) of the Issuer; and (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary, the Issuer or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities);

(ii) purchase or otherwise acquire or retire for value any Equity Interests of the Issuer or any Parent;

(iii) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case prior to any scheduled repayment or scheduled maturity, any Subordinated Indebtedness of the Issuer, or any Subsidiary Guarantor (other than the payment, redemption, repurchase, defeasance, acquisition or retirement of (A) Subordinated Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance, acquisition or retirement and (B) Indebtedness permitted under clauses (vii) and (ix) of Section 4.03(b)); or

(iv) make any Restricted Investment;

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

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

(2) immediately after giving effect to such transaction on a *pro forma* basis, the Issuer could Incur $1.00 of additional Indebtedness under Section 4.03(a); and

(3) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Issuer and the Restricted Subsidiaries after the Completion Date (including Restricted Payments permitted by clauses (vi)(C) and (xii)(B) of Section 4.04(b), but excluding all other Restricted Payments permitted by Section 4.04(b)), is less than the amount equal to the Cumulative Credit.

(b) The provisions of Section 4.04(a) shall not prohibit:

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

(ii) (A) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Retired Capital Stock") or Subordinated Indebtedness of the Issuer, any Parent or any Subsidiary Guarantor in exchange for, or out of the proceeds of, the substantially concurrent sale of, Equity Interests of the Issuer or any Parent or contributions to the equity capital of the Issuer (other than any Disqualified Stock or any Equity Interests sold to a Subsidiary of the Issuer) (collectively, including any such contributions, "Refunding Capital Stock");

(B) the declaration and payment of dividends on the Retired Capital Stock out of the proceeds of the substantially concurrent sale (other than to a Subsidiary of the Issuer) of Refunding Capital Stock; and

(C) if immediately prior to the retirement of Retired Capital Stock, the declaration and payment of dividends thereon was permitted under clause (vi) of this Section 4.04(b) and not made pursuant to clause (ii)(B), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any Parent) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Retired Capital Stock immediately prior to such retirement;

(iii) the redemption, repurchase, defeasance, or other acquisition or retirement of Subordinated Indebtedness of the Issuer or any Subsidiary Guarantor made by exchange for, or out of the proceeds of the substantially concurrent sale of, (x) Equity Interests (other than Disqualified Stock) of the Issuer or any Parent or (y) new Indebtedness of the Issuer or a Subsidiary Guarantor, which in the case of this clause (y) is Incurred in accordance with Section 4.03, so long as:

(A) the principal amount (or accreted value, if applicable) of such new Indebtedness does not exceed the principal amount (or accreted value, if applicable), *plus* any accrued and unpaid interest, of the Subordinated Indebtedness being so redeemed, repurchased, defeased, acquired or retired for value (*plus* the amount of any premium required to be paid under the terms of the instrument governing the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired, any tender premiums, *plus* any defeasance costs, fees and expenses incurred in connection therewith);

(B) such Indebtedness is subordinated to the Notes or the related Subsidiary Guarantee of such Subsidiary Guarantor, as the case may be, at least to the same extent as such Subordinated Indebtedness so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value;

(C) such Indebtedness has a final scheduled maturity date equal to or later than the earlier of (x) the final scheduled maturity date of the Subordinated Indebtedness being so redeemed, repurchased, acquired or retired and (y) 91 days following the last maturity date of any Notes then outstanding; and

(D) such Indebtedness has a Weighted Average Life to Maturity at the time Incurred which is not less than the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness being so redeemed, repurchased, defeased, acquired or retired;

(iv) a Restricted Payment to pay for the repurchase, retirement or other acquisition for value of Equity Interests of the Issuer or any Parent held by any future, present or former employee, director, officer or consultant of the Issuer or any Subsidiary of the Issuer or any Parent pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or other agreement or arrangement; *provided*, *however*, that the aggregate Restricted Payments made under this clause (iv) do not exceed the greater of $10 million and 2% of Consolidated EBITDA in any calendar year, with unused amounts in any calendar year being permitted to be carried over to succeeding calendar years up to a maximum of $15 million and 3% of Consolidated EBITDA in any calendar year; *provided*, *further*, *however*, that such amount in any calendar year may be increased by an amount not to exceed:

(A) the cash proceeds received by the Issuer or any of the Restricted Subsidiaries from the sale of Equity Interests (other than Disqualified Stock) of the Issuer or any Parent (to the extent contributed to the Issuer) to employees, directors, officers or consultants of the Issuer and the Restricted Subsidiaries or any Parent that occurs after the Completion Date (*provided* that the amount of such cash proceeds utilized for any such repurchase, retirement, other acquisition or dividend will not increase the amount available for Restricted Payments under Section 4.04(a)(iii)), *plus*

(B) the cash proceeds of key man life insurance policies received by the Issuer or any Parent (to the extent contributed to the Issuer) or the Restricted Subsidiaries after the Completion Date;

provided that the Issuer may elect to apply all or any portion of the aggregate increase contemplated by clauses (A) and (B) above in any calendar year; and *provided*, *further*, that cancellation of Indebtedness owing to the Issuer or any Restricted Subsidiary from any present or former employees, directors, officers or consultants of the Issuer, any Restricted Subsidiary or the direct or indirect parents of the Issuer in connection with a repurchase of Equity Interests of the Issuer or any of its direct or indirect parents will not be deemed to constitute a Restricted Payment for purposes of this Section 4.04 or any other provision of this Indenture;

(v) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Issuer or any Restricted Subsidiary issued or Incurred in accordance with Section 4.03;

(vi) (A) the declaration and payment of dividends or distributions to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued after the Completion Date;

(B) a Restricted Payment to any Parent, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of any Parent issued after the Completion Date; *provided* that the aggregate amount of dividends declared and paid pursuant to this clause (B) does not exceed the net cash proceeds actually received by the Issuer from any such sale of Designated Preferred Stock (other than Disqualified Stock) issued after the Completion Date; and

(C) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to Section 4.04(b)(ii);

provided, *however*, in the case of each of clauses (A) and (C) above of this clause (vi), that for the most recently ended four full fiscal quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred Stock, after giving effect to such issuance (and the payment of dividends or distributions and treating such Designated Preferred Stock as Indebtedness for borrowed money for such purpose) on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), the Issuer would have had a Fixed Charge Coverage Ratio of at least 2.00 to 1.00;

(vii) [Reserved].

(viii) Restricted Payments that are made with (or in an aggregate amount that does not exceed the aggregate amount of) Excluded Contributions;

(ix) other Restricted Payments in an aggregate amount, when taken together with all other Restricted Payments made pursuant to this clause (ix) that are at that time outstanding, not to exceed the greater of $165 million and 30% of Consolidated EBITDA;

(x) the distribution, as a dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to the Issuer or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than to the extent substantially all of the assets of such Unrestricted Subsidiaries, directly or indirectly, consist of cash or Cash Equivalents);

(xi) tax distributions made in accordance with the Opco LLCA (as defined in the Merger Agreement) ("Tax Distributions");

(xii) any Restricted Payment, if applicable:

(A) in amounts required for any Parent to pay fees and expenses incurred in connection with its reporting obligations under, or in connection with compliance with, applicable laws or applicable rules of any governmental, regulatory or self-regulatory body or stock exchange, this Indenture or any other agreement or instrument relating to Indebtedness of the Issuer or any Restricted Subsidiary, including in respect of any reports filed with respect to the Securities Act, the Exchange Act or the respective rules and regulations promulgated thereunder;

(B) in amounts required for any Parent to pay fees and expenses (including franchise or similar taxes) required to maintain its corporate existence, customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any Parent and general corporate operating and overhead expenses of any Parent, in each case, to the extent such fees and expenses are attributable to the ownership or operation of the Issuer, if applicable, and its Subsidiaries;

(C) in amounts required for any Parent to pay indemnification obligations owed by any such Parent to directors, officers, employees or other Persons under its charter or bylaws or pursuant to written agreements with or for the benefit of any such Person, or obligations in respect of director and officer insurance (including premiums therefor);

(D) in amounts required for any Parent to pay other administrative and operational expenses of any such Parent incurred in the ordinary course of business, including fees and expenses incurred by any such Parent in connection with maintenance and implementation of any management equity incentive plan;

(E) in amounts required for any Parent, if applicable, to pay interest and/or principal on Indebtedness the proceeds of which have been contributed to the Issuer or any Restricted Subsidiary and that has been guaranteed by, or is otherwise considered Indebtedness of, the Issuer Incurred in accordance with Section 4.03;

(F) in amounts required for any Parent to pay fees and expenses related to any equity or debt offering of such Parent (whether or not successful); and

(G) in amounts required for any Parent to make payments required by the terms of the Tax Receivable Agreement (as defined in the Merger Agreement);

(xiii) repurchases of Equity Interests 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;

(xiv) purchases of Securitization Assets pursuant to a Securitization Repurchase Obligation in connection with a Qualified Securitization Financing and the payment or distribution of Securitization Fees;

(xv) Restricted Payments by the Issuer or any Restricted Subsidiary to allow the payment of cash in lieu of the issuance of fractional shares upon the exercise of options or warrants or upon the conversion or exchange of Capital Stock of any such Person;

(xvi) the repurchase, redemption or other acquisition or retirement for value of any Subordinated Indebtedness pursuant to provisions similar to those described in Section 4.06 and Section 4.08; *provided* that all Notes tendered by holders of the Notes in connection with a Change of Control or Asset Sale Offer, as applicable, have been repurchased, redeemed or acquired for value;

(xvii) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of the Issuer and the Restricted Subsidiaries, taken as a whole, that complies with Section 5.01; *provided* that as a result of such consolidation, amalgamation, merger or transfer of assets, the Issuer shall have made an offer in connection with a Change of Control (if required by this Indenture) and that all Notes tendered by holders in connection with such Change of Control have been repurchased, redeemed or acquired for value;

(xviii) Restricted Payments by the Issuer or any Restricted Subsidiary to pay or to allow any Parent to pay (i) ordinary quarterly dividends on Forward's common stock and on each of the Issuer's and Forward's Preferred Stock in an aggregate amount not to exceed $60 million in any fiscal year and (ii) annual cumulative dividends on each of Forward's and the Issuer's Preferred Stock issued in connection with the Transactions, at the Issuer's option, (A) in cash in an aggregate amount not to exceed $150 million in any fiscal year or (B) in kind;

(xix) other Restricted Payments; *provided* that the Consolidated Total Net Leverage Ratio of the Issuer for the most recently ended four full fiscal quarters for which internal financial statements are available, determined on a *pro forma* basis, is less than 2.30 to 1.00; and

(xx) Restricted Payments attributable to, or arising or made in connection with the Transactions or used to fund payments required to be made in connection with the Transactions

provided, *however*, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (vi)(B), (vii), (ix), (x), (xii)(B) and (xix) of this Section 4.04(b), no Default shall have occurred and be continuing or would occur as a consequence thereof; *provided*, *further*, that any Restricted Payments made with property other than cash shall be calculated using the Fair Market Value (as determined in good faith by the Issuer) of such property.

Notwithstanding anything herein to the contrary, (w) no assets may be transferred to, and no other Investment made be made in, any Unrestricted Subsidiary other than pursuant to clause (21) of the definition of "Permitted Investments," (x) no Restricted Subsidiary may be designated as an Unrestricted Subsidiary if, on the date of and after giving effect to such designation, such Unrestricted Subsidiary (or any Subsidiary thereof) would own (or hold an exclusive license with respect to) any Material Intellectual Property, (y) no Material Intellectual Property may be transferred (including by way of an exclusive license) to an existing Unrestricted Subsidiary and (z) no Unrestricted Subsidiary may, at any time, own (or hold an exclusive license with respect to) Material Intellectual Property.

(c) As of the Completion Date, all of the Subsidiaries of the Issuer will be Restricted Subsidiaries. For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Issuer and the Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of "Investments." Such designation will only be permitted if a Restricted Payment or Permitted Investment in such amount would be permitted at such time and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

(d) This Section 4.04 shall not apply during a Suspension Period.

SECTION 4.05 Dividend and Other Payment Restrictions Affecting Subsidiaries.

From and after the Escrow Merger, the Issuer will not, and will not permit any Restricted Subsidiary to, directly or indirectly, create or otherwise cause or suffer to exist any consensual encumbrance or consensual restriction which prohibits or limits the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distributions to the Issuer or any Restricted Subsidiary (1) on its Capital Stock; or (2) with respect to any other interest or participation in, or measured by, its profits; or

(b) make loans or advances to the Issuer or any Restricted Subsidiary that is a direct or indirect parent of such Restricted Subsidiary;

except in each case for such encumbrances or restrictions existing under or by reason of:

(1) (i) contractual encumbrances or restrictions in effect on the Completion Date and (ii) contractual encumbrances or restrictions pursuant to any Credit Agreement and any other Credit Agreement Documents and, in each case, similar contractual encumbrances effected by any amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings of such agreements or instruments;

(2) this Indenture, the Notes, the Guarantees, the Security Documents or the Intercreditor Agreements;

(3) applicable law or any applicable rule, regulation or order;

(4) any agreement or other instrument of a Person acquired by the Issuer or any Restricted Subsidiary which was in existence at the time of such acquisition (but not created in contemplation thereof or to provide all or any portion of the funds or credit support utilized to consummate such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired;

(5) contracts or agreements for the sale of assets, including any restriction with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Capital Stock or assets of such Restricted Subsidiary;

(6) Secured Indebtedness otherwise permitted to be Incurred pursuant to Section 4.03 and Section 4.12 that limits the right of the debtor to dispose of the assets securing such Indebtedness;

(7) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(8) customary provisions in joint venture agreements and other similar agreements entered into in the ordinary course of business;

(9) purchase money obligations for property acquired and Capitalized Lease Obligations in the ordinary course of business;

(10) customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business;

(11) any encumbrance or restriction that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any such lease, license (including, without limitation, licenses of intellectual property) or other contracts;

(12) any encumbrance or restriction of a Securitization Subsidiary effected in connection with a Qualified Securitization Financing; *provided*, *however*, that such restrictions apply only to such Securitization Subsidiary;

(13) other Indebtedness, Disqualified Stock or Preferred Stock (a) of the Issuer or any Restricted Subsidiary that is a Guarantor or a Foreign Subsidiary or (b) of any Restricted Subsidiary that is not a Guarantor or a Foreign Subsidiary so long as such encumbrances and restrictions contained in any agreement or instrument will not materially affect the Issuer's or any Subsidiary Guarantor's ability to make anticipated principal or interest payments on the Notes (as determined in good faith by the Issuer), *provided* that in the case of each of clauses (a) and (b), such Indebtedness, Disqualified Stock or Preferred Stock is permitted to be Incurred subsequent to the Completion Date pursuant to Section 4.03;

(14) any Restricted Investment not prohibited by Section 4.04 and any Permitted Investment; or

(15) any encumbrances or restrictions of the type referred to in Section 4.05(a) or (b) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (1) through (14) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Issuer, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

For purposes of determining compliance with this Section 4.05, (i) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock, and (ii) the subordination of loans or advances made to the Issuer or a Restricted Subsidiary to other Indebtedness Incurred by the Issuer or any such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

This Section 4.05 shall not apply during a Suspension Period.

SECTION 4.06 Asset Sales.

(a) From and after the Escrow Merger, the Issuer will not, and will not permit any of the Restricted Subsidiaries to, cause or make an Asset Sale, unless (x) the Issuer or any Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value (as determined in good faith by the Issuer) of the assets sold or otherwise disposed of, and (y) at least 75% of the consideration therefor received by the Issuer or such Restricted Subsidiary, as the case may be, is in the form of Cash Equivalents; *provided* that the amount of:

(i) any liabilities (as shown on the Issuer's or a Restricted Subsidiary's most recent balance sheet or in the notes thereto) of the Issuer or a Restricted Subsidiary (other than liabilities that are by their terms subordinated to the Notes or any Guarantee) that are assumed by the transferee of any such assets or that are otherwise cancelled or terminated in connection with the transaction with such transferee,

(ii) any notes or other Obligations or other securities or assets received by the Issuer or such Restricted Subsidiary from such transferee that are converted by the Issuer or such Restricted Subsidiary into cash within 180 days of the receipt thereof (to the extent of the cash received),

(iii) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Sale, to the extent that the Issuer and each other Restricted Subsidiary are released from any guarantee of payment of such Indebtedness in connection with such Asset Sale,

(iv) consideration consisting of Indebtedness of the Issuer (other than Subordinated Indebtedness) received after the Completion Date from Persons who are not the Issuer or any Restricted Subsidiary, and

(v) any Designated Non-cash Consideration received by the Issuer or any Restricted Subsidiary in such Asset Sale having an aggregate Fair Market Value (as determined in good faith by the Issuer), taken together with all other Designated Non-cash Consideration received pursuant to this clause (v) that is at that time outstanding, not to exceed the greater of $140 million and 25% of Consolidated EBITDA at the time of the receipt of such Designated Non-cash Consideration (with the Fair Market Value of each item of DesignatedNon-cash Consideration being measured at the time received and without giving effect to subsequent changes in value), shall, in each case, be deemed to be Cash Equivalents for the purposes of this Section 4.06(a).

(b) Within 365 days after the Issuer's or any Restricted Subsidiary's receipt of the Net Proceeds of any Asset Sale, the Issuer or such Restricted Subsidiary may apply an amount equal to the Net Proceeds from such Asset Sale, at its option:

(i) to repay (A) Pari Passu Lien Obligations (other than the Notes Obligations) (and, if the Indebtedness repaid is revolving credit Indebtedness, to correspondingly reduce commitments with respect thereto), (B) Indebtedness of a Restricted Subsidiary that is not a Guarantor, (C) Notes Obligations or (D) Senior Indebtedness other than Pari Passu Lien Obligations to the extent such Net Proceeds are from an Asset Sale of assets that do not constitute Collateral; *provided* that if the Issuer or any Subsidiary Guarantor shall so reduce Obligations under Senior Indebtedness under this clause (D), the Issuer will, on a pro rata basis, reduce Notes Obligations in accordance with Section 3.01, through open-market purchases (*provided* that such purchases are at or above 100% of the principal amount thereof or, in the event that the Notes were issued with significant original issue discount, at or above 100% of the accreted value thereof) or by making an offer (in accordance with the procedures set forth below for an Asset Sale Offer) to all holders of the Notes to purchase such holder's Notes at a purchase price at or above 100% of the principal amount thereof (or, in the event that the Notes were issued with significant original issue discount, at or above 100% of the accreted value thereof), *plus* accrued and unpaid interest), in each case other than Indebtedness owed to the Issuer or an Affiliate of the Issuer; or

(ii) to make an investment in any one or more businesses (*provided* that if such investment is in the form of the acquisition of Capital Stock of a Person, such acquisition results in such Person becoming a Restricted Subsidiary of the Issuer), assets, or property or capital expenditures, in each case (A) used or useful in a Similar Business or (B) that replace the properties and assets that are the subject of such Asset Sale or to reimburse the cost of any of the foregoing incurred on or after the date on which the Asset Sale giving rise to such Net Proceeds was contractually committed.

In the case of Section 4.06(b)(ii), a binding commitment shall be treated as a permitted application of the Net Proceeds from the date of such commitment until the 18-month anniversary of the date of the receipt of such Net Proceeds; *provided* that in the event such binding commitment is later canceled or terminated for any reason before such Net Proceeds are so applied, then such Net Proceeds shall constitute Excess Proceeds unless the Issuer or such Restricted Subsidiary enters into another binding commitment (a "Second Commitment") within six months of such cancellation or termination of the prior binding commitment; *provided*, *further*, that the Issuer or such Restricted Subsidiary may only enter into a Second Commitment under the foregoing provision one time with respect to each Asset Sale and to the extent such Second Commitment is later cancelled or terminated for any reason before such Net Proceeds are applied or are not applied within 180 days of such Second Commitment, then such Net Proceeds shall constitute Excess Proceeds (in each case subject to the proviso to the first sentence of the second succeeding paragraph and to the third succeeding paragraph).

Pending the final application of any such Net Proceeds, the Issuer or such Restricted Subsidiary may temporarily reduce Indebtedness under a revolving credit facility, if any, or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture.

Any Net Proceeds from any Asset Sale that are not applied as provided and within the time period set forth in the first sentence of this Section 4.06(b) (it being understood that any portion of such Net Proceeds used to make an offer to purchase the Notes, as described in clause (i) of this Section 4.06(b), shall be deemed to have been invested whether or not such offer is accepted) will be deemed to constitute "Excess Proceeds"; *provided*, that no Net Proceeds which would otherwise constitute "Excess Proceeds"

shall constitute Excess Proceeds in any fiscal year until the aggregate amount of all such Net Proceeds in such fiscal year shall exceed $50 million (and thereafter only Net Proceeds in excess of such amount shall constitute Excess Proceeds). When the aggregate amount of Excess Proceeds exceeds $100 million, the Issuer shall make an offer to all holders of the Notes (and, at the option of the Issuer, to holders of any other Senior Indebtedness; *provided*, that to the extent any Net Proceeds are from an Asset Sale that constitutes Collateral, to holders of any other Pari Passu Lien Obligations only) (an "Asset Sale Offer") to purchase the maximum principal amount of the Notes (and such other Senior Indebtedness or Pari Passu Lien Obligations, as the case may be) that is at least $2,000 and an integral multiple of $1,000 in excess thereof that may be purchased out of the Excess Proceeds at an offer price in cash in an amount equal to 100% of the principal amount thereof (or, in the event the Notes or other Senior Indebtedness were issued with significant original issue discount, 100% of the accreted value thereof), *plus* accrued and unpaid interest (or, in respect of such other Senior Indebtedness or Pari Passu Lien Obligations, as the case may be, such lesser price, if any, as may be provided for by the terms of such other Senior Indebtedness or Pari Passu Lien Obligations, as the case may be), to, but excluding, the date fixed for the closing of such offer, in accordance with the procedures set forth in this Indenture. The Issuer will commence an Asset Sale Offer with respect to Excess Proceeds within ten (10) Business Days after the date that Excess Proceeds exceeds $100 million by mailing, or delivering electronically if held by DTC, the notice required pursuant to the terms of this Indenture, with a copy to the Trustee. To the extent that the aggregate principal amount of the Notes (and such other Senior Indebtedness or Pari Passu Lien Obligations, as the case may be) tendered pursuant to an Asset Sale Offer is less than the aggregate principal amount of the Notes that the Issuer has offered to purchase pursuant to an Asset Sale Offer, the Issuer may use any remaining Excess Proceeds (the "Declined Proceeds") for any purpose that is not prohibited by this Indenture. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

(c) The Issuer will comply, to the extent applicable, with the requirements of Section 14(e) of the Exchange Act and any other securities laws or regulations in connection with the repurchase of the Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Issuer will comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations described in this Indenture by virtue thereof.

(d) Not later than the date upon which written notice of an Asset Sale Offer is delivered to the Trustee as provided above, the Issuer shall deliver to the Trustee an Officers' Certificate as to (i) the amount of the Excess Proceeds, (ii) the allocation of the Net Proceeds from the Asset Sales pursuant to which such Asset Sale Offer is being made and (iii) the compliance of such allocation with the provisions of Section 4.06(b). Upon the expiration of the period for which the Asset Sale Offer remains open (the "Offer Period"), the Issuer shall deliver to the Trustee for cancellation the Notes or portions thereof that have been properly tendered to and are to be accepted by the Issuer. The Trustee (or the Paying Agent, if not the Trustee) shall, on the date of purchase, mail or deliver payment to each tendering holder in the amount of the purchase price. In the event that the Excess Proceeds delivered by the Issuer to the Trustee are greater than the purchase price of the Notes tendered, the Trustee shall deliver the excess to the Issuer immediately after the expiration of the Offer Period for application in accordance with this Section 4.06.

(e) Holders electing to have a Note purchased shall be required to surrender such Note, with an appropriate form duly completed, to the Trustee at the Corporate Trust Office at least three Business Days prior to the purchase date. Holders shall be entitled to withdraw their election if the Trustee or the

Issuer receives not later than one Business Day prior to the purchase date, a telegram, telex, facsimile transmission or letter setting forth the name of the holder, the principal amount of the Note which was delivered by the holder for purchase and a statement that such holder is withdrawing his election to have such Note purchased. If more Notes (and such other Pari Passu Lien Obligations or Senior Indebtedness, as the case may be) are tendered pursuant to an Asset Sale Offer than the Issuer is required to purchase, such Notes shall be selected for purchase in such manner as complies with the requirements of DTC; *provided* that no Notes of $2,000 or less shall be purchased in part and all purchases shall be in integral multiples of $1,000. Selection of such other Pari Passu Lien Obligations or Senior Indebtedness, as the case may be, shall be made pursuant to the terms of such other Pari Passu Lien Obligations or Senior Indebtedness, as the case may be.

(f) Notices of an Asset Sale Offer shall be mailed by the Issuer by first class mail, postage prepaid, or delivered electronically if held at DTC, at least 30 but not more than 60 days before the purchase date to each holder of the Notes at such holder's registered address. If any Note is to be purchased in part only, any notice of purchase that relates to such Note shall state the portion of the principal amount thereof that has been or is to be purchased.

(g) Notwithstanding any other provisions of this Section 4.06, (i) to the extent that any of or all the Net Proceeds of any Asset Sale are received or deemed to be received by a Foreign Subsidiary (or a Domestic Subsidiary of a Foreign Subsidiary) (a "Foreign Disposition") and give rise to a prepayment or repurchase event described above that is (x) prohibited, restricted or delayed by applicable local law, rule or regulation (including, without limitation, (a) financial assistance and corporate benefit restrictions and (b) fiduciary and statutory duties of any director or officer of such Subsidiaries), (y) restricted by applicable organizational documents or any agreement or (z) subject to other onerous organizational or administrative impediments, in each case, to being repatriated or otherwise paid to the Issuer or so prepaid, or if such repatriation or payment or prepayment would present a material risk of liability for the applicable Subsidiary or its directors or officers (or gives rise to a material risk of breach of fiduciary or statutory duties by any director or officer), an amount equal to the portion of such Net Proceeds so affected will not be required to be applied in compliance with this Section 4.06 and (ii) to the extent that the Issuer has determined in good faith that repatriation of any or all of the Net Proceeds of any Foreign Disposition could have a material adverse tax consequence (which for the avoidance of doubt, includes, but is not limited to, any prepayment out of such Net Proceeds whereby doing so the Issuer, any of its Subsidiaries or any of their respective Affiliates and/or equity owners would incur a tax liability, including a taxable dividend) (as determined in good faith by the Issuer), an amount equal to the Net Proceeds so affected will not be required to be applied in compliance with this Section 4.06. The non-application of any prepayment or repurchase amounts as a consequence of the foregoing provisions will not, for the avoidance of doubt, constitute a Default or an Event of Default.

(h) This Section 4.06 shall not apply during a Suspension Period.

SECTION 4.07 Transactions with Affiliates.

(a) From and after the Escrow Merger, the Issuer shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of related transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Issuer (each of the foregoing, an "Affiliate Transaction") involving aggregate consideration in excess of $25 million per transaction or series of related transactions, unless:

(i) such Affiliate Transaction is on terms that are not materially less favorable to the Issuer or the relevant Restricted Subsidiary than those that could have been obtained in a comparable transaction by the Issuer or such Restricted Subsidiary with an unrelated Person; and

(ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $50 million, the Issuer delivers to the Trustee a resolution adopted in good faith by the majority of the Board of Directors of the Issuer, approving such Affiliate Transaction and set forth in an Officers' Certificate certifying that such Affiliate Transaction complies with clause (i) above.

(b) The provisions of Section 4.07(a) shall not apply to the following:

(i) transactions between or among the Issuer and/or any of the Restricted Subsidiaries (or an entity that becomes a Restricted Subsidiary as a result of such transaction) and any merger, consolidation or amalgamation of the Issuer and any direct parent of the Issuer; *provided* that such parent shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of the Issuer and such merger, consolidation or amalgamation is otherwise in compliance with the terms of this Indenture and effected for a bona fide business purpose;

(ii) Restricted Payments permitted by Section 4.04 and Permitted Investments;

(iii) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the Issuer, any Restricted Subsidiary, or any direct or indirect parent of the Issuer;

(iv) transactions in which the Issuer or any Restricted Subsidiary, as the case may be, delivers to the Trustee a letter from an Independent Financial Advisor stating that such transaction is fair to the Issuer or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 4.07(a)(i);

(v) payments or loans (or cancellation of loans) to officers, directors, employees or consultants of the Issuer or any of its Subsidiaries or any direct or indirect parent of the Issuer which are approved by a majority of the Board of Directors of the Issuer in good faith;

(vi) any agreement as in effect as of the Completion Date or any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous to the holders of the Notes in any material respect than the original agreement as in effect on the Completion Date) or any transaction contemplated thereby as determined in good faith by the Issuer;

(vii) the existence of, or the performance by the Issuer or any Restricted Subsidiary of its obligations under the terms of any stockholders or limited liability company agreement (including any registration rights agreement or purchase agreement related thereto) to which it is

a party as of the Completion Date, and any transaction, agreement or arrangement described in the Offering Memorandum and, in each case, any amendment thereto or similar transactions, agreements or arrangements which it may enter into thereafter; *provided*, *however*, that the existence of, or the performance by the Issuer or any Restricted Subsidiary of its obligations under, any future amendment to any such existing transaction, agreement or arrangement or under any similar transaction, agreement or arrangement entered into after the Completion Date shall only be permitted by this clause (vii) to the extent that the terms of any such existing transaction, agreement or arrangement together with all amendments thereto, taken as a whole, or new transaction, agreement or arrangement are not otherwise more disadvantageous to the holders of the Notes in any material respect than the original transaction, agreement or arrangement as in effect on the Completion Date;

(viii) (A) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Indenture, which are fair to the Issuer and the Restricted Subsidiaries in the reasonable determination of the Board of Directors or the senior management of the Issuer, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party or (B) transactions with joint ventures or Unrestricted Subsidiaries entered into in the ordinary course of business and consistent with past practice or industry norm;

(ix) any transaction effected as part of a Qualified Securitization Financing;

(x) the issuance of Equity Interests (other than Disqualified Stock) of the Issuer to any Person;

(xi) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, management equity plans, stock option and stock ownership plans or similar employee benefit plans approved by the Board of Directors of the Issuer or the Board of Directors of any direct or indirect parent of the Issuer, or the Board of Directors of a Restricted Subsidiary, as applicable, in good faith;

(xii) the entering into of any tax sharing agreement or arrangement among the Issuer, any of its Subsidiaries and any Parent on customary terms, to the extent attributable to the ownership or operation of the Issuer and its Subsidiaries, and the performance under any such agreement or arrangement; *provided* that such agreement or arrangement is not materially adverse to the interests of the holders of the Notes;

(xiii) any contribution to the capital of the Issuer;

(xiv) transactions permitted by, and complying with, Section 5.01;

(xv) transactions between the Issuer or any Restricted Subsidiary and any Person, a director of which is also a director of the Issuer or any direct or indirect parent of the Issuer; *provided*, *however*, that such director abstains from voting as a director of the Issuer or such direct or indirect parent of the Issuer, as the case may be, on any matter involving such other Person;

(xvi) pledges of Equity Interests of Unrestricted Subsidiaries;

(xvii) the formation and maintenance of any consolidated group or subgroup for tax, accounting or cash pooling or management purposes in the ordinary course of business;

(xviii) any employment agreements entered into by the Issuer or any Restricted Subsidiary in the ordinary course of business;

(xix) transactions undertaken in good faith (as certified by a responsible financial or accounting officer of the Issuer in an Officers' Certificate) for the purpose of improving the consolidated tax efficiency of the Issuer and its Subsidiaries and not for the purpose of circumventing any covenant set forth in this Indenture;

(xx) non-exclusive licenses of intellectual property to or among the Issuer, its Restricted Subsidiaries and their Affiliates; and

(xxi) the Transactions.

(c) This Section 4.07 shall not apply during a Suspension Period.

SECTION 4.08 Change of Control.

(a) Unless the Issuer has previously or substantially concurrently therewith or within 30 days thereafter delivered a notice of redemption with respect to all of the outstanding Notes in accordance with Section 3.01 or discharged this Indenture or exercised its legal defeasance option or covenant defeasance option pursuant to Section 8.01, then, within 30 days following the occurrence of a Change of Control or, at the Issuer's option, prior to any Change of Control, but after the public announcement of the transaction that constitutes or may constitute a Change of Control, the Issuer shall electronically deliver or mail a notice to each holder, with a copy to the Trustee, describing the transaction or transactions that constitute or may constitute the Change of Control and offering to repurchase all or any part (in excess of $2,000 and in integral multiples of $1,000) of each such holder's Notes, at a repurchase price in cash equal to 101% of the aggregate principal amount of the Notes repurchased plus any accrued and unpaid interest on the Notes repurchased to, but excluding, the date of repurchase, which date will be no earlier than 30 days and no later than 60 days from the date such notice is electronically delivered or mailed (the "Change of Control Payment Date").

(b) On the Change of Control Payment Date, the Issuer will, to the extent lawful:

(i) accept for payment all the Notes or portions of the Notes properly tendered pursuant to the applicable offer;

(ii) deposit with the Paying Agent an amount equal to the aggregate purchase price in respect of all the Notes or portions of the Notes properly tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes properly accepted, together with an Officers' Certificate stating the aggregate principal amount of Notes being purchased by the Issuer.

(c) The Paying Agent will promptly deliver to each holder of Notes properly tendered payment for such Notes, and the Trustee will promptly authenticate and deliver (or cause to be transferred by book-entry) to each holder a new Note equal in principal amount to any unpurchased portion of any Notes surrendered.

(d) The Issuer shall not be required to make an offer to repurchase Notes in connection with a Change of Control if a third party makes such an offer in the manner and at the times and otherwise in compliance with the requirements in this Indenture for such an offer made by the Issuer, and such third party purchases all Notes validly tendered and not withdrawn under its offer. In addition, the Issuer's obligation to repurchase the Notes upon a Change of Control may be waived by the holders of not less than a majority of the outstanding Notes affected by such waiver. An offer to repurchase the Notes in connection with a Change of Control may be made in advance of a Change of Control, conditional upon such Change of Control or such other conditions specified therein, if a definitive agreement is in place for the Change of Control at the time of making of such offer.

(e) If holders of not less than 90% in aggregate principal amount of outstanding Notes validly tender and do not withdraw such Notes in an offer to repurchase the Notes in connection with a Change of Control and the Issuer purchases all of the Notes validly tendered and not withdrawn by such holders, the Issuer will have the right, upon not less than 10 nor more than 60 days' prior written notice to the holders of Notes and the Trustee, given not more than 30 days following the Change of Control Payment Date, to redeem all Notes that remain outstanding following such purchase at a redemption price in cash equal to 101% of the principal amount thereof, plus accrued and unpaid interest to, but excluding, the redemption date.

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

(g) The Issuer's obligation to repurchase Notes upon a Change of Control may be waived by the holders of not less than a majority of the outstanding Notes affected by such waiver.

SECTION 4.09 Compliance Certificate.

The Issuer shall deliver to the Trustee within 120 days after the end of each fiscal year of the Issuer, beginning with the fiscal year ending on December 31, 2023, an Officers' Certificate stating that in the course of the performance by the signers (one of which shall be the principal executive officer, the principal financial officer or principal accounting office of the Issuer) of their duties as Officers of the Issuer they would normally have knowledge of any Default and whether or not the signers know of any Default that occurred during such period. If any such Officer does have knowledge of any Defaults having occurred during such period, the certificate shall describe such Defaults and what action the Issuer is taking or proposes to take with respect thereto. Except with respect to receipt of payments of principal and interest on the Notes and any Default or Event of Default information contained in the Officers' Certificate delivered to it pursuant to this Section 4.09, the Trustee shall have no duty to review, ascertain or confirm the Issuer's compliance with or the breach of any representation, warranty or covenant made in this Indenture.

SECTION 4.10 [Reserved].

SECTION 4.11 Future Guarantors.

(a) From and after the Escrow Merger, the Issuer will, other than during a Suspension Period, cause each of its Wholly Owned Restricted Subsidiaries that is not an Excluded Subsidiary and that guarantees or becomes a borrower under any Credit Agreement or that guarantees any Capital Markets Indebtedness of the Issuer or any of the Subsidiary Guarantors in an aggregate principal amount in excess of $100 million to execute and deliver to the Trustee, within 30 days of such event, a supplemental indenture substantially in the form of Exhibit C hereto pursuant to which such Subsidiary will guarantee payment of the Guaranteed Obligations and such Security Documents, or amendments or supplements thereto and such other documentation as shall be necessary to provide for valid and perfected Liens on such Subsidiary's assets constituting Collateral to secure such Subsidiary Guarantee on the terms described in Article X.

(b) This Section 4.11 shall not apply during a Suspension Period.

SECTION 4.12 Liens.

(a) From and after the Escrow Merger, the Issuer shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, create, Incur or suffer to exist any Lien (except Permitted Liens, other than those described in clause (38) of the definition thereof) (each, a "Subject Lien") on any asset or property of the Issuer or such Restricted Subsidiary securing Indebtedness of the Issuer or a Restricted Subsidiary unless:

(i) other than during a Suspension Period, (x) in the case of Subject Liens on any Collateral, such Subject Lien expressly is junior in priority to the Liens on the Collateral securing the Notes Obligations and is subject to an Acceptable Junior Intercreditor Agreement and (y) in the case of any Subject Lien on any asset or property that does not constitute Collateral, the Notes are equally and ratably secured with (or on a senior priority basis to, in the case of Obligations subordinated in right of payment to the Notes) the Obligations secured by such Subject Lien until such time as such Obligations are no longer secured by such Subject Lien; or

(ii) during a Suspension Period, the Notes are equally and ratably secured with (or on a senior priority basis to, in the case of Obligations subordinated in right of payment to the Notes) the Obligations secured by such Subject Lien until such time as such Obligations are no longer secured by such Subject Lien.

(b) Any Lien that is granted to secure the Notes or any Guarantee under Section 4.12(a)(i)(y) or 4.12(a)(ii) shall be automatically released and discharged at the same time as the release of the Lien that gave rise to the Obligation to secure the Notes or such Guarantee.

(c) From and after the Escrow Merger, if the Issuer or any Guarantor grants any Lien upon any property or assets to secure any other Pari Passu Lien Obligations, it will be required to grant a first

priority perfected Lien (subject to Permitted Liens) upon any such property or assets as security for the Notes Obligations as soon as reasonably practicable, except to the extent such property or assets constitute cash or Cash Equivalents securing letter of credit obligations.

(d) For purposes of determining compliance with this Section 4.12, (i) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 4.12(a) but may be permitted in part under any combination thereof and (ii) in the event that a Lien securing an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 4.12(a), the Issuer may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if Incurred at such later time), such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this covenant and will be entitled to only include the amount and type of such Lien or such item of Indebtedness secured by such Lien (or any portion thereof) in one of the categories of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 4.12(a) and, in such event, such Lien securing such item of Indebtedness (or any portion thereof) will be treated as being Incurred or existing pursuant to only such clause or clauses (or any portion thereof) or pursuant to Section 4.12(a) without giving *pro forma* effect to such item (or portion thereof) when calculating the amount of Liens or Indebtedness that may be Incurred pursuant to any other clause or paragraph.

(e) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The "Increased Amount" of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common stock of the Issuer, the payment of dividends on Preferred Stock in the form of additional shares of Preferred Stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness described in clause (3) of the definition of "Indebtedness."

(f) The Notes Collateral Agent (and, if applicable, the Trustee) shall execute and deliver any Intercreditor Agreement upon delivery of an Officers' Certificate and Opinion of Counsel of the Issuer to the Trustee and Notes Collateral Agent requesting such execution and delivery and stating that such execution and delivery is authorized or permitted by this Indenture.

SECTION 4.13 After-Acquired Collateral.

(a) Subject to Section 10.08 and the terms of the Security Documents and the Intercreditor Agreements, if (a) any Subsidiary becomes a Guarantor, or (b) the Issuer or any Guarantor acquires property or assets constituting Collateral (other than, for the avoidance of doubt, Excluded Assets), it shall be required to execute and deliver such security instruments and financing statements as are required under this Indenture or any Security Document to create a security interest (subject to Permitted Liens) in such after-acquired Collateral (or all of its assets constituting Collateral, except for the avoidance of doubt Excluded Assets, in the case of a new Guarantor), and thereupon all provisions of this Indenture and the Security Documents relating to the Collateral shall be deemed to relate to such after-acquired Collateral to the same extent and with the same force and effect.

SECTION 4.14 Maintenance of Office or Agency.

(a) The Issuer shall maintain one or more offices or agencies (which may be an office of the Trustee or an affiliate of the Trustee or Registrar) where Notes may be surrendered for registration of transfer or for exchange. The Issuer shall give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations and surrenders may be made at the Corporate Trust Office of the Trustee as set forth in Section 13.02.

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

(c) The Issuer hereby designates the Corporate Trust Office of the Trustee or its agent as such office or agency of the Issuer in accordance with Section 2.04.

SECTION 4.15 Existence.

Until the Escrow Merger, the Escrow Issuer shall, and from and after the Escrow Merger the Ultimate Issuer shall, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises material to the conduct of its business; *provided* that the foregoing shall not prohibit any transaction permitted under Section 5.01, and the Issuer shall not be required to preserve, renew and keep in full force and effect any such right, license, permit, privilege, franchise or legal existence if the Issuer shall determine in good faith the preservation, renewal or keeping in full force and effect thereof is no longer desirable in the conduct of the business of the Issuer.

SECTION 4.16 Fall-Away Event and Reversion Date.

If on any date following the Completion Date, (i) (A) the Notes have Investment Grade Ratings from at least two of the Rating Agencies and (B) the Issuer has a "corporate family rating" (or comparable designation) that is an Investment Grade Rating from at least two of the Rating Agencies and (ii) no Default has occurred and is continuing under this Indenture then, from and after such date (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a "Fall-Away Event"), the Issuer and the Restricted Subsidiaries shall not be subject to Sections 4.03, 4.04, 4.05, 4.06, 4.07, 4.11, 4.13, 5.01(a)(iv), 5.01(a)(v) and 5.01(b) will have no further force and effect (collectively the

"Suspended Covenants"), and such Suspended Covenants shall have no further force or effect. In the event that the Issuer and the Restricted Subsidiaries are not subject to the Suspended Covenants under this Indenture for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") the Notes have an Investment Grade Rating from less than two Rating Agencies or the Issuer's "corporate family rating" (or comparable designation) is an Investment Grade Rating from less than two Rating Agencies, then the Issuer and the Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants with respect to future events. The period of time from and including the date of the Fall-Away Event to (and excluding) the Reversion Date is referred to in this Indenture as the "Suspension Period."

Additionally, upon the occurrence of a Fall-Away Event, the amount of Excess Proceeds shall be reset at zero.

Notwithstanding that the Suspended Covenants may be reinstated, no Default, Event of Default or breach of any kind shall be deemed to exist under this Indenture, the Notes or the guarantees with respect to the Suspended Covenants, and none of the Issuer or any of its Subsidiaries shall bear any liability for any actions taken or events occurring during the Suspension Period, or any actions taken at any time pursuant to any contractual obligation arising prior to the Reversion Date, as a result of a failure to comply with the Suspended Covenants during the Suspension Period (or upon termination of the Suspension Period or after that time based solely on events that occurred during the Suspension Period solely to the extent arising from the failure to comply with the Suspended Covenants during the Suspension Period); *provided* that (1) with respect to Restricted Payments made after the Reversion Date, the amount of Restricted Payments made will be calculated as though Section 4.04 had been in effect prior to, but not during, the Suspension Period, (2) all Indebtedness Incurred, or Disqualified Stock or Preferred Stock issued, during the Suspension Period will be classified to have been Incurred or issued pursuant to Section 4.03(b)(iii), (3) any Affiliate Transaction entered into after the Reversion Date pursuant to an agreement entered into during any Suspension Period shall be deemed to be permitted pursuant to Section 4.07(b)(vi) and (4) any encumbrance or restriction on the ability of any Restricted Subsidiary that is not a Guarantor to take any action described in clauses (a) and (b) of the first paragraph of Section 4.05 that becomes effective during any Suspension Period shall be deemed to be permitted pursuant to clause (1) of the exception to the first paragraph of Section 4.05. On and after the Reversion Date, all Liens granted or purported to be granted to secure the Notes shall be automatically reinstated and the Issuer and the Guarantors shall take all actions reasonably necessary to provide to the Notes Collateral Agent for its benefit and the benefit of the Trustee and the holders of the Notes valid, perfected, first priority security interests (subject to Permitted Liens) in the Collateral within 90 days after such Reversion Date. The Notes Collateral Agent is authorized to enter into any new Security Documents in connection with any Reversion Date. No Subsidiaries shall be designated as Unrestricted Subsidiaries during any Suspension Period.

The Issuer shall provide an Officers' Certificate to the Trustee indicating the occurrence of any Fall-Away Event or Reversion Date. The Trustee may provide a copy of such Officers' Certificate to any holder upon receipt of written request. The Trustee will have no obligation to (i) independently determine or verify if such events have occurred, (ii) make any determination regarding the impact of actions taken during the Suspension Period on the Issuer and its Restricted Subsidiaries' future compliance with their covenants or (iii) notify the holders of any Fall-Away Event or Reversion Date.

SECTION 4.17 Activities Prior to Escrow Release.

Prior to the Completion Date, the Escrow Issuer's primary activities shall be restricted to issuing the Notes, performing its obligations in respect of the Notes, this Indenture and the Escrow Agreement, consummating the Transactions, the Escrow Conditions and the Escrow Release, redeeming the Notes as set forth above under Section 3.09, if applicable, and conducting such other activities as are necessary or appropriate to carry out the foregoing. Prior to the Completion Date, the Escrow Issuer shall not engage in any material business activity or enter into any material transaction or agreement except in the ordinary course of business or reasonably necessary to effectuate the Transactions.

ARTICLE V

SUCCESSOR COMPANY

SECTION 5.01 Merger, Amalgamation, Consolidation or Sale of All or Substantially All Assets

(a) From and after the Escrow Merger, the Issuer may not, directly or indirectly, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not the Issuer is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions, to any Person unless:

(i) the Issuer is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation, merger, winding up or conversion (if other than the Issuer) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation, partnership or limited liability company or similar entity organized or existing under the laws of the United States, any state thereof, or the District of Columbia (the Issuer or such Person, as the case may be, being herein called the "Successor Issuer");

(ii) the Successor Issuer (if other than the Issuer) expressly assumes all the Obligations of the Issuer under this Indenture, the Notes and the Security Documents pursuant to supplemental indentures or other applicable documents or instruments in form reasonably satisfactory to the Trustee;

(iii) immediately after giving effect to such transaction (and treating any Indebtedness which becomes an Obligation of the Successor Issuer or any of its Restricted Subsidiaries as a result of such transaction as having been Incurred by the Successor Issuer or such Restricted Subsidiary at the time of such transaction) no Default shall have occurred and be continuing;

(iv) other than during a Suspension Period, immediately after giving *pro forma* effect to such transaction, as if such transaction had occurred at the beginning of the applicable four-quarter period (and treating any Indebtedness which becomes an Obligation of the Successor Issuer or any of its Restricted Subsidiaries as a result of such transaction as having been Incurred by the Successor Issuer or such Restricted Subsidiary at the time of such transaction), either (a) the Successor Issuer would be permitted to Incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 4.03(a) or (b) the Fixed Charge Coverage Ratio of the Issuer would be no less than such ratio immediately prior to such transactions;

(v) other than during a Suspension Period, if the Issuer is not the Successor Issuer, each Subsidiary Guarantor, unless it is the other party to the transactions described above, shall have by supplemental indenture confirmed that its Guarantee shall apply to such Person's obligations under this Indenture and the Notes; and

(vi) the Successor Issuer shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, amalgamation or transfer and such supplemental indentures (if any) comply with this Indenture.

The Successor Issuer (if other than the Issuer) will succeed to, and be substituted for, the Issuer under this Indenture and the Notes, and in such event the Issuer will automatically be released and discharged from its obligations under this Indenture and the Notes. Notwithstanding the foregoing clauses (iii) and (iv) of this Section 5.01(a), (A) the Issuer may merge, consolidate or amalgamate with or transfer all or part of its properties and assets to a Restricted Subsidiary and (B) the Issuer may merge, consolidate or amalgamate with an Affiliate incorporated solely for the purpose of reincorporating the Issuer in another state of the United States or the District of Columbia (collectively, "Permitted Jurisdictions") or may convert into a corporation, partnership or limited liability company, so long as the amount of Indebtedness of the Issuer and the Restricted Subsidiaries is not increased thereby. This Section 5.01(a) will not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among the Issuer and the Restricted Subsidiaries.

(b) Other than during a Suspension Period, and subject to the provisions of Section 12.02(b), no Subsidiary Guarantor shall, and the Issuer shall not permit any such Subsidiary Guarantor to, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not such Subsidiary Guarantor is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions to, any Person unless:

(i) either (A) such Subsidiary Guarantor is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than such Subsidiary Guarantor) or to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made is a company, corporation, partnership or limited liability company or similar entity organized or existing under the laws of the United States, any state thereof, or the District of Columbia (such Subsidiary Guarantor or such Person, as the case may be, being herein called the "Successor Guarantor") and the Successor Guarantor (if other than such Subsidiary Guarantor) expressly assumes all the Obligations of such Subsidiary Guarantor under this Indenture, its Guarantee and the Security Documents pursuant to a supplemental indenture or other applicable documents or instruments in form reasonably satisfactory to the Trustee, or (B) such sale or disposition or consolidation, amalgamation or merger is not in violation of Section 4.06; and

(ii) the Successor Guarantor (if other than such Subsidiary Guarantor) shall have delivered or caused to be delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or transfer and such supplemental indenture (if any) comply with this Indenture.

Except as otherwise provided in this Indenture, the Successor Guarantor (if other than such Subsidiary Guarantor) will succeed to, and be substituted for, such Subsidiary Guarantor under this Indenture and the Notes or its Guarantee, as applicable, and such Subsidiary Guarantor will automatically be released and discharged from its Obligations under this Indenture and the Notes or its Subsidiary Guarantee. Notwithstanding the foregoing, (1) a Subsidiary Guarantor may merge, amalgamate or consolidate with an Affiliate incorporated solely for the purpose of reincorporating such Subsidiary Guarantor in a Permitted Jurisdiction or may convert into a limited liability company, corporation, partnership or similar entity organized or existing under the laws of any Permitted Jurisdiction so long as the amount of Indebtedness of such Subsidiary Guarantor is not increased thereby and (2) a Subsidiary Guarantor may merge, amalgamate or consolidate with the Issuer or another Guarantor.

In addition, notwithstanding the foregoing, a Subsidiary Guarantor may (i) consolidate, amalgamate or merge with or into or wind up or convert into, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets to the Issuer or any other Subsidiary Guarantor or (ii) liquidate or dissolve if the Issuer determines in good faith that such liquidation or dissolution is in the best interest of the Issuer.

For the avoidance of doubt, this Section 5.01(b) shall not apply during a Suspension Period.

Notwithstanding the foregoing, this covenant shall not apply to the Transactions, *provided* that the execution of a supplemental indenture by the Ultimate Issuer in connection with the Escrow Merger shall be required.

ARTICLE VI

DEFAULTS AND REMEDIES

SECTION 6.01 Events of Default.

An "Event of Default" shall occur with respect to the Notes if:

(a) there is a default in any payment of interest on any Note when due, and such default continues for a period of 30 days;

(b) there is a default in the payment of principal or premium, if any, of any Note when due at its Stated Maturity, upon optional redemption, upon required repurchase, upon declaration or otherwise;

(c) there is a failure by the Issuer for 120 days after receipt of written notice given by the Trustee or the holders of not less than 25% in aggregate principal amount of the Notes then outstanding (with a copy to the Trustee) to comply with any of its obligations, covenants or agreements contained in Section 4.02;

(d) there is a failure by the Issuer or any Restricted Subsidiary for 60 days after written notice given by the Trustee or the holders of not less than 25% in principal amount of the Notes then outstanding (with a copy to the Trustee) to comply with its other obligations, covenants or agreements (other than a default referred to in clause (a), (b) or (c) above) contained in the Notes or this Indenture;

(e) there is a failure by the Issuer or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay any Indebtedness (other than Indebtedness owing to the Issuer or a Restricted Subsidiary) within any applicable grace period after final maturity or the acceleration of any such Indebtedness by the holders thereof because of a default, in each case, if the total amount of such Indebtedness unpaid or accelerated exceeds $100 million or its foreign currency equivalent (the "cross-acceleration provision");

(f) the Issuer or any Restricted Subsidiary that is a Significant Subsidiary (or any group of Restricted Subsidiaries that together would constitute a Significant Subsidiary), pursuant to or within the meaning of any Bankruptcy Law:

(i) commences a voluntary case;

(ii) consents to the entry of an order for relief against it in an involuntary case;

(iii) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(iv) makes a general assignment for the benefit of its creditors;

(g) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief in an involuntary case against the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary;

(ii) appoints a custodian of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary or for all or substantially all of the property of the Issuer or any of its Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary;

(iii) orders the liquidation of the Issuer or any of the Issuer's Restricted Subsidiaries that is a Significant Subsidiary or any group of Restricted Subsidiaries of the Issuer that, taken together, would constitute a Significant Subsidiary;

and the order or decree remains unstayed and in effect for 60 consecutive days;

(h) there is a failure by the Issuer or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) to pay final judgments aggregating in excess of $100 million or its foreign currency equivalent (net of any amounts which are covered by enforceable insurance policies issued by solvent carriers), which judgments are not discharged, waived or stayed for a period of 60 days;

(i) other than during a Suspension Period, the Guarantee of a Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) with respect to the Notes ceases to be in full force and effect (except as contemplated by the terms thereof) or the Issuer or any Guarantor that qualifies as a Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) denies or disaffirms its obligations under this Indenture or any Guarantee with respect to the Notes and such Default continues for 10 days;

(j) other than during a Suspension Period, the Liens on a material portion of the Collateral created by the Security Documents cease to be a valid and perfected Lien intended to be covered thereby (unless perfection is not required by this Indenture or the Security Documents) other than (A) in accordance with the terms of the relevant Security Document or this Indenture, (B) as a result of the payment and satisfaction in full of the Notes and all other Obligations under this Indenture, or (C) any loss of perfection that results from the failure of the Notes Collateral Agent to maintain possession of certificates delivered to it representing securities pledged under the Security Documents;

(k) other than during a Suspension Period, the Issuer or any Guarantor that is a Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) shall assert, in any pleading in any court of competent jurisdiction, that any security interest in any Security Document is invalid or unenforceable (other than any security interest that has been released in accordance with the provisions of this Indenture, any Security Document or any Intercreditor Agreement); or

(l) failure by the Issuer to consummate the Special Mandatory Redemption pursuant to Section 3.09 if, as and when required thereunder.

The foregoing will constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

However, a default under clause (c) or (d) above will not constitute an Event of Default until the Trustee or the holders of at least 25% in principal amount of outstanding Notes notify the Issuer, with a copy to the Trustee, of the default and the Issuer fails to cure such default within the time specified in clause (c) or (d) hereof after receipt of such notice; *provided,* that a notice of default may not be given with respect to any action taken, and reported publicly or to holders and the Trustee, more than two years prior to such notice of default. Any notice of default, notice of acceleration or instruction to the Trustee to provide a notice of default, notice of acceleration or take any other action (a "Noteholder Direction") provided by any one or more holders of the Notes (each, a "Directing Holder") must be accompanied by a signed Position Representation and Verification Form (in the form attached asExhibit E to this Indenture) from each such holder delivered to the Issuer and the Trustee (a "Position Representation and Verification Form"). The Position Representation and Verification Form will contain a representation that such holder is not (or, in the case such holder is DTC or its nominee, that such holder is being instructed solely by beneficial owners that have represented to such holder that they are not) Net Short (a "Position Representation"), which representation, in the case of a Noteholder Direction relating to the delivery of a notice of default shall be deemed a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the Notes are accelerated. In addition, the Position Representation and Verification Form will include a covenant by the applicable Directing Holder to provide the Issuer with such other information as the Issuer may reasonably request from time to time in order to verify the accuracy of such noteholder's Position Representation within five Business Days of request therefor (a

"Verification Covenant"). In any case in which the holder is DTC or its nominee, any Position Representation or Verification Covenant required hereunder shall be provided by the beneficial owner of the Notes in lieu of DTC or its nominee and DTC shall be entitled to conclusively rely on such Position Representation and Verification Covenant in delivering its direction to the Trustee. In no event shall the Trustee have any liability or obligation to ascertain, monitor or inquire as to whether any holder is Net Short and/or whether such holder has delivered any Position Representation, Verification Covenant, Noteholder Direction, or any related certifications under this Indenture or in connection with the Notes or if any such Position Representation, Verification Covenant, Noteholder Direction, or any related certifications comply with this Indenture, the Notes, or any other document. It is understood and agreed that the Issuer and the Trustee shall be entitled to conclusively rely on each representation, deemed representation and certification made by, and covenant of, each beneficial owner provided for in this paragraph. Notwithstanding any other provision of this Indenture, the Notes or any other document, the provisions of this paragraph shall apply and survive with respect to each beneficial owner notwithstanding that any such Person may have ceased to be a beneficial owner, this Indenture may have been terminated or the Notes may have been redeemed in full.

If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Issuer determines in good faith that there is a reasonable basis to believe a Directing Holder was, at any relevant time, in breach of its Position Representation and provides to the Trustee an Officers' Certificate stating that the Issuer has initiated litigation in a court of competent jurisdiction seeking a determination that such Directing Holder was, at such time, in breach of its Position Representation, and seeking to invalidate any default, Event of Default or acceleration (or notice thereof) that resulted from the applicable Noteholder Direction, the cure period with respect to such default shall be automatically stayed and the cure period with respect to such default or Event of Default shall be automatically reinstituted and any remedy stayed pending a final and non-appealable determination of a court of competent jurisdiction on such matter if, without the participation of such holder, the percentage of Notes held by the remaining holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction. If, following the delivery of a Noteholder Direction, but prior to acceleration of the Notes, the Issuer provides to the Trustee an Officers' Certificate stating that a Directing Holder failed to satisfy its Verification Covenant, the cure period with respect to such default or Event of Default shall be automatically stayed and the cure period with respect to any default or Event of Default that resulted from the applicable Noteholder Direction shall be automatically reinstituted and any remedy stayed pending satisfaction of such Verification Covenant. Any breach of the Position Representation shall result in such holder's participation in such Noteholder Direction being disregarded; and, if, without the participation of such holder, the percentage of Notes held by the remaining holders that provided such Noteholder Direction would have been insufficient to validly provide such Noteholder Direction, such Noteholder Direction shall be void ab initio (other than any indemnity such Directing Holder may have offered the Trustee), with the effect that such default or Event of Default shall be deemed never to have occurred, acceleration voided and the Trustee shall be deemed not to have received such Noteholder Direction or any notice of such default or Event of Default.

Notwithstanding anything in the preceding two paragraphs to the contrary, any Noteholder Direction delivered to the Trustee during the pendency of an Event of Default as the result of a bankruptcy or similar proceeding shall not require compliance with the foregoing paragraphs. In addition, for the avoidance of doubt, the requirements described in the preceding two paragraphs shall not apply to any holder that is a Regulated Bank, and shall only apply to Noteholder Directions as defined herein and not to any other direction given to the Trustee under this Indenture.

For the avoidance of doubt, the Trustee shall be entitled to conclusively rely on any Noteholder Direction delivered to it in accordance with this Indenture, shall have no duty to inquire as to or investigate the accuracy of any Position Representation, enforce compliance with any Verification Covenant, verify any statements in any Officers' Certificate delivered to it, or otherwise make calculations, investigations or determinations with respect to Derivative Instruments, Net Shorts, Long Derivative Instruments, Short Derivative Instruments or otherwise. The Trustee shall have no liability to the Issuer, any holder or any other Person in connection with any Noteholder Direction or to determine whether or not any holder has delivered any Position Representation, Verification Covenant, Noteholder Direction, or any related certification or that such Position Representation, Verification Covenant, Noteholder Direction, or any related certification conforms with this Indenture or any other agreement.

Notwithstanding anything to the contrary set forth in this Indenture or the Notes, no provision of this Indenture or the Notes shall prohibit any of the Transactions, nor shall the Transactions give rise to any Default or Event of Default.

SECTION 6.02 Acceleration.

If an Event of Default (other than an Event of Default specified in Sections 6.01(f) or (g) hereof with respect to the Issuer) occurs and is continuing, the Trustee by notice to the Issuer or the holders of at least 25% in principal amount of outstanding Notes by notice to the Issuer, with a copy to the Trustee, may declare the principal of, premium, if any, and accrued but unpaid interest on all the Notes to be due and payable. Upon such a declaration, such principal and interest shall be due and payable immediately. If an Event of Default specified in Sections 6.01(f) or (g) with respect to the Issuer occurs, the principal of, premium, if any, and interest on all the Notes will become immediately due and payable without any declaration or other act on the part of the Trustee or any holders. The holders of a majority in principal amount of outstanding Notes may rescind any such acceleration with respect to the Notes and its consequences.

In the event of any Event of Default specified in Section 6.01(e), such Event of Default and all consequences thereof (excluding, however, any resulting payment default) shall be annulled, waived and rescinded, automatically and without any action by the Trustee or the holders of the Notes, if within 20 days after such Event of Default arose the Issuer delivers an Officers' Certificate to the Trustee stating that (x) the Indebtedness or guarantee that is the basis for such Event of Default has been discharged or (y) the holders thereof have rescinded or waived the acceleration, notice or action (as the case may be) giving rise to such Event of Default or (z) the default that is the basis for such Event of Default has been cured, it being understood that in no event shall an acceleration of the principal amount of the Notes as described above be annulled, waived or rescinded upon the happening of any such events.

SECTION 6.03 Other Remedies.

If an Event of Default occurs and is continuing, the Trustee or the Notes Collateral Agent may pursue any available remedy at law or in equity to collect the payment of principal or interest on the Notes or to enforce the performance of any provision of the Notes, this Indenture or the Security Documents.

The Trustee or the Notes Collateral Agent may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee, the Notes Collateral Agent or any holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. To the extent required by law, all available remedies are cumulative.

SECTION 6.04 Waiver of Past Defaults.

Provided the Notes are not then due and payable by reason of a declaration of acceleration, the holders of a majority in principal amount of the Notes then outstanding by written notice to the Trustee may waive an existing Default and its consequences except (a) a Default in the payment of the principal of or interest on a Note, (b) a Default arising from the failure to redeem or purchase any Note when required pursuant to the terms of this Indenture or (c) a Default in respect of a provision that under Section 9.02 cannot be amended without the consent of each holder affected. When a Default is waived, it is deemed cured and the Issuer, the Trustee and the holders will be restored to their former positions and rights under this Indenture, but no such waiver shall extend to any subsequent or other Default or impair any consequent right.

SECTION 6.05 Control by Majority.

The holders of a majority in principal amount of outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or the Notes Collateral Agent or of exercising any trust or power conferred on the Trustee or the Notes Collateral Agent. The Trustee or the Notes Collateral Agent, however, may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee or the Notes Collateral Agent determines is unduly prejudicial to the rights of any other holder or that would involve the Trustee or the Notes Collateral Agent in personal liability. Prior to taking any action under this Indenture, the Trustee and the Notes Collateral Agent shall be entitled to indemnification satisfactory to them in their sole discretion against all losses and expenses caused by taking or not taking such action.

SECTION 6.06 Limitation on Suits.

Except to enforce the right to receive payment of principal, premium (if any) or interest when due, no holder may pursue any remedy with respect to this Indenture or the Notes unless:

(i) such holder has previously given the Trustee written notice that an Event of Default is continuing,

(ii) holders of at least 25% in principal amount of the outstanding Notes have requested the Trustee to pursue the remedy,

(iii) such holders have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense,

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

(v) the holders of a majority in principal amount of the outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period.

SECTION 6.07 Rights of the Holders to Receive Payment.

Notwithstanding any other provision of this Indenture, the right of any holder to receive payment of principal of and interest on the Notes held by such holder, on or after the respective due dates expressed or provided for in the Notes, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such holder.

SECTION 6.08 Collection Suit by Trustee.

If an Event of Default specified in Section 6.01(a) or (b) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuer or any other obligor on the Notes for the whole amount then due and owing (together with interest on overdue principal and (to the extent lawful) on any unpaid interest at the rate provided for in the Notes) and the amounts provided for in Section 7.07.

SECTION 6.09 Trustee May File Proofs of Claim.

The Trustee may file such proofs of claim, statements of interest and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for reasonable compensation, expenses disbursements and advances of the Trustee (including counsel, accountants, experts or such other professionals as the Trustee deems necessary, advisable or appropriate)) and the holders allowed in any judicial proceedings relative to the Issuer, the Guarantors, their creditors or their property, shall be entitled to participate as a member, voting or otherwise, of any official committee of creditors appointed in such matters and, unless prohibited by law or applicable regulations, may vote on behalf of the holders in any election of a trustee in bankruptcy or other Person performing similar functions, and any Custodian in any such judicial proceeding is hereby authorized by each holder to make payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and its counsel, and any other amounts due the Trustee under Section 7.07. Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any holder, or to authorize the Trustee to vote in respect of the claim of any holder in any such proceeding.

SECTION 6.10 Priorities.

Any money or property collected by the Trustee or the Notes Collateral Agent pursuant to this Article VI (including upon any realization of any Lien upon Collateral) and any other money or property distributable in respect of the Issuer's or any Guarantor's obligations under this Indenture after an Event of Default shall, subject to the terms of the Security Documents and the Intercreditor Agreements, be applied in the following order:

FIRST: to the Trustee and the Notes Collateral Agent for amounts due to the Trustee and the Notes Collateral Agent, respectively (acting in any capacity hereunder) hereunder;

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

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

The Trustee may fix a record date and payment date for any payment to the holders pursuant to this Section 6.10. At least 15 days before such record date, the Trustee shall deliver to each holder and the Issuer a notice that states the record date, the payment date and the amount to be paid.

SECTION 6.11 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a holder pursuant to Section 6.07 or a suit by holders of more than 10% in principal amount of the Notes.

SECTION 6.12 Waiver of Stay or Extension Laws.

Neither the Issuer nor any Guarantor (to the extent it may lawfully do so) shall at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Indenture; and the Issuer and the Guarantors (to the extent that they may lawfully do so) hereby expressly waive all benefit or advantage of any such law, and shall not hinder, delay or impede the execution of any power herein granted to the Trustee, but shall suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE VII

TRUSTEE

SECTION 7.01 Duties of Trustee.

(a) The Trustee, prior to the occurrence of an Event of Default with respect to the Notes and after the curing or waiving of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs.

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

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee (it being agreed that the permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty); and

(ii) the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. The Trustee shall be under no duty to make any investigation as to any statement contained in any such instance, but may accept the same as conclusive evidence of the truth and accuracy of such statement or the correctness of such opinions. However, in the case of certificates or opinions required by any provision hereof to be provided to it, the Trustee shall examine the form of certificates and opinions to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts stated therein).

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

(i) this paragraph does not limit the effect of paragraph (b) of this Section 7.01;

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

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05 or pursuant to any Security Document; and

(iv) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise Incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers.

(d) Every provision of this Indenture that in any way relates to the Trustee is subject to paragraphs (a), (b) and (c) of this Section 7.01.

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

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

(g) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section 7.01.

SECTION 7.02 Rights of Trustee.

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

(b) Before the Trustee acts or refrains from acting, it may require an Officers' Certificate or an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on the Officers' Certificate or Opinion of Counsel.

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

(d) The Trustee shall not be responsible or liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers; *provided*, *however*, that the Trustee's conduct does not constitute willful misconduct or gross negligence.

(e) The Trustee may consult with counsel of its own selection and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, approval, bond, debenture, note or other paper or document unless requested in writing to do so by the holders of not less than a majority in principal amount of the Notes at the time outstanding, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney, at the expense of the Issuer and shall Incur no liability of any kind by reason of such inquiry or investigation.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the holders pursuant to this Indenture, unless such holders shall have offered to the Trustee security or indemnity satisfactory to the Trustee against the costs, expenses and liabilities which might be Incurred by it in compliance with such request or direction.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and each agent, custodian and other Person employed to act hereunder.

(i) The Trustee shall not be responsible or liable for any action taken or omitted by it in good faith at the direction of the holders of not less than a majority in principal amount of the Notes as to the time, method and place of conducting any proceedings for any remedy available to the Trustee or the exercising of any power conferred by this Indenture.

(j) Any action taken, or omitted to be taken, by the Trustee in good faith pursuant to this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent, is the holder of any Note shall be conclusive and binding upon future holders of Notes and upon Notes executed and delivered in exchange therefor or in place thereof.

(k) The Trustee shall not be deemed to have notice of any Default or Event of Default unless a Responsible Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a Default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(l) The Trustee may request that the Issuer deliver an Officers' Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officers' Certificate may be signed by any Person authorized to sign an Officers' Certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

(m) The Trustee shall not be responsible or liable for punitive, special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of actions.

(n) The Trustee shall not be required to give any bond or surety in respect of the execution of the trusts and powers under this Indenture.

(o) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including, without limitation, acts of God; earthquakes; fire; flood; terrorism; wars and other military disturbances; sabotage; epidemics; riots; loss or malfunction of utilities, computer (hardware or software) or communication services; accidents; labor disputes; and acts of civil or military authorities and governmental action.

SECTION 7.03 Individual Rights of Trustee.

The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer or its Affiliates with the same rights it would have if it were not Trustee. Any Paying Agent or Registrar may do the same with like rights. However, the Trustee must comply with Sections 7.10 and 7.11.

SECTION 7.04 Trustee's Disclaimer.

The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture, the Guarantees or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Issuer or any Guarantor in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication. The Trustee shall not be charged with knowledge of any Default or Event of Default under Sections 6.01(c), (d), (e), (f), (g), (h), or (i), or of the identity of any Significant Subsidiary unless either (a) a Responsible Officer shall have actual knowledge

thereof or (b) the Trustee shall have received written notice thereof in accordance with Section 13.02 hereof from the Issuer, any Guarantor or any holder. In accepting the trust hereby created, the Trustee acts solely as Trustee under this Indenture and not in its individual capacity and all persons, including without limitation the holders of Notes and the Issuer having any claim against the Trustee arising from this Indenture shall look only to the funds and accounts held by the Trustee hereunder for payment except as otherwise provided herein.

SECTION 7.05 Notice of Defaults.

If a Default occurs and is continuing and written notice thereof is received by the Trustee, the Trustee shall mail, or deliver electronically if held by DTC, to each holder of the Notes notice of the Default within the earlier of 90 days after it occurs or 30 days after written notice of it is received by the Trustee. Except in the case of a Default in the payment of principal of, premium (if any) or interest on any Note, the Trustee may withhold notice if and so long as it in good faith determines that withholding notice is in the interests of the noteholders. The Issuer is required to deliver to the Trustee, annually, a certificate indicating whether the signers thereof know of any Default that occurred during the previous year. The Issuer also is required to deliver to the Trustee, within 30 days after the occurrence thereof, written notice of any event which would constitute certain Defaults, their status and what action the Issuer is taking or proposes to take in respect thereof.

SECTION 7.06 [Reserved].

SECTION 7.07 Compensation and Indemnity.

The Issuer shall pay to the Trustee (acting in any capacity hereunder) from time to time such compensation for the Trustee's acceptance of this Indenture and its services hereunder as mutually agreed to in writing between the Issuer and the Trustee. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses Incurred or made by it, including costs of collection, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, court costs, accountants and experts. The Issuer and the Guarantors, jointly and severally, shall indemnify the Trustee (acting in any capacity hereunder) or any predecessor Trustee and their directors, officers, employees and agents against any and all loss, liability, claim, damage or expense (including reasonable attorneys' fees and expenses, court costs and including taxes (other than taxes based upon, measured by or determined by the income of the Trustee)) Incurred by or in connection with the acceptance or administration of this trust and the performance of its duties hereunder, including the costs and expenses of enforcing this Indenture or Guarantee against the Issuer or any Guarantor (including this Section 7.07) and defending itself against or investigating any claim (whether asserted by the Issuer, any Guarantor, any holder or any other Person). The obligation to pay such amounts shall survive the payment in full or defeasance of the Notes or the removal or resignation of the Trustee. The Trustee shall notify the Issuer of any claim for which it may seek indemnity promptly upon obtaining actual knowledge thereof; *provided*, *however*, that any failure so to notify the Issuer shall not relieve the Issuer or any Guarantor of its indemnity obligations hereunder. The Issuer shall defend the claim and the indemnified party shall provide reasonable cooperation at the Issuer's expense in the defense. Such indemnified parties may have separate counsel and the Issuer and such Guarantor, as applicable, shall pay the fees and expenses of such counsel; *provided*, *however*, that the Issuer shall not be required to pay such fees and expenses if it assumes such indemnified parties'

defense and, in such indemnified parties' reasonable judgment, there is no actual or potential conflict of interest between the Issuer and the Guarantors, as applicable, and such parties in connection with such defense. The Issuer need not reimburse any expense or indemnify against any loss, liability or expense Incurred by an indemnified party through such party's own willful misconduct, gross negligence or bad faith, as determined by a court of competent jurisdiction in a final nonappealable order.

To secure the Issuer's and the Guarantors' payment obligations to the Trustee hereunder, the Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes.

The Issuer's and the Guarantors' payment obligations to the Trustee hereunder shall survive the satisfaction or discharge of this Indenture, any rejection or termination of this Indenture under any bankruptcy law or the resignation or removal of the Trustee. Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee Incurs expenses after the occurrence of a Default specified in Section 6.01(f) or (g) with respect to the Issuer, the expenses are intended to constitute expenses of administration under the Bankruptcy Law.

No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise Incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if repayment of such funds or adequate indemnity against such risk or liability is not assured to its satisfaction.

In case an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the holders of the Notes unless such holders have offered to the Trustee indemnity or security satisfactory to it against any loss, liability or expense.

SECTION 7.08 Replacement of Trustee.

(a) The Trustee may resign at any time by so notifying the Issuer. The holders of a majority in principal amount of the Notes may remove the Trustee by so notifying the Trustee and may appoint a successor Trustee. The Issuer shall remove the Trustee if:

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

(ii) the Trustee is adjudged bankrupt or insolvent;

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

(iv) the Trustee otherwise becomes incapable of acting.

(b) If the Trustee resigns, is removed by the Issuer or by the holders of a majority in principal amount of the Notes and such holders do not reasonably promptly appoint a successor Trustee, or if a vacancy exists in the office of Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Issuer shall promptly appoint a successor Trustee.

(c) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to the holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the Lien provided for in Section 7.07 and shall have no responsibility or liability for any action (or inaction) of any successor Trustee.

(d) If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee or the holders of 10% in principal amount of the Notes may petition at the expense of the Issuer any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee fails to comply with Section 7.10, unless the Trustee's duty to resign is stayed as provided in Section 310(b) of the TIA, any holder who has been a bona fide holder of a Note for at least six months may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) Notwithstanding the replacement of the Trustee pursuant to this Section 7.08, the Issuer's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee.

SECTION 7.09 Successor Trustee by Merger.

If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation or banking association without any further act shall be the successor Trustee.

In case at the time such successor or successors by merger, conversion or consolidation to the Trustee shall succeed to the trusts created by this Indenture any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Trustee shall have.

SECTION 7.10 Eligibility; Disqualification.

The Trustee shall at all times satisfy the requirements of Section 310(a) of the TIA. The Trustee shall have a combined capital and surplus of at least $50.0 million as set forth in its most recent published annual report of condition. The Trustee shall comply with Section 310(b) of the TIA, subject to its right to apply for a stay of its duty to resign under the penultimate paragraph of Section 310(b) of the TIA; *provided*, *however*, that there shall be excluded from the operation of Section 310(b)(1) of the TIA any series of securities issued under this Indenture and any indenture or indentures under which other securities or certificates of interest or participation in other securities of the Issuer are outstanding if the requirements for such exclusion set forth in Section 310(b)(1) of the TIA are met.

SECTION 7.11 Preferential Collection of Claims Against the Issuer.

The Trustee shall comply with Section 311(a) of the TIA, excluding any creditor relationship listed in Section 311(b) of the TIA. A Trustee who has resigned or been removed shall be subject to Section 311(a) of the TIA to the extent indicated.

SECTION 7.12 Tax Matters Regarding Trustee.

The transferor of any Note shall provide or cause to be provided to the Trustee all information reasonably requested by the Trustee to allow the Trustee to comply with any applicable tax reporting obligations, including without limitation any cost basis reporting obligations under Internal Revenue Code Section 6045. The Trustee may rely on information provided to it and shall have no responsibility to verify or ensure the accuracy of such information.

SECTION 7.13 Escrow Agreement.

Each Holder, by its acceptance of a Note, (i) consents and agrees to the terms of the Escrow Agreement, including documents related thereto, as the same may be in effect or may be amended from time to time in writing by the parties thereto in accordance with Article IX of this Indenture and (ii) authorizes and directs the Trustee to enter into the Escrow Agreement and to perform its obligations and exercise its rights thereunder in accordance therewith. The Trustee shall have no duty to file any financing or continuation statements or otherwise take any actions to perfect the Lien granted under the Escrow Agreement. The Trustee shall not be liable for the validity, perfection, priority or enforceability of the Lien granted under the Escrow Agreement.

ARTICLE VIII

DISCHARGE OF INDENTURE; DEFEASANCE

SECTION 8.01 Discharge of Liability on Notes; Defeasance.

(a) This Indenture shall be discharged and shall cease to be of further effect (except as to surviving rights and immunities of the Trustee and the Notes Collateral Agent and rights of transfer or exchange of the Notes, as expressly provided for in this Indenture) as to all outstanding Notes when:

(i) either (A) all the Notes theretofore authenticated and delivered (except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) have been delivered to the Trustee for cancellation or (B) all of the Notes (1) have become due and payable, (2) will become due and payable at their Stated Maturity within one year or (3) if redeemable at the option of the Issuer, are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer, and the Issuer has irrevocably deposited or caused to be deposited with the Trustee funds in an amount sufficient to pay and discharge the entire Indebtedness on the Notes not theretofore delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to, but excluding, the date of deposit together with irrevocable instructions from the Issuer

directing the Trustee to apply such funds to the payment thereof at maturity or redemption, as the case may be; *provided* that with respect to any discharge of such Notes that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount is deposited with the Trustee equal to the Applicable Premium calculated as of the date of the notice of redemption, with any deficit as of the date of the redemption only required to be deposited with the Trustee on or prior to the date of redemption;

(ii) the Issuer and/or the Guarantors have paid all other sums payable under this Indenture; and

(iii) the Issuer has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture relating to the satisfaction and discharge of this Indenture have been complied with.

The Collateral will be released from the Lien securing the Notes (and, for the avoidance of doubt, the Issuer will not be obligated to comply with Section 4.13 or otherwise create or perfect any security interests as security for the Notes thereafter) as provided herein and the Guarantees will be released as provided herein, in each case, upon a discharge in accordance with this Section 8.01(a).

(b) Subject to Sections 8.01(c) and 8.02, the Issuer at any time may terminate (i) all of its Obligations under the Notes and this Indenture with respect to the holders of the Notes ("legal defeasance option"), and (ii) its Obligations under Sections 4.02, 4.03, 4.04, 4.05, 4.06, 4.07, 4.08, 4.11, 4.12, 4.13, 4.15 and 4.16, and the operation of Section 5.01 for the benefit of the holders of the Notes, and Sections 6.01(e), 6.01(f), 6.01(g) (in the case of Sections 6.01(f) and 6.01(g) with respect to Significant Subsidiaries or any group of Subsidiaries that together would constitute a Significant Subsidiary), 6.01(h), 6.01(i), 6.01(j) and 6.01(k) ("covenant defeasance option"). The Issuer may exercise its legal defeasance option notwithstanding its prior exercise of its covenant defeasance option. If the Issuer exercises its legal defeasance option or its covenant defeasance option, each Guarantor will be released from all of its obligations with respect to its Guarantee of the Notes and the security interests in all Collateral securing the Notes Obligations will be released (and, for the avoidance of doubt, the Issuer will not be obligated to comply with Section 4.13 or otherwise create or perfect any security interests as security for the Notes thereafter).

If the Issuer exercises its legal defeasance option, payment of the Notes may not be accelerated because of an Event of Default with respect thereto. If the Issuer exercises its covenant defeasance option, payment of the Notes may not be accelerated because of an Event of Default specified in Sections 6.01(c), 6.01(d), 6.01(e), 6.01(f), 6.01(g) (in the case of Sections 6.01(f) and (g), with respect only to Significant Subsidiaries), 6.01(h), 6.01(i), 6.01(j) or 6.01(k) or because of the failure of the Issuer to comply with Section 5.01(a)(iv).

Upon satisfaction of the conditions set forth herein and upon request of the Issuer, the Trustee shall acknowledge in writing the discharge of those obligations that the Issuer terminates.

(c) Notwithstanding clauses (a) and (b) above, the Issuer's obligations in Sections 2.04, 2.05, 2.06, 2.07, 2.08 and 2.09 and Article VII, including, without limitation, Sections 7.07 and 7.08 and in this Article VIII and the rights and immunities of the Trustee under this Indenture shall survive until the Notes have been paid in full. Thereafter, the Issuer's obligations in Sections 7.07, 7.08, 8.05 and 8.06 and the rights and immunities of the Trustee under this Indenture shall survive such satisfaction and discharge.

SECTION 8.02 Conditions to Defeasance.

(a) The Issuer may exercise its legal defeasance option or its covenant defeasance option only if:

(i) the Issuer irrevocably deposits in trust with the Trustee money or U.S. Government Obligations, or a combination thereof sufficient to pay the principal of, premium (if any) and interest (without reinvestment), on the Notes when due at maturity or redemption, as the case may be;

(ii) with respect to U.S. Government Obligations, or a combination of money and U.S. Government Obligations, the Issuer delivers to the Trustee a certificate from a nationally recognized firm of independent accountants, a nationally recognized investment bank or a nationally recognized appraisal or valuation firm, expressing their opinion that the payments of principal and interest when due and without reinvestment on the deposited U.S. Government Obligations, *plus* any deposited money without investment will provide cash at such times and in such amounts as will be sufficient to pay principal, premium, if any, and interest on the Notes to redemption or maturity, as the case may be; *provided* that upon any defeasance that requires the payment of the Applicable Premium, the amount deposited shall be sufficient for purposes of this Indenture to the extent that an amount is deposited with the Trustee equal to the Applicable Premium, calculated as of the date of the notice of redemption, with any deficit as of the date of the redemption only required to be deposited with the Trustee on or prior to the date of the redemption;

(iii) the Issuer shall have delivered to the Trustee in the case of the legal defeasance option, an Opinion of Counsel stating that (1) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling, or (2) since the date of this Indenture there has been a change in the applicable U.S. federal income tax law, in either case to the effect that, and based thereon such Opinion of Counsel shall confirm that, the beneficial owners will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such deposit and defeasance and will be subject to U.S. federal income tax on the same amount and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred. Notwithstanding the foregoing, the Opinion of Counsel required by the immediately preceding sentence with respect to a legal defeasance need not be delivered if all of the Notes not theretofore delivered to the Trustee for cancellation (x) have become due and payable or (y) will become due and payable at their Stated Maturity within one year, or if redeemable at the option of the Issuer, are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Issuer;

(iv) such exercise does not impair the right of any holder to receive payment of principal of, premium, if any, and interest on such holder's Notes on or after the due dates therefore or to institute suit for the enforcement of any payment on or with respect to such holder's Notes;

(v) in the case of the covenant defeasance option, the Issuer shall have delivered to the Trustee an Opinion of Counsel to the effect that the beneficial owners will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such deposit and defeasance and will be subject to U.S. federal income tax on the same amount and in the same manner and at the same times as would have been the case if such deposit and defeasance had not occurred; and

(vi) the Issuer delivers to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent to the defeasance and discharge of the Notes to be so defeased and discharged as contemplated by this Article VIII have been complied with.

(b) Before or after a deposit, the Issuer may make arrangements satisfactory to the Trustee for the redemption of such Notes at a future date in accordance with Article III.

SECTION 8.03 Application of Trust Money.

The Trustee shall hold in trust money or U.S. Government Obligations (including proceeds thereof) deposited with it pursuant to this Article VIII. The Trustee shall apply the deposited money and the money from U.S. Government Obligations through each Paying Agent and in accordance with this Indenture to the payment of principal of, premium, if any, and interest on the Notes so discharged or defeased.

SECTION 8.04 Repayment to Issuer.

Each of the Trustee and each Paying Agent shall promptly turn over to the Issuer upon request any money or U.S. Government Obligations held by it as provided in this Article VIII that, in the written opinion of a nationally recognized firm of independent public accountants, a nationally recognized investment bank or a nationally recognized appraisal or valuation firm, delivered to the Trustee (which delivery shall only be required if U.S. Government Obligations have been so deposited), are in excess of the amount thereof that would then be required to be deposited to effect an equivalent discharge or defeasance in accordance with this Article VIII.

Subject to any applicable abandoned property law, the Trustee and each Paying Agent shall pay to the Issuer upon written request any money held by them for the payment of principal or interest that remains unclaimed for two years, and, thereafter, holders entitled to the money must look to the Issuer for payment as general creditors, and the Trustee and each Paying Agent shall have no further liability with respect to such monies.

SECTION 8.05 Indemnity for U.S. Government Obligations.

The Issuer shall pay and shall indemnify the Trustee (and the Notes Collateral Agent, as applicable) against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations or the principal and interest received on such U.S. Government Obligations.

SECTION 8.06 Reinstatement.

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

ARTICLE IX

AMENDMENTS AND WAIVERS

SECTION 9.01 Without Consent of any Holders.

(a) Notwithstanding Section 9.02, the Issuer, the Trustee and the Notes Collateral Agent may amend or supplement this Indenture, the Notes, the Guarantees, the Security Documents, the Intercreditor Agreements or the Escrow Agreement without notice to or the consent of any holder:

(i) to cure any ambiguity, omission, mistake, defect or inconsistency;

(ii) to provide for the assumption by a Successor Issuer (with respect to the Issuer) of the Obligations of the Issuer under this Indenture and the Notes;

(iii) to provide for the assumption by a Successor Guarantor (with respect to any Guarantor) of the Obligations of a Guarantor under this Indenture and its Guarantee;

(iv) to provide for uncertificated Notes in addition to or in place of certificated Notes;

(v) to conform the text of this Indenture, the Notes, the Guarantees, the Security Documents, the Escrow Agreement or the Intercreditor Agreements to any provision of the "Description of Notes" in the Offering Memorandum;

(vi) to add a Guarantee with respect to the Notes;

(vii) to add collateral to secure the Notes;

(viii) to release a Guarantor from its Guarantee when permitted or required under the terms of this Indenture;

(ix) to add to the covenants of the Issuer for the benefit of the holders or to surrender any right or power herein conferred upon the Issuer;

(x) to comply with any requirement of the SEC in connection with qualifying, or maintaining the qualification of, this Indenture under the TIA;

(xi) to make any change that does not adversely affect the rights of any holder in any material respect in the good faith determination of the Issuer;

(xii) to effect any provision of this Indenture or to make changes to this Indenture to provide for the issuance of Additional Notes;

(xiii) to make, complete or confirm any grant of a Lien or security interest in any property or assets as additional Collateral securing the Notes Obligations, including when permitted or required by this Indenture or the Security Document;

(xiv) to release, terminate and/or discharge Collateral from the Lien securing the Notes Obligations when permitted or required by this Indenture, the Security Documents or any Intercreditor Agreement;

(xv) to add Additional Secured Parties to any Intercreditor Agreement or Security Documents;

(xvi) to enter into any intercreditor agreement having substantially similar terms with respect to the holders as those set forth in the Pari Passu Intercreditor Agreement, taken as a whole, to enter an Acceptable Junior Intercreditor Agreement under the circumstances provided for in this Indenture and to enter any joinder to any of the foregoing;

(xvii) to execute or amend any Security Document, any Intercreditor Agreement or the Escrow Agreement (or any supplement or joinder to any of the foregoing) under circumstances provided in this Indenture or therein; or

(xviii) in the case of any Security Document, to include therein any legend required to be set forth therein pursuant to the applicable Intercreditor Agreement or to modify any such legend as required by the applicable Intercreditor Agreement to provide for the succession of any parties to the Security Documents (and other amendments that are administrative or ministerial in nature) in connection with an amendment, renewal, extension, substitution, refinancing, restructuring, replacement, supplementing or other modification from time to time of the Senior Secured Credit Agreement or any other agreement that is not prohibited by this Indenture.

SECTION 9.02 With Consent of the Holders.

Except as provided for in Section 9.01 and this Section 9.02, the Issuer, the Trustee and the Notes Collateral Agent may amend this Indenture, the Notes and the Guarantees thereof, the Security Documents, the Intercreditor Agreements and the Escrow Agreement and any past Default or Event of Default or compliance with any provisions of this Indenture, the Notes, the Guarantees thereof, the Security Documents, the Intercreditor Agreements or the Escrow Agreement may be waived, with the consent of the Issuer and the holders of at least a majority in principal amount of the Notes then outstanding voting as a single class. However, without the consent of each holder of an outstanding Note affected, no amendment or waiver may:

(1) reduce the amount of Notes whose holders must consent to an amendment;

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

(3) reduce the principal of or change the Stated Maturity of any Note;

(4) reduce the premium payable upon the redemption of any Note or change the time at which any Note may be redeemed in accordance with Section 3.01;

(5) make any Note payable in money other than that stated in such Note;

(6) expressly subordinate the Notes or any Guarantee of the Notes to any other Indebtedness of the Issuer or any Guarantor;

(7) waive or modify in a manner materially adverse to the interests of the holders of the Notes the provisions relating to the Issuer's obligation to redeem the Notes in a Special Mandatory Redemption; or

(8) change the list of provisions set forth in these clauses (1)-(8) requiring the approval of each holder of an outstanding Note affected by an amendment or waiver described therein such that the approval of each such holder is no longer required.

It shall not be necessary for the consent of the holders under this Section 9.02 to approve the particular form of any proposed amendment, but it shall be sufficient if such consent approves the substance thereof.

Notwithstanding the foregoing in this Section 9.02, without the consent of the holders of at least 100% in principal amount of the Notes then outstanding, no amendment or waiver may (1) make any change in any Security Document or the provisions in this Indenture dealing with Collateral or application of trust proceeds of the Collateral to the extent that such change would have the effect of releasing the Liens on all or substantially all of the Collateral which secure the Notes Obligations or (2) change or alter the priority of the Liens securing the Notes Obligations in any material portion of the Collateral in any way materially adverse, taken as a whole, to the holders, other than, in the case of each of clauses (1) and (2), as provided under the terms of this Indenture, the Security Documents or any of the Intercreditor Agreements.

SECTION 9.03 Revocation and Effect of Consents and Waivers.

(a) A consent to an amendment or a waiver by a holder of a Note shall bind the holder and every subsequent holder of that Note or portion of the Note that evidences the same debt as the consenting holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such holder or subsequent holder may revoke the consent or waiver as to such holder's Note or portion of the Note if the Trustee receives the notice of revocation before the date on which the Trustee receives an Officers' Certificate from the Issuer certifying that the requisite principal amount of Notes have consented. After an amendment or waiver becomes effective, it shall bind every holder. An amendment or waiver becomes effective upon the (i) receipt by the Issuer or the Trustee of consents by the holders of the requisite principal amount of securities, (ii) satisfaction of conditions to effectiveness as set forth in

this Indenture and any indenture supplemental hereto containing such amendment or waiver and (iii) execution of such amendment or waiver (or supplemental indenture) by the Issuer, the Guarantors and the Trustee.

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

SECTION 9.04 Notation on or Exchange of Notes

If an amendment, supplement or waiver changes the terms of a Note, the Issuer may require the holder of the Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the holder. Alternatively, if the Issuer or the Trustee so determine, the Issuer in exchange for the Note shall issue and, upon written order of the Issuer signed by an Officer, the Trustee shall authenticate a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment, supplement or waiver.

SECTION 9.05 Trustee and Notes Collateral Agent to Sign Amendments

The Trustee and the Notes Collateral Agent, as applicable, shall sign any amendment, supplement or waiver authorized pursuant to this Article IX if the amendment does not adversely affect the rights, duties, liabilities or immunities of the Trustee or the Notes Collateral Agent, as applicable. If it does, the Trustee or the Notes Collateral Agent, as applicable, may but need not sign it. In signing such amendment, the Trustee or the Notes Collateral Agent, as applicable, shall receive indemnity satisfactory to it and shall be provided with, and (subject to Section 7.01) shall be fully protected in conclusively relying upon, (i) an Officers' Certificate stating that such amendment, supplement or waiver is authorized or permitted by this Indenture, (ii) an Opinion of Counsel stating that such amendment, supplement or waiver is authorized or permitted by this Indenture and, with respect to any supplement relating to any Additional Notes, that such supplement is the legal, valid and binding obligation of the Issuer and any Guarantors, enforceable against them in accordance with its terms, subject to customary exceptions, and complies with the provisions hereof, (iii) with respect to any supplement relating to any Additional Notes, a copy of the resolution of the Board of Directors, certified by the Secretary or Assistant Secretary of the Issuer, authorizing the execution of such amendment, supplement or waiver and (iv) if such amendment, supplement or waiver is executed pursuant to Section 9.02, evidence reasonably satisfactory to the Trustee of the consent of the holders required to consent thereto.

SECTION 9.06 Additional Voting Terms; Calculation of Principal Amount.

All Notes issued under this Indenture shall vote and consent together on all matters (as to which any of such Notes may vote) as one class and no Notes will have the right to vote or consent as a separate class on any matter. Determinations as to whether holders of the requisite aggregate principal amount of Notes have concurred in any direction, waiver or consent shall be made in accordance with this Article IX and Section 2.13.

SECTION 9.07 Compliance with the Trust Indenture Act.

Except with respect to specific provisions of the TIA expressly referenced in the provisions of this Indenture, no provisions of the TIA are incorporated by reference in or made a part of this Indenture. Unless specifically provided in this Indenture, no terms that are defined in the TIA have the meanings specified therein for purposes of this Indenture. If after the date hereof this Indenture becomes qualified under the TIA and any provision of this Indenture limits, qualifies or conflicts with another provision which is required or deemed to be included in this Indenture by the TIA, the required or deemed provision shall govern.

ARTICLE X

COLLATERAL

SECTION 10.01 Security Documents.

(a) Following the Completion Date, the due and punctual payment of the principal of, premium and interest on the Notes when and as the same shall be due and payable, whether on an Interest Payment Date, at maturity, by acceleration, repurchase, redemption or otherwise, and interest on the overdue principal of, premium and interest on the Notes and performance of all other Notes Obligations of the Issuer and the Guarantors to the holders, the Trustee or the Notes Collateral Agent under this Indenture, the Notes, the Guarantees and the Security Documents, according to the terms hereunder or thereunder, shall be secured as provided in the Security Documents, which define the terms of the Liens that secure the Notes Obligations, subject to the terms of the Intercreditor Agreements. The Trustee, the Issuer and the Guarantors hereby acknowledge and agree that, subject to the terms of the Intercreditor Agreements and as further set forth below, the Notes Collateral Agent will hold the Collateral for the benefit of the holders, the Trustee and the Notes Collateral Agent pursuant to the terms of the Security Documents.

(b) Notwithstanding anything to the contrary herein, no inaccuracy or breach, as applicable, of any representation, warranty or covenant in this Indenture, the Notes or any Security Document relating to the grant, validity, enforceability, perfection or priority of any security interest shall occur, and no Default or Event of Default or other breach of the terms hereof or thereunder shall occur, in either case, as a result of the collateral agency and intercreditor arrangements described in this Section 10.01 or in the Intercreditor Agreements.

(c) Each holder, by accepting a Note, and each beneficial owner of an interest in a Note, consents and agrees to the terms of the Security Documents (including the provisions providing for the possession, use, release and foreclosure of Collateral) and the Intercreditor Agreements, each as may be in effect or may be amended, restated, supplemented or otherwise modified from time to time in accordance with their terms and this Indenture. Subject to Section 10.08 and the terms of the Security Documents and the Intercreditor Agreements, the Issuer shall deliver to the Notes Collateral Agent copies of all documents required to be filed pursuant to the Security Documents, and will do or cause to be done all such acts and things as may be reasonably required by the next sentence of this Section 10.01(c), to

provide to the Notes Collateral Agent the security interest in the Collateral contemplated hereby, by the Security Documents or any part thereof, as from time to time constituted, so as to render the same available for the security and benefit of this Indenture and of the Notes secured hereby, according to the intent and purposes herein expressed. On or following the Completion Date and subject to Section 10.08 and the terms of the Security Documents and the Intercreditor Agreements, the Issuer shall, and shall cause the Subsidiaries of the Issuer to, take any and all actions and make all filings (including, without limitation, the filing of UCC financing statements, continuation statements and amendments thereto) required to cause the Security Documents to create and maintain, as security for the Notes Obligations of the Issuer and the Guarantors to the Notes Collateral Agent for the benefit of the Trustee and the holders of the Notes, a valid and enforceable perfected Lien and security interest in and on all of the Collateral (subject to Section 10.08 and the terms of the Security Documents and the Intercreditor Agreements), in favor of the Notes Collateral Agent for the benefit of the Trustee and the holders of the Notes subject to no Liens other than Permitted Liens.

(d) Subject to the terms of the Security Documents and the Intercreditor Agreements, security interests in the Collateral securing the Notes Obligations shall be put in place by the Issuer and Forward and each other Guarantor that guarantees the payment of the Notes Obligations on the Completion Date as promptly as reasonably practicable, but not later than 90 days, after the Completion Date (or such longer period as mutually agreed between the Ultimate Issuer and the Senior Secured Credit Agreement Collateral Agent in respect of the Senior Secured Credit Agreement Obligations); *provided*, *however*, the security interests in assets with respect to which a Lien may be perfected by the filing of a UCC financing statement shall be required to be perfected by the filing of such a UCC financing statement on or promptly following the Completion Date and the certificated Capital Stock of (1) Omni, (2) the Issuer's material wholly owned Domestic Subsidiaries and (3) to the extent received by the Ultimate Issuer from Omni on or prior to the Completion Date, the wholly owned domestic Restricted Subsidiaries of Omni constituting Collateral will be required to be perfected by the delivery thereof to the Notes Collateral Agent (or the Senior Secured Credit Agreement Collateral Agent as its bailee pursuant to the terms of the Pari Passu Intercreditor Agreement) on or promptly following the Completion Date.

(e) Notwithstanding any provision hereof to the contrary, the provisions of this Section 10.01 are qualified in their entirety by Section 10.08 and the terms of the Security Documents and the Intercreditor Agreements and neither the Issuer nor any Guarantor shall be required pursuant to this Indenture or any Security Document to take any action limited by the foregoing.

(f) To the extent required by the Security Documents and subject to the limitations contained herein and therein, the Issuer and the Guarantors shall, at their expense, duly execute and deliver, or cause to be duly executed and delivered, such further agreements, documents, instruments, financing and continuation statements and amendments thereto and do or cause to be done such further acts as may be necessary or proper to evidence, perfect, maintain and enforce the security interests and the priority thereof in the Collateral in favor of the Notes Collateral Agent for its benefit and for the benefit of the holders of the Notes and the Trustee, and to otherwise effectuate the provisions or purposes of this Indenture and the Security Documents.

SECTION 10.02 Release of Collateral.

(a) The security interests securing the Notes Obligations will be automatically released, without delivery of any instrument or any action by any party, at any time and from time to time upon any one or more of the following circumstances:

(i) upon the property subject to such Lien being sold, disposed of or distributed as part of or in connection with any transaction or series of related transactions not prohibited by Section 4.06;

(ii) upon the property subject to such Lien constituting or becoming an Excluded Asset in a transaction not prohibited by this Indenture;

(iii) with respect to any property owned by a Guarantor that is released from its Guarantee with respect to the Notes pursuant to the terms of this Indenture;

(iv) in respect of any property of the Issuer or a Guarantor that would constitute Collateral but is at such time (or will be substantially simultaneously with the applicable release) not subject to a Lien securing Pari Passu Lien Obligations, other than any property that ceases to be subject to a Lien securing Pari Passu Lien Obligations in connection with a release or discharge by or as a result of payment in full and termination of Pari Passu Lien Obligations; *provided* that if such property is subsequently subject to a Lien securing Pari Passu Lien Obligations (other than Excluded Assets), such property shall subsequently constitute Collateral to the extent otherwise required by the terms of this Indenture; or

(v) pursuant to an amendment or waiver in accordance with Article IX or pursuant to the provisions of any applicable Intercreditor Agreement.

Notwithstanding clause (a)(iii) above or clause (b) below, if, after a Fall-Away Event, a Reversion Date occurs, then all Liens granted or purported to be granted to secure the Notes released pursuant to clause (a)(iii) above shall be automatically reinstated and the Issuer and the Guarantors shall take all actions reasonably necessary to provide to the Notes Collateral Agent for its benefit and the benefit of the Trustee and the holders of the Notes valid, perfected, first priority security interests (subject to Permitted Liens) in the Collateral within 90 days after such Reversion Date.

(b) The security interests in all Collateral securing the Notes Obligations also will be automatically released, without delivery of any instrument or any action by any party, (i) upon payment in full of the principal of, together with accrued and unpaid interest on, the Notes and all other Obligations under this Indenture, the Guarantees under this Indenture and the Security Documents that are due and payable at or prior to the time such principal, together with accrued and unpaid interest, are paid (including pursuant to a satisfaction and discharge of this Indenture in accordance with Section 8.01(a)) or (ii) upon a legal defeasance or covenant defeasance in accordance with Section 8.01(b).

(c) Any security interest on any Collateral securing the Notes Obligations shall, at the request of the Issuer to the Trustee and Notes Collateral Agent, and as accompanied by an Officers' Certificate and Opinion of Counsel, be released or subordinated to the holder of any Lien on such Collateral securing any Capitalized Lease Obligations or purchase money indebtedness to the extent required by the terms of the Obligations secured by such Liens; *provided* that such Lien is not prohibited by Section 4.12.

(d) With respect to any release or subordination of the Liens securing the Notes Obligations, upon receipt of an Officers' Certificate and an Opinion of Counsel stating that all conditions precedent under this Indenture and the Security Documents (and, as applicable, any Intercreditor Agreement), to such release or subordination have been met and of any necessary or proper instruments of termination, satisfaction, discharge or release prepared by the Issuer, the Trustee shall, or shall cause the Notes Collateral Agent to, execute, deliver or acknowledge (at the Issuer's expense) such instruments or releases (whether electronically or in writing) to evidence, and shall do or cause to be done all other acts reasonably necessary to effect, in each case as soon as reasonably practicable, the release and discharge or subordination of any Collateral permitted to be released or subordinated pursuant to this Indenture, the Security Documents or, as applicable, any Intercreditor Agreement. Neither the Trustee nor the Notes Collateral Agent shall be liable for any such release or subordination undertaken in reliance upon any such Officers' Certificate or Opinion of Counsel, and notwithstanding any term hereof or in any Security Document or in any Intercreditor Agreement to the contrary, but without limiting any automatic release provided hereunder or under any Security Document, the Trustee and the Notes Collateral Agent shall not be under any obligation to release or subordinate any such Lien and security interest, or execute and deliver any such instrument of release, satisfaction, discharge or termination, unless and until it receives such Officers' Certificate and Opinion of Counsel.

SECTION 10.03 Suits to Protect the Collateral.

Subject to the provisions of Article VII and the Security Documents and the Intercreditor Agreements, upon the occurrence and continuance of an Event of Default, the Trustee may, at the direction of holders of a majority in principal amount of outstanding Notes, direct the Notes Collateral Agent to take all actions necessary or appropriate in order to:

(a) enforce any of the terms of the Security Documents; and

(b) collect and receive any and all amounts payable in respect of the Notes Obligations hereunder.

Subject to the provisions of the Security Documents and the Intercreditor Agreements, the Trustee and the Notes Collateral Agent shall have power to institute and to maintain such suits and proceedings as the Trustee or the Notes Collateral Agent may deem expedient to prevent any impairment of the Collateral by any acts which may be unlawful or in violation of any of the Security Documents or this Indenture, and such suits and proceedings as the Trustee or the Notes Collateral Agent may deem expedient to preserve or protect its interests and the interests of the holders in the Collateral. Nothing in this Section 10.03 shall be considered to impose any such duty or obligation to act on the part of the Trustee or the Notes Collateral Agent.

SECTION 10.04 Authorization of Receipt of Funds by the Trustee Under the Security Documents

Subject to the provisions of the Intercreditor Agreements and the Security Documents, the Trustee is authorized to receive any funds for the benefit of the holders distributed under the Security Documents, and to make further distributions of such funds to the holders according to the provisions of this Indenture.

SECTION 10.05 Purchaser Protected.

In no event shall any purchaser in good faith of any property purported to be released hereunder be bound to ascertain the authority of the Notes Collateral Agent or the Trustee to execute the applicable release or to inquire as to the satisfaction of any conditions required by the provisions hereof for the exercise of such authority or to see to the application of any consideration given by such purchaser or other transferee; nor shall any purchaser or other transferee of any property or rights permitted by this Article 10 to be sold be under any obligation to ascertain or inquire into the authority of the Issuer or the applicable Guarantor to make any such sale or other transfer.

SECTION 10.06 Powers Exercisable by Receiver or Trustee.

In case the Collateral shall be in the possession of a receiver or trustee, lawfully appointed, the powers conferred in this Article X upon the Issuer or a Guarantor with respect to the release, sale or other disposition of such property may be exercised by such receiver or trustee, and an instrument signed by such receiver or trustee shall be deemed the equivalent of any similar instrument of the Issuer or a Guarantor or of any Officer or Officers thereof required by the provisions of this Article X; and if the Trustee or the Notes Collateral Agent shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee or the Notes Collateral Agent.

SECTION 10.07 Notes Collateral Agent.

(a) Each of the holders by acceptance of the Notes, and each beneficial owner of an interest in a Note, hereby designates and appoint the Notes Collateral Agent as its agent under this Indenture, the Security Documents and the Intercreditor Agreements and each of the holders by acceptance of the Notes, and each beneficial owner of an interest in a Note, hereby irrevocably authorizes the Notes Collateral Agent to take such action on its behalf under the provisions of this Indenture, the Security Documents, the Intercreditor Agreements, if any, and to exercise such powers and perform such duties as are expressly delegated to the Notes Collateral Agent by the terms of this Indenture, the Security Documents, the Intercreditor Agreements, if any, and consents and agrees to the terms of this Indenture, the Intercreditor Agreements and each Security Document (as applicable), as the same may be in effect or may be amended, restated, supplemented or otherwise modified from time to time in accordance with their respective terms. The Notes Collateral Agent agrees to act as such on the express conditions contained in this Section 10.07. Each holder agrees that any action taken by the Notes Collateral Agent in accordance with the provisions of this Indenture, the Intercreditor Agreements or the Security Documents (as applicable), and the exercise by the Notes Collateral Agent of any rights or remedies set forth herein and therein shall be authorized and binding upon all holders. Notwithstanding any provision to the contrary contained elsewhere in this Indenture, the Security Documents or the Intercreditor Agreements (as applicable) the duties of the Notes Collateral Agent shall be ministerial and administrative in nature, and

the Notes Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein and in the Security Documents and/or the Intercreditor Agreements (as applicable) to which the Notes Collateral Agent is a party, nor shall the Notes Collateral Agent have or be deemed to have any trust or other fiduciary relationship with the Trustee, any holder or any Grantor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Indenture, the Security Documents, the Intercreditor Agreements or otherwise exist against the Notes Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" in this Indenture with reference to the Notes Collateral 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 Notes Collateral Agent may perform any of its duties under this Indenture, the Security Documents and/or the Intercreditor Agreements (as applicable) by or through receivers, agents, employees, attorneys-in-fact or with respect to any specified Person, such Person's Affiliates, and the respective officers, directors, employees, agents, advisors and attorneys-in-fact of such Person and its Affiliates (a "Related Person"), and shall be entitled to advice of counsel concerning all matters pertaining to such duties, and shall be entitled to act upon, and shall be fully protected in taking action in reliance upon any advice or opinion given by legal counsel. The Notes Collateral Agent shall not be responsible for the negligence or willful misconduct of any receiver, agent, employee, attorney-in-fact or Related Person that it selects as long as such selection was made in good faith and with due care. The exculpatory provisions of this Article X shall apply to any such sub-agent and to the Affiliates of the Notes Collateral Agent and any such sub-agent.

(c) None of the Notes Collateral Agent or any of its respective Related Persons shall (i) be liable for any action taken or omitted to be taken in good faith by any of them under or in connection with this Indenture or the transactions contemplated hereby (except for its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment) or under or in connection with any Security Document and/or Intercreditor Agreement or the transactions contemplated thereby (except for its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment), or (ii) be responsible in any manner to any of the Trustee or any holder for any recital, statement, representation, warranty, covenant or agreement made by the Issuer or any other Grantor or Affiliate of any Grantor, or any Officer or Related Person thereof, contained in this Indenture, the Security Documents and/or the Intercreditor Agreements or in any certificate, report, statement or other document referred to or provided for in, or received by the Notes Collateral Agent under or in connection with, this Indenture, the Security Documents and/or the Intercreditor Agreements or the validity, effectiveness, genuineness, enforceability or sufficiency of this Indenture, the Security Documents and/or the Intercreditor Agreements or for any failure of any Grantor or any other party to this Indenture, the Security Documents and/or the Intercreditor Agreements to perform its obligations hereunder or thereunder (if any). None of the Notes Collateral Agent or any of its Related Persons shall be under any obligation to the Trustee or any holder to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Indenture, the Security Documents and/or the Intercreditor Agreements, if any, or to inspect the properties, books, or records of any Grantor or any Grantor's Affiliates.

(d) The Notes Collateral Agent shall be entitled to rely, and shall be fully protected in relying, upon any writing, resolution, notice, consent, certificate, affidavit, letter, telegram, facsimile, certification, telephone message, statement, or other communication, document or conversation (including those by telephone or e-mail) 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, without limitation, counsel to the Issuer or any other Grantor), independent accountants and other experts and advisors selected by the Notes Collateral Agent. The Notes Collateral Agent shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, or other paper or document. Unless otherwise expressly required hereunder or pursuant to the Security Documents or any Intercreditor Agreement, the Notes Collateral Agent shall be fully justified in failing or refusing to take any action under this Indenture, the Security Documents and/or any Intercreditor Agreement unless it shall first receive such written advice or concurrence of the Trustee or the holders of a majority in aggregate principal amount of the Notes as it determines and, if it so requests, it shall first be indemnified to its satisfaction by the holders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Notes Collateral Agent shall in all cases be fully protected in acting, or in refraining from acting, under this Indenture, the Security Documents and/or the Intercreditor Agreements in accordance with a request, direction, instruction or consent of the Trustee or the holders of a majority in aggregate principal amount of the then outstanding Notes and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the holders.

(e) The Notes Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless a Responsible Officer of the Notes Collateral Agent shall have received written notice from the Trustee or the Issuer referring to this Indenture, describing such Default or Event of Default and stating that such notice is a "notice of default" and such notice references the Notes, the Issuer and this Indenture. The Notes Collateral Agent shall take such action with respect to such Default or Event of Default as may be requested by the Trustee in accordance with Article VI or the holders of a majority in aggregate principal amount of the Notes (subject to this Section 10.07).

(f) The Notes Collateral Agent under this Indenture may resign at any time by thirty (30) Business Days' written notice to the Trustee and the Issuer, such resignation to be effective upon the acceptance of a successor agent to its appointment as Notes Collateral Agent. If the Notes Collateral Agent resigns under this Indenture, the Issuer shall appoint a successor collateral agent. If no successor collateral agent is appointed prior to the intended effective date of the resignation of the Notes Collateral Agent (as stated in the notice of resignation), the Trustee, at the written direction of the holders of a majority of the aggregate principal amount of the Notes then outstanding, may appoint a successor collateral agent under this Indenture, subject to the consent of the Issuer (which consent shall not be unreasonably withheld and which shall not be required during a continuing Event of Default). If no successor collateral agent is appointed and consented to by the Issuer pursuant to the preceding sentence within 30 days after the intended effective date of resignation (as stated in the notice of resignation) the Notes Collateral Agent shall be entitled to petition a court of competent jurisdiction to appoint a successor. Upon the acceptance of its appointment as successor collateral agent hereunder, such successor collateral agent shall succeed to all the rights, powers and duties of the retiring Notes Collateral Agent, and the term "Notes Collateral Agent" shall include such successor collateral agent, and the retiring Notes Collateral Agent's appointment, powers and duties as the Notes Collateral Agent shall be

terminated. After the retiring Notes Collateral Agent's resignation hereunder, the provisions of this Section 10.07 (and Section 7.07 hereof) shall continue to inure to its benefit and the retiring Notes Collateral Agent shall not by reason of such resignation be deemed to be released from liability as to any actions taken or omitted to be taken by it while it was the Notes Collateral Agent under this Indenture.

(g) Except as otherwise explicitly provided herein or in the Security Documents or any Intercreditor Agreement, neither the Notes Collateral Agent nor any of its respective officers, directors, employees or agents or other Related Persons shall be liable for failure to demand, collect or realize upon any of the Collateral or for any delay in doing so or shall be under any obligation to sell or otherwise dispose of any Collateral upon the request of any other Person or to take any other action whatsoever with regard to the Collateral or any part thereof. The Notes Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither the Notes Collateral Agent nor any of its officers, directors, employees or agents shall be responsible for any act or failure to act hereunder, except for its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment.

(h) The Trustee and/or the Notes Collateral Agent, as applicable, are hereby authorized and directed to, and hereby agree to, whether on or after the Issue Date (i) enter into and/or join the Security Documents to which it is party (and any joinders, supplements or amendments thereto contemplated hereby), (ii) enter into and/or join the Pari Passu Intercreditor Agreement (and any joinders, supplements or amendments thereto contemplated hereby), (iii) enter into and/or join any Acceptable Junior Intercreditor Agreement or any other Intercreditor Agreement (and any joinders, supplements or amendments thereto contemplated hereby), (iv) make any representations of the holders set forth in the Security Documents, the Pari Passu Intercreditor Agreement, any Acceptable Junior Intercreditor Agreement or any other Intercreditor Agreement, (v) bind the holders on the terms as set forth in the Security Documents, the Pari Passu Intercreditor Agreement, any Acceptable Junior Intercreditor Agreement and any other Intercreditor Agreement and (vi) perform and observe its obligations under the Security Documents, the Pari Passu Intercreditor Agreement, any Acceptable Junior Intercreditor Agreement and any other Intercreditor Agreement. Any such action shall be at the direction and expense of the Issuer and shall be accompanied by an Officers' Certificate and an Opinion of Counsel stating that the execution is authorized or permitted pursuant to this Indenture; *provided* that neither an Officers' Certificate nor an Opinion of Counsel shall be required in connection with the entry into the to the Pari Passu Intercreditor Agreement by the Notes Collateral Agent on the Issue Date.

(i) If applicable, the Notes Collateral Agent is each holder's agent for the purpose of perfecting the holders' security interest in assets which, in accordance with Article 9 of the Uniform Commercial Code, can be perfected only by possession. Should the Trustee obtain possession of any such Collateral, upon written request from the Issuer, the Trustee shall notify the Notes Collateral Agent thereof and promptly shall, subject to the Intercreditor Agreements, deliver such Collateral to the Notes Collateral Agent or otherwise deal with such Collateral in accordance with the Notes Collateral Agent's instructions.

(j) The Notes Collateral Agent shall have no obligation whatsoever to the Trustee or any of the holders to assure that the Collateral exists or is owned by any Grantor or is cared for, protected, or insured or has been encumbered, or that the Notes Collateral Agent's Liens have been properly or sufficiently or lawfully created, perfected, protected, maintained or enforced or are entitled to any particular priority, or to determine whether all or the Grantor's property constituting Collateral intended

to be subject to the Lien and security interest of the Security Documents has been properly and completely listed or delivered, as the case may be, or the genuineness, validity, marketability or sufficiency thereof or title thereto, or to exercise at all or in any particular manner or under any duty of care, disclosure, or fidelity, or to continue exercising, any of the rights, authorities, and powers granted or available to the Notes Collateral Agent pursuant to this Indenture, any Security Document or any Intercreditor Agreement, other than pursuant to the instructions of the holders of a majority in aggregate principal amount of the Notes or as otherwise provided in the Security Documents.

(k) If the Issuer or any Guarantor (i) incurs any Pari Passu Lien Obligations or other secured obligations at any time when applicable intercreditor agreements are not in effect (which obligations are required to be subject to an intercreditor agreement), and (ii) delivers to the Notes Collateral Agent (and, if applicable, the Trustee) an Officers' Certificate so stating and requesting that the Notes Collateral Agent (and, if applicable, the Trustee) enter into a Pari Passu Intercreditor Agreement, an Acceptable Junior Intercreditor Agreement or any other intercreditor agreement having substantially similar terms with respect to the holders as those set forth in the Pari Passu Intercreditor Agreement or any Acceptable Junior Intercreditor Agreement, taken as a whole, in favor of a designated agent or representative for the holders of the Pari Passu Lien Obligations or other secured obligations so incurred, together with an Opinion of Counsel, the Notes Collateral Agent (and, if applicable, the Trustee) shall (and is hereby authorized and directed to, and agrees to) enter into any such Intercreditor Agreement (at the sole expense and cost of the Issuer, including legal fees and expenses of the Notes Collateral Agent), bind the holders on the terms set forth therein and perform and observe its obligations thereunder.

(l) No provision of this Indenture, any Security Document or any Intercreditor Agreement shall require the Notes Collateral Agent (or the Trustee) to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or thereunder or to take or omit to take any action hereunder or thereunder or take any action at the request or direction of holders (or the Trustee in the case of the Notes Collateral Agent), unless it shall have received indemnity and/or security satisfactory to the Notes Collateral Agent and the Trustee against potential costs and liabilities incurred by the Notes Collateral Agent and the Trustee relating thereto.

Notwithstanding anything to the contrary contained in this Indenture, the Security Documents or the Intercreditor Agreements, in the event the Notes Collateral Agent is entitled or required to commence an action to foreclose or otherwise exercise its remedies to acquire control or possession of the Collateral, the Notes Collateral Agent shall not be required to commence any such action or exercise any remedy or to inspect or conduct any studies of any property under the mortgages or take any such other action if the Notes Collateral Agent has determined that the Notes Collateral Agent may incur personal liability as a result of the presence at, or release on or from, the Collateral or such property, of any hazardous substances. The Notes Collateral Agent shall at any time be entitled to cease taking any action described in this clause (l) if it no longer reasonably deems any indemnity, security or undertaking from the Issuer or the holders to be sufficient.

(m) The Notes Collateral Agent (i) shall not be liable for any action taken or omitted to be taken by it in connection with this Indenture, the Security Documents and/or the Intercreditor Agreements or instrument referred to herein or therein, except to the extent that any of the foregoing are found by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from its own bad faith, gross negligence or willful misconduct as determined by a court of competent jurisdiction by a final and non-appealable judgment, (ii) shall not be liable for interest on any money received by it except as the

Notes Collateral Agent may agree in writing with the Issuer (and money held in trust by the Notes Collateral Agent need not be segregated from other funds except to the extent required by law) and (iii) may consult with counsel of its selection and the advice or opinion of such counsel as to matters of law shall be full and complete authorization and protection from liability in respect of any action taken, omitted or suffered by it in good faith and in accordance with the advice or opinion of such counsel. The grant of permissive rights or powers to the Notes Collateral Agent shall not be construed to impose duties to act.

(n) Neither the Notes Collateral Agent nor the Trustee shall be liable for delays or failures in performance resulting from acts beyond its control. Such acts shall include but not be limited to acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, computer viruses, power failures, earthquakes or other disasters. Neither the Notes Collateral Agent nor the Trustee shall be liable for any indirect, special, punitive, incidental or consequential damages (included but not limited to lost profits) whatsoever, even if it has been informed of the likelihood thereof and regardless of the form of action.

(o) The Notes Collateral Agent does not assume any responsibility for any failure or delay in performance or any breach by the Issuer or any other Grantor under this Indenture, the Security Documents or any Intercreditor Agreement. The Notes Collateral Agent shall not be responsible to the holders or any other Person for any recitals, statements, information, representations or warranties contained in this Indenture, the Security Documents, any Intercreditor Agreement, or in any certificate, report, statement, or other document referred to or provided for in, or received by the Notes Collateral Agent under or in connection with, this Indenture, any Security Document or any Intercreditor Agreement; the execution, validity, genuineness, effectiveness or enforceability of any Security Documents or any Intercreditor Agreement of any other party thereto; the genuineness, enforceability, collectability, value, sufficiency, location or existence of any Collateral, or the validity, effectiveness, enforceability, sufficiency, extent, perfection or priority of any Lien therein; the validity, enforceability or collectability of any Obligations; the assets, liabilities, financial condition, results of operations, business, creditworthiness or legal status of any obligor; or for any failure of any obligor to perform its Obligations under this Indenture, the Security Documents or the Intercreditor Agreements. The Notes Collateral Agent shall have no obligation to any holder or any other Person to ascertain or inquire into the existence of any Default or Event of Default, the observance or performance by any obligor of any terms of this Indenture, the Security Documents or the Intercreditor Agreements, or the satisfaction of any conditions precedent contained in this Indenture, any Security Documents or any Intercreditor Agreement or for the performance or observance of any covenants, agreements or other terms and conditions set forth under this Indenture, the Security Documents or any Intercreditor Agreement. The Notes Collateral Agent shall not be required to initiate or conduct any litigation or collection or other proceeding under this Indenture, the Security Documents or any Intercreditor Agreement unless expressly set forth hereunder or thereunder. Unless otherwise directed hereunder, the Notes Collateral Agent shall have the right at any time to seek instructions from the holders with respect to the administration of this Indenture, the Security Documents or any Intercreditor Agreement.

(p) Subject to the provisions of the applicable Security Documents and any applicable Intercreditor Agreement, each holder, by acceptance of the Notes, agrees that the Trustee and/or Notes Collateral Agent, as applicable, shall execute and deliver the Intercreditor Agreements and the Security Documents, or joinder or similar agreements in respect thereof, to which it is (or is to be) a party and all

agreements, documents and instruments incidental thereto (including any releases of Collateral permitted hereunder), and act in accordance with the terms thereof. For the avoidance of doubt, the Notes Collateral Agent shall not be required to exercise discretion under this Indenture, the Security Documents or any Intercreditor Agreement and shall not be required to make or give any determination, consent, approval, request or direction requiring such discretion without the written direction of the holders of a majority in aggregate principal amount of the then outstanding Notes or the Trustee, as applicable, except as otherwise expressly provided for herein or therein.

(q) After the occurrence and continuance of an Event of Default, the Trustee, acting at the direction of the holders of a majority of the aggregate principal amount of the Notes then outstanding, may, subject to the Intercreditor Agreements, direct the Notes Collateral Agent in connection with any action required or permitted by this Indenture, the Security Documents or Intercreditor Agreements.

(r) The Notes Collateral Agent is authorized to receive any funds for the benefit of itself, the Trustee and the holders distributed under the Security Documents or the Intercreditor Agreements and to the extent not prohibited under the Intercreditor Agreements, if any, for turnover to the Trustee to make further distributions of such funds to itself, the Trustee and the holders in accordance with the provisions of Section 6.10 and the other provisions of this Indenture.

(s) In each case that the Notes Collateral Agent may or is required hereunder or under any Security Document or any Intercreditor Agreement to take any discretionary action (an "Action"), including without limitation to make any determination, to give consents, to exercise rights, powers or remedies, to release or sell Collateral (unless such release is expressly provided for hereunder or thereunder) or otherwise to act in its discretion hereunder or under any Security Document or any Intercreditor Agreement, the Notes Collateral Agent may seek direction from the holders of a majority in aggregate principal amount of the then outstanding Notes. The Notes Collateral Agent shall not be liable with respect to any Action taken or omitted to be taken by it in accordance with the direction from the holders of a majority in aggregate principal amount of the then outstanding Notes. If the Notes Collateral Agent shall request direction from the holders of a majority in aggregate principal amount of the then outstanding Notes with respect to any Action, the Notes Collateral Agent shall be entitled to refrain from such Action unless and until the Notes Collateral Agent shall have received direction from the holders of a majority in aggregate principal amount of the then outstanding Notes, and the Notes Collateral Agent shall not incur liability to any Person by reason of so refraining.

(t) Notwithstanding anything to the contrary in this Indenture or in any Security Document or in any Intercreditor Agreement, in no event shall the Notes Collateral Agent or the Trustee be responsible for, or have any duty or obligation with respect to, the recording, filing, registering, perfection, protection or maintenance of the security interests or Liens intended to be created by this Indenture, the Security Documents, or any Intercreditor Agreement (including without limitation the filing or continuation of any UCC financing or continuation statements or similar documents or instruments), nor shall the Notes Collateral Agent or the Trustee be responsible for, and neither the Notes Collateral Agent nor the Trustee makes any representation regarding, the validity, effectiveness or priority of any of the Security Documents or the security interests or Liens intended to be created thereby.

(u) Before the Notes Collateral Agent acts or refrains from acting in each case at the written request or direction of the Issuer or the Guarantors, other than as set forth in this Indenture, it may require an Officers' Certificate and an Opinion of Counsel, which shall conform to the provisions of this Section 10.07 and Section 13.04 hereof. The Notes Collateral Agent shall not be liable for any action it takes or omits to take in good faith in reliance on such certificate or opinion.

(v) The rights, privileges, benefits, immunities, indemnities and other protections given to the Trustee are extended to, and shall be enforceable by, the Notes Collateral Agent as if the Notes Collateral Agent were named as the Trustee herein and in the Security Documents.

SECTION 10.08 Perfection and Collateral Exceptions.

(a) Neither the Issuer nor any Subsidiary of the Issuer shall be required to execute and deliver any supplemental guarantee, Security Document or any other document or grant a Lien on any Capital Stock or other property held by it if such action would be in respect of an Excluded Asset or otherwise would not be required with respect to the Collateral owned by the Issuer or a Guarantor pursuant to the terms of the Security Documents.

(b) So long as any Senior Secured Credit Agreement Obligations are outstanding, the Issuer and the Guarantors shall not be required to take certain actions specified in the Security Agreement to perfect Liens of the Notes Collateral Agent if such actions are not requested by the Senior Secured Credit Agreement Collateral Agent in respect of such Senior Secured Credit Agreement Obligations.

(c) Notwithstanding anything to the contrary in the Notes Documents, the Issuer and the Guarantors shall not be required to:

(i) enter into control agreements, lockbox or similar arrangements with respect to, or otherwise perfect any security interest by "control" (or similar arrangements) over, commodities accounts, securities accounts, deposit accounts, futures accounts, other bank accounts, cash and cash equivalents and accounts related to the clearing, payment processing and similar operations of the Issuer and its Subsidiaries,

(ii) perfect the security interest in the following other than by the filing of a UCC financing statement:(1) letter-of-credit rights (as defined in the UCC) and (2) commercial tort claims (as defined in the UCC) with a value of less than $10 million;

(iii) enter into, make or obtain any (x) security documents to be governed by the law of any jurisdiction outside of the United States or (y) other non-U.S. law filings or non-U.S. consents or corporate or organizational action in respect of security, including with respect to any share pledges and any intellectual property registered in any non-U.S. jurisdiction or (2) take any other action in any non-U.S. jurisdiction or required by the laws of any non-U.S. jurisdiction to create, perfect or maintain any security interest or otherwise; *provided*, *however*, that the foregoing shall not affect the requirements to deliver certificates and related stock powers in respect of Equity Interests of non-U.S. Subsidiaries constituting Collateral that would otherwise be required to be delivered pursuant to the Security Documents, or

(iv) deliver landlord waivers, estoppels or collateral access letters.

Additionally, neither the Issuer nor any Guarantor shall be required to make any filings or take any other actions to perfect, evidence or create the Lien on and security interest in any intellectual property except for filings in the United States Patent and Trademark Office or the United States Copyright Office and the filing of UCC financing statements.

SECTION 10.09 Intercreditor Agreements.

The terms of this Indenture are subject to the terms of any Intercreditor Agreement entered into in accordance with this Indenture.

ARTICLE XI

ESCROW MATTERS

SECTION 11.01 Escrow Account.

(a) On the Issue Date, the Escrow Issuer and Trustee shall enter into the Escrow Agreement with Forward and the Escrow Agent, pursuant to which (i) the Escrow Issuer shall cause to be deposited an amount equal to the gross proceeds from the sale of the Notes and (ii) Forward shall deposit or cause to be deposited an amount of cash that would be sufficient to fund all interest that would have accrued on the Notes if a Special Mandatory Redemption were to occur on the last day of the first full month following the Issue Date, in each case, into a segregated escrow account (the "Escrow Account") denominated in U.S. dollars. The Escrowed Property in the Escrow Account shall be controlled by the Escrow Agent on behalf of the Trustee and the holders.

(b) The Escrowed Property will be held in the Escrow Account until the earlier of (i) the Escrow Release in accordance with Section 11.02 and (ii) the Special Mandatory Redemption Date.

(c) To secure the payment of the Special Mandatory Redemption, the Escrow Issuer shall grant to the Trustee, for its benefit and the benefit of the holders, a security interest in the Escrowed Property; *provided*, *however*, that such lien and security interest shall automatically be released and terminated at such time as the Escrowed Property is released from the Escrow Account on the Escrow Release Date.

SECTION 11.02 Release of Escrowed Property.

(a) Subject to Section 3.09, the Escrow Issuer shall only be entitled to direct the Escrow Agent to release Escrowed Property (in which case the Escrowed Property shall be paid to or as jointly directed by the Escrow Issuer in accordance with the instructions provided in the Escrow Release Officers' Certificate) (the "Escrow Release") upon delivery to the Escrow Agent and the Trustee, on or prior to June 30, 2024 (the "Escrow Outside Date"), an Officers' Certificate (the "Escrow Release Officers' Certificate") certifying that the following conditions (the "Escrow Conditions") have been, or substantially concurrently with the release of the Escrowed Property will be, satisfied:

(1) the Merger shall have been, or substantially concurrently with the Escrow Release will be, consummated; and

(2) (i) the Escrow Issuer shall have been, or substantially concurrently with the Escrow Release shall be, merged with and into the Ultimate Issuer (the "Escrow Merger") and the Ultimate Issuer shall have assumed, or substantially concurrently with the Escrow Release shall assume, by supplemental indenture or joinder, as applicable, all of the obligations of the Escrow Issuer under the Notes, this Indenture and the Security Documents and (ii) the Guarantors shall have, by supplemental indenture or joinder, substantially concurrently with the Escrow Release, become, Guarantors and parties to this Indenture and the Security Documents.

SECTION 11.03 Trustee Direction to Execute Escrow Agreement.

By its acceptance of the Notes, each holder shall be deemed to have authorized and directed the Trustee to execute, deliver and perform its obligations, if any, under the Escrow Agreement. For the avoidance of doubt, in the event of a foreclosure by the Trustee on the Escrowed Property in accordance with the terms of the Escrow Agreement, the proceeds of the Escrow Account shall be applied in accordance with Section 6.10.

ARTICLE XII

GUARANTEE

SECTION 12.01 Guarantee.

(a) Prior to the Completion Date, the Notes will not be guaranteed. On the Completion Date, Forward and each existing Wholly Owned Restricted Subsidiary (other than any Excluded Subsidiary) of the Issuer shall execute a supplemental indenture substantially in the form of Exhibit D hereto, whereby such Person shall agree to jointly and severally guarantee on a secured, unsubordinated basis the performance and punctual payment when due, whether at Stated Maturity, by acceleration or otherwise, of all Obligations of the Issuer under this Indenture and the Notes, whether for payment of principal of, premium, if any, or interest on the Notes, expenses, indemnification or otherwise (all such Obligations guaranteed by such Guarantors being herein called the "Guaranteed Obligations"). Each Guarantor further agrees that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from any Guarantor, and that each Guarantor shall remain bound under this Article XII notwithstanding any extension or renewal of any Guaranteed Obligation.

(b) Each Guarantor waives presentation to, demand of payment from and protest to the Issuer of any of the Guaranteed Obligations and also waives notice of protest for nonpayment. Each Guarantor waives notice of any default under the Notes or the Guaranteed Obligations. The Guarantee of each Guarantor hereunder shall not be affected by (i) the failure of any holder or the Trustee to assert any claim or demand or to enforce any right or remedy against the Issuer or any other Person under this Indenture, the Notes or any other agreement or otherwise; (ii) any extension or renewal of this Indenture, the Notes or any other agreement; (iii) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement; (iv) the release of any security held by any holder or the Trustee for the Guaranteed Obligations or each Guarantor; (v) the failure of any holder or Trustee to exercise any right or remedy against any other guarantor of the Guaranteed Obligations; or (vi) any change in the ownership of each Guarantor, except as provided in Section 12.02(b). Each Guarantor hereby waives any right to which it may be entitled to have its Guarantee hereunder divided among the Guarantors, such that such Guarantor's Guarantee would be less than the full amount claimed.

(c) Each Guarantor hereby waives any right to which it may be entitled to have the assets of the Issuer first be used and depleted as payment of the Issuer's obligations under this Indenture and the Notes or such Guarantor's Guarantee hereunder prior to any amounts being claimed from or paid by such Guarantor hereunder. Each Guarantor hereby waives any right to which it may be entitled to require that the Issuer be sued prior to an action being initiated against such Guarantor.

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

(e) The Guarantee of each Guarantor is, to the extent and in the manner set forth in this Article XII, equal in right of payment to all existing and future Senior Indebtedness and senior in right of payment to all existing and future Subordinated Indebtedness of such Guarantor.

(f) Except as expressly set forth in Sections 8.01(b), 12.02 and 12.06, the Guarantee of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the Guarantee of each Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any holder or the Trustee to assert any claim or demand or to enforce any remedy under this Indenture, the Notes or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Guaranteed Obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of any Guarantor or would otherwise operate as a discharge of any Guarantor as a matter of law or equity.

(g) Except as expressly set forth in Section 12.02(b), each Guarantor agrees that its Guarantee shall remain in full force and effect until payment in full of all the Guaranteed Obligations of such Guarantor. Each Guarantor further agrees that its Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any Guaranteed Obligation is rescinded or must otherwise be restored by any holder or the Trustee upon the bankruptcy or reorganization of the Issuer or otherwise.

(h) In furtherance of the foregoing and not in limitation of any other right which any holder or the Trustee has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Issuer to pay the principal of or interest on any Guaranteed Obligation when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, or to perform or comply with any other Guaranteed Obligation, each Guarantor hereby promises to and shall, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the holders or the Trustee an amount equal to the sum of (i) the unpaid principal amount of such Guaranteed Obligations, (ii) accrued and unpaid interest on such Guaranteed Obligations (but only to the extent not prohibited by applicable law) and (iii) all other monetary obligations of the Issuer to the holders and the Trustee.

(i) Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the holders in respect of any Guaranteed Obligations guaranteed hereby until payment in full of all Guaranteed Obligations. Each Guarantor further agrees that, as between it, on the one hand, and the holders and the Trustee, on the other hand, (i) the maturity of the Guaranteed Obligations guaranteed hereby may be accelerated as provided in Article VI for the purposes of the Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations guaranteed hereby, and (ii) in the event of any declaration of acceleration of such Guaranteed Obligations as provided in Article VI, such Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by the Guarantors for the purposes of this Section 12.01.

(j) Each Guarantor also agrees to pay any and all expenses (including reasonable attorneys' fees and expenses and court costs) incurred by the Trustee and the Notes Collateral Agent in enforcing any rights under this Section 12.01.

(k) Upon request of the Trustee, each Guarantor shall execute and deliver such further instruments and do such further acts as may be reasonably necessary to carry out more effectively the purpose of this Indenture.

SECTION 12.02 Limitation on Liability; Release of Guarantors.

(a) Any term or provision of this Indenture to the contrary notwithstanding, the maximum aggregate amount of the Guaranteed Obligations guaranteed hereunder by each Guarantor shall not exceed the maximum amount that can be hereby guaranteed by the applicable Guarantor without rendering the Guarantee, as it relates to such Guarantor, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer or similar laws affecting the rights of creditors generally or capital maintenance or corporate benefit rules applicable to guarantees for obligations of affiliates.

(b) Each Subsidiary Guarantor's Guarantee shall automatically terminate and be of no further force or effect and such Subsidiary Guarantor shall be automatically released from all obligations under this Article XII upon:

(i) the sale, disposition, exchange or other transfer (including through merger, consolidation, amalgamation or otherwise) of the Capital Stock of the applicable Subsidiary Guarantor following which the applicable Subsidiary Guarantor is no longer a Wholly Owned Restricted Subsidiary, if such sale, disposition, exchange or other transfer is made in a manner not in violation of this Indenture; *provided* that if any Subsidiary Guarantor ceases to be a Wholly Owned Subsidiary, such Subsidiary shall not be released from its Guarantee solely as a result of ceasing to be a Wholly Owned Subsidiary unless either (x) it is no longer a direct or indirect Subsidiary of the Issuer or (y) such disposition is a good faith disposition to a bona fide unaffiliated third party (as determined by the Issuer in good faith) for fair market value and for a bona fide business purpose (as determined by the Issuer in good faith) (it being understood that this proviso shall not limit the release of any Subsidiary Guarantor that otherwise qualifies as an Excluded Subsidiary for reasons other than not being a Wholly Owned Subsidiary); *provided*, *further*, that the fair market value of such Subsidiary Guarantor at the time it is released from its Guarantee in accordance with clause (x) or (y) above as a result of the sale, disposition, exchange or other transfer of a portion (but not all) of its Capital Stock shall be treated as an Investment by the Issuer at the time of such release (and such release shall only be permitted if such deemed Investment is permitted;

(ii) the release or discharge of the guarantee (other than as result of payment thereon) by such Subsidiary Guarantor with respect to (i) the Senior Secured Credit Agreement and (ii) all Capital Markets Indebtedness of the Issuer or any other Guarantor that would require such Subsidiary Guarantor to provide a Guarantee pursuant to the covenant described under Section 4.11 (including any release or discharge that would be conditioned only on the release or discharge of its Guarantee hereunder and/or of the guarantee of or Obligations under any Credit Agreement or any Capital Markets Indebtedness);

(iii) the Issuer's exercise of its legal defeasance option or covenant defeasance option pursuant to Section 8.01 or if the Issuer's Obligations under this Indenture are discharged in accordance with the terms of this Indenture;

(iv) such Subsidiary Guarantor becoming an Excluded Subsidiary other than as a result of a transaction in violation of this Indenture;

(v) such Restricted Subsidiary ceasing to be a Subsidiary as a result of any foreclosure of any pledge or security interest securing Pari Passu Lien Obligations or other exercise of remedies in respect thereof subject to, in each case, the application of the proceeds of such foreclosure or exercise of remedies in the manner described under Article X;

(vi) the liquidation of such Subsidiary Guarantor in a transaction not in violation of this Indenture; or

(vii) the occurrence of a Fall-Away Event; *provided* that such Guarantee shall be reinstated upon the Reversion Date.

(c) The Guarantee of Forward or of any other Parent that provides a Guarantee will terminate upon the Issuer's exercise of its legal defeasance option or covenant defeasance option pursuant to Section 8.01 or if the Issuer's Obligations are discharged in accordance with the terms of this Indenture.

SECTION 12.03 Non-Impairment.

The failure to endorse a Guarantee on any Note shall not affect or impair the validity thereof.

SECTION 12.04 Successors and Assigns.

This Article XII shall be binding upon each Guarantor and its successors and assigns and shall inure to the benefit of and be enforceable by the successors and assigns of the Trustee and the holders and, in the event of any transfer or assignment of rights by any holder or the Trustee, the rights and privileges conferred upon that party in this Indenture and in the Notes shall automatically extend to and be vested in such transferee or assignee, all subject to the terms and conditions of this Indenture.

SECTION 12.05 No Waiver.

Neither a failure nor a delay on the part of either the Trustee or the holders in exercising any right, power or privilege under this Article XII shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. The rights, remedies and benefits of the Trustee and the holders herein expressly specified are cumulative and not exclusive of any other rights, remedies or benefits which either may have under this Article XII at law, in equity, by statute or otherwise.

SECTION 12.06 Modification.

No modification, amendment or waiver of any provision of this Article XII, nor the consent to any departure by any Guarantor therefrom, shall in any event be effective unless the same shall be in writing and signed by the Trustee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on any Guarantor in any case shall entitle any Guarantor to any other or further notice or demand in the same, similar or other circumstances.

SECTION 12.07 Execution of Supplemental Indenture for Future Guarantors.

Following the Completion Date, each Subsidiary which is required to become a Guarantor of the Notes pursuant to Section 4.11 shall promptly execute and deliver to the Trustee a supplemental indenture substantially in the form of Exhibit C hereto pursuant to which such Subsidiary shall become a Guarantor under this Article XII and shall guarantee the Guaranteed Obligations. Concurrently with the execution and delivery of such supplemental indenture, the Issuer shall deliver to the Trustee an Opinion of Counsel and an Officers' Certificate, as provided under Section 9.05.

ARTICLE XIII

MISCELLANEOUS

SECTION 13.01 [Intentionally Omitted].

SECTION 13.02 Notices.

(a) Any notice or communication required or permitted hereunder shall be in writing and delivered in person, via facsimile, electronic mail or mailed by first-class mail (unless such notice recipient consents to an alternative form of delivery) addressed as follows:

if to the Issuer (prior to the Completion Date):

GN Bondco, LLC
c/o Omni Newco, LLC
Attn. Zhuo Chen; Wendy Curtis
3200 Olympus Blvd., Suite 300
Dallas, TX 75019
E-Mail: zchen@omnilogistics.com and wcurtis@omnilogistics.com

if to the Issuer and the Guarantors (on and after the Completion Date):

Clue Opco LLC
c/o Forward Air Corporation
Attn. Rebecca Garbrick, Chief Financial Officer, and Michael Hance, Chief Legal Officer
1915 Snapps Ferry Road, Bldg. N
Greeneville, TN 37745
E-Mail: RGarbrick@forwardair.com and MHance@forwardair.com

if to the Trustee or the Notes Collateral Agent:

U.S. Bank Trust Company, National Association
Attn. Global Corporate Trust Services
333 Commerce Street, Suite 900
Nashville, TN 37201

E-Mail: connie.jaco@usbank.com or wally.jones@usbank.com

The Issuer, the Trustee or the Notes Collateral Agent by notice to the other may designate additional or different addresses for subsequent notices or communications.

(b) Any notice or communication mailed to a holder shall be mailed, first class mail, to the holder at the holder's address as it appears on the registration books of the Registrar and shall be sufficiently given if so mailed within the time prescribed.

(c) Failure to mail a notice or communication to a holder or any defect in it shall not affect its sufficiency with respect to other holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it, except that notices to the Trustee are effective only if received.

The Trustee and the Notes Collateral Agent shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means;*provided*, *however*, that the Issuer shall provide to the Trustee or the Notes Collateral Agent, as applicable, an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Issuer whenever a person is to be added or deleted from the listing. If the Issuer elects to give the Trustee or the Notes Collateral Agent, as applicable, Instructions using Electronic Means and the Trustee or the Notes Collateral Agent, as applicable, in its discretion elects to act upon such Instructions, the Trustee's or the Notes Collateral Agent's, as applicable, understanding of such Instructions shall be deemed controlling. The Issuer understands and agrees that the Trustee or the Notes Collateral Agent, as applicable, cannot determine the identity of the actual sender of such Instructions and that the Trustee or the Notes Collateral Agent, as applicable, shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee or the Notes Collateral Agent, as applicable, have been sent by such Authorized Officer. The Issuer shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee or the Notes Collateral Agent, as applicable, and that the Issuer and all Authorized Officers are solely responsible to safeguard the use and

confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Issuer. The Trustee or the Notes Collateral Agent, as applicable, shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's or the Notes Collateral Agent's, as applicable, reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction, except to the extent such losses, costs or expenses arise from the willful misconduct or gross negligence of the Trustee or the Notes Collateral Agent, as applicable.

Notwithstanding anything to the contrary contained herein, as long as the Notes are in the form of a Global Note, notice to the holders may be made electronically in accordance with procedures of DTC.

SECTION 13.03 Communication by the Holders with Other Holders.

The holders may communicate pursuant to Section 312(b) of the TIA with other holders with respect to their rights under this Indenture or the Notes. The Issuer, the Trustee, the Registrar and other Persons shall have the protection of Section 312(c) of the TIA.

SECTION 13.04 Certificate and Opinion as to Conditions Precedent.

Upon any request or application by the Issuer to the Trustee to take or refrain from taking any action under this Indenture, the Issuer shall furnish to the Trustee at the request of the Trustee:

(a) an Officers' Certificate in form reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) except upon the issuance of the Initial Notes, an Opinion of Counsel in form reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

SECTION 13.05 Statements Required in Certificate or Opinion.

Each certificate or opinion with respect to compliance with a covenant or condition provided for in this Indenture (other than pursuant to Section 4.09) shall include:

(a) a statement that the individual making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with;*provided*, *however*, that with respect to matters of fact an Opinion of Counsel may rely on an Officers' Certificate or certificates of public officials.

SECTION 13.06 When Notes Disregarded.

In determining whether the holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer, the Guarantors or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Issuer or the Guarantors shall be disregarded and deemed not to be outstanding, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which the Trustee actually knows are so owned shall be so disregarded. Subject to the foregoing, only Notes outstanding at the time shall be considered in any such determination.

SECTION 13.07 Rules by Trustee, Paying Agent and Registrar.

The Trustee may make reasonable rules for action by or a meeting of the holders. The Registrar and a Paying Agent may make reasonable rules for their functions.

SECTION 13.08 Legal Holidays.

If a payment date is not a Business Day, payment shall be made on the next succeeding day that is a Business Day, and no interest shall accrue on any amount that would have been otherwise payable on such payment date if it were a Business Day for the intervening period. If a regular Record Date is not a Business Day, the Record Date shall not be affected.

SECTION 13.09 GOVERNING LAW.

THIS INDENTURE, THE NOTES, THE GUARANTEES AND THE SECURITY DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

SECTION 13.10 No Recourse Against Others.

No director, officer, employee, manager or incorporator of, and no holder of any Equity Interests in, the Issuer or any Parent, as such, shall have any liability for any obligations of the Issuer or any Guarantor under the Notes, the Guarantees, this Indenture, the Security Documents or the Intercreditor Agreements, as applicable, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

SECTION 13.11 Successors.

All agreements of the Issuer and the Guarantors in this Indenture and the Notes shall bind such Person's successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 13.12 Multiple Originals.

This Indenture shall be valid, binding, and enforceable against a party when executed and delivered by a Responsible Officer on behalf of the party by means of (i) an original manual signature; (ii) a facsimile, scan or photocopy of a manual signature, or (iii) any other electronic mail (including any electronic signature permitted by federal Electronic Signatures in Global and National Commerce Act, state enactments of the Uniform Electronic Transactions Act and or any other relevant electronic signatures law, including any relevant provisions of the Uniform Commercial Code (collectively, "Signature Law"), in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each party hereto shall be entitled to conclusively rely upon, and shall have no liability with respect to, any faxed, scanned, or photocopied manual signature, or other electronic signature, of any other party and shall have no duty to investigate, confirm or otherwise verify the validity or authenticity thereof. This Indenture may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same instrument. For the avoidance of doubt, original manual signatures shall be used for execution or indorsement of writings when required under the UCC or other Signature Law due to the character or intended character of the writings.

SECTION 13.13 Table of Contents; Headings.

The table of contents, cross-reference sheet and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

SECTION 13.14 Indenture Controls.

If and to the extent that any provision of the Notes limits, qualifies or conflicts with a provision of this Indenture, such provision of this Indenture shall control.

SECTION 13.15 Severability.

In case any provision in this Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

SECTION 13.16 Waiver of Jury Trial.

EACH OF THE ISSUER, THE GUARANTORS, THE HOLDERS, THE TRUSTEE AND THE NOTES COLLATERAL AGENT HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR THE TRANSACTION CONTEMPLATED HEREBY.

SECTION 13.17 [Intentionally Omitted].

SECTION 13.18 [Intentionally Omitted].

SECTION 13.19 USA PATRIOT Act.

The parties hereto acknowledge that in accordance with Section 326 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) ("USA PATRIOT Act"), the Trustee, like all financial institutions and in order to help fight the funding of terrorism and money laundering, is required to obtain, verify, and record information that identifies each person or legal entity that establishes a relationship or opens an account with the Trustee. The parties to this Indenture agree that they will provide the Trustee with such information as it may request in order for the Trustee to satisfy the requirements of the USA PATRIOT Act.

SECTION 13.20 Submission to Jurisdiction.

The parties irrevocably submit to the non-exclusive jurisdiction of any New York State or federal court sitting in the Borough of Manhattan, City of New York, over any suit, action or proceeding arising out of or relating to this Indenture. To the fullest extent permitted by applicable law, the parties irrevocably waive and agree not to assert, by way of motion, as a defense or otherwise, any claim that it is not subject to the jurisdiction of any such court, any objection that it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

SECTION 13.21 FATCA.

In order to enable the Trustee to comply with applicable tax laws, rules and regulations (including directives, guidelines and interpretations promulgated by competent authorities) in effect from time to time ("Applicable Law"), the Issuer agrees to provide to the Trustee tax information about holders or the transactions contemplated hereby (including any modification to the terms of such transactions), to the extent such information is directly available to the Issuer, and to the extent that the provision is permitted under Applicable Law, so that the Trustee can determine whether it has tax-related obligations under Applicable Law and the Issuer acknowledges that the Trustee shall be entitled to make any withholding or deduction from payments under this Indenture to the extent necessary to comply with Applicable Law.

[*Remainder of page intentionally left blank.*]

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

GN BONDCO, LLC

By: /s/ Zhuo Chen
Name: Zhuo Chen
Title: Chief Financial Officer

[Signature Page to Indenture]

TRUSTEE AND NOTES COLLATERAL AGENT:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, not in its individual capacity, but solely as Trustee and as Notes Collateral Agent

By: /s/ Wally Jones
Name: Wally Jones
Title: Vice President

[Signature Page to Indenture]

APPENDIX A

PROVISIONS RELATING TO THE NOTES

2. Definitions.

2.1 Certain Definitions.

For the purposes of this Appendix A the following terms shall have the meanings indicated below:

"Definitive Note" means a certificated Note (bearing the Restricted Notes Legend if the transfer of such Note is restricted by applicable law) that does not include the Global Notes Legend.

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

"Global Notes Legend" means the legend set forth under that caption in Exhibit A to this Indenture.

"IAI" means an institutional "accredited investor" as described in Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"Notes Custodian" means the custodian with respect to a Global Note (as appointed by DTC) or any successor person thereto, who shall initially be the Trustee.

"QIB" means a Person reasonably believed to be a "qualified institutional buyer" as defined in Rule 144A.

"Regulation S" means Regulation S under the Securities Act.

"Regulation S Notes" means all Notes offered and sold outside the United States in reliance on Regulation S.

"Restricted Notes Legend" means the legend set forth in Section 2.2(f)(i) herein.

"Restricted Period," with respect to any Notes, means the period of 40 consecutive days beginning on and including the later of (a) the day on which such Notes are first offered to persons other than distributors (as defined in Regulation S under the Securities Act) in reliance on Regulation S, notice of which day shall be promptly given by the Issuer to the Trustee, and (b) the Issue Date, and with respect to any Additional Notes that are Transfer Restricted Notes, it means the comparable period of 40 consecutive days.

"Rule 144A" means Rule 144A under the Securities Act.

"Rule 144A Notes" means all Notes offered and sold to QIBs in reliance on Rule 144A.

"Rule 501" means Rule 501(a)(1), (2), (3) or (7) under the Securities Act.

"Transfer Restricted Definitive Notes" means Definitive Notes that bear or are required to bear or are subject to the Restricted Notes Legend.

"Transfer Restricted Global Notes" means Global Notes that bear or are required to bear or are subject to the Restricted Notes Legend.

"Transfer Restricted Notes" means the Transfer Restricted Definitive Notes and Transfer Restricted Global Notes.

"Unrestricted Definitive Notes" means Definitive Notes that are not required to bear, or are not subject to, the Restricted Notes Legend.

"Unrestricted Global Notes" means Global Notes that are not required to bear, or are not subject to, the Restricted Notes Legend.

2.2 Other Definitions.

Term:	Defined in Section:
Agent Members	2.1(b)
Clearstream	2.1(b)
Euroclear	2.1(b)
Global Notes	2.1(b)
Regulation S Global Notes	2.1(b)
Regulation S Permanent Global Notes	2.1(b)
Regulation S Temporary Global Notes	2.1(b)
Rule 144A Global Notes	2.1(b)

3. The Notes.

3.1 Form and Dating; Global Notes.

(a) The Notes issued on the date hereof will be sold, initially, only to (1) QIBs in reliance on Rule 144A and (2) Persons other than U.S. Persons (as defined in Regulation S) in reliance on Regulation S. Such Notes may thereafter be transferred to, among others, QIBs, purchasers in reliance on Regulation S and, except as set forth below, IAIs in accordance with Rule 501. Additional Notes offered after the date hereof may be offered and sold by the Issuer from time to time pursuant to one or more agreements in accordance with applicable law.

(b) Global Notes. (i) Except as provided in clause (d) of Section 2.2 below, Rule 144A Notes initially shall be represented by one or more Notes in definitive, fully registered, global form without interest coupons (collectively, the "Rule 144A Global Notes").

Regulation S Notes initially shall be represented by one or more Notes in fully registered, global form without interest coupons (collectively, the "Regulation S Temporary Global Note" and, together with the Regulation S Permanent Global Note (defined below), the "Regulation S Global Notes"), which shall be registered in the name of DTC or the nominee of DTC and for the accounts of designated agents holding on behalf of Euroclear Bank S.A./N.V., as operator of the Euroclear system ("Euroclear") or Clearstream Banking, Société Anonyme ("Clearstream").

Following the termination of the Restricted Period, beneficial interests in the Regulation S Temporary Global Note shall be exchanged for beneficial interests in a permanent Global Note (the "Regulation S Permanent Global Note") pursuant to the applicable procedures of DTC. Simultaneously with the authentication of the Regulation S Permanent Global Note, the Trustee shall cancel the Regulation S Temporary Global Note. The aggregate principal amount of the Regulation S Temporary Global Note and the Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and DTC or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

The provisions of the "Operating Procedures of the Euroclear System" and "Terms and Conditions Governing Use of Euroclear" and the "General Terms and Conditions of Clearstream Banking" and "Customer Handbook" of Clearstream shall be applicable to transfers of beneficial interests in the Regulation S Temporary Global Note and the Regulation S Permanent Global Note that are held by participants through Euroclear or Clearstream.

The term "Global Notes" means the Rule 144A Global Notes and the Regulation S Global Notes. The Global Notes shall bear the Global Note Legend. The Global Notes initially shall (i) be registered in the name of DTC or the nominee of DTC, in each case for credit to an account of an Agent Member, (ii) be delivered to the Trustee as custodian for DTC and (iii) bear the Restricted Notes Legend.

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

DTC may be treated by the Issuer, the Trustee and any agent of the Issuer or the Trustee as the sole owner of the Global Notes for all purposes under the Indenture and the Notes. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Trustee or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by DTC or impair, as between DTC and its Agent Members, the operation of customary practices governing the exercise of the rights of a holder of any Note.

(ii) Transfers of Global Notes shall be limited to transfers in whole, but not in part, to DTC, its successors or their respective nominees. Interests of beneficial owners in the Global Notes may be transferred or exchanged for Definitive Notes only in accordance with the applicable rules and procedures of DTC and the provisions of Section 2.2. In addition, a Global Note shall be exchangeable for Definitive Notes if (x) in the case of Notes issued on the Issue Date, DTC (a) notifies the Issuer at any time that it is unwilling or unable to continue as depository for such Global Note and a successor depository is not appointed within 90 days or (b) has ceased to be a clearing agency registered under the Exchange Act and in each case a successor depository is not appointed within 90 days or (y) the Issuer, at its option and subject to the procedures of DTC, notifies the Trustee in writing that it elects to cause the issuance of Definitive Notes or (z) there shall have occurred and be continuing an Event of Default with respect to the Notes; *provided* that in no event shall the Regulation S Temporary Global Note be exchanged by the Issuer for Definitive Notes prior to (x) the expiration of the Restricted Period and (y) the receipt by the

Registrar of any certificates required pursuant to Rule 903(b)(3)(ii)(B) under the Securities Act. In all cases, Definitive Notes delivered in exchange for any Global Note or beneficial interests therein shall be registered in the names, and issued in any approved denominations, requested by or on behalf of DTC in accordance with its customary procedures.

(iii) In connection with the transfer of a Global Note as an entirety to beneficial owners pursuant to subsection (ii) of this Section 2.1(b), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Issuer shall execute, and, upon written order of the Issuer signed by an Officer, the Trustee shall authenticate and make available for delivery, to each beneficial owner identified by DTC in writing in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Definitive Notes of authorized denominations.

(iv) Any Transfer Restricted Note delivered in exchange for an interest in a Global Note pursuant to Section 2.2 shall, except as otherwise provided in Section 2.2, bear the Restricted Notes Legend.

(v) Notwithstanding the foregoing, through the Restricted Period, a beneficial interest in a Regulation S Global Note may be held only through Euroclear or Clearstream unless delivery is made in accordance with the applicable provisions of Section 2.2.

(vi) The holder of any Global Note may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a holder is entitled to take under this Indenture or the Notes.

3.2 Transfer and Exchange.

(a) Transfer and Exchange of Global Notes. A Global Note may not be transferred as a whole except as set forth in Section 2.1(b). Global Notes will not be exchanged by the Issuer for Definitive Notes except under the circumstances described in Section 2.1(b)(ii). Global Notes also may be exchanged or replaced, in whole or in part, as provided in Section 2.08 of this Indenture. Beneficial interests in a Global Note may be transferred and exchanged as provided in Section 2.2(b).

(b) Transfer and Exchange of Beneficial Interests in Global Notes. The transfer and exchange of beneficial interests in the Global Notes shall be effected through DTC, in accordance with the provisions of this Indenture and the applicable rules and procedures of DTC. Beneficial interests in Transfer Restricted Global Notes shall be subject to restrictions on transfer comparable to those set forth herein to the extent required by the Securities Act. Beneficial interests in Global Notes shall be transferred or exchanged only for beneficial interests in Global Notes. Transfers and exchanges of beneficial interests in the Global Notes also shall require compliance with either subparagraph (i) or (ii) below, as applicable, as well as one or more of the other following subparagraphs, as applicable:

(i) Transfer of Beneficial Interests in the Same Global Note. Beneficial interests in any Transfer Restricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in the same Transfer Restricted Global Note in accordance with the transfer restrictions set forth in the Restricted Notes Legend; *provided*, *however*, that prior to the expiration of the Restricted Period, transfers of beneficial interests in a Regulation S Global Note may not be made to a U.S. Person or for the account or benefit of a U.S. Person. A beneficial interest in an Unrestricted Global Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note. No written orders or instructions shall be required to be delivered to the Registrar to effect the transfers described in this Section 2.2(b)(i).

(ii) All Other Transfers and Exchanges of Beneficial Interests in Global Notes In connection with all transfers and exchanges of beneficial interests in any Global Note that is not subject to Section 2.2(b)(i), the transferor of such beneficial interest must deliver to the Registrar (1) a written order from an Agent Member given to DTC in accordance with the applicable rules and procedures of DTC directing DTC to credit or cause to be credited a beneficial interest in another Global Note in an amount equal to the beneficial interest to be transferred or exchanged and (2) instructions given in accordance with the applicable rules and procedures of DTC containing information regarding the Agent Member account to be credited with such increase. Upon satisfaction of all of the requirements for transfer or exchange of beneficial interests in Global Notes contained in this Indenture and the Notes or otherwise applicable under the Securities Act, the Trustee shall adjust the principal amount of the relevant Global Note pursuant to Section 2.2(g).

(iii) Transfer of Beneficial Interests to Another Restricted Global Note. A beneficial interest in a Transfer Restricted Global Note may be transferred to a Person who takes delivery thereof in the form of a beneficial interest in another Transfer Restricted Global Note if the transfer complies with the requirements of Section 2.2(b)(ii) above and the Registrar receives the following:

(A) if the transferee will take delivery in the form of a beneficial interest in a Rule 144A Global Note, then the transferor must deliver a certificate in the form attached to the applicable Note; and

(B) if the transferee will take delivery in the form of a beneficial interest in a Regulation S Global Note, then the transferor must deliver a certificate in the form attached to the applicable Note.

(iv) A beneficial interest in a Transfer Restricted Global Note may be exchanged by any holder thereof for a beneficial interest in an Unrestricted Global Note or transferred to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note if the exchange or transfer complies with the requirements of Section 2.2(b)(ii) above and the Registrar receives the following:

(A) if the holder of such beneficial interest in a Transfer Restricted Global Note proposes to exchange such beneficial interest for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note; or

(B) if the holder of such beneficial interest in a Transfer Restricted Global Note proposes to transfer such beneficial interest to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note,

and, in each such case, if the Issuer or the Registrar so requests or if the applicable rules and procedures of DTC so require, an Opinion of Counsel in form reasonably acceptable to the Issuer and the Registrar to the effect that such exchange or transfer is in compliance with the Securities

Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act. If any such transfer or exchange is effected pursuant to this subparagraph (iv) at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of a written order of the Issuer in the form of an Officers' Certificate in accordance with Section 2.01 of the Indenture, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of beneficial interests transferred or exchanged pursuant to this subparagraph (iv).

(v) Beneficial interests in an Unrestricted Global Note cannot be exchanged for, or transferred to Persons who take delivery thereof in the form of, a beneficial interest in a Transfer Restricted Global Note.

(c) Transfer and Exchange of Beneficial Interests in Global Notes for Definitive Notes A beneficial interest in a Global Note may not be exchanged for a Definitive Note except under the circumstances described in Section 2.1(b)(ii). A beneficial interest in a Global Note may not be transferred to a Person who takes delivery thereof in the form of a Definitive Note except under the circumstances described in Section 2.1(b)(ii). In any case, beneficial interests in Global Notes shall be transferred or exchanged only for Definitive Notes.

(d) Transfer and Exchange of Definitive Notes for Beneficial Interests in Global Notes Transfers and exchanges of Definitive Notes for beneficial interests in the Global Notes also shall require compliance with either subparagraph (i), (ii) or (iii) below, as applicable:

(i) Transfer Restricted Definitive Notes to Beneficial Interests in Transfer Restricted Global Notes If any holder of a Transfer Restricted Definitive Note proposes to exchange such Transfer Restricted Definitive Note for a beneficial interest in a Transfer Restricted Global Note or to transfer such Transfer Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in a Restricted Global Note, then, upon receipt by the Registrar of the following documentation:

(A) if the holder of such Transfer Restricted Definitive Note proposes to exchange such Transfer Restricted Note for a beneficial interest in a Transfer Restricted Global Note, a certificate from such holder in the form attached to the applicable Note;

(B) if such Transfer Restricted Definitive Note is being transferred to a QIB in accordance with Rule 144A under the Securities Act, a certificate from such holder in the form attached to the applicable Note;

(C) if such Transfer Restricted Definitive Note is being transferred to a Non U.S. Person in an offshore transaction in accordance with Rule 903 or Rule 904 under the Securities Act, a certificate from such holder in the form attached to the applicable Note;

(D) if such Transfer Restricted Definitive Note is being transferred pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate from such holder in the form attached to the applicable Note;

(E) if such Transfer Restricted Definitive Note is being transferred to an IAI in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (B) through (D) above, a certificate from such holder in the form attached to the applicable Note, including the certifications, certificates and Opinion of Counsel, if applicable; or

(F) if such Transfer Restricted Definitive Note is being transferred to the Issuer or a Subsidiary thereof, a certificate from such holder in the form attached to the applicable Note;

the Trustee shall cancel the Transfer Restricted Definitive Note, and increase or cause to be increased the aggregate principal amount of the appropriate Transfer Restricted Global Note.

(ii) Transfer Restricted Definitive Notes to Beneficial Interests in UnrestrictedGlobal Notes. A holder of a Transfer Restricted Definitive Note may exchange such Transfer Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note or transfer such Transfer Restricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note only if the Registrar receives the following:

(A) if the holder of such Transfer Restricted Definitive Note proposes to exchange such Transfer Restricted Definitive Note for a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note; or

(B) if the holder of such Transfer Restricted Definitive Notes proposes to transfer such Transfer Restricted Definitive Note to a Person who shall take delivery thereof in the form of a beneficial interest in an Unrestricted Global Note, a certificate from such holder in the form attached to the applicable Note,

and, in each such case, if the Issuer or the Registrar so requests or if the applicable rules and procedures of DTC so require, an Opinion of Counsel in form reasonably acceptable to the Issuer and the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act. Upon satisfaction of the conditions of this subparagraph (ii), the Trustee shall cancel the Transfer Restricted Definitive Notes and increase or cause to be increased the aggregate principal amount of the Unrestricted Global Note. If any such transfer or exchange is effected pursuant to this subparagraph (ii) at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of a written order of the Issuer in the form of an Officers' Certificate, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of Transfer Restricted Notes transferred or exchanged pursuant to this subparagraph (ii).

(iii) Unrestricted Definitive Notes to Beneficial Interests in Unrestricted GlobalNotes. A holder of an Unrestricted Definitive Note may exchange such Unrestricted Definitive Note for a beneficial interest in an Unrestricted Global Note or transfer such Unrestricted Definitive Note to a Person who takes delivery thereof in the form of a beneficial interest in an Unrestricted Global Note at any time. Upon receipt of a request for such an exchange or transfer,

the Trustee shall cancel the applicable Unrestricted Definitive Note and increase or cause to be increased the aggregate principal amount of one of the Unrestricted Global Notes. If any such transfer or exchange is effected pursuant to this subparagraph (iii) at a time when an Unrestricted Global Note has not yet been issued, the Issuer shall issue and, upon receipt of a written order of the Issuer in the form of an Officers' Certificate, the Trustee shall authenticate one or more Unrestricted Global Notes in an aggregate principal amount equal to the aggregate principal amount of Unrestricted Definitive Notes transferred or exchanged pursuant to this subparagraph (iii).

(iv) Unrestricted Definitive Notes to Beneficial Interests in Transfer Restricted Global Notes. An Unrestricted Definitive Note cannot be exchanged for, or transferred to a Person who takes delivery thereof in the form of, a beneficial interest in a Transfer Restricted Global Note.

(e) Transfer and Exchange of Definitive Notes for Definitive Notes. Upon request by a holder of Definitive Notes and such holder's compliance with the provisions of this Section 2.2(e), the Registrar shall register the transfer or exchange of Definitive Notes. Prior to such registration of transfer or exchange, the requesting holder shall present or surrender to the Registrar the Definitive Notes duly endorsed or accompanied by a written instruction of transfer in form satisfactory to the Registrar duly executed by such holder or by its attorney, duly authorized in writing. In addition, the requesting holder shall provide any additional certifications, documents and information, as applicable, required pursuant to the following provisions of this Section 2.2(e).

(i) Transfer Restricted Definitive Notes to Transfer Restricted Definitive Notes. A Transfer Restricted Note may be transferred to and registered in the name of a Person who takes delivery thereof in the form of a Transfer Restricted Definitive Note if the Registrar receives the following:

(A) if the transfer will be made pursuant to Rule 144A under the Securities Act, then the transferor must deliver a certificate in the form attached to the applicable Note;

(B) if the transfer will be made pursuant to Rule 903 or Rule 904 under the Securities Act, then the transferor must deliver a certificate in the form attached to the applicable Note;

(C) if the transfer will be made pursuant to an exemption from the registration requirements of the Securities Act in accordance with Rule 144 under the Securities Act, a certificate in the form attached to the applicable Note;

(D) if the transfer will be made to an IAI in reliance on an exemption from the registration requirements of the Securities Act other than those listed in subparagraphs (A) through (D) above, a certificate in the form attached to the applicable Note; and

(E) if such transfer will be made to the Issuer or a Subsidiary thereof, a certificate in the form attached to the applicable Note.

(ii) Transfer Restricted Definitive Notes to Unrestricted Definitive Notes. Any Transfer Restricted Definitive Note may be exchanged by the holder thereof for an Unrestricted Definitive Note or transferred to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note if the Registrar receives the following:

(A) if the holder of such Transfer Restricted Definitive Note proposes to exchange such Transfer Restricted Definitive Note for an Unrestricted Definitive Note, a certificate from such holder in the form attached to the applicable Note; or

(B) if the holder of such Transfer Restricted Definitive Note proposes to transfer such Notes to a Person who shall take delivery thereof in the form of an Unrestricted Definitive Note, a certificate from such holder in the form attached to the applicable Note,

and, in each such case, if the Issuer or the Registrar so request, an Opinion of Counsel in form reasonably acceptable to the Issuer and the Registrar to the effect that such exchange or transfer is in compliance with the Securities Act and that the restrictions on transfer contained herein and in the Restricted Notes Legend are no longer required in order to maintain compliance with the Securities Act.

(iii) Unrestricted Definitive Notes to Unrestricted Definitive Notes. A holder of an Unrestricted Definitive Note may transfer such Unrestricted Definitive Notes to a Person who takes delivery thereof in the form of an Unrestricted Definitive Note at any time. Upon receipt of a request to register such a transfer, the Registrar shall register the Unrestricted Definitive Notes pursuant to the instructions from the holder thereof.

(iv) Unrestricted Definitive Notes to Transfer Restricted Definitive Notes. An Unrestricted Definitive Note cannot be exchanged for, or transferred to a Person who takes delivery thereof in the form of, a Transfer Restricted Definitive Note.

At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.10 of the Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by DTC at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by DTC at the direction of the Trustee to reflect such increase.

(f) Legend.

(i) Except as permitted by the following paragraph (iii), (iv) or (v), each Note certificate evidencing the Global Notes and any Definitive Notes (and all Notes issued in exchange therefor or in substitution thereof) shall bear a legend in substantially the following form (each defined term in the legend being defined as such for purposes of the legend only):

"THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE ISSUER OF THIS SECURITY THAT (A) SUCH SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (1)(a) IN THE UNITED STATES TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT, (b) OUTSIDE THE UNITED STATES TO A NON-U.S. PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (c) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF APPLICABLE) (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE ISSUER OF THIS SECURITY IF THE ISSUER SO REQUESTS) OR (d) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE ISSUER IF THE ISSUER SO REQUESTS), (2) TO THE ISSUER OF THIS SECURITY OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THE SECURITY EVIDENCED HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN CLAUSE (A) ABOVE. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 FOR RESALE OF THE SECURITY EVIDENCED HEREBY.

THE TERMS OF THIS NOTE ARE SUBJECT TO THE TERMS OF THE INTERCREDITOR AGREEMENTS, AS THEY MAY BE AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME IN ACCORDANCE WITH THE INDENTURE."

(ii) Each Definitive Note shall bear the following additional Legend:

"IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS."

(iii) Upon any sale or transfer of a Transfer Restricted Definitive Note, the Registrar shall permit the holder thereof to exchange such Transfer Restricted Note for a Definitive Note that does not bear the legends set forth above and rescind any restriction on the transfer of such Transfer Restricted Definitive Note if the holder certifies in writing to the Registrar that its request for such exchange was made in reliance on Rule 144 (such certification to be in the form set forth on the reverse of the applicable Note).

(iv) Upon a sale or transfer after the expiration of the Restricted Period of any Note acquired pursuant to Regulation S, all requirements that such Note bear the Restricted Notes Legend shall cease to apply and the requirements requiring any such Note be issued in global form shall continue to apply.

(v) Any Additional Notes sold in a registered offering shall not be required to bear the Restricted Notes Legend.

(g) Cancellation or Adjustment of Global Note. At such time as all beneficial interests in a particular Global Note have been exchanged for Definitive Notes or a particular Global Note has been redeemed, repurchased or canceled in whole and not in part, each such Global Note shall be returned to or retained and canceled by the Trustee in accordance with Section 2.10 of this Indenture. At any time prior to such cancellation, if any beneficial interest in a Global Note is exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note or for Definitive Notes, the principal amount of Notes represented by such Global Note shall be reduced accordingly and an endorsement shall be made on such Global Note by the Trustee or by DTC at the direction of the Trustee to reflect such reduction; and if the beneficial interest is being exchanged for or transferred to a Person who will take delivery thereof in the form of a beneficial interest in another Global Note, such other Global Note shall be increased accordingly and an endorsement shall be made on such Global Note by the Trustee or by DTC at the direction of the Trustee to reflect such increase.

(h) Obligations with Respect to Transfers and Exchanges of Notes

(i) To permit registrations of transfers and exchanges, the Issuer shall execute and the Trustee shall authenticate, Definitive Notes and Global Notes at the Registrar's request.

(ii) No service charge shall be made for any registration of transfer or exchange of the Notes, but the Issuer may require payment of a sum sufficient to cover any transfer tax, assessments, or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments or similar governmental charge payable upon exchanges pursuant to Sections 3.06, 4.06, 4.08 and 9.05 of this Indenture).

(iii) Prior to the due presentation for registration of transfer of any Note, the Issuer, the Trustee, a Paying Agent or the Registrar may deem and treat the person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuer, the Trustee, the Paying Agent or the Registrar shall be affected by notice to the contrary.

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

(i) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of a Global Note, a member of, or a participant in DTC or any other Person with respect to the accuracy of the records of DTC or its nominee or of any participant or member thereof, with respect to any ownership interest in the Notes or with respect to the delivery to any participant, member, beneficial owner or other Person (other than DTC) of any notice (including any notice of redemption or repurchase) or the payment of any

amount, under or with respect to such Notes. All notices and communications to be given to the holders and all payments to be made to the holders under the Notes shall be given or made only to the registered holders (which shall be DTC or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through DTC subject to the applicable rules and procedures of DTC. The Trustee may rely and shall be fully protected in relying upon information furnished by DTC with respect to its members, participants and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among participants, members or beneficial owners of DTC in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

EXHIBIT A

[FORM OF FACE OF NOTE]

[Global Notes Legend]

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

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

[Restricted Notes Legend]

THE SECURITY (OR ITS PREDECESSOR) EVIDENCED HEREBY WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER SECTION 5 OF THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND THE SECURITY EVIDENCED HEREBY MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED IN THE ABSENCE OF SUCH REGISTRATION OR AN APPLICABLE EXEMPTION THEREFROM. EACH PURCHASER OF THE SECURITY EVIDENCED HEREBY IS HEREBY NOTIFIED THAT THE SELLER MAY BE RELYING ON THE EXEMPTION FROM THE PROVISIONS OF SECTION 5 OF THE SECURITIES ACT PROVIDED BY RULE 144A THEREUNDER. THE HOLDER OF THE SECURITY EVIDENCED HEREBY AGREES FOR THE BENEFIT OF THE ISSUER OF THIS SECURITY THAT (A) SUCH SECURITY MAY BE OFFERED, RESOLD, PLEDGED OR OTHERWISE TRANSFERRED, ONLY (1)(a) IN THE UNITED STATES TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT) PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A UNDER THE SECURITIES ACT, (b) OUTSIDE THE UNITED STATES TO A NON-U.S. PERSON IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (c) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF APPLICABLE) (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE ISSUER OF THIS SECURITY IF THE ISSUER SO REQUESTS) OR (d) IN ACCORDANCE WITH ANOTHER EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT (AND BASED UPON AN OPINION OF COUNSEL ACCEPTABLE TO THE ISSUER IF THE ISSUER SO REQUESTS), (2) TO THE ISSUER OF THIS SECURITY OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT AND, IN EACH CASE, IN ACCORDANCE WITH ANY APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION AND (B) THE HOLDER WILL, AND EACH SUBSEQUENT HOLDER IS REQUIRED TO, NOTIFY ANY PURCHASER OF THE SECURITY EVIDENCED

HEREBY OF THE RESALE RESTRICTIONS SET FORTH IN CLAUSE (A) ABOVE. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 FOR RESALE OF THE SECURITY EVIDENCED HEREBY.

THE TERMS OF THIS NOTE ARE SUBJECT TO THE TERMS OF THE INTERCREDITOR AGREEMENTS, AS THEY MAY BE AMENDED, RESTATED, SUPPLEMENTED OR OTHERWISE MODIFIED FROM TIME TO TIME IN ACCORDANCE WITH THE INDENTURE.

[Definitive Notes Legend]

IN CONNECTION WITH ANY TRANSFER, THE HOLDER WILL DELIVER TO THE REGISTRAR AND TRANSFER AGENT SUCH CERTIFICATES AND OTHER INFORMATION AS SUCH TRANSFER AGENT MAY REASONABLY REQUIRE TO CONFIRM THAT THE TRANSFER COMPLIES WITH THE FOREGOING RESTRICTIONS.

[ORIGINAL ISSUE DISCOUNT]

THIS NOTE IS ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTION 1271 THROUGH 1277 OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED. A HOLDER MAY OBTAIN THE ISSUE PRICE, AMOUNT OF ORIGINAL ISSUE DISCOUNT, ISSUE DATE AND YIELD TO MATURITY FOR SUCH NOTE BY SUBMITTING A WRITTEN REQUEST FOR SUCH INFORMATION TO THE ISSUER AT THE FOLLOWING ADDRESS: 1915 Snapps Ferry Road, Building N, Greeneville, Tennessee 37745.

[FORM OF NOTE]

[GN BONDCO, LLC][1] [CLUE OPCO LLC][2]

No. [ ]

144A CUSIP No. [ ]
144A ISIN No. [ ]
REG S CUSIP No. [ ]
REG S ISIN No. [ ]

$[_____]

9.500% Senior Secured Note due 2031

[GN Bondco, LLC, a Delaware limited liability company][1] [Clue Opco LLC, a Delaware limited liability company][2], promises to pay to Cede & Co., or registered assigns, the principal sum set forth on the Schedule of Increases or Decreases in Global Note attached hereto on October 15, 2031.

Interest Payment Dates: April 15 and October 15, commencing April 15, 2024.

Record Dates: April 1 and October 1.

Additional provisions of this Note are set forth on the other side of this Note.

1 Insert for Notes issued prior to the Completion Date.
2 Insert for Notes issued on or following the Completion Date.

IN WITNESS WHEREOF, the parties have caused this instrument to be duly executed.

GN BONDCO, LLC

By: _____
Name:
Title:

Dated:

Exhibit A

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Trustee, certifies that this is one of the Notes referred to in the Indenture.

By: _____
Authorized Signatory

Dated:

Exhibit A

[FORM OF REVERSE SIDE OF NOTE]

9.500% Senior Secured Note Due 2031

1. Interest

GN Bondco, LLC, a Delaware limited liability company to be merged with and into Clue Opco LLC (such entity, and its successors and assigns under the Indenture hereinafter referred to, being herein called, the "Issuer"), promises to pay interest on the principal amount of this Note at the rate per annum shown above. The Issuer shall pay interest semiannually on April 15 and October 15 of each year (each an "Interest Payment Date"), commencing April 15, 2024. Interest on the Notes shall accrue from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from October 2, 2023, until the principal hereof is due. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The Issuer shall pay interest on overdue principal at the rate borne by the Notes, and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

2. Method of Payment

The Issuer shall pay interest on the Notes (except defaulted interest) to the Persons who are registered holders at the close of business on April 1 and October 1 (each a "Record Date") immediately preceding the Interest Payment Date even if Notes are canceled after the Record Date and on or before the Interest Payment Date (whether or not a Business Day). Holders must surrender Notes to the Paying Agent to collect principal payments. The Issuer shall pay principal, premium, if any, and interest in money of the United States of America that at the time of payment is legal tender for payment of public and private debts. Payments in respect of the Notes represented by a Global Note (including principal, premium, if any, and interest) shall be made by wire transfer of immediately available funds to the accounts specified by DTC. The Issuer shall make all payments in respect of a certificated Note (including principal, premium, if any, and interest) at the office of the Paying Agent, except that, at the option of the Issuer, payment of interest may be made by mailing a check to the registered address of each holder thereof; *provided*, *however*, that payments on the Notes may also be made, in the case of a holder of at least $1,000,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such holder elects payment by wire transfer by giving written notice to the Trustee or Paying Agent to such effect designating such account no later than 30 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar

Initially, U.S. Bank Trust Company, National Association, as trustee under the Indenture (the "Trustee"), will act as Paying Agent and Registrar. The Issuer may remove any Registrar or Paying Agent upon written notice to such Registrar or Paying Agent and to the Trustee; *provided*, *however*, that no such removal shall become effective until (i) if applicable, acceptance of an appointment by a successor Registrar or Paying Agent, as the case may be, as evidenced by an appropriate agreement entered into by the Issuer and such successor Registrar or Paying Agent, as the case may be, and delivered to the Trustee or (ii) notification to the Trustee that the Trustee shall serve as Registrar or Paying Agent until the appointment of a successor in accordance with clause (i) above. The Issuer or any of its Wholly Owned Domestic Subsidiaries may act as Paying Agent or Registrar.

4. Indenture

The Issuer issued the Notes under an Indenture dated as of October 2, 2023 (the "Indenture"), among the Issuer and the Trustee. Capitalized terms used herein are used as defined in the Indenture, unless otherwise indicated. The Notes are subject to all terms and provisions of the Indenture, and the holders (as defined in the Indenture) are referred to the Indenture for a statement of such terms and provisions. If and to the extent that any provision of the Notes limits, qualifies or conflicts with a provision of the Indenture, such provision of the Indenture shall control.

The Notes are secured, unsubordinated obligations of the Issuer. This Note is one of the Initial Notes referred to in the Indenture. The Notes include any Additional Notes. The Initial Notes and any Additional Notes may, at the Issuer's election, be treated as a single class of securities for all purposes under the Indenture, including, without limitation, waivers, amendments, redemptions and offers to purchase; *provided* that if the Additional Notes are not fungible with the Initial Notes for U.S. federal income tax purposes, the Additional Notes will have a separate CUSIP and/or ISIN number, if applicable. From and after the Escrow Merger, the Indenture imposes certain limitations on the ability of the Issuer and the Restricted Subsidiaries to, among other things, make certain Investments and other Restricted Payments, Incur Indebtedness, enter into consensual restrictions upon the payment of certain dividends and distributions by such Restricted Subsidiaries, enter into or permit certain transactions with Affiliates, create or Incur Liens and make Asset Sales. The Indenture also imposes limitations on the ability of the Issuer and each Guarantor to consolidate or merge with or into any other Person or convey, transfer or lease all or substantially all of its property. Certain of these limitations will cease to apply during a Suspension Period.

From and after the Escrow Merger (other than during a Suspension Period), the Guarantors (including each Wholly Owned Restricted Subsidiary of the Issuer that is not an Excluded Subsidiary and that is required to guarantee the Guaranteed Obligations pursuant to Section 4.11 of the Indenture) shall jointly and severally guarantee the Guaranteed Obligations pursuant to the terms of the Indenture.

5. Optional Redemption

On or after October 15, 2026, the Issuer may redeem the Notes at its option, in whole at any time or in part from time to time, upon not less than 10 nor more than 60 days' prior notice mailed (or caused to be mailed) by the Issuer by first-class mail, or delivered electronically if held by DTC, to each holder's registered address (with a copy to the Trustee), at the following redemption prices (expressed as a percentage of principal amount), *plus* accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date), if redeemed during the 12-month period commencing on October 15 of the years set forth below:

Period	Redemption Price
2026	104.750%
2027	102.375%
2028 and thereafter	100.000%

In addition, prior to October 15, 2026 and following the Escrow Merger, the Issuer may redeem the Notes at its option, in whole at any time or in part from time to time, upon not less than 10 nor more than 60 days' prior notice mailed (or caused to be mailed) by the Issuer by first-class mail, or delivered electronically if held by DTC, to each holder's registered address (with a copy to the Trustee), at a redemption price equal to 100% of the principal amount of the Notes redeemed, *plus* the Applicable Premium as of, and accrued and unpaid interest to, but excluding, the applicable redemption date (subject to the right of holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date).

Notwithstanding the foregoing, at any time and from time to time on or prior to October 15, 2026 and following the Escrow Merger, the Issuer may redeem, at its option, upon not less than 10 nor more than 60 days' prior notice mailed by the Issuer by first class mail, or delivered electronically if held by DTC, to each holder's registered address, in the aggregate up to 40% of the original aggregate principal amount of the Notes (calculated after giving effect to any issuance of Additional Notes) in an amount not to exceed the amount of the net cash proceeds of one or more Equity Offerings (1) by the Issuer or (2) by any Parent to the extent the net cash proceeds thereof are contributed to the common equity capital of the Issuer or used to purchase Capital Stock (other than Disqualified Stock) of the Issuer, at a redemption price (expressed as a percentage of principal amount thereof) of 109.500%, *plus* accrued and unpaid interest to, but excluding, the redemption date (subject to the right of holders of record on the relevant Record Date to receive interest due on the relevant Interest Payment Date); *provided*, *however*, that at least 50% of the original aggregate principal amount of the Notes (calculated after giving effect to any issuance of Additional Notes) must remain outstanding after each such redemption; *provided*, *further*, that such redemption shall occur within 180 days after the date on which any such Equity Offering is consummated.

Notice of any redemption of Notes may, at the Issuer's discretion, be given prior to the completion of a transaction (including an Equity Offering, an incurrence of Indebtedness, a Change of Control or other transaction) and any redemption notice may, at the Issuer's discretion, be subject to the satisfaction (or waiver by the Issuer) of one or more conditions precedent, including, but not limited to, completion of a related transaction. If such redemption is so subject to satisfaction of one or more conditions precedent, such notice shall describe each such condition, and if applicable, shall state that, in the Issuer's discretion, the redemption date may be delayed until such time as any or all such conditions shall be satisfied (or waived), or such redemption may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied (or waived) by the redemption date, or by the redemption date as so delayed. In addition, the Issuer may provide in such notice that payment of the redemption price and performance of the Issuer's obligations with respect to such redemption may be performed by another Person. If any such condition precedent has not been satisfied (or waived by the Issuer), the Issuer shall provide written notice to the Trustee on or prior to the redemption date. Upon receipt, the Trustee shall provide such notice to each holder in the same manner in which the notice of redemption was given. Upon receipt of such notice by holders, the notice of redemption shall be rescinded or delayed, and the redemption of the Notes shall be rescinded or delayed, in each case as provided in such notice

6. Mandatory Redemption

The Issuer shall not be required to make any mandatory redemption (other than the Special Mandatory Redemption, as applicable, pursuant to Section 3.09 of the Indenture) or sinking fund payments with respect to the Notes.

7. Special Mandatory Redemption

Prior to the Escrow Release Date, the Issuer is required to make a Special Mandatory Redemption of the Notes upon the occurrence of a Special Mandatory Redemption Event pursuant to Section 3.09 of the Indenture. Notice of a Special Mandatory Redemption of the Notes will be sent electronically to each Holder, with a copy to the Trustee and the Escrow Agent, as set forth in Section 3.09 of the Indenture.

8. Notice of Redemption

Notices of redemption shall be delivered as set forth in Sections 3.05 or 3.09 of the Indenture, as applicable. On and after the redemption date, interest shall cease to accrue on Notes or portions thereof called for redemption so long as the Issuer has deposited with the Paying Agent funds sufficient to pay the redemption price of, *plus* accrued and unpaid interest on, the Notes or portions thereof to be redeemed, unless the Paying Agent is prohibited from making such payment pursuant to the terms of the Indenture.

9. Repurchase of Notes at the Option of the Holders upon Change of Control and Asset Sales

The Issuer will be required to make a Change of Control Offer as and to the extent set forth in (and only in the circumstances described in) Section 4.08 of the Indenture.

In accordance with Section 4.06 of the Indenture, the Issuer will be required to offer to purchase Notes upon the occurrence of certain events.

10. Denominations; Transfer; Exchange

The Notes are in registered form, without coupons, in denominations of $2,000 principal amount and integral multiples of $1,000 in excess thereof. A holder shall register the transfer of or exchange of the Notes in accordance with the Indenture. Upon any registration of transfer or exchange, the Registrar and the Trustee may require a holder, among other things, to furnish appropriate endorsements and transfer documents and the Issuer may require a holder to pay any taxes required by law or permitted by the Indenture. The Issuer shall not be required to make, and the Registrar need not register, transfers or exchanges of any Notes selected for redemption (except, in the case of a Note to be redeemed in part, the portion thereof not to be redeemed) or of any Notes for a period of 15 days before the sending of a notice of redemption of Notes to be redeemed.

11. Persons Deemed Owners

The registered holder of this Note shall be treated as the owner of it for all purposes.

12. Unclaimed Money

Subject to any applicable abandoned property law, the Trustee and each Paying Agent shall pay to the Issuer upon written request any money held by them for the payment of principal or interest that remains unclaimed for two years, and, thereafter, holders entitled to the money must look to the Issuer for payment as general creditors, and the Trustee and each Paying Agent shall have no further liability with respect to such monies.

13. Discharge and Defeasance

Subject to certain conditions, the Issuer at any time may terminate some of or all its obligations under the Notes and the Indenture if the Issuer deposits with the Trustee cash in U.S. dollars, U.S. Government Obligations or a combination thereof sufficient to pay the principal of and premium (if any) and interest on the Notes when due at maturity or redemption, as the case may be.

14. Amendment; Waiver

Subject to certain exceptions set forth in the Indenture, (i) the Indenture, the Notes, the Guarantees, the Security Documents, the Intercreditor Agreements and the Escrow Agreement may be amended with the written consent of the holders of at least a majority in aggregate principal amount of the Notes then outstanding and (ii) any past default or compliance with any provisions may be waived with the written consent of the holders of at least a majority in principal amount of the Notes then outstanding.

The Issuer, the Trustee and the Notes Collateral Agent may amend the Indenture, the Notes, the Guarantees, the Security Documents, the Intercreditor Agreements or the Escrow Agreement without notice to or the consent of any holder (i) to cure any ambiguity, omission, mistake, defect or inconsistency; (ii) to provide for the assumption by a Successor Issuer (with respect to the Issuer) of the obligations of the Issuer under the Indenture and the Notes; (iii) to provide for the assumption by a Successor Guarantor (with respect to any Guarantor) of the obligations of a Guarantor under the Indenture and its Guarantee; (iv) to provide for uncertificated Notes in addition to or in place of certificated Notes; *provided*, *however*, that uncertificated Notes are in registered form for purposes of Section 163(f) of the Code; (v) to conform the text of the Indenture, the Notes, the Guarantees, the Security Documents, the Intercreditor Agreements or the Escrow Agreement to any provision of the "Description of Secured Notes" in the Offering Memorandum; (vi) to add a Guarantee with respect to the Notes; (vii) to add Collateral to secure the Notes; (viii) to release a Guarantor from its Guarantee when permitted or required under the terms of the Indenture; (ix) to add to the covenants of the Issuer for the benefit of the holders or to surrender any right or power herein conferred upon the Issuer; (x) to comply with any requirement of the SEC in connection with qualifying, or maintaining the qualification of, the Indenture under the TIA; (xi) to make any change that does not adversely affect the rights of any holder in any material respect in the good faith determination of the Issuer; (xii) to effect any provision of the Indenture or to make changes to the Indenture to provide for the issuance of Additional Notes; (xiii) to make, complete or confirm any grant of a Lien or security interest in any property or assets as additional Collateral securing the Notes Obligations, including when permitted or required by the Indenture or the Security Document; (xiv) to release, terminate and/or discharge Collateral from the Lien securing the Notes Obligations when permitted or required by the Indenture, the Security Documents or any Intercreditor Agreement; (xv) to add Additional Secured Parties to any Intercreditor Agreement or any Security Document; (xvi) to enter into any intercreditor agreement having substantially similar terms with respect to the holders as those set

forth in the Pari Passu Intercreditor Agreement, taken as a whole; to enter an Acceptable Junior Intercreditor Agreement under circumstances provided in the Indenture and to enter any joinder to any of the foregoing; (xvii) to execute or amend any Security Document, any Intercreditor Agreement or the Escrow Agreement (or any supplement or joinder to any of the foregoing) under circumstances provided in the Indenture or therein; or (xviii) in the case of any Security Document, to include therein any legend required to be set forth therein pursuant to the applicable Intercreditor Agreement or to modify any such legend as required by the applicable Intercreditor Agreement to provide for the succession of any parties to the Security Documents (and other amendments that are administrative or ministerial in nature) in connection with an amendment, renewal, extension, substitution, refinancing, restructuring, replacement, supplementing or other modification from time to time of the Senior Secured Credit Agreement or any other agreement that is not prohibited by the Indenture.

15. Defaults and Remedies

If an Event of Default (other than an Event of Default specified in Section 6.01(f) or (g) of the Indenture with respect to the Issuer) occurs and is continuing, the Trustee by notice to the Issuer or the holders of at least 25% in principal amount of outstanding Notes by notice to the Issuer, with a copy to the Trustee, may declare the principal of, premium, if any, and accrued but unpaid interest on all the Notes to be due and payable. Upon such a declaration, such principal and interest will be due and payable immediately. If an Event of Default specified in Section 6.01(f) or (g) of the Indenture with respect to the Issuer occurs, the principal of, premium, if any, and interest on all the Notes will become immediately due and payable without any declaration or other act on the part of the Trustee or any holders. The holders of a majority in principal amount of outstanding Notes may rescind any such acceleration with respect to the Notes and its consequences.

If an Event of Default occurs and is continuing, the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by the Indenture at the request or direction of any of the holders pursuant to the Indenture, unless such holders have offered to the Trustee indemnity or security satisfactory to the Trustee against the costs, expenses and liabilities which might be Incurred by it in compliance with such request or direction. Except to enforce the right to receive payment of principal, premium (if any) or interest when due, no holder may pursue any remedy with respect to the Indenture or the Notes unless (i) such holder has previously given the Trustee written notice that an Event of Default is continuing, (ii) holders of at least 25% in principal amount of the outstanding Notes have requested the Trustee to pursue the remedy, (iii) such holders have offered the Trustee security or indemnity satisfactory to it against any loss, liability or expense, (iv) the Trustee has not complied with such request within 60 days after the receipt of the request and the offer of security or indemnity, and (v) the holders of a majority in principal amount of the outstanding Notes have not given the Trustee a direction inconsistent with such request within such 60-day period. The holders of a majority in principal amount of outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or the Indenture or that the Trustee determines is unduly prejudicial to the rights of any other holder or that would involve the Trustee in personal liability. Prior to taking any action under the Indenture, the Trustee and the Notes Collateral Agent shall be entitled to indemnification satisfactory to them in their sole discretion against all losses and expenses caused by taking or not taking such action.

Exhibit A

16. Trustee Dealings with the Issuer

The Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Issuer or its Affiliates with the same rights it would have if it were not Trustee.

17. No Recourse Against Others

No director, officer, employee, manager or incorporator of the Issuer or any direct or indirect parent company of the Issuer, and no holder of any Equity Interests in the Issuer or any direct or indirect parent company of the Issuer, as such, shall have any liability for any obligations of the Issuer or any Guarantor under the Notes, the Indenture, the Guarantees, the Security Documents or the Intercreditor Agreements, as applicable, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder of the Notes by accepting a Note waives and releases all such liability.

18. Authentication

This Note shall not be valid until an authorized signatory of the Trustee (or an authenticating agent) manually or electronically signs the certificate of authentication on the other side of this Note.

19. Abbreviations

Customary abbreviations may be used in the name of a holder or an assignee, such as TEN COM (=tenants in common), TEN ENT (=tenants by the entireties), JT TEN (=joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian), and U/G/M/A (=Uniform Gift to Minors Act).

20. Collateral

This Note is initially secured by a security interest in the Escrowed Property, subject to the terms of the Escrow Agreement, subject to release or termination as provided in the Indenture and the Escrow Agreement. From and after the Completion Date, this Note will be secured by a security interest in the Collateral, subject to the terms of the Security Documents, the Intercreditor Agreements and any other applicable intercreditor agreement, subject to release or termination as provided in the Indenture and the Security Documents.

21. Governing Law

THIS SECURITY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

22. CUSIP Numbers; ISINs

The Issuer has caused CUSIP numbers and ISINs to be printed on the Notes and has directed the Trustee to use CUSIP numbers and ISINs in notices of redemption as a convenience to the holders. No representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers printed thereon.

Exhibit A

The Issuer will furnish to any holder of Notes upon written request and without charge to the holder a copy of the Indenture which has in it the text of this Note.

Exhibit A

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to:

_____

_____

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

_____

Sign exactly as your name appears on the other side of this Note.

_____

Signature Guarantee:

Date: _____	_____
Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor program reasonably acceptable to the Trustee	Signature of Signature Guarantee

Exhibit A

CERTIFICATE TO BE DELIVERED UPON EXCHANGE OR

REGISTRATION OF TRANSFER RESTRICTED NOTE

GN Bondco, LLC
c/o U.S. Bank Trust Company, National Association
Attn. Global Corporate Trust Services
333 Commerce Street, Suite 900
Nashville, TN 37201

This certificate relates to $_____ principal amount of Notes held in (check applicable space)_____ book-entry or _____ definitive form by the undersigned.

The undersigned (check one box below):

☐ has requested the Trustee by written order to deliver in exchange for its beneficial interest in the Global Note held by DTC a Note or Notes in definitive, registered form of authorized denominations and an aggregate principal amount equal to its beneficial interest in such Global Note (or the portion thereof indicated above);

☐ has requested the Trustee by written order to exchange or register the transfer of a Note or Notes.

In connection with any transfer of any of the Notes evidenced by this certificate occurring while this Note is still a Transfer Restricted Definitive Note or a Transfer Restricted Global Note, the undersigned confirms that such Notes are being transferred in accordance with its terms:

CHECK ONE BOX BELOW

(1)	☐	to the Issuer; or
(2)	☐	to the Registrar for registration in the name of the holder, without transfer; or
(3)	☐	pursuant to an effective registration statement under the Securities Act of 1933; or
(4)	☐	inside the United States to a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933) that purchases for its own account or for the account of a qualified institutional buyer to whom notice is given that such transfer is being made in reliance on Rule 144A, in each case pursuant to and in compliance with Rule 144A under the Securities Act of 1933; or
(5)	☐	outside the United States in an offshore transaction within the meaning of Regulation S under the Securities Act in compliance with Rule 904 under the Securities Act of 1933 and such Note shall be held immediately after the transfer through Euroclear or Clearstream until the expiration of the Restricted Period (as defined in the Indenture); or
(6)	☐	to an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933) that has furnished to the Trustee a signed letter containing certain representations and agreements; or
(7)	☐	pursuant to another available exemption from registration provided by Rule 144 under the Securities Act of 1933.

Unless one of the boxes is checked, the Trustee will refuse to register any of the Notes evidenced by this certificate in the name of any Person other than the registered holder thereof; *provided*, *however*, that if box (5), (6) or (7) is checked, the Issuer or the Trustee may require, prior to registering any such transfer of the Notes, such legal opinions, certifications and other information as the Issuer or the Trustee have reasonably requested to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933.

Date: _____ Your Signature: _____

_____
Sign exactly as your name appears on the other side of this Note.

_____
Signature Guarantee:

Date: _____	_____
Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor program reasonably acceptable to the Trustee	Signature of Signature Guarantee

TO BE COMPLETED BY PURCHASER IF (4) ABOVE IS CHECKED.

The undersigned represents and warrants that it is purchasing this Note for its own account or an account with respect to which it exercises sole investment discretion and that it and any such account is a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act of 1933, and is aware that the sale to it is being made in reliance on Rule 144A and acknowledges that it has received such information regarding the Issuer as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned's foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Date: _____ _____

NOTICE: To be executed by an executive officer

[TO BE ATTACHED TO GLOBAL NOTES]

Exhibit A

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The initial principal amount of this Global Note is $_____. The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Notes Custodian

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 4.06 (Asset Sale) or 4.08 (Change of Control) of the Indenture, check the box:

Asset Sale ☐ Change of Control ☐

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 4.06 (Asset Sale) or 4.08 (Change of Control) of the Indenture, state the amount ($2,000 or any integral multiple of $1,000 in excess thereof):

Date: _____ Your Signature: _____

Sign exactly as your name appears on the other side of this Note.

_____

Signature Guarantee:

Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor program reasonably acceptable to the Trustee

[FORM OF TRANSFEREE LETTER OF REPRESENTATION]
TRANSFEREE LETTER OF REPRESENTATION

GN Bondco, LLC
c/o U.S. Bank Trust Company, National Association
Attn. Global Corporate Trust Services
333 Commerce Street, Suite 900
Nashville, TN 37201

Ladies and Gentlemen:

This certificate is delivered to request a transfer of $[_____] principal amount of the 9.500% Senior Secured Notes due 2031 (the "Notes") of GN Bondco, LLC (collectively with its successors and assigns, the "Issuer").

Upon transfer, the Notes would be registered in the name of the new beneficial owner as follows:

Name: _____

Address: _____

_____

_____

Taxpayer ID Number: _____

The undersigned represents and warrants to you that:

1. We are an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act of 1933, as amended (the "Securities Act")), purchasing for our own account or for the account of such an institutional "accredited investor" at least $100,000 principal amount of the Notes, and we are acquiring the Notes not with a view to, or for offer or sale in connection with, any distribution in violation of the Securities Act. We have such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of our investment in the Notes, and we invest in or purchase securities similar to the Notes in the normal course of our business. We, and any accounts for which we are acting, are each able to bear the economic risk of our or its investment.

2. We understand that the Notes have not been registered under the Securities Act and, unless so registered, may not be sold except as permitted in the following sentence. We agree on our own behalf and on behalf of any investor account for which we are purchasing Notes to offer, sell or otherwise transfer such Notes prior to the date that is one year after the later of the date of original issue and the last date on which either of the Issuer or any affiliate of the Issuer was the owner of such Notes (or any predecessor thereto) (the "Resale Restriction Termination Date") only (a) in the United States to a person whom we reasonably believe is a qualified institutional buyer (as defined in rule 144A under the Securities Act) in a transaction meeting the requirements of Rule 144A, (b) outside the United States in an

offshore transaction in accordance with Rule 904 of Regulation S under the Securities Act, (c) pursuant to an exemption from registration under the Securities Act provided by Rule 144 thereunder (if applicable) or (d) pursuant to an effective registration statement under the Securities Act, in each of cases (a) through (d) in accordance with any applicable securities laws of any state of the United States. In addition, we will, and each subsequent holder is required to, notify any purchaser of the Note evidenced hereby of the resale restrictions set forth above. The foregoing restrictions on resale will not apply subsequent to the Resale Restriction Termination Date. If any resale or other transfer of the Notes is proposed to be made to an institutional "accredited investor" prior to the Resale Restriction Termination Date, the transferor shall deliver a letter from the transferee substantially in the form of this letter to the Issuer and the Trustee, which shall provide, among other things, that the transferee is an institutional "accredited investor" within the meaning of Rule 501(a)(1), (2), (3) or (7) under the Securities Act and that it is acquiring such Notes for investment purposes and not for distribution in violation of the Securities Act. Each purchaser acknowledges that the Issuer and the Trustee reserve the right prior to the offer, sale or other transfer prior to the Resale Restriction Termination Date of the Notes pursuant to clause 2(b), 2(c) or 2(d) above to require the delivery of an opinion of counsel, certifications or other information satisfactory to the Issuer and the Trustee.

Dated: _____

TRANSFEREE: _____,

By: _____

Exhibit B

[FORM OF SUPPLEMENTAL INDENTURE]
SUPPLEMENTAL INDENTURE

SUPPLEMENTAL INDENTURE (this "Supplemental Indenture") dated as of [ ], among [NEW GUARANTOR] (the "New Guarantor"), CLUE OPCO LLC (or its successor), a Delaware limited liability company (the "Issuer"), and U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association, as trustee under the indenture referred to below (in such capacity, the "Trustee") and as notes collateral agent under the indenture referred to below (in such capacity, the "Notes Collateral Agent").

W I T N E S S E T H :

WHEREAS, the Issuer, the Trustee and the Notes Collateral Agent have heretofore executed an indenture, dated as of October 2, 2023 (as amended, supplemented or otherwise modified, the "Indenture"), providing for the issuance of the Issuer's 9.500% Senior Secured Notes due 2031 (the "Notes"), initially in the aggregate principal amount of $725,000,000;

WHEREAS, Sections 4.11 and 12.07 of the Indenture provide that under certain circumstances the Issuer is required to cause the New Guarantor to execute and deliver to the Trustee a supplemental indenture pursuant to which the New Guarantor shall guarantee the Guaranteed Obligations; and

WHEREAS, pursuant to Section 9.01 of the Indenture, the Trustee, the Notes Collateral Agent and the Issuer are authorized to execute and deliver this Supplemental Indenture;

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the New Guarantor, the Issuer, the Trustee and the Notes Collateral Agent mutually covenant and agree for the equal and ratable benefit of the holders of the Notes as follows:

1. Defined Terms. As used in this Supplemental Indenture, terms defined in the Indenture or in the preamble or recital hereto are used herein as therein defined, except that the term "holders" in this Supplemental Indenture shall refer to the term "holders" as defined in the Indenture and the Trustee acting on behalf of and for the benefit of such holders. The words "herein," "hereof" and "hereby" and other words of similar import used in this Supplemental Indenture refer to this Supplemental Indenture as a whole and not to any particular Section hereof.

2. Agreement to Guarantee. The New Guarantor hereby agrees, jointly and severally with all existing Guarantors (if any), to guarantee the Guaranteed Obligations on the terms and subject to the conditions set forth in Article XII of the Indenture and to be bound by (and be entitled to the benefits of) all other applicable provisions of the Indenture and the Notes and to perform all of the obligations and agreements of a Guarantor under the Indenture.

3. No Recourse Against Others. No director, officer, partner, employee, incorporator, manager, shareholder or stockholder or other owner of Equity Interests of the Issuer or any Guarantor, as such, will have any liability for any obligations of the Issuer or any Guarantor under the Notes, the

Indenture or the Guarantees, or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes.

4. Notices. All notices or other communications to the New Guarantor shall be given as provided in Section 13.02 of the Indenture.

5. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

6. Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.**

7. Trustee and Notes Collateral Agent Makes No Representation. The Trustee and the Notes Collateral Agent each accepts the amendments of the Indenture effected by this Supplemental Indenture on the terms and conditions set forth in the Indenture, including the terms and provisions defining and limiting the liabilities and responsibilities of the Trustee and the Notes Collateral Agent and providing for the indemnification of the Trustee and the Notes Collateral Agent. Without limiting the generality of the foregoing, neither the Trustee nor the Notes Collateral Agent shall be responsible in any manner whatsoever for or with respect to any of the recitals or statements contained herein, all of which recitals or statements are made solely by the Issuer, or for or with respect to (i) the validity or sufficiency of this Supplemental Indenture or any of the terms or provisions hereof, (ii) the proper authorization hereof by the Issuer and the New Guarantor, in each case, by action or otherwise, (iii) the due execution hereof by the Issuer and the New Guarantor or (iv) the consequences of any amendment herein provided for, and the Trustee and the Notes Collateral Agent each makes no representation with respect to any such matters.

8. Counterparts. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. One signed copy is enough to prove this Supplemental Indenture. Notwithstanding the foregoing, the exchange of copies of this Supplemental Indenture and of signature pages by facsimile or PDF transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture and signature pages for all purposes.

9. Effect of Headings. The Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions here.

[*Remainder of page intentionally left blank.*]

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

[CLUE OPCO LLC], as Issuer

By: _____
Name:
Title:

[NEW GUARANTOR], as a Guarantor

By: _____
Name:
Title:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, not in its individual capacity, but solely as Trustee and as Notes Collateral Agent

By: _____
Name:
Title:

Exhibit C

EXHIBIT D

FORM OF COMPLETION DATE SUPPLEMENTAL INDENTURE

This FIRST SUPPLEMENTAL INDENTURE, dated as of [_____] [____], 20[____] (this "Completion Date Supplemental Indenture"), is entered into by and among Clue Opco LLC, a Delaware limited liability company ("Opco"), the other parties that are signatories hereto as Guarantors, and U.S. Bank Trust Company, National Association, a national banking association, as trustee (in such capacity, the "Trustee") and notes collateral agent (in such capacity, the "Notes Collateral Agent").

W I T N E S S E T H:

WHEREAS, GN Bondco, LLC, a Delaware limited liability company (the "Escrow Issuer"), the Trustee and the Notes Collateral Agent have heretofore executed and delivered an indenture, dated as of October 2, 2023 (the "Initial Indenture" and, together with this Completion Date Supplemental Indenture, and as further amended, supplemented, waived or otherwise modified, the "Indenture") providing for the issuance of $725,000,000 aggregate principal amount of 9.500% Senior Secured Notes due 2031(the "Notes");

WHEREAS, the parties hereto desire to enter into this Completion Date Supplemental Indenture to evidence the assumption by Opco of all the payment obligations under the Notes and the Indenture;

WHEREAS, the Initial Indenture provides that, on the Completion Date, (x) Opco shall execute and deliver to the Trustee a supplemental indenture pursuant to which Opco shall assume all the obligations of the Escrow Issuer under the Indenture and the Notes and (y) the Guarantors shall execute and deliver to the Trustee a supplemental indenture pursuant to which each such Guarantor shall unconditionally guarantee, on a joint and several basis, the Guaranteed Obligations and the Indenture on the terms and conditions set forth herein and in the Initial Indenture;

WHEREAS, pursuant to Section 9.01 of the Initial Indenture, the Trustee, the Notes Collateral Agent, Opco and the Guarantors are authorized to execute and deliver this Completion Date Supplemental Indenture to amend or supplement the Initial Indenture without the consent of Holders of the Notes;

WHEREAS, Opco and each Guarantor has been duly authorized to enter into this Completion Date Supplemental Indenture; and

WHEREAS, all acts, conditions, proceedings and requirements necessary to make this Completion Date Supplemental Indenture a valid, binding and legal agreement enforceable in accordance with its terms for the purposes expressed herein, in accordance with its terms, have been duly done and performed.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

ARTICLE I
DEFINITIONS

Section 1.1. Defined Terms. As used in this Completion Date Supplemental Indenture, terms defined in the Indenture or in the preamble or recitals hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Completion Date Supplemental Indenture refer to this Completion Date Supplemental Indenture as a whole and not to any particular Section hereof.

ARTICLE II
ASSUMPTION AND AGREEMENTS

Section 2.1. Assumption of Obligations. Opco hereby agrees, as of the date hereof, to unconditionally assume the Escrow Issuer's Obligations under the Initial Indenture and the Notes on the terms and subject to the conditions set forth in the Indenture and the Notes and to be bound by all other provisions of the Indenture and the Notes applicable to the Issuer, to perform all of the obligations and agreements of the Issuer under the Indenture and the Notes and to become Issuer under the Indenture and the Notes.

ARTICLE III
AGREEMENT TO BE BOUND, GUARANTEE

Section 3.1. Agreement to Guarantee. Each Guarantor hereby agrees, jointly and severally, to guarantee the Guaranteed Obligations on the terms and subject to the conditions set forth in Article XII of the Indenture and to be bound by (and be entitled to the benefits of) all other applicable provisions of the Indenture and the Notes and to perform all of the obligations and agreements of a Guarantor under the Indenture.

ARTICLE IV
MISCELLANEOUS

Section 4.1. Notices. All notices and other communications to the Issuer and the Guarantors shall be given as provided in the Indenture to the Issuer and the Guarantors.

Section 4.2. Parties. Nothing expressed or mentioned herein is intended or shall be construed to give any Person, firm or corporation, other than the Holders, the Trustee and the Notes Collateral Agent, any legal or equitable right, remedy or claim under or in respect of this Completion Date Supplemental Indenture or the Indenture or any provision herein or therein contained.

Section 4.3. Severability. In case any provision in this Completion Date Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

Section 4.4. Execution and Delivery.

(a) Opco agrees that its assumption of all of the payment obligations under the Notes and the Indenture shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such assumption of all of the payment obligations under the Notes and the Indenture on the Notes.

(b) Each Guaranteeing Subsidiary agrees that the Guarantee shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of any such Guarantee.

Section 4.5. No Recourse Against Others. No past, present or future director, officer, employee, incorporator or stockholder of the Issuer or any of its Subsidiaries or Affiliates, as such (other than the Issuer and the Guarantors), shall have any liability for any obligations of the Issuer or the Guarantors under the Note Documents or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes and the Note Guarantees.

Section 4.6. Governing Law. This Completion Date Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 4.7. Counterparts. The parties may sign any number of copies of this Completion Date Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. This Completion Date Supplemental Indenture may be executed in multiple counterparts which, when taken together, shall constitute one instrument. The exchange of copies of this Completion Date Supplemental Indenture and of signature pages by facsimile or PDF transmissions shall constitute effective execution and delivery of this Completion Date Supplemental Indenture as to the parties hereto and may be used in lieu of the original Completion Date Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 4.8. Headings. The headings of the Articles and the Sections in this Completion Date Supplemental Indenture are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

Section 4.9. The Trustee and the Notes Collateral Agent. The Trustee and the Notes Collateral Agent make no representation or warranty as to the validity or sufficiency of this Completion Date Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

Section 4.10. Benefits Acknowledged.

(a) Opco acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Initial Indenture and this Completion Date Supplemental Indenture and that its assumption of all of the payment obligations under the Notes and the Indenture and the waivers made by it pursuant to this Completion Date Supplemental Indenture are knowingly made in contemplation of such benefits.

(b) Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Initial Indenture and this Completion Date Supplemental Indenture and that the guarantee and waivers made by it pursuant to its guarantee are knowingly made in contemplation of such benefits.

Section 4.12. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Completion Date Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder heretofore or hereafter authenticated and delivered shall be bound hereby.

[Signature Page Follows]

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

CLUE OPCO LLC, as Issuer

By: _____
Name:
Title:

[COMPLETION DATE GUARANTORS], each as a Guarantor

By: _____
Name:
Title:

U.S. BANK NATIONAL ASSOCIATION, as Trustee and as Notes Collateral Agent

By: _____
Name:
Title:

Exhibit D

EXHIBIT E

POSITION REPRESENTATION AND VERIFICATION FORM

[●], 20[●]

[GN Bondco, LLC][Clue Opco LLC]
[c/o Omni Newco LLC][c/o Forward Air Corporation]
[3200 Olympus Blvd., Suite 300][1915 Snapps Ferry Road, Bldg. N]
[Dallas, TX 75019] [Greeneville, TN 37745]

U.S. Bank Trust Company, National Association
[333 Commerce Street, Suite 900]
[Nashville, TN 37201]
Attention: [●]

Re: [GN Bondco, LLC][Clue Opco LLC] (the "Issuer")

This Position Representation and Verification Form, is hereby delivered by the undersigned to the Issuer and Trustee in connection with the [INSERT DESCRIPTION OF APPLICABLE NOTEHOLDER DIRECTION], dated as of the date hereof, attached as an exhibit hereto. Capitalized terms used, but not defined in this Position Representation and Verification Form shall have the meanings assigned to them in the Indenture. The undersigned hereby represents and warrants and covenants to the Issuer and the Trustee as set forth below.

Position Representation

The undersigned is not (or, in the case the undersigned is the Depositary or its nominee, the undersigned is being instructed solely by beneficial owners of Notes that have represented to the undersigned that they are not) Net Short.

The undersigned hereby acknowledges and agrees that if this form is being executed and delivered to the Issuer and the Trustee in connection with a Noteholder Direction in the form of a notice of Default, the foregoing representation shall be deemed to be a continuing representation until the resulting Event of Default is cured or otherwise ceases to exist or the Notes are accelerated.

Verification Covenant

The undersigned hereby agrees to provide the Issuer with such information as the Issuer may reasonably request from time to time in order to verify the accuracy of the foregoing Position Representation within five Business Days of a request therefor.

Date: _____ Your Signature _____

Exhibit E

[ATTACH APPLICABLE NOTEHOLDER DIRECTION]

Exhibit E

Exhibit 4.2

Execution Version

FIRST SUPPLEMENTAL INDENTURE

Dated as of January 25, 2024

To

INDENTURE

Dated as of October 2, 2023

CLUE OPCO LLC,
as Issuer,

the GUARANTORS party hereto
as Guarantors,

and

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION
as Trustee and Notes Collateral Agent

$725,000,000 9.500% SENIOR SECURED NOTES DUE 2031

This FIRST SUPPLEMENTAL INDENTURE, dated as of January 25, 2024 (this "Completion Date Supplemental Indenture"), is entered into by and among Clue Opco LLC, a Delaware limited liability company ("Opco"), the other parties that are signatories hereto as Guarantors, and U.S. Bank Trust Company, National Association, a national banking association, as trustee (in such capacity, the "Trustee") and notes collateral agent (in such capacity, the "Notes Collateral Agent").

W I T N E S S E T H:

WHEREAS, GN Bondco, LLC, a Delaware limited liability company (the "Escrow Issuer"), the Trustee and the Notes Collateral Agent have heretofore executed and delivered an indenture, dated as of October 2, 2023 (the "Initial Indenture" and, together with this Completion Date Supplemental Indenture, and as further amended, supplemented, waived or otherwise modified, the "Indenture") providing for the issuance of $725,000,000 aggregate principal amount of 9.500% Senior Secured Notes due 2031(the "Notes");

WHEREAS, the parties hereto desire to enter into this Completion Date Supplemental Indenture to evidence the assumption by Opco of all the payment obligations under the Notes and the Indenture;

WHEREAS, the Initial Indenture provides that, on the Completion Date, (x) Opco shall execute and deliver to the Trustee a supplemental indenture pursuant to which Opco shall assume all the obligations of the Escrow Issuer under the Indenture and the Notes and (y) the Guarantors shall execute and deliver to the Trustee a supplemental indenture pursuant to which each such Guarantor shall unconditionally guarantee, on a joint and several basis, the Guaranteed Obligations and the Indenture on the terms and conditions set forth herein and in the Initial Indenture;

WHEREAS, pursuant to Section 9.01 of the Initial Indenture, the Trustee, the Notes Collateral Agent, Opco and the Guarantors are authorized to execute and deliver this Completion Date Supplemental Indenture to amend or supplement the Initial Indenture without the consent of Holders of the Notes;

WHEREAS, Opco and each Guarantor has been duly authorized to enter into this Completion Date Supplemental Indenture; and

WHEREAS, all acts, conditions, proceedings and requirements necessary to make this Completion Date Supplemental Indenture a valid, binding and legal agreement enforceable in accordance with its terms for the purposes expressed herein, in accordance with its terms, have been duly done and performed.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties mutually covenant and agree for the equal and ratable benefit of the Holders as follows:

ARTICLE I
DEFINITIONS

Section 1.1. Defined Terms. As used in this Completion Date Supplemental Indenture, terms defined in the Indenture or in the preamble or recitals hereto are used herein as therein defined. The words "herein," "hereof" and "hereby" and other words of similar import used in this Completion Date Supplemental Indenture refer to this Completion Date Supplemental Indenture as a whole and not to any particular Section hereof.

ARTICLE II
ASSUMPTION AND AGREEMENTS

Section 2.1. Assumption of Obligations. Opco hereby agrees, as of the date hereof, to unconditionally assume the Escrow Issuer's Obligations under the Initial Indenture and the Notes on the terms and subject to the conditions set forth in the Indenture and the Notes and to be bound by all other provisions of the Indenture and the Notes applicable to the Issuer, to perform all of the obligations and agreements of the Issuer under the Indenture and the Notes and to become Issuer under the Indenture and the Notes.

ARTICLE III
AGREEMENT TO BE BOUND, GUARANTEE

Section 3.1. Agreement to Guarantee. Each Guarantor hereby agrees, jointly and severally, to guarantee the Guaranteed Obligations on the terms and subject to the conditions set forth in Article XII of the Indenture and to be bound by (and be entitled to the benefits of) all other applicable provisions of the Indenture and the Notes and to perform all of the obligations and agreements of a Guarantor under the Indenture.

ARTICLE IV
MISCELLANEOUS

Section 4.1. Notices. All notices and other communications to the Issuer and the Guarantors shall be given as provided in the Indenture to the Issuer and the Guarantors.

Section 4.2. Parties. Nothing expressed or mentioned herein is intended or shall be construed to give any Person, firm or corporation, other than the Holders, the Trustee and the Notes Collateral Agent, any legal or equitable right, remedy or claim under or in respect of this Completion Date Supplemental Indenture or the Indenture or any provision herein or therein contained.

Section 4.3. Severability. In case any provision in this Completion Date Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

Section 4.4. Execution and Delivery.

(a) Opco agrees that its assumption of all of the payment obligations under the Notes and the Indenture shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such assumption of all of the payment obligations under the Notes and the Indenture on the Notes.

(b) Each Guaranteeing Subsidiary agrees that the Guarantee shall remain in full force and effect notwithstanding any failure to endorse on each Note a notation of any such Guarantee.

Section 4.5. No Recourse Against Others. No past, present or future director, officer, employee, incorporator or stockholder of the Issuer or any of its Subsidiaries or Affiliates, as such (other than the Issuer and the Guarantors), shall have any liability for any obligations of the Issuer or the Guarantors under the Note Documents or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes and the Note Guarantees.

Section 4.6. Governing Law. This Completion Date Supplemental Indenture shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 4.7. Counterparts. The parties may sign any number of copies of this Completion Date Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement. This Completion Date Supplemental Indenture may be executed in multiple counterparts which, when taken together, shall constitute one instrument. The exchange of copies of this Completion Date Supplemental Indenture and of signature pages by facsimile or PDF transmissions shall constitute effective execution and delivery of this Completion Date Supplemental Indenture as to the parties hereto and may be used in lieu of the original Completion Date Supplemental Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or PDF shall be deemed to be their original signatures for all purposes.

Section 4.8. Headings. The headings of the Articles and the Sections in this Completion Date Supplemental Indenture are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provisions hereof.

Section 4.9. The Trustee and the Notes Collateral Agent. The Trustee and the Notes Collateral Agent make no representation or warranty as to the validity or sufficiency of this Completion Date Supplemental Indenture or with respect to the recitals contained herein, all of which recitals are made solely by the other parties hereto.

Section 4.10. Benefits Acknowledged.

(a) Opco acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Initial Indenture and this Completion Date Supplemental Indenture and that its assumption of all of the payment obligations under the Notes and the Indenture and the waivers made by it pursuant to this Completion Date Supplemental Indenture are knowingly made in contemplation of such benefits.

(b) Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by the Initial Indenture and this Completion Date Supplemental Indenture and that the guarantee and waivers made by it pursuant to its guarantee are knowingly made in contemplation of such benefits.

Section 4.12. Ratification of Indenture; Supplemental Indentures Part of Indenture. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Completion Date Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder heretofore or hereafter authenticated and delivered shall be bound hereby.

[Signature Page Follows]

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

CLUE OPCO LLC, as Issuer

By: /s/ Rebecca Garbrick
Name: Rebecca Garbrick
Title: Chief Financial Officer

FORWARD AIR CORPORATION, as a Guarantor

By: /s/ Rebecca Garbrick
Name: Rebecca Garbrick
Title: Chief Financial Officer

CENTRAL STATES TRUCKING LLC
FACSBI, LLC
FAF, LLC
FORWARD AIR LOGISTICS SERVICES, LLC
FORWARD AIR ROYALTY, LLC
FORWARD AIR SERVICES, LLC
FORWARD AIR TECHNOLOGY AND LOGISTICS SERVICES, LLC
FORWARD AIR, LLC
TAF, LLC
TOWNE AIR FREIGHT, LLC
TOWNE HOLDINGS, LLC
TQI HOLDINGS, LLC
TQI LLC
A G WORLD TRANSPORT, INC.
AG CUSTOMS BROKERAGE, INC.
BIGGER, FARTHER, FASTER, LLC
EPIC FREIGHT SOLUTIONS LLC
GROUND EXPRESS SERVICE, INC.
IVIA SERVICES, LLC
MACH 1 AIR SERVICES (HONG KONG), LLC
MACH 1 AIR SERVICES (MEXICO), LLC
MACH 1 AIR SERVICES, LLC
MACH 1 GLOBAL SERVICES (INDIA), LLC
MACH 1 GLOBAL SERVICES (INDONESIA), LLC
MACH 1 GLOBAL SERVICES (U.A.E.), LLC
MILLHOUSE EXPRESS SERVICES, LLC
MILLHOUSE LOGISTICS SERVICES, LLC
OMNI HOLDCO, LLC
OMNI INTERMEDIATE HOLDINGS, LLC
OMNI LOGISTICS, LLC
OMNI NEWCO, LLC
OMNI PARENT, LLC
OMNI TRADE SERVICES, LLC
PACIFIC LOGISTICS, LLC
TRINITY LOGISTICS USA, INC., each as a Guarantor

By: /s/ Rebecca Garbrick
Name: Rebecca Garbrick
Title: Chief Financial Officer

U.S. BANK, NATIONAL ASSOCIATION, as
Trustee and as Notes Collateral Agent

By: /s/ Connie Jaco
Name: Connie Jaco
Title: Vice President

[Signature Page to First Supplemental Indenture]

Exhibit 10.1

EXECUTION VERSION

CREDIT AGREEMENT

by and among

GN LOANCO, LLC,
as Escrow Borrower,

THE CREDIT PARTIES SIGNATORY HERETO FROM TIME TO TIME,
as Borrower or as Guarantors, as applicable,

THE LENDERS SIGNATORY HERETO
FROM TIME TO TIME,
as Lenders and, if applicable, L/C Issuers,

CITIBANK, N.A.
as Agent,

CITIGROUP GLOBAL MARKETS INC.,
MORGAN STANLEY SENIOR FUNDING, INC.,
GOLDMAN SACHS BANK USA,
JPMORGAN CHASE BANK, N.A.,
U.S. BANK NATIONAL ASSOCIATION,
PNC CAPITAL MARKETS LLC,
CAPITAL ONE, NATIONAL ASSOCIATION,
CITIZENS BANK, N.A.,
DEUTSCHE BANK SECURITIES INC., and
TD SECURITIES (USA) LLC

as Joint Lead Arrangers and Joint Bookrunners
Dated as of December 19, 2023

THE TERM B LOANS ISSUED PURSUANT TO THIS AGREEMENT WERE ISSUED WITH ORIGINAL ISSUE DISCOUNT FOR PURPOSES OF SECTION 1271 ET SEQ. OF THE UNITED STATES INTERNAL REVENUE CODE OF 1986, AS AMENDED FROM TIME TO TIME. BEGINNING NO LATER THAN TEN DAYS AFTER THE ESCROW RELEASE DATE, ANY TERM B LENDER MAY OBTAIN THE ISSUE PRICE, AMOUNT OF ORIGINAL ISSUE DISCOUNT, ISSUE DATE AND YIELD TO MATURITY OF THE TERM B LOANS BY SUBMITTING A WRITTEN REQUEST FOR SUCH INFORMATION TO BORROWER AT THE ADDRESS SET FORTH IN SCHEDULE 12.10.

TABLE OF CONTENTS

INDEX OF APPENDICES

CREDIT AGREEMENT

This CREDIT AGREEMENT (as the same may be amended, supplemented, restated or otherwise modified from time to time, this "Agreement"), dated as of December 19, 2023, by and among GN LOANCO, LLC, a Delaware limited liability company ("Escrow Borrower"); the other Credit Parties signatory hereto from time to time; CITIBANK, N.A. ("Citi"), as administrative agent and collateral agent for the Lenders and L/C Issuers (together, with any permitted successors in such capacity, "Agent"); and the Lenders and L/C Issuers signatory hereto from time to time.

RECITALS

WHEREAS, Borrower previously entered into that certain Agreement and Plan of Merger, dated as of August 10, 2023 (as amended, restated, supplemented or otherwise modified from time to time), by and among Parent Guarantor, Borrower, Omni, the 2031 Notes Escrow Issuer and the other entities party thereto (the "Merger Agreement"), pursuant to which Borrower will directly or indirectly acquire (the "Merger") all of the outstanding equity interests of Omni;

WHEREAS, in connection with the Merger and the other Transactions, Borrower has requested that the Lenders extend credit to Borrower in the form of (x) Term B Loans in an aggregate principal amount not to exceed $1,125,000,000 and (y) Revolving Credit Commitments in an initial aggregate principal amount as of the Escrow Funding Date not to exceed $0 (which Borrower expects to be increased to an aggregate principal amount not to exceed $400,000,000 on the Escrow Release Date pursuant to the Escrow Release Date Incremental Revolving Amendment), and the Lenders are willing to do so on the terms and conditions set forth herein;

WHEREAS, in connection with the Merger and the other Transactions, (x) 2031 Notes Escrow Issuer has issued and sold 2031 Notes in an aggregate principal amount of $725,000,000 and (y) upon completion of the Merger, 2031 Notes Escrow Issuer will merge with and into Borrower, with Borrower assuming the obligations of 2031 Notes Escrow Issuer under the 2031 Notes and the 2031 Notes Indenture;

WHEREAS, in connection with the Merger and the other Transactions, on the Escrow Funding Date, Escrow Borrower will (i) borrow Term B Loans in an aggregate principal amount of $1,125,000,000 and (ii) deposit the proceeds of the Term B Loans into the Escrow Account;

WHEREAS, on the Escrow Release Date, substantially simultaneously with the effective time of the Merger, (i) the Assumption and Joinder will occur and (ii) the net proceeds of the Term B Loans, the 2031 Notes and the initial borrowings under the Revolving Credit Facility, together with cash on hand, will be used (a) to pay the cash consideration and any other amounts payable by Parent Guarantor and its Subsidiaries in connection with the Merger under the Merger Agreement, (b) to effect the Refinancing and (c) to pay the fees and expenses in connection with the Transactions;

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained, and for other good and valuable consideration, the parties hereto agree as follows:

1. DEFINITIONS, ACCOUNTING PRINCIPLES AND OTHER INTERPRETIVE MATTERS.

1.1 Definitions. For purposes of this Agreement:

"2031 Notes" means Borrower's 9.50% Senior Secured Notes due 2031, originally issued on October 2, 2023 by the 2031 Notes Escrow Issuer, in an initial aggregate principal amount of $725,000,000.

"2031 Notes Escrow Issuer" means GN Bondco, LLC, a Delaware limited liability company that will merge with and into Borrower on the Escrow Release Date.

"2031 Notes Indenture" means the Indenture dated as of October 2, 2023 among Borrower, as successor to the 2031 Notes Escrow Issuer, and U.S. Bank Trust Company, National Association, as trustee and as collateral agent, under which the 2031 Notes were issued.

"2031 Notes Offering Memorandum" means the Offering Memorandum, dated September 22, 2023, relating to the issuance of the 9.50% Senior Secured Notes due 2031 issued on October 2, 2023 in an aggregate principal amount of $725,000,000.

"Acquired Indebtedness" means, with respect to any specified Person: (1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, and (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person. Acquired Indebtedness will be deemed to have been Incurred, with respect to clause (1) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary and, with respect to clause (2) of the preceding sentence, on the date of consummation of such acquisition of such assets.

"Additional Lender" means, at any time, any Person (other than a natural person) that, in any case, is not an existing Lender and that agrees to provide any portion of any (a) Incremental Facility in accordance with Section 2.15 or (b) Credit Agreement Refinancing Indebtedness pursuant to a Refinancing Amendment in accordance with Section 2.16; *provided* that each Additional Lender shall be subject to the approval of Agent, Borrower and/or the L/C Issuers (such approval not to be unreasonably withheld or delayed), in each case solely to the extent any such consent would be required from Agent, Borrower and/or the L/C Issuers under Section 11.1(a)(iv) for an assignment of Loans or Commitments to such Additional Lender.

"Additional Refinancing Amount" means, in connection with the Incurrence of any Refinancing Indebtedness, the aggregate principal amount of additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay accrued and unpaid interest, premiums (including tender premiums), underwriting discounts, commissions, expenses, defeasance costs and fees in respect thereof.

"Additional Revolving Credit Commitment" has the meaning ascribed to it in Section 2.15(a).

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

"Affected Lender" has the meaning ascribed to it in Section 2.14(d).

"Affiliate" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, "control" (including, with correlative meanings, the terms "controlling," "controlled by" and "under common control with"), as used with respect to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such Person, whether through the ownership of voting securities, by agreement or otherwise.

"Affiliate Transaction" has the meaning ascribed to it in Section 7.5(a).

"Agent" has the meaning ascribed to it in the preamble to this Agreement.

"Agent Parties" has the meaning ascribed to it in Section 12.21(b).

"Agent's Office" means Agent's address and, as appropriate, account as set forth in Schedule 12.10, or such other address or account as Agent may from time to time notify to Borrower, the L/C Issuers and the Lenders.

"Aggregate Revolving Credit Exposure" means, at any time, the sum of (a) the aggregate principal amount of Revolving Credit Loans outstanding plus (b) the aggregate amount of Letter of Credit Obligations outstanding.

"Agreement" has the meaning ascribed to such term in the preamble hereto.

"All-In Yield" means, as to any Indebtedness, the yield thereof in the form of interest rate, margin, original issue discount, upfront fees (and effectively equivalent yield related payments), a Term SOFR floor or Base Rate floor greater than the rate of the corresponding benchmark rate as of the date such Indebtedness is Incurred (with only such greater amount being equated to interest margins for purposes of determining All-In Yield); *provided* that original issue discount and upfront fees shall be equated to interest rate assuming a four-year life to maturity (or, if less, the stated life to maturity at the time of its Incurrence of the applicable Indebtedness); and *provided, further,* that "All-In Yield" shall not include arrangement fees, structuring fees or underwriting or similar fees paid to arrangers for such Indebtedness that are not generally shared with the lenders providing such Indebtedness.

"Allocable Amount" has the meaning ascribed to it in Section 13.7(b).

"Applicable Commitment Fee Percentage" means, for any day, (i) until delivery of a Compliance Certificate pursuant to Section 5.1(a) in respect of the first full fiscal quarter ending after the Escrow Release Date, 0.50% per annum and (ii) thereafter, the percentages per annum set forth in the table below, based upon the Consolidated First Lien Net Leverage Ratio as set forth in the most recent Compliance Certificate delivered to Agent pursuant to Section 5.1(a):

Pricing Level	Consolidated First Lien Net Leverage Ratio	Applicable Commitment Fee Percentage
I	> 3.00:1.00	0.50%
II	≤ 3.00:1.00 but > 2.50:1.00	0.375%
III	≤ 2.50:1.00	0.25%

Any increase or decrease in the Applicable Commitment Fee Percentage pursuant to clause (ii) above resulting from delivery of a Compliance Certificate that evidences a change in the Consolidated First Lien Net Leverage Ratio shall become effective from, and including, the first Business Day immediately following the date of delivery of such Compliance Certificate pursuant to Section 5.1(a); provided that, if a Compliance Certificate is not delivered on or prior to the date required by Section 5.1(a), the Applicable Commitment Fee Percentage set forth in "Pricing Level I" in the table shall apply commencing on, and including, the first Business Day immediately following the date the Compliance Certificate was required to have been delivered (but was not so delivered) and continuing to, but excluding, the first Business Day immediately following the delivery of such Compliance Certificate.

"Applicable Margin" shall mean, for any day (x) with respect to Term B Loans, with respect to (i) any Term SOFR Loan, 4.50% per annum and (ii) any Base Rate Loan, 3.50% per annum and (y) with respect to Revolving Credit Loans, (A) until delivery of a Compliance Certificate pursuant to Section 5.1(a) in respect of the first full fiscal quarter ending after the Escrow Release Date, with respect to (i) any Term SOFR Loan, 4.25% per annum and (ii) any Base Rate Loan, 3.25% per annum and (B) thereafter, the applicable margin per annum set forth below under the caption "Term SOFR Margin" or "Base Rate Margin," as the case may be, based upon the Consolidated First Lien Net Leverage Ratio as set forth in the most recent Compliance Certificate delivered to Agent pursuant to Section 5.1(a):

Pricing Level	Consolidated First Lien Net Leverage Ratio	Term SOFR Margin	Base Rate Margin
I	> 3.00:1.00	4.25%	3.25%
II	≤ 3.00:1.00 but > 2.50:1.00	4.00%	3.00%
III	≤ 2.50:1.00	3.75%	2.75%

Any increase or decrease in the Applicable Margin pursuant to clause (y)(B) above resulting from delivery of a Compliance Certificate that evidences a change in the Consolidated First Lien Net Leverage Ratio shall become effective from, and including, the first Business Day immediately following the date of delivery of such Compliance Certificate pursuant to Section 5.1(a); provided that, if a Compliance Certificate is not delivered on or prior to the date required by Section 5.1(a), the Applicable Margin set forth in "Pricing Level I" in the table shall apply commencing on, and including, the first Business Day immediately following the date the Compliance Certificate was required to have been delivered (but was not so delivered) and continuing to, but excluding, the first Business Day immediately following the delivery of such Compliance Certificate.

"Approved Commercial Bank" means a commercial bank with a consolidated combined capital and surplus of at least $5,000,000,000.

"Approved Fund" means, with respect to any Lender, any Person (other than a natural Person) that (a) is or will be engaged in making, purchasing or holding of revolving commercial loans and similar extensions of credit in the ordinary course of its business and (b) is advised or managed by (i) such Lender, (ii) any Affiliate of such Lender or (iii) any Person (other than a natural Person) or any Affiliate of any Person (other than a natural Person) that administers or manages such Lender.

"Asset Sale" means:

(1) the sale, conveyance, transfer or other disposition (whether in a single transaction or a series of related transactions) of property or assets (including by way of Sale/ Leaseback Transactions) outside the ordinary course of business of Borrower or any Restricted Subsidiary (each referred to in this definition as a "disposition"); or

(2) the issuance or sale of Equity Interests (other than directors' qualifying shares and shares issued to foreign nationals or other third parties to the extent required by applicable law) of any Restricted Subsidiary (other than to Borrower or another Restricted Subsidiary) (whether in a single transaction or a series of related transactions),

in each case other than:

(a) a disposition of Cash Equivalents or Investment Grade Securities or property that is no longer used or useful in the conduct of the business of Borrower and the Restricted Subsidiaries, or obsolete, damaged, surplus, uneconomic, negligible or worn out property or equipment in the ordinary course of business (including the abandonment of any intellectual property or surrender or transfer for no consideration) or otherwise as may be required pursuant to the terms of any lease, sublease, license or sublicense;

(b) any disposition permitted pursuant to Section 7.8 or any disposition that constitutes a Change of Control;

(c) any Restricted Payment or Permitted Investment that is permitted to be made, and is made, underSection 7.2;

(d) any disposition of assets of Borrower or any Restricted Subsidiary or issuance or sale of Equity Interests of Borrower or any Restricted Subsidiary, which assets or Equity Interests so disposed or issued in any single transaction or series of related transactions have an aggregate Fair Market Value (as determined in good faith by Borrower) of less than $50.0 million per transaction or series of related transactions;

(e) any disposition of property or assets, or the sale or issuance of securities, by Borrower or a Restricted Subsidiary to Borrower or a Restricted Subsidiary;

(f) any disposition of an Investment in, or the Capital Stock of, any joint venture to the extent required by the terms of customarybuy-sell type arrangements entered into in connection with the formation of such joint venture;

(g) any exchange of assets (including a combination of assets and Cash Equivalents) for assets related to a Similar Business of comparable or greater market value or usefulness to the business of Borrower and the Restricted Subsidiaries as a whole, as determined in good faith by Borrower;

(h) foreclosure or any similar action with respect to any property or other asset of Borrower or any of its Restricted Subsidiaries;

(i) any disposition of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(j) the lease, assignment or sublease of any real or personal property in the ordinary course of business;

(k) any sale of inventory or other assets in the ordinary course of business;

(l) any grant in the ordinary course of business of any license or sublicense of patents, trademarks,know-how or any other intellectual property;

(m) any swap of assets, or lease, assignment or sublease of any real or personal property, in exchange for services (including in connection with any outsourcing arrangements) of comparable or greater value or usefulness to the business of Borrower and the Restricted Subsidiaries as a whole, as determined in good faith by Borrower;

(n) a transfer of assets of the type specified in the definition of "Securitization Financing" (or a fractional undivided interest therein), including by a Securitization Subsidiary in a Qualified Securitization Financing;

(o) any financing transaction with respect to property built or acquired by Borrower or any Restricted Subsidiary after the Escrow Release Date, including any Sale/Leaseback Transaction or asset securitization permitted by this Agreement;

(p) dispositions in connection with Permitted Liens;

(q) any disposition of Capital Stock of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than Borrower or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(r) dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(s) any surrender, expiration or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims of any kind;

(t) any of the Transactions;

(u) any transfer of accounts receivable and related assets in connection with any factoring or similar arrangements entered into by a Foreign Subsidiary on arm's-length terms;

(v) dispositions of real property (i) for the purpose of (x) resolving minor title disputes or defects, including encroachments and lot line adjustments, or (y) granting easements, rights of way or access and egress agreements, or (ii) to any Governmental Authority in consideration of the grant, issuance, consent or approval of or to any development agreement, change of zoning or zoning variance, permit or authorization in connection with the conduct of any Credit Party's business, in each case which does not materially interfere with the business conducted on such real property; and

(w) transfers of property to the extent subject to a Casualty Event.

"Assignment Agreement" has the meaning ascribed to it in Section 11.1(a)(i).

"Assumption and Joinder" means, (a) the consummation of the Escrow Merger, (b) Borrower, as the surviving entity of the Escrow Merger, executing and delivering the Escrow Release Date Assumption and Joinder Agreement, (c) Parent Guarantor and each Subsidiary of Borrower as of the Escrow Release Date that is not an Excluded Subsidiary executing and delivering the Escrow Release Date Assumption and Joinder Agreement and (d) Parent Guarantor, Borrower and each Subsidiary of Borrower as of the Escrow Release Date that is not an Excluded Subsidiary executing and delivering the Collateral Documents required to be executed and delivered on the Escrow Release Date.

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, (a) if such Benchmark is a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement and (b) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining frequency of making payments of interest calculated with reference to such Benchmark, in each case as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 2.18(e).

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

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

"Bankruptcy Code" means the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq.

"Bankruptcy Law" means the Bankruptcy Code or any similar Federal or state law for the relief of debtors.

"Base Rate" means, for any day, a rate per annum equal to the highest of (a) the Prime Rate in effect on such day, (b) the Federal Funds Rate in effect on such day plus 0.50% and (c) Term SOFR for a one-month tenor in effect on such day plus 1.00%. Any change in the Base Rate due to a change in the Prime Rate, the Federal Funds Rate or Term SOFR shall be effective from and including the effective date of such change in the Prime Rate, the Federal Funds Rate or Term SOFR, respectively. In no event shall the Base Rate be less than 1.75%.

"Base Rate Loan" means a Loan or portion thereof bearing interest by reference to the Base Rate.

"Base Rate Margin" means, with respect to any Class, the per annum interest rate margin from time to time in effect and payable with respect to Base Rate Loans of such Class, as determined in accordance with the definition of "Applicable Margin".

"Base Rate Term SOFR Determination Day" has the meaning specified in the definition of "Term SOFR".

"Benchmark" means, initially, the Term SOFR Reference Rate; provided that if a Benchmark Transition Event has occurred with respect to the Term SOFR Reference Rate or the then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 2.18(a).

"Benchmark Replacement" means, with respect to any Benchmark Transition Event for any then-current Benchmark, the sum of: (a) the alternate benchmark rate that has been selected by Agent and Borrower as the replacement for such Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for Dollar-denominated syndicated credit facilities at such time and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than 0.75% per annum, such Benchmark Replacement will be deemed to be 0.75% per annum for the purposes of this Agreement and the other Loan Documents.

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

"Benchmark Replacement Date" means the earliest to occur of the following events with respect to such then-current Benchmark:

(1) in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) the date on which the administrator of such Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the first date on which all Available Tenors of such Benchmark (or the published component used in the calculation thereof) have been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) to be non-representative; provided that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) and even if any Available Tenor of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Event" means the occurrence of one or more of the following events with respect to such then-current Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Federal Reserve Board, the NYFRB, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), in each case, which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Start Date" means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

"Benchmark Unavailability Period" means the period (if any) (a) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.18 and (b) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for all purposes hereunder and under any Loan Document in accordance with Section 2.18.

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

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

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

"Board of Directors" means, as to any Person, the board of directors or managers or functional equivalent of the foregoing, as applicable, of such Person or any direct or indirect parent of such Person (or, if such Person is a partnership, the board of directors or managers or functional equivalent of the foregoing of the general partner of such Person) or any duly authorized committee thereof.

"Bona Fide Debt Fund" means any debt fund or unregulated lending entity that is engaged in making, purchasing or holding commercial loans and similar extensions of credit in the ordinary course of business which is managed, sponsored or advised by any Person controlling, controlled by or under common control with (a) any Competitor and/or any of its Subsidiaries or (b) any Affiliate of such Competitor, but with respect to which no personnel involved with any investment in such Person (other than a limited number of senior employees in connection with the relevant Person's internal legal, compliance, risk management and/or credit practices) (i) directly or indirectly makes, has the right to make or participates with others in making any investment decisions with respect to such debt fund or unregulated lending entity or (ii) has access to any information (other than information that is publicly available) relating to Parent Guarantor, Omni or any of their respective Subsidiaries or any entity that forms a part of any of their respective businesses.

"Borrower" means, unless the context otherwise requires, (x) prior to the Escrow Release Date, Escrow Borrower and (y) on and after the Escrow Release Date, Clue Opco LLC, a Delaware limited liability company (but only from and after such Person's execution and delivery of the Escrow Release Date Assumption and Joinder Agreement on the Escrow Release Date).

"Borrower Materials" has the meaning ascribed to it in Section 10.13(a).

"Business Day" means any day that is not a Saturday, Sunday or other day that is a legal holiday under the laws of the State of New York or is a day on which banking institutions in such state are authorized or required by Law to close.

"Capital Expenditures" shall mean, for any period, the additions to property, plant and equipment, capitalized investment and development costs, and other capital expenditures (including capitalized software) of Borrower and its consolidated Subsidiaries that are (or should be) set forth in a consolidated statement of cash flows of Borrower for such period prepared in accordance with GAAP.

"Capital Stock" means:

(1) in the case of a corporation, corporate stock or shares;

(2) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of corporate stock;

(3) in the case of a partnership or limited liability company, partnership or membership interests (whether general or limited); and

(4) any other interest or participation that confers on a Person the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person.

"Capitalized Lease Obligation" means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the footnotes thereto) in accordance with GAAP as in effect on December 31, 2018; *provided* that obligations of Borrower or the Restricted Subsidiaries, or of a special purpose or other entity not consolidated with Borrower and the Restricted Subsidiaries that (a) initially were not included on the consolidated balance sheet of Borrower as capital lease obligations and were subsequently characterized as capital lease obligations or, in the case of such a special purpose or other entity becoming consolidated with Borrower and the Restricted Subsidiaries were required to be characterized as capital lease obligations upon such consolidation, in either case, due to a change in accounting treatment or otherwise, or (b) were required to be characterized as capital lease obligations but would not have been required to be treated as capital lease obligations on December 31, 2018 had they existed at that time, shall for all purposes not be treated as Capitalized Lease Obligations or Indebtedness.

"Cash Collateralize" means to pledge and deposit with or deliver to Agent, for the benefit of one or more of the L/C Issuers or Revolving Lenders, as collateral for Letter of Credit Obligations or obligations of Revolving Lenders to fund participations in respect of Letter of Credit Obligations, cash or deposit account balances or, if Agent and each applicable L/C Issuer shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to Agent and each applicable L/C Issuer. "Cash Collateral" shall have a meaning analogous to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Collateral Account" has the meaning ascribed to it in Section 2.6(c)(i).

"Cash Equivalents" means:

(1) Dollars, pounds sterling, euros, Canadian dollars, Singapore dollars, the national currency of any member state in the European Union or such other local currencies held by Borrower or a Restricted Subsidiary from time to time in the ordinary course of business;

(2) securities issued or directly and fully guaranteed or insured by the U.S. government, Canada, Switzerland or any country that is a member of the European Union or any agency or instrumentality thereof in each case maturing not more than two years from the date of acquisition;

(3) certificates of deposit, time deposits and eurodollar time deposits with maturities of one year or less from the date of acquisition, bankers' acceptances, in each case with maturities not exceeding one year and overnight bank deposits, in each case with any commercial bank having capital and surplus in excess of $250.0 million and whose long-term debt is rated at least "A" or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency);

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

(5) commercial paper issued by a corporation (other than an Affiliate of Borrower) rated at least "A-1" or the equivalent thereof by Moody's or S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) and in each case maturing within one year after the date of acquisition;

(6) readily marketable direct obligations issued by any state of the United States of America or any political subdivision thereof or any Canadian province having at least a rating of Aa3 from Moody's or a rating of AA- from S&P (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;

(7) Indebtedness issued by Persons with a rating of "A" or higher from S&P or "A2" or higher from Moody's (or reasonably equivalent ratings of another internationally recognized ratings agency) in each case with maturities not exceeding two years from the date of acquisition;

(8) investment funds investing at least 95% of their assets in securities of the types described in clauses (1) through (7) above; and

(9) instruments equivalent to those referred to in clauses (1) through (8) above denominated in any foreign currency comparable in credit quality and tenor to those referred to above and commonly used by corporations for cash management purposes in any jurisdiction outside the United States of America to the extent reasonably required in connection with any business conducted by any Subsidiary organized in such jurisdiction.

"Cash Management Agreement" means any agreement to provide to Borrower or any Restricted Subsidiary any Cash Management Services.

"Cash Management Bank" means any Person that is a Lender, Lead Arranger or Agent or an Affiliate of a Lender, Lead Arranger or Agent (x) on the Escrow Release Date, with respect to Cash Management Agreements existing on the Escrow Release Date or (y) at the time it enters into a Cash Management Agreement, in each case, in its capacity as a party to such Cash Management Agreement, in each case, regardless of whether such Person ceases to be a Lender, Lead Arranger or Agent (or an Affiliate thereof), as the case may be.

"Cash Management Obligations" means the obligations owed by the Credit Parties to any Cash Management Bank under any Cash Management Agreement entered into by and between a Credit Party and any Cash Management Bank.

"Cash Management Services" means cash management services for collections, treasury management services (including controlled disbursement, overdraft, netting services, automated clearing house fund transfer services, return items and interstate depository network services), any demand deposit, payroll, trust or operating account relationships, cash pooling arrangements, commercial credit cards, merchant card, purchase or debit cards, non-card e-payables services, and other cash management services, including electronic funds transfer services, lockbox services, stop payment services and wire transfer services.

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

"CERCLA" has the meaning ascribed to it in the definition of "Environmental Laws".

"CFC" means a "controlled foreign corporation" within the meaning of Section 957 of the IRC.

"Change of Control" means the occurrence of any of the following: (a) Borrower becomes aware (by way of a report or any other filing pursuant to Section 13(d) of the Exchange Act, proxy, vote, written notice or otherwise) of the acquisition by any Person or group (within the meaning of Section 13(d)(3) or Section 14(d)(2) of the Exchange Act, or any successor provision), including any group acting for the purpose of acquiring, holding or disposing of securities (within the meaning of Rule 13d-5(b)(1) under the Exchange Act), other than any Parent, in a single transaction or in a series of related transactions, by way of merger, consolidation, amalgamation or other business combination or purchase of beneficial ownership (within the meaning of Rule 13d-3 under the Exchange Act, or any successor provision), directly or indirectly, of more than 35% of the total voting power of the Voting Stock of Borrower; provided, however, that (x) so long as Borrower is a Subsidiary of any Parent, no Person or group shall be deemed to be or become a "beneficial owner", directly or indirectly, of more than 35% of the total voting power of the Voting Stock of Borrower unless such Person or group shall be or become a "beneficial owner" of more than 35% of the total voting power of the Voting Stock of such Parent (other than a Parent that is a Subsidiary of another Parent) and (y) a Person or group shall not be deemed the beneficial owner of, or to own beneficially, (A) any securities tendered pursuant to a tender or exchange offer made by or on behalf of such Person or group or any of such Person's or group's Affiliates until such tendered securities are accepted for purchase or exchange thereunder, or (B) any securities if such beneficial ownership (i) arises solely as a result of a revocable proxy delivered in response to a proxy or consent solicitation made pursuant to the applicable rules and regulations under the Exchange Act, and (ii) is not also then reportable on Schedule 13D (or any successor schedule) under the Exchange Act or (b) a "Change of Control" as defined in the 2031 Notes Indenture.

"Charges" means all federal, state, provincial, county, city, municipal, local, foreign or other governmental taxes (including taxes owed to the PBGC at the time due and payable), levies, assessments, charges, claims or encumbrances owed by any Credit Party and upon or relating to (a) the Obligations hereunder, (b) the Collateral, (c) the employees, payroll, income, capital or gross receipts of any Credit Party, (d) any Credit Party's ownership or use of any properties or other assets or (e) any other aspect of any Credit Party's business.

"Citi" has the meaning ascribed to it in the preamble.

"Class" when used in reference to (a) any Loan or borrowing of Loans, refers to whether such Loan, or the Loans comprising such borrowing, are Term B Loans, Revolving Credit Loans, Incremental Term Loans other than the Term B Loans, revolving loans Incurred under an Additional Revolving Credit Commitment, Loans Incurred under a Refinancing Term Facility, Loans Incurred under a Refinancing Revolving Facility, Extended Loans that are term loans or Extended Loans that are revolving loans, (b) any Commitment, refers to whether such Commitment is a Term B Commitment, Revolving Credit Commitment, Commitment in respect of Incremental Term Loans other than the Term B Loans, Additional Revolving Credit Commitment, Commitment in respect of a Refinancing Term Facility, Commitment in respect of Refinancing Revolving Facility, Commitment in respect of Extended Loans that are term loans or Commitment in respect of Extended Loans that are revolving loans and (c) any Lender, refers to whether such Lender holds a Loan or Commitment with respect to a particular Class of Loans or Commitments.

"Code" means the Uniform Commercial Code as the same may, from time to time, be enacted and in effect in the State of New York; provided, that to the extent that the Code is used to define any term herein or in any Loan Document and such term is defined differently in different Articles or Divisions of the Code, the definition of such term contained in Article or Division 9 shall govern; provided, further, that in the event that, by reason of mandatory provisions of law, any or all of the attachment,

perfection, publication or priority of, or remedies with respect to, Agent's or any Lender's Lien on any Collateral is governed by the Uniform Commercial Code as enacted and in effect in another State other than the State of New York, the term "Code" means the Uniform Commercial Code in such other State.

"Collateral" means (a) prior to the Escrow Release Date, the Escrowed Property and (b) on and after the Escrow Release Date, all assets and interests in assets and proceeds thereof now owned or hereafter acquired by Borrower or any Guarantor in or upon which a Lien is granted or purported to be granted by such Person in favor of Agent under any of the Collateral Documents.

"Collateral Documents" means (a) prior to the Escrow Release Date, the Escrow Agreement and (b) on and after the Escrow Release Date, the Security Agreement, the Intellectual Property Security Agreements, the Mortgages and all similar agreements executed by one or more Credit Parties granting a Lien upon property in favor of Agent as security for the Obligations.

"Commitment Fee" has the meaning specified in Section 2.7(d).

"Commitment Termination Date" means, with respect to the Revolving Credit Facility, the date that is five years after the Escrow Release Date.

"Commitments" means, collectively, the aggregate Commitments of the Lenders, and the term "Commitment" with respect to an individual Lender means such Lender's commitment to make Loans to Borrower in accordance with the terms of this Agreement including, (x) with respect to each Term B Lender, the Term B Commitment of such Term B Lender and (y) with respect to each Revolving Lender, the Revolving Credit Commitment of such Revolving Lender. The Term B Commitments of each Term B Lender and the aggregate Term B Commitments of all Term B Lenders on the Escrow Funding Date are set forth on Schedule B hereto. The Revolving Credit Commitments of each Revolving Lender party to the Escrow Release Date Incremental Revolving Amendment shall be the Incremental Revolving Credit Commitments of such Revolving Lender set forth in such Escrow Release Date Incremental Revolving Amendment.

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

"Communications" has the meaning ascribed to it in Section 12.21(b).

"Company Material Adverse Effect" means a "Company Material Adverse Effect" as defined in the Merger Agreement.

"Competitor" has the meaning specified in the definition of "Disqualified Institution."

"Compliance Certificate" means a certificate substantially in the form of Exhibit 1.1(c) and which certificate shall in any event be a certificate of a Financial Officer (a) certifying as to whether a Default has occurred and is continuing and, if applicable, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (b) in the case of Financial Statements delivered under Section 5.1(c), setting forth reasonably detailed calculations, beginning with the financial statements for the first full Fiscal Year of Borrower to occur after the Escrow Release Date, of Excess Cash Flow for such fiscal year, (c) in the case of Financial Statements delivered under Section 5.1(c), setting forth a reasonably detailed calculation of the Net Proceeds received during the applicable period by or on behalf of Borrower or any of its Restricted Subsidiaries in respect of any Asset Sale subject to prepayment pursuant to Section 2.3(b)(ii)(A) and the portion of such Net Proceeds that has been invested or are intended to be

reinvested in accordance with Section 2.3(b)(ii)(B) and (d) beginning with the financial statements for the first full Fiscal Quarter of Borrower to occur after the Escrow Release Date, showing the calculations used in determining compliance with the Financial Performance Covenant set forth in Section 7.12.

"Conforming Changes" means, with respect to either the use or administration of Term SOFR or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Base Rate," the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of Section 2.16 and other technical, administrative or operational matters) that Agent decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by Agent in a manner substantially consistent with market practice (or, if Agent decides that adoption of any portion of such market practice is not administratively feasible or if Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

"Consolidated Depreciation and Amortization Expense" means, with respect to any Person for any period, the total amount of depreciation and amortization expense, including the amortization of intangible assets and deferred financing fees and amortization of unrecognized prior service costs and actuarial gains and losses related to pensions and other post-employment benefits, of such Person and its Restricted Subsidiaries for such period on a consolidated basis and otherwise determined in accordance with GAAP.

"Consolidated EBITDA" means, as of any date of determination, the EBITDA of Borrower and its Restricted Subsidiaries for the most recently ended four full fiscal quarters for which internal financial statements are available, on a consolidated basis, calculated on a pro forma basis consistent with the calculations made under the definition of "Fixed Charge Coverage Ratio", "Consolidated Secured Net Leverage Ratio", "Consolidated First Lien Net Leverage Ratio", or "Consolidated Total Net Leverage Ratio", as applicable.

"Consolidated First Lien Indebtedness" means Consolidated Total Indebtedness secured by a Lien on the Collateral that is not subordinated in lien priority to the Liens on the Collateral securing the Obligations.

"Consolidated First Lien Net Leverage Ratio" means, with respect to any Person, at any date, the ratio of (i) Consolidated First Lien Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents that do not constitute Restricted Cash held by such Person and its Restricted Subsidiaries as of the end of the most recent Fiscal Quarter ending prior to the date of determination for which internal financial statements of such Person are available to (ii) EBITDA of such Person for the four full fiscal quarters for which internal financial statements of such Person are available immediately preceding such date of calculation.

In the event that Borrower or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Consolidated First Lien Net

Leverage Ratio is being calculated but prior to the event for which the calculation of the Consolidated First Lien Net Leverage Ratio is made (the "Consolidated First Lien Net Leverage Calculation Date"), then the Consolidated First Lien Net Leverage Ratio shall be calculated giving pro forma effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that Borrower may elect pursuant to an Officer's Certificate delivered to Agent to treat all or any portion of the commitment under any Indebtedness as being Incurred at the time of delivery of such Officer's Certificate, in which case any subsequent Incurrence of Indebtedness (or Liens secured by such Indebtedness) under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time, and to the extent (i) Borrower elects pursuant to such an Officer's Certificate delivered to Agent to treat all or any portion of the commitment under any Indebtedness as being Incurred at the time of delivery of such Officer's Certificate or (ii) Borrower or any Restricted Subsidiary elects to treat Indebtedness as having been Incurred prior to the actual Incurrence thereof pursuant to Section 7.1(c)(iii), Borrower shall deem all or such portion of such commitment or such Indebtedness, as applicable, as having been Incurred and to be outstanding for purposes of calculating the Consolidated First Lien Net Leverage Ratio for any period in which Borrower makes any such election and for any subsequent period until such commitments or such Indebtedness, as applicable, are no longer outstanding, or until Borrower elects to withdraw such election.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP and including, for each applicable period and for the avoidance of doubt, any of the foregoing occurring in connection with the Transactions), in each case with respect to any company, any business or any group of assets constituting an operating unit of a business, that Borrower or any Restricted Subsidiary has made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Consolidated First Lien Net Leverage Calculation Date (each, for purposes of this definition, a "pro forma event") shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period; provided that, notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, Borrower shall not make such computations on a pro forma basis for any such classification for any period until such sale, transfer or other disposition has been consummated. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into Borrower or any Restricted Subsidiary since the beginning of such period shall have consummated any pro forma event that would have required adjustment pursuant to this definition, then the Consolidated First Lien Net Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such pro forma event had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Consolidated First Lien Net Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of Borrower. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of Borrower, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event within 18 months of the date the applicable event is consummated.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Consolidated First Lien Net Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, an overnight financing rate or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as Borrower may designate.

For purposes of this definition, any amount in a currency other than Dollars will be converted to Dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period. Notwithstanding anything to the contrary in this definition, for the purpose of determining the ECF Percentage, pro forma effect shall not be given to events occurring after the period for which the Consolidated Secured Net Leverage Ratio is being calculated.

"Consolidated Interest Expense" means, with respect to any Person for any period, the sum, without duplication, of:

(1) consolidated interest expense of such Person and its Restricted Subsidiaries for such period, to the extent such expense was deducted in computing Consolidated Net Income (including the interest component of Capitalized Lease Obligations and net payments and receipts (if any) pursuant to interest rate Hedging Obligations, amortization of deferred financing fees and original issue discount, debt issuance costs, commissions, fees and expenses, expensing of any bridge, commitment or other financing fees and non-cash interest expense attributable to movement in mark to market valuation of Hedging Obligations or other derivatives (in each case permitted hereunder) under GAAP); plus

(2) consolidated capitalized interest of such Person and its Restricted Subsidiaries for such period, whether paid or accrued; plus

(3) commissions, discounts, yield and other fees and charges Incurred in connection with any Securitization Financing which are payable to Persons other than Borrower and the Restricted Subsidiaries; minus

(4) interest income for such period.

For purposes of this definition, interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate of the Net Income of such Person and its Restricted Subsidiaries for such period, on a consolidated basis; provided, however, that:

(1) any net after-tax extraordinary, nonrecurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses or charges shall be excluded;

(2) any severance expenses, relocation expenses, restructuring expenses, curtailments or modifications to pension and post-retirement employee benefit plans, excess pension charges, any expenses related to any reconstruction, decommissioning, recommissioning or reconfiguration of fixed assets for alternate uses and fees, expenses or charges relating to facilities closing costs, acquisition integration costs, facilities opening costs, project start-up costs, business optimization costs, signing, retention or completion bonuses, expenses, commissions or charges related to any issuance, redemption, repurchase, retirement or acquisition of Equity Interests, Investment, acquisition, disposition, recapitalization or issuance, repayment, refinancing, amendment or modification of Indebtedness (in each case, whether or not successful), and any fees, expenses or charges related to the Transactions shall be excluded;

(3) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such Person and such Subsidiaries and including, without limitation, the effects of adjustments to (A) Capitalized Lease Obligations or (B) any other deferrals of income) in amounts required or permitted by GAAP, resulting from the application of purchase accounting or the amortization or write-off of any amounts thereof, net of taxes, shall be excluded;

(4) the Net Income for such period shall not include the cumulative effect of a change in accounting principles during such period;

(5) any net after-tax income or loss from disposed, abandoned, transferred, closed or discontinued operations or fixed assets and any net after-tax gains or losses on disposal of disposed, abandoned, transferred, closed or discontinued operations or fixed assets shall be excluded; provided that notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, such Person shall not exclude any such net after-tax income or loss or any such net after-tax gains or losses attributable thereto until such sale, transfer or other disposition has been consummated;

(6) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by management of Borrower) shall be excluded;

(7) any net after-tax gains or losses (less all fees and expenses or charges relating thereto) attributable to the early extinguishment of Indebtedness, Hedging Obligations or other derivative instruments shall be excluded;

(8) (a) the Net Income for such period of any Person that is not a Subsidiary of such Person, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting, shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to the referent Person or a Restricted Subsidiary thereof in respect of such period and (b) the Net Income for such period shall include any dividend, distribution or other payment in cash (or to the extent converted into cash) received by the referent Person or a Subsidiary thereof (other than an Unrestricted Subsidiary of such referent Person) from any Person in excess of, but without duplication of, the amounts included in subclause (a);

(9) solely for the purpose of determining the amount available for Restricted Payments under clause (2) of the definition of "Cumulative Credit," the Net Income for such period of any Restricted Subsidiary (other than any Guarantor) shall be excluded to the extent that the declaration

or payment of dividends or similar distributions by such Restricted Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Restricted Subsidiary or its stockholders, unless such restrictions with respect to the payment of dividends or similar distributions have been legally waived; provided that the Consolidated Net Income of such Person shall be increased by the amount of dividends or other distributions or other payments actually paid in cash (or converted into cash) by any such Restricted Subsidiary to such Person, to the extent not already included therein;

(10) an amount equal to the amount of Tax Distributions actually made to any parent or equity holder of such Person in respect of such period in accordance with Section 7.2(b)(xi) shall be included as though such amounts had been paid as income taxes directly by such Person for such period;

(11) any impairment charges or asset write-offs, in each case pursuant to GAAP, and the amortization of intangibles and other fair value adjustments arising pursuant to GAAP shall be excluded;

(12) any non-cash expense realized or resulting from management equity plans, stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights shall be excluded;

(13) any (a) non-cash compensation charges, (b) costs and expenses related to employment of terminated employees, or (c) costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights of officers, directors and employees, in each case of such Person or any Restricted Subsidiary, shall be excluded;

(14) accruals and reserves that are established or adjusted within 12 months after the Escrow Release Date and that are so required to be established or adjusted in accordance with GAAP or as a result of adoption or modification of accounting policies shall be excluded;

(15) non-cash gains, losses, income and expenses resulting from fair value accounting required by the applicable standard under GAAP and related interpretations shall be excluded;

(16) any currency translation gains and losses related to currency remeasurements of Indebtedness, and any net loss or gain resulting from hedging transactions for currency exchange risk, shall be excluded;

(17) (a) to the extent covered by insurance and actually reimbursed, or, so long as such Person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable carrier in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded and (b) amounts in respect of which such Person has determined that there exists reasonable evidence that such amounts will in fact be reimbursed by insurance in respect of lost revenues or earnings in respect of liability or casualty events or business interruption shall be included (with a deduction for amounts actually received up to such estimated amount, to the extent included in Net Income in a future period); and

(18) non-cash charges for deferred tax asset valuation allowances shall be excluded.

Notwithstanding the foregoing, for the purpose of Section 7.2 only, there shall be excluded from Consolidated Net Income any dividends, repayments of loans or advances or other transfers of assets from Unrestricted Subsidiaries or Restricted Subsidiaries to the extent such dividends, repayments or transfers increase the amount of Restricted Payments permitted under Section 7.2 pursuant to clauses (5) and (6) of the definition of "Cumulative Credit."

"Consolidated Non-Cash Charges" means, with respect to any Person for any period, thenon-cash expenses (other than Consolidated Depreciation and Amortization Expense) of such Person and its Restricted Subsidiaries reducing Consolidated Net Income of such Person for such period on a consolidated basis and otherwise determined in accordance with GAAP, *provided* that if any such non-cash expenses 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 EBITDA in such future period to the extent paid, but excluding from this proviso, for the avoidance of doubt, amortization of a prepaid cash item that was paid in a prior period.

"Consolidated Secured Net Leverage Ratio" means, with respect to any Person, at any date, the ratio of (i) Secured Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents that do not constitute Restricted Cash held by such Person and its Restricted Subsidiaries as of the end of the most recent Fiscal Quarter ending prior to the date of such determination for which internal financial statements of such Person are available to (ii) EBITDA of such Person for the four full fiscal quarters for which internal financial statements of such Person are available immediately preceding such date of calculation.

In the event that Borrower or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Consolidated Secured Net Leverage Ratio is being calculated but prior to the event for which the calculation of the Consolidated Secured Net Leverage Ratio is made (the "Consolidated Secured Net Leverage Calculation Date"), then the Consolidated Secured Net Leverage Ratio shall be calculated givingpro forma effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that Borrower may elect pursuant to an Officer's Certificate delivered to Agent to treat all or any portion of the commitment under any Indebtedness as being Incurred at the time of delivery of such Officer's Certificate, in which case any subsequent Incurrence of Indebtedness (or Liens secured by such Indebtedness) under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time, and to the extent (i) Borrower elects pursuant to such an Officer's Certificate delivered to Agent to treat all or any portion of the commitment under any Indebtedness as being Incurred at the time of delivery of such Officer's Certificate or (ii) Borrower or any Restricted Subsidiary elects to treat Indebtedness as having been Incurred prior to the actual Incurrence thereof pursuant to Section 7.1(c)(iii), Borrower shall deem all or such portion of such commitment or such Indebtedness, as applicable, as having been Incurred and to be outstanding for purposes of calculating the Consolidated Secured Net Leverage Ratio for any period in which Borrower makes any such election and for any subsequent period until such commitments or such Indebtedness, as applicable, are no longer outstanding, or until Borrower elects to withdraw such election.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP and including, for each applicable period and for the avoidance of doubt, any of the foregoing occurring in connection with the Transactions), in each case with respect to any company, any business or any group of assets constituting an operating unit of a business, that Borrower or any Restricted Subsidiary has made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Consolidated Secured Net Leverage Calculation Date (each, for purposes of this definition, a "pro forma event") shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period; provided that, notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, Borrower shall not make such computations on a pro forma basis for any such classification for any period until such sale, transfer or other disposition has been consummated. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into Borrower or any Restricted Subsidiary since the beginning of such period shall have consummated any pro forma event that would have required adjustment pursuant to this definition, then the Consolidated Secured Net Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such pro forma event had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Consolidated Secured Net Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of Borrower. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of Borrower, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event within 18 months of the date the applicable event is consummated.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Consolidated Secured Net Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, an overnight financing rate or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as Borrower may designate.

For purposes of this definition, any amount in a currency other than Dollars will be converted to Dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

"Consolidated Taxes" means, with respect to any Person for any period, the provision for taxes based on income, profits or capital, including, without limitation, state, franchise, property and similar taxes, foreign withholding taxes (including penalties and interest related to such taxes or arising from tax examinations) and any Tax Distributions taken into account in calculating Consolidated Net Income.

"Consolidated Total Indebtedness" means, as of any date of determination, an amount equal to the sum (without duplication) of (1) the aggregate principal amount of all outstanding Indebtedness of Borrower and the Restricted Subsidiaries (excluding any undrawn letters of credit) consisting of bankers' acceptances and Indebtedness for borrowed money, plus (2) the aggregate amount of all outstanding Disqualified Stock of Borrower and the Restricted Subsidiaries and all Preferred Stock of Restricted Subsidiaries, with the amount of such Disqualified Stock and Preferred Stock equal to the greater of their respective voluntary or involuntary liquidation preferences, in each case determined on a consolidated basis in accordance with GAAP.

"Consolidated Total Net Leverage Ratio" means, with respect to any Person, at any date, the ratio of (i) Consolidated Total Indebtedness of such Person and its Restricted Subsidiaries as of such date of calculation (determined on a consolidated basis in accordance with GAAP) less the amount of cash and Cash Equivalents that do not constitute Restricted Cash held by such Person and its Restricted Subsidiaries as of the end of the most recent Fiscal Quarter ending prior to the date of such determination for which internal financial statements of such Person are available to (ii) EBITDA of such Person for the four full fiscal quarters for which internal financial statements of such Person are available immediately preceding such date of calculation.

In the event that Borrower or any Restricted Subsidiary Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Consolidated Total Net Leverage Ratio is being calculated but prior to the event for which the calculation of the Consolidated Total Net Leverage Ratio is made (the "Consolidated Total Net Leverage Calculation Date"), then the Consolidated Total Net Leverage Ratio shall be calculated givingpro forma effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that Borrower may elect pursuant to an Officer's Certificate delivered to Agent to treat all or any portion of the commitment under any Indebtedness as being Incurred at the time of delivery of such Officer's Certificate, in which case any subsequent Incurrence of Indebtedness (or Liens secured by such Indebtedness) under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time, and to the extent (i) Borrower elects pursuant to such an Officer's Certificate delivered to Agent to treat all or any portion of the commitment under any Indebtedness as being Incurred at the time of delivery of such Officer's Certificate or (ii) Borrower or any Restricted Subsidiary elects to treat Indebtedness as having been Incurred prior to the actual Incurrence thereof pursuant to Section 7.1(c)(iii), Borrower shall deem all or such portion of such commitment or such Indebtedness, as applicable, as having been Incurred and to be outstanding for purposes of calculating the Consolidated Total Net Leverage Ratio for any period in which Borrower makes any such election and for any subsequent period until such commitments or such Indebtedness, as applicable, are no longer outstanding, or until Borrower elects to withdraw such election.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in

accordance with GAAP and including, for each applicable period and for the avoidance of doubt, any of the foregoing occurring in connection with the Transactions), in each case with respect to any company, any business or any group of assets constituting an operating unit of a business, that Borrower or any Restricted Subsidiary has made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Consolidated Total Net Leverage Calculation Date (each, for purposes of this definition, a "pro forma event") shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period; provided that, notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, Borrower shall not make such computations on a pro forma basis for any such classification for any period until such sale, transfer or other disposition has been consummated. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into Borrower or any Restricted Subsidiary since the beginning of such period shall have consummated any pro forma event that would have required adjustment pursuant to this definition, then the Consolidated Total Net Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such pro forma event had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Consolidated Total Net Leverage Ratio shall be calculated giving pro forma effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever pro forma effect is to be given to any pro forma event, the pro forma calculations shall be made in good faith by a responsible financial or accounting officer of Borrower. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of Borrower, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event within 18 months of the date the applicable event is consummated.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Consolidated Total Net Leverage Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a pro forma basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, an overnight financing rate or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as Borrower may designate.

For purposes of this definition, any amount in a currency other than Dollars will be converted to Dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

"Contingent Obligations" means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent:

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor,

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

"Contract Consideration" has the meaning specified in the definition of "Excess Cash Flow".

"Contractual Obligations" means, with respect to any Person, any security issued by such Person or any document or undertaking (other than a Loan Document) to which such Person is a party or by which it or any of its property is bound or to which any of its property is subject.

"Copyrights" has the meaning specified in the Security Agreement.

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

"Covered Party" has the meaning ascribed to it in Section 12.27.

"Credit Parties" means Borrower and each Guarantor.

"Cumulative Credit" means the sum of (without duplication):

(1) [reserved], plus

(2) 50% of the Consolidated Net Income of Borrower for the period (taken as one accounting period) from the first day of the first full Fiscal Quarter commencing after the Escrow Release Date occurs to the end of Borrower's most recently ended fiscal quarter for which internal financial statements are available at the time of such Restricted Payment (or, in the case such Consolidated Net Income for such period is a deficit, minus 100% of such deficit), plus

(3) 100% of the aggregate net proceeds, including cash and the Fair Market Value (as determined in good faith by Borrower) of property other than cash, received by Borrower after the Escrow Release Date (other than net proceeds to the extent such net proceeds have been used to Incur Indebtedness, Disqualified Stock, or Preferred Stock pursuant to Section 7.1(b)(xiii)) from

the issue or sale of Equity Interests of Borrower or any Parent (excluding Refunding Capital Stock, Designated Preferred Stock, Excluded Contributions and Disqualified Stock), including Equity Interests issued upon exercise of warrants or options (other than an issuance or sale to Borrower or a Restricted Subsidiary), plus

(4) 100% of the aggregate amount of contributions to the capital of Borrower received in cash and the Fair Market Value (as determined in good faith by Borrower) of property other than cash received by Borrower after the Escrow Release Date (other than Excluded Contributions, Refunding Capital Stock, Designated Preferred Stock and Disqualified Stock and other than contributions to the extent such contributions have been used to Incur Indebtedness, Disqualified Stock, or Preferred Stock pursuant to Section 7.1(b)(xiii)), plus

(5) 100% of the principal amount of any Indebtedness, or the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock of Borrower or any Restricted Subsidiary issued on or after the Escrow Release Date (other than Indebtedness or Disqualified Stock issued to a Restricted Subsidiary) which has been converted into or exchanged for Equity Interests in Borrower (other than Disqualified Stock) or any Parent (provided, that in the case of any such Parent, such Indebtedness or Disqualified Stock is retired or extinguished), plus

(6) 100% of the aggregate amount received by Borrower or any Restricted Subsidiary on or after the Escrow Release Date in cash and the Fair Market Value (as determined in good faith by Borrower) of property other than cash received by Borrower or any Restricted Subsidiary from:

(A) the sale or other disposition (other than to Borrower or a Restricted Subsidiary) of Restricted Investments made by Borrower and the Restricted Subsidiaries and from repurchases and redemptions of such Restricted Investments from Borrower and the Restricted Subsidiaries by any Person (other than Borrower or any Restricted Subsidiary) and from repayments of loans or advances, and releases of guarantees, which constituted Restricted Investments,

(B) the sale (other than to Borrower or a Restricted Subsidiary) of the Capital Stock of any Joint Venture or Unrestricted Subsidiary, or

(C) a distribution or dividend from any Joint Venture or Unrestricted Subsidiary,plus

(7) in the event any joint venture or Unrestricted Subsidiary has been redesignated as a Restricted Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into Borrower or a Restricted Subsidiary, the lesser of (x) the Fair Market Value (as determined in good faith by Borrower) of the Investment of Borrower or the Restricted Subsidiaries in such joint venture of Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable) (other than in each case to the extent that the designation of such Subsidiary as an Unrestricted Subsidiary constituted a Permitted Investment) and (y) the Fair Market Value (as determined in good faith by Borrower) of the original Investment made by Borrower or the Restricted Subsidiaries in such joint venture or Unrestricted Subsidiary at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable) (other than in each case to the extent that the designation of such Subsidiary as an Unrestricted Subsidiary constituted a Permitted Investment).

"Current Assets" shall mean, at any time, the consolidated current assets (other than cash and Cash Equivalents) of Borrower and its Restricted Subsidiaries at such time.

"Current Liabilities" shall mean, at any time, the consolidated current liabilities of Borrower and its Restricted Subsidiaries at such time, but excluding, without duplication, (a) the current portion of any long-term Indebtedness and (b) revolving loans, swingline loans and letter of credit obligations under this Agreement or any other revolving credit facility.

"Custodian" means any receiver, trustee, assignee, liquidator, custodian or similar official under any Bankruptcy Law.

"Declined Proceeds" has the meaning ascribed to it in Section 2.3(b)(vi).

"Default" means any event which is, or after notice or passage of time or both would be, an Event of Default.

"Default Rate" has the meaning ascribed to it in Section 2.5(d).

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

"Defaulting Lender" shall mean, subject to Section 2.19(a)(i), any Lender that (a) has failed (i) to fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies Agent and Borrower in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied or (ii) has failed to pay to Agent or any L/C Issuer any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two Business Days of the date such amount is due, (b) has notified Borrower, Agent or any L/C Issuer in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by Agent, Borrower or, to the extent an L/C Issuer has outstanding Letter of Credit Obligations at such time, such L/C Issuer, to confirm in writing to Agent, Borrower or such L/C Issuer that it will comply with its funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by Agent, Borrower or such L/C Issuer, as applicable), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Insolvency Law or a Bail-In Action, or (ii) had appointed for it a receiver, interim receiver, custodian, conservator, trustee, monitor, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state, federal or foreign regulatory authority acting in such a capacity; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Capital Stock in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and

of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender as of the date established therefor by Agent in a written notice of such determination, which shall be delivered by Agent to Borrower and each other Lender promptly following such determination.

"Designated Non-cash Consideration" means the Fair Market Value (as determined in good faith by Borrower) ofnon-cash consideration received by Borrower or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration, setting forth such valuation, less the amount of Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

"Designated Preferred Stock" means Preferred Stock of Borrower or any Parent (other than Disqualified Stock), that is issued for cash (other than to Borrower or any of its Subsidiaries or an employee stock ownership plan or trust established by Borrower or any of its Subsidiaries) and is so designated as Designated Preferred Stock, pursuant to an Officer's Certificate, on the issuance date thereof.

"disposition" has the meaning set forth in the definition of "Asset Sale" (and "dispose" shall have a correlative meaning).

"Disqualified Institution" means (i) any competitor of Parent Guarantor, Omni or any of their respective Subsidiaries (each, a "Competitor") that is identified in writing by Borrower to Agent from time to time after the Escrow Funding Date or (ii) an Affiliate of any person described in clause (i) above that is (x) reasonably identifiable as such an Affiliate solely on the basis of its name or (y) identified in writing by Borrower to Agent from time to time after the Escrow Funding Date (other than any Affiliate of a Competitor that is a Bona Fide Debt Fund); provided that the list of Disqualified Institutions shall be made available to the Lenders upon request; provided, further, any such designation of a Competitor as a Disqualified Institution shall become effective two days after delivery of written notice to Agent; provided that no such designation shall apply retroactively to disqualify any Persons that have previously acquired an assignment or participation interest in the Loans; provided, further, that Agent shall not have any obligation to monitor the list of Disqualified Institutions nor shall it be liable for any failure to do so.

"Disqualified Stock" means, with respect to any Person, any Capital Stock of such Person which, by its terms (or by the terms of any security into which it is convertible or for which it is redeemable or exchangeable), or upon the happening of any event:

(1) matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than as a result of a change of control or asset sale),

(2) is convertible or exchangeable for Indebtedness or Disqualified Stock of such Person or any of its Restricted Subsidiaries, or

(3) is redeemable at the option of the holder thereof, in whole or in part (other than solely as a result of a change of control or asset sale), in each case prior to 91 days after the earlier of the Latest Maturity Date or the date the Loans are no longer outstanding; provided, however, that only the portion of Capital Stock which so matures or is mandatorily redeemable, is so convertible or exchangeable or is so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock; provided, further, however, that if such Capital Stock is issued to any employee or to any plan for the benefit of employees of Borrower or its Subsidiaries or by any such plan to such employees, such Capital Stock shall not constitute Disqualified Stock solely because it may be required to be repurchased by such Person in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability; provided, further, that any class of Capital Stock of such Person that by its

terms authorizes such Person to satisfy its obligations thereunder by delivery of Capital Stock that is not Disqualified Stock shall not be deemed to be Disqualified Stock; provided, further, that for the avoidance of doubt, no Preferred Stock issued by Borrower in connection with the Transactions shall be deemed to be Disqualified Stock.

"Dodd-Frank Act" has the meaning ascribed to it in Section 2.14(e).

"Dollars" or "$" means the lawful currency of the United States.

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

"EBITDA" means, with respect to any Person for any period, the Consolidated Net Income of such Person and its Restricted Subsidiaries for such period *plus*, without duplication, to the extent the same was deducted in calculating Consolidated Net Income:

(1) Consolidated Taxes; plus

(2) Fixed Charges and costs of surety bonds in connection with financing activities; plus

(3) Consolidated Depreciation and Amortization Expense; plus

(4) Consolidated Non-Cash Charges; plus

(5) any expenses or charges (other than Consolidated Depreciation and Amortization Expense) related to any issuance of Equity Interests, Investment, acquisition, disposition, recapitalization or the Incurrence, modification or repayment of Indebtedness permitted to be Incurred by this Agreement (including a refinancing thereof) (whether or not successful), including (i) such fees, expenses or charges related to the Transactions or the 2031 Notes, (ii) any amendment or other modification of the 2031 Notes or other Indebtedness and (iii) commissions, discounts, yield and other fees and charges (including any interest expense) related to any Qualified Securitization Financing; plus

(6) business optimization expenses and other restructuring charges, reserves or expenses (which, for the avoidance of doubt, shall include, without limitation, the effect of facility closures, facility consolidations, retention, severance, systems establishment costs, contract termination costs, future lease commitments and excess pension charges); provided, further, that the aggregate amount added to EBITDA pursuant to this clause (6), together with the aggregate amount added to EBITDA pursuant to clause (9) below, shall not exceed 20.0% of EBITDA for such period (determined after giving effect to such adjustments); plus

(7) the amount of loss or discount on sale of assets and any commissions, yield and other fees and charges, in each case in connection with a Qualified Securitization Financing; plus

(8) any costs or expenses Incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such cost or expenses are funded with cash proceeds contributed to the capital of Borrower or any Guarantor or net cash proceeds of an issuance of Equity Interests of Borrower (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the calculation of the Cumulative Credit; plus

(9) the amount of net cost savings, operating improvements or synergies projected by Borrower in good faith to be realized within eighteen months following the date of any operational changes, business realignment projects or initiatives, restructurings or reorganizations which have

been or are intended to be initiated (other than those operational changes, business realignment projects or initiatives, restructurings or reorganizations entered into in connection with any pro forma event (as defined in the definitions of "Fixed Charge Coverage Ratio", "Consolidated First Lien Net Leverage Ratio", "Consolidated Secured Net Leverage Ratio" and "Consolidated Total Net Leverage Ratio") (calculated on a pro forma basis as though such cost savings had been realized on the first day of such period)), net of the amount of actual benefits realized during such period from such actions; provided that such net cost savings and operating improvements or synergies are reasonably identifiable and quantifiable;provided, further, that the aggregate amount added to EBITDA pursuant to this clause (9), together with the aggregate amount added to EBITDA pursuant to clause (6) above, shall not exceed 20.0% of EBITDA for such period (determined after giving effect to such adjustments); plus

(10) add-backs and adjustments of the nature used in connection with the calculations of "pro forma EBITDA", "pro forma adjusted EBITDA" and "pro forma further adjusted EBITDA" (or similar pro forma non-GAAP measures) as set forth in the 2031 Notes Offering Memorandum in the section titled "Summary Unaudited Pro Forma Condensed Combined Financial Information", to the extent such add-backs and adjustments, without duplication, continue to be applicable to such period;

less, without duplication, to the extent the same increased Consolidated Net Income,

(11) non-cash items increasing Consolidated Net Income for such period (excluding the recognition of deferred revenue or any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges that reduced EBITDA in any prior period and any items for which cash was received in a prior period).

"ECF Percentage" has the meaning set forth inSection 2.3(b)(i).

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

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

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

"Eligible Assignee" means (a) a Lender, (b) a commercial or investment bank, insurance company, finance company, financial institution or any fund that makes or holds loans, (c) any Affiliate of a Lender, or (d) an Approved Fund of a Lender; provided that in any event, "Eligible Assignee" shall not include (i) any natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person), (ii) any Disqualified Institution or (iii) Borrower, Parent Guarantor or any respective Subsidiary or any Affiliate thereof.

"Environmental Laws" means all applicable federal, state, provincial, local and foreign laws, statutes, ordinances, codes, rules, standards and regulations, now or hereafter in effect, including any

applicable judicial or administrative order, consent decree, order or judgment, in each case having the force or effect of law, imposing liability or standards of conduct for or relating to the regulation and protection of human health, safety, the environment and natural resources (including ambient air, soil, vapor, surface water, groundwater, wetlands, land surface or subsurface strata, wildlife, aquatic species and vegetation). Environmental Laws include the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. §§ 9601 et seq.) ("CERCLA"); the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C. §§ 5101 et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. §§ 136 et seq.); the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.); the Toxic Substance Control Act (15 U.S.C. §§ 2601 et seq.); the Clean Air Act (42 U.S.C. §§ 7401 et seq.); the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.); the Occupational Safety and Health Act (29 U.S.C. §§ 651 et seq.); and the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), and any and all regulations promulgated thereunder, and all analogous federal, state, provincial, local and foreign counterparts or equivalents and any transfer of ownership notification or approval statutes related to the protection of human health, safety or the environment.

"Environmental Liabilities" means, with respect to any Person, all liabilities, obligations, responsibilities, response, remedial and removal costs, investigation and feasibility study costs, losses, damages, punitive damages, property damages, natural resource damages, consequential damages, treble damages, costs and expenses (including all reasonable fees, disbursements and expenses of counsel, experts and consultants), fines, penalties, sanctions and interest Incurred as a result of or related to any claim, suit, action, investigation, proceeding or demand by any Person, whether based in contract, tort, implied or express warranty, strict liability, criminal or civil statute or common law, arising under or related to any Environmental Laws, Environmental Permits, or in connection with any Release or threatened Release or presence of a Hazardous Material whether on, at, in, under, from or about or in the vicinity of any real or personal property.

"Environmental Permits" means, with respect to any Person, all permits, licenses, authorizations, certificates, approvals or registrations required by any Governmental Authority under any Environmental Laws for conducting the operations of such Person.

"Equity Interests" means Capital Stock and all warrants, options or other rights to acquire Capital Stock (but excluding any debt security that is convertible into, or exchangeable for, Capital Stock).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any regulations promulgated thereunder.

"ERISA Affiliate" means, with respect to any Credit Party, any trade or business (whether or not incorporated) that, together with such Credit Party, are treated as a single employer within the meaning of Sections 414(b), (c), (m) or (o) of the IRC.

"ERISA Event" means, with respect to any Credit Party or any ERISA Affiliate, (a) any event described in Section 4043(c) of ERISA with respect to a Title IV Plan (other than an event for which the thirty (30) day notice period is waived); (b) the withdrawal of any Credit Party or ERISA Affiliate from a Title IV Plan subject to Section 4063 of ERISA during a plan year in which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (c) the complete or partial withdrawal of any Credit Party or any ERISA Affiliate from any Multiemployer Plan; (d) the filing of a notice of intent to terminate a Title IV Plan or the treatment of a plan amendment as a termination under Section 4041 of ERISA; (e) the termination of a Title IV Plan or Multiemployer Plan by the PBGC pursuant to Section 4042 of ERISA; (f) the failure by any Credit Party or ERISA Affiliate to make when due required contributions to a Multiemployer Plan or Title IV Plan unless such failure is cured within thirty (30) days; (g) the termination

of a Multiemployer Plan under Section 4041A of ERISA or the reorganization or insolvency of a Multiemployer Plan under Section 4241 or 4245 of ERISA or a determination that a Multiemployer Plan is in "endangered" or "critical" status under the meaning of Section 432 of the IRC or Section 304 of ERISA; (h) the loss of a Qualified Plan's qualification or tax exempt status; (i) the termination of a Plan described in Section 4064 of ERISA; (j) the filing pursuant to Section 412(c) of the IRC or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Title IV Plan; (k) a determination that any Title IV Plan is in "at risk" status (within the meaning of Section 430 of the IRC or Section 303 of ERISA); (l) the Incurrence by any Credit Party or any of its ERISA Affiliates of any liability under Title IV of ERISA (other than non-delinquent premiums payable to the PBGC under Sections 4006 and 4007 of ERISA); (m) the imposition of liability on any Credit Party or any ERISA Affiliate due to the cessation of operations at a facility under the circumstances described in Section 4062(e) of ERISA; or (n) the occurrence of a non-exempt "prohibited transaction" with respect to which any Credit Party or any of the Subsidiaries is a "disqualified person" (within the meaning of Section 4975 of the IRC) or a "party in interest" (within the meaning of Section 406 of ERISA) or with respect to which any Credit Party or any such Subsidiary could otherwise be liable.

"ERISA Lien" has the meaning ascribed to it in Section 4.12(a).

"Erroneous Payment" has the meaning ascribed to it in Section 10.17(a).

"Erroneous Payment Deficiency Assignment" has the meaning ascribed to it in Section 10.17(d)(i).

"Erroneous Payment Impacted Class" has the meaning ascribed to it in Section 10.17(d)(i).

"Erroneous Payment Return Deficiency" has the meaning ascribed to it in Section 10.17(d)(i).

"Erroneous Payment Subrogation Rights" has the meaning ascribed to it in Section 10.17(e).

"Escrow Account" has the meaning ascribed to it in Section 2.20(a).

"Escrow Agent" means U.S. Bank National Association, in its capacity as escrow agent under the Escrow Agreement, together with its successors in such capacity.

"Escrow Agreement" means the Escrow Agreement, dated as of the Escrow Funding Date, by and among Parent Guarantor, Escrow Borrower, Agent and Escrow Agent, as amended, supplemented or modified from time to time.

"Escrow Borrower" has the meaning ascribed to it in the preamble.

"Escrow Conditions" has the meaning ascribed to it in Section 2.20(d).

"Escrow Funding Date" means the date on which the conditions specified in Section 3.1 are satisfied (or waived in accordance with Section 12.2).

"Escrow Funding Date Letter" means that certain letter agreement, dated as of the Escrow Funding Date, by and among Escrow Borrower, Borrower, Parent Guarantor, the Lead Arrangers (and each Affiliate thereof party thereto) and Agent.

"Escrow Merger" means the merger of Escrow Borrower with and into Borrower, with Borrower surviving such merger.

"Escrow Release" has the meaning ascribed to it in Section 2.20(d).

"Escrow Release Date" means the date on which the conditions specified in Section 3.2 are satisfied (or waived in accordance with Section 12.2).

"Escrow Release Date Assumption and Joinder Agreement" means the Escrow Release Date Assumption and Joinder Agreement, dated as of the Escrow Release Date, by and among Escrow Borrower, Borrower, Parent Guarantor, each Subsidiary of Borrower that is not an Excluded Subsidiary and Agent, substantially in the form of Exhibit 1.1(i).

"Escrow Release Date Incremental Revolving Amendment" has the meaning ascribed to it in Section 2.15(a).

"Escrow Release Officers' Certificate" has the meaning ascribed to it in Section 2.20(d).

"Escrow Termination Date" has the meaning ascribed to it in Section 2.20(d).

"Escrowed Property" means the initial funds deposited in the Escrow Account on the Escrow Funding Date, and the interest thereon, all investments thereof, all "security entitlements" (as defined in the Uniform Commercial Code), investment property, funds or other property placed or deposited in (or delivered to the Escrow Agent for placement or deposit in) the Escrow Account and all dividends, distributions and other payments or proceeds in respect of the foregoing, less any amounts released pursuant to the terms of the Escrow Agreement.

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

"Event of Default" has the meaning ascribed to it in Section 9.1.

"Excess Cash Flow" shall mean, for any Fiscal Year of Borrower, an amount (if positive) equal to the excess of (a) the sum, without duplication, of (i) Consolidated EBITDA for such Fiscal Year, (ii) the decrease, if any, in Current Assets minus Current Liabilities from the beginning to the end of such Fiscal Year and (iii) the amount attributable to exclusions from the calculation of Consolidated Net Income in accordance with the definition thereof and not added back in calculating Consolidated EBITDA to the extent such items represent, in the case of gains, cash received by Borrower or any Restricted Subsidiary or, in the case of losses, did not represent cash paid by Borrower or any Restricted Subsidiary, in each case during such Fiscal Year, over (b) the sum, without duplication, of:

(i) Consolidated Taxes payable in cash by Borrower and its Restricted Subsidiaries with respect to such Fiscal Year;

(ii) Fixed Charges for such Fiscal Year to the extent paid in cash;

(iii) permanent repayments or prepayments of Indebtedness (other than repayments or prepayments of Loans under Section 2.3 and repayments or prepayments of the Revolving Credit Facility or other revolving credit facilities, except to the extent there is an equivalent permanent reduction of the commitments thereunder), including any premium, make-whole or penalty payments related thereto, made in cash by Borrower and its Subsidiaries during such Fiscal Year from Internally Generated Cash Flow;

(iv) without duplication of amounts deducted pursuant to clause (v) in prior Fiscal Years, the amount of Capital Expenditures and any business acquisitions that constitute Permitted Investments made during such Fiscal Year to the extent financed with Internally Generated Cash Flow;

(v) without duplication of amounts deducted from Excess Cash Flow in prior Fiscal Years, the aggregate consideration required to be paid in cash by Borrower or any of its Restricted Subsidiaries pursuant to binding contracts (the "Contract Consideration") entered into during such Fiscal Year relating to Capital Expenditures or any business acquisition that constitutes a Permitted Investment to be consummated or made during the succeeding Fiscal Year of Borrower following the end of such Fiscal Year and intended to be financed with Internally Generated Cash Flow; *provided* that to the extent the aggregate amount utilized to finance such Capital Expenditure or acquisition during such succeeding Fiscal Year is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such succeeding Fiscal Year;

(vi) cash used to pay deferred acquisition consideration (including earn-outs) during such Fiscal Year, except to the extent financed with Internally Generated Cash Flow;

(vii) cash expenditures in respect of Hedging Obligations during such Fiscal Year to the extent not reflected in the computation of Consolidated EBITDA or Consolidated Interest Expense;

(viii) the increase, if any, in Current Assets minus Current Liabilities from the beginning to the end of such Fiscal Year;

(ix) the amount attributable to exclusions from the calculation of Consolidated Net Income in accordance with the definition thereof and not added back in calculating Consolidated EBITDA to the extent such items represent, in the case of losses, a cash payment (which had not reduced Excess Cash Flow on accrual thereof in a prior Fiscal Year) by Borrower and its Restricted Subsidiaries or, in the case of gains, did not represent cash received by Borrower and its subsidiaries, in each case during such Fiscal Year;

(x) cash payments by Borrower and its Restricted Subsidiaries during such Fiscal Year in respect of long-term liabilities of Borrower and its Restricted Subsidiaries other than Indebtedness;

(xi) the aggregate amount of expenditures actually made by Borrower and its Restricted Subsidiaries in cash during such period (including expenditures for the payment of financing fees) to the extent that such expenditures are not expensed during such period; and

(xii) cash payments by Borrower and its Restricted Subsidiaries during such period in respect ofnon-cash charges included in the calculation of Consolidated Net Income in any prior period.

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

"Excluded Contributions" means, at any time the cash and Cash Equivalents received by Borrower after the Escrow Release Date from:

(1) contributions to its common equity capital, and

(2) the sale (other than to a Subsidiary of Borrower or to any Subsidiary management equity plan or stock option plan or any other management or employee benefit plan or agreement) of Capital Stock (other than Disqualified Stock and Designated Preferred Stock) of Borrower,

in each case designated as Excluded Contributions pursuant to an Officer's Certificate.

"Excluded Property" has the meaning ascribed to such term in the Security Agreement.

"Excluded Subsidiary" means (a) each Domestic Subsidiary that is prohibited from guaranteeing the Obligations hereunder by any requirement of law or that would require consent, approval, license or authorization of a Governmental Authority to guarantee the Obligations hereunder (unless such consent, approval, license or authorization has been received), (b) each Domestic Subsidiary that is prohibited by any applicable contractual requirement from guaranteeing the Obligations hereunder on the Escrow Release Date or at the time such Subsidiary becomes a Subsidiary (to the extent not Incurred in connection with becoming a Subsidiary and in each case for so long as such restriction or any replacement or renewal thereof is in effect), (c) any Domestic Subsidiary (i) that owns no material assets (directly or through its Subsidiaries) other than Equity Interests of one or more Foreign Subsidiaries that are CFCs or (ii) that is a direct or indirect Subsidiary of a Foreign Subsidiary that is a CFC, (d) any Foreign Subsidiary, (e) any Securitization Subsidiary and any other special purpose subsidiary, (f) any CFC, (g) any Unrestricted Subsidiary, (h) any non-Wholly Owned Subsidiary subject to Section 13.10(c), (i) any Immaterial Subsidiary, (j) any Subsidiary that is a captive insurance company and (k) anynot-for-profit Subsidiary. For the avoidance of doubt, no Subsidiary that becomes a Guarantor at the election of Borrower pursuant to the proviso to Section 6.12(a) shall constitute an Excluded Subsidiary (unless such Subsidiary has been subsequently released from its Guaranty in accordance with Section 13.10).

"Excluded Swap Obligation" means, with respect to any Credit Party, any Hedging Obligation if, and to the extent that, all or a portion of the Obligations of such Credit Party of, or the grant by such Credit Party of a security interest to secure, such Hedging Obligation (or any Obligations thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof). If a Hedging Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Hedging Obligation that is attributable to swaps for which such Obligation or security interest is or becomes illegal.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient, or required to be withheld or deducted from a payment to a Recipient: (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, any U.S. federal withholding Tax imposed on amounts payable to or for the account of such Lender pursuant to any law in effect on the date such Lender becomes a party to this Agreement (other than as an assignee pursuant to a request by Borrower under Section 2.14(d)) or designates a new lending office (unless such designation is at the request of Borrower under Section 2.14(g)), (c) Taxes attributable to such Recipient's failure to comply with Section 2.13(d) and (d) any U.S. federal withholding Taxes imposed under FATCA.

"Existing Forward Air Credit Agreement" means that certain Credit Agreement, dated September 29, 2017 (as amended, restated, supplemented or otherwise modified from time to time), among Parent Guarantor and Forward Air, Inc., as the borrowers, the subsidiaries of the borrowers identified therein as the guarantors, Bank of America, N.A., as administrative agent and lender, U.S. Bank National Association, as lender, and the other lenders party thereto.

"Existing Omni First Lien Credit Agreement" means that certain Amended and Restated Senior Secured First Lien Credit Agreement, dated November 30, 2021 (as amended, restated, supplemented or otherwise modified from time to time), among Omni Intermediate Holdings, LLC, as borrower, Omni Parent, LLC, as parent guarantor, the subsidiary guarantors party thereto, Antares Capital LP, as sole bookrunner and sole lead arranger, the lender parties referred to therein and Antares Capital LP, as administrative agent and collateral agent.

"Existing Omni Second Lien Credit Agreement" means that certain Secured Second Lien Credit Agreement, dated December 30, 2020 (as amended, restated, supplemented or otherwise modified from time to time), among Omni Intermediate Holdings, LLC, as borrower, Omni Parent, LLC, as parent guarantor, the subsidiary guarantors party thereto, Bain Capital Credit, LP., as lead arranger and bookrunner, the lender parties referred to therein and Bain Capital Credit, LP., as administrative agent and collateral agent.

"Extended Commitments" has the meaning specified in Section 2.17(a).

"Extended Loans" has the meaning specified in Section 2.17(a).

"Extending Lender" has the meaning specified in Section 2.17(c).

"Extension" has the meaning specified in Section 2.17(a).

"Extension Amendment" has the meaning specified in Section 2.17(d).

"Extension Offer" has the meaning specified in Section 2.17(a).

"Facilities" shall mean the Term B Facility and Revolving Credit Facility, collectively.

"Fair Labor Standards Act" means the Fair Labor Standards Act, 29 U.S.C. §§ 201 et seq.

"Fair Market Value" means, with respect to any asset or property on any date of determination, the price which could be negotiated in an arm's-length transaction on such date of determination, for cash, between a willing seller and a willing and able buyer, neither of whom is under undue pressure or compulsion to complete the transaction. Except as otherwise set forth in this Agreement, such value shall be determined in good faith by Borrower.

"FATCA" means Sections 1471 through 1474 of the IRC as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with) and any current or future regulations or official interpretations thereof and any agreement entered into pursuant to Section 1471(b)(1) of the IRC and any intergovernmental agreements implementing the foregoing.

"FCPA" means the Foreign Corrupt Practices Act of 1977 (15 U.S.C. §§78dd-1, et seq.), as amended, and the rules and regulations thereunder.

"Federal Funds Rate" means, for any day, the greater of (a) the rate calculated by the NYFRB based on such day's Federal funds transactions by depositary institutions (as determined in such manner as the NYFRB shall set forth on its public website from time to time) and published on the next succeeding Business Day by the NYFRB as the Federal funds effective rate and (b) 0%.

"Federal Reserve Board" means the Board of Governors of the Federal Reserve System of the United States.

"Fee Letter" means that certain Second Amended and Restated Fee Letter, dated as of September 9, 2023, by and among,*inter alios*, Parent Guarantor, the Lead Arrangers (and each Affiliate thereof party thereto) and Agent.

"Fees" means any and all fees and other amounts payable to Agent or any Lender pursuant to this Agreement or any of the other Loan Documents.

"Financial Officer" means, with respect to any of Borrower or its Subsidiaries, the chief executive officer, the chief financial officer, the principal accounting officer, the treasurer, the assistant treasurer and the controller thereof.

"Financial Performance Covenant" means the covenant contained in Section 7.12.

"Financial Statements" means the consolidated income statements, statements of cash flows and balance sheets of Borrower delivered in accordance with Section 4.4 and Section 5.1.

"Fiscal Quarter" means any of the quarterly accounting periods of Borrower, ending on March 31, June 30, September 30, and December 31 of each year.

"Fiscal Year" means any of the annual accounting periods of Borrower ending on December 31 of each year.

"Fitch" means Fitch Ratings, Inc. and any successor to its rating agency business.

"Fixed Amounts" has the meaning set forth in Section 1.9.

"Fixed Charge Coverage Ratio" means, with respect to any Person for any period, the ratio of EBITDA of such Person for such period to the Fixed Charges of such Person for such period.

In the event that Borrower or any of its Restricted Subsidiaries Incurs, repays, repurchases or redeems any Indebtedness or issues, repurchases or redeems Disqualified Stock or Preferred Stock subsequent to the commencement of the period for which the Fixed Charge Coverage Ratio is being calculated but prior to the event for which the calculation of the Fixed Charge Coverage Ratio is made (the "Fixed Charge Calculation Date"), then the Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect to such Incurrence, repayment, repurchase or redemption of Indebtedness, or such issuance, repurchase or redemption of Disqualified Stock or Preferred Stock, as if the same had occurred at the beginning of the applicable four-quarter period; *provided* that Borrower may elect pursuant to an Officer's Certificate delivered to Agent to treat all or any portion of the commitment under any Indebtedness as being Incurred at the time of delivery of such Officer's Certificate, in which case any subsequent Incurrence of Indebtedness (or Liens secured by such Indebtedness) under such commitment shall not be deemed, for purposes of this calculation, to be an Incurrence at such subsequent time, and to the extent (i) Borrower elects pursuant to such an Officer's Certificate delivered to Agent to treat all or any portion of the

commitment under any Indebtedness as being Incurred at the time of delivery of such Officer's Certificate or (ii) Borrower or any Restricted Subsidiary elects to treat Indebtedness as having been Incurred prior to the actual Incurrence thereof pursuant to Section 7.1(c)(iii), Borrower shall deem all or such portion of such commitment or such Indebtedness, as applicable, as having been Incurred and to be outstanding for purposes of calculating the Fixed Charge Coverage Ratio for any period in which Borrower makes any such election and for any subsequent period until such commitments or such Indebtedness, as applicable, are no longer outstanding.

For purposes of making the computation referred to above, Investments, acquisitions, dispositions, mergers, amalgamations, consolidations and discontinued operations (as determined in accordance with GAAP and including, for each applicable period and for the avoidance of doubt, any of the foregoing occurring in connection with the Transactions), in each case with respect to any company, any business or any group of assets constituting an operating unit of a business, that Borrower or any Restricted Subsidiary has made during the four-quarter reference period or subsequent to such reference period and on or prior to or simultaneously with the Fixed Charge Calculation Date (each, for purposes of this definition, a "pro forma event") shall be calculated on a pro forma basis assuming that all such Investments, acquisitions, dispositions, mergers, amalgamations, consolidations, or discontinued operations (and the change of any associated fixed charge obligations and the change in EBITDA resulting therefrom) had occurred on the first day of the four-quarter reference period; provided that, notwithstanding any classification of any Person, business, assets or operations as discontinued operations because a definitive agreement for the sale, transfer or other disposition in respect thereof has been entered into, Borrower shall not make such computations on a pro forma basis for any such classification for any period until such sale, transfer or other disposition has been consummated. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into Borrower or any Restricted Subsidiary since the beginning of such period shall have consummated any pro forma event, that would have required adjustment pursuant to this definition, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such pro forma event had occurred at the beginning of the applicable four-quarter period. If since the beginning of such period any Restricted Subsidiary is designated an Unrestricted Subsidiary or any Unrestricted Subsidiary is designated a Restricted Subsidiary, then the Fixed Charge Coverage Ratio shall be calculated giving pro forma effect thereto for such period as if such designation had occurred at the beginning of the applicable four-quarter period.

For purposes of this definition, whenever *pro forma* effect is to be given to any *pro forma* event, the *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of Borrower. Any such *pro forma* calculation may include adjustments appropriate, in the reasonable good faith determination of Borrower, to reflect operating expense reductions and other operating improvements or synergies reasonably expected to result from the applicable event within 18 months of the date the applicable event is consummated.

If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness if such Hedging Obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of Borrower to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable

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

For purposes of this definition, any amount in a currency other than Dollars will be converted to Dollars based on the average exchange rate for such currency for the most recent twelve month period immediately prior to the date of determination in a manner consistent with that used in calculating EBITDA for the applicable period.

"Fixed Charges" means, with respect to any Person for any period, the sum, without duplication, of: (1) Consolidated Interest Expense (excluding amortization or write-off of deferred financing costs) of such Person for such period, and (2) all cash dividend payments (excluding items eliminated in consolidation) on any series of Preferred Stock or Disqualified Stock of such Person.

"Fixed Incremental Amount" means (i) the greater of (a) $275.0 million and (b) 50% of Consolidated EBITDA *less* (ii) the aggregate principal amount of Incremental Equivalent Debt Incurred utilizing the Fixed Incremental Amount.

"Flood Insurance Laws" means, collectively, (i) the National Flood Insurance Act of 1968 as now or hereafter in effect or any related or successor statute thereto, (ii) the Flood Disaster Protection Act of 1973 as now or hereafter in effect or any related or successor statute thereto, (iii) the National Flood Insurance Reform Act of 1994 as now or hereafter in effect or any related or successor statute thereto, (iv) the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any related or successor statute thereto and (v) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any related or successor statute thereto.

"Foreign Disposition" has the meaning specified in Section 2.3(b)(v).

"Foreign Lender" has the meaning ascribed to it in Section 2.13(d).

"Foreign Pension Plan" shall mean any benefit plan that under applicable law other than the laws of the United States or any political subdivision thereof, is required to be funded through a trust or other funding vehicle other than a trust or funding vehicle maintained exclusively by a Governmental Authority.

"Foreign Subsidiary" means a Restricted Subsidiary that is not organized or established under the laws of the United States of America, any state thereof or the District of Columbia. For the avoidance of doubt, any Subsidiary incorporated or organized under the laws of a territory of the United States (including the Commonwealth of Puerto Rico) shall constitute a "Foreign Subsidiary" hereunder.

"Fronting Exposure" means, at any time there is a Defaulting Lender, with respect to any L/C Issuer, such Defaulting Lender's Pro Rata Share of the outstanding Letter of Credit Obligations with respect to Letters of Credit issued by such L/C Issuer other than Letter of Credit Obligations as to which (i) such Defaulting Lender shall have funded its Pro Rata Share of any Revolving Credit Loan or purchased a participation in its Pro Rata Share, in each case in respect of any such Letter of Credit Obligation or (ii) such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"FSHCO" means any Subsidiary that owns no material assets other than Equity Interests (including for this purpose any debt or other instruments treated as equity for U.S. federal income tax purposes) in one or more Foreign Subsidiaries that are CFCs and/or of one or more FSHCOs.

"GAAP" means generally accepted accounting principles in the United States set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as have been approved by a significant segment of the accounting profession, which are in effect from time to time (unless otherwise specified herein). For the purposes of this Agreement, the term "consolidated" with respect to any Person shall mean such Person consolidated with its Restricted Subsidiaries, and shall not include any Unrestricted Subsidiary, but the interest of such Person in an Unrestricted Subsidiary will be accounted for as an Investment.

"Governmental Authority" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).

"Granting Lender" has the meaning ascribed to it in Section 11.1(g).

"Guarantied Obligations" means, as to any Person, any obligation of such Person guarantying or otherwise having the economic effect of guarantying any Indebtedness, lease, dividend, or other obligation ("primary obligation") of any other Person (the "primary obligor") in any manner, including any obligation or arrangement of such Person to (a) purchase or repurchase any such primary obligation, (b) advance or supply funds (i) for the purchase or payment of any such primary obligation or (ii) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency or any balance sheet condition of the primary obligor, (c) purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, (d) protect the beneficiary of such arrangement from loss (other than product warranties given in the ordinary course of business), or (e) indemnify the owner of such primary obligation against loss in respect thereof; provided, however, that the term Guarantied Obligations shall not include endorsements of instruments for deposit or collection in the ordinary course of business or standard contractual indemnities. The amount of any Guarantied Obligations at any time shall be deemed to be an amount equal to the lesser at such time of (x) the stated or determinable amount of the primary obligation in respect of which such Guarantied Obligations is Incurred and (y) the maximum amount for which such Person may be liable pursuant to the terms of the instrument embodying such Guarantied Obligations, or, if not stated or determinable, the maximum reasonably anticipated liability (assuming full performance) in respect thereof.

"Guarantor Payment" has the meaning ascribed to it in Section 13.7(a).

"Guarantors" means Parent Guarantor and the Subsidiary Guarantors.

"Guaranty" means the guarantee of the Obligations of Borrower hereunder by the Guarantors in Article 13 hereunder or in a supplemental guarantee in accordance with Section 6.12 of this Agreement.

"Hazardous Material" means any substance, material or waste that is regulated as a hazardous waste, hazardous substance, hazardous material, pollutant, contaminant or words of similar

import under any Environmental Law, including but not limited to any "Hazardous Waste" as defined by the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. § 6901 et seq. (1976)), any "Hazardous Substance" as defined under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (42 U.S.C. § 9601 et seq. (1980)), any petroleum or any fraction thereof, asbestos, polychlorinated biphenyls, toxic mold, mycotoxins, toxic microbial matter (naturally occurring or otherwise), infectious waste and radioactive substances or any other substance that is regulated under Environmental Law due to its toxic, ignitable, reactive, corrosive, caustic or dangerous properties.

"Hedge Bank" means any Person that is a Lender, Lead Arranger, Agent or an Affiliate of a Lender, Lead Arranger or Agent (x) on the Escrow Release Date, with respect to Swap Contracts to which such Person is a counterparty as of the Escrow Release Date or (y) at the time such Person becomes a counterparty to a Swap Contract, in each case, in its capacity as a counterparty to such Swap Contract, in each case, regardless of whether such Person ceases to be a Lender, Lead Arranger or Agent (or an Affiliate thereof), as the case may be.

"Hedging Obligations" means, with respect to any Person, the obligations of such Person under:

(1) currency exchange, interest rate or commodity swap agreements, currency exchange, interest rate or commodity cap agreements and currency exchange, interest rate or commodity collar agreements; and

(2) other agreements or arrangements designed to protect such Person against fluctuations in currency exchange, interest rates or commodity prices.

"Immaterial Subsidiary" means, at any date of determination, any Restricted Subsidiary that (i) has total assets of less than 2.5% of the Total Assets, and, together with all other Immaterial Subsidiaries (as determined in accordance with GAAP), has total assets of less than 5.0% of the Total Assets, in each case measured at the end of the most recent fiscal period for which internal financial statements are available and on a *pro forma* basis after giving effect to any acquisitions or dispositions of companies, divisions or lines of business since such balance sheet and on or prior to the date of acquisition of such Subsidiary and (ii) has revenue for the period of four consecutive fiscal quarters ending on such date of less than 2.5% of the combined revenue of Borrower and its Restricted Subsidiaries for such period and, together with all other Immaterial Subsidiaries (as determined in accordance with GAAP), has revenue for the period of four consecutive fiscal quarters ending on such date of less than 5.0% of the combined revenue of Borrower and its Restricted Subsidiaries for such period (in each case, measured for the four quarters ended most recently for which internal financial statements are available and on a *pro forma* basis giving effect to any acquisitions or dispositions of companies, divisions or lines of business since the start of such four quarter reference period).

"Impacted Lender" means any Lender that fails to promptly provide Borrower or Agent, upon such Person's reasonable request, reasonably satisfactory evidence that such Lender will not become a Defaulting Lender.

"Increased Amount" has the meaning ascribed to it in Section 7.7(d).

"Incremental Amendment" has the meaning specified in Section 2.15(d).

"Incremental Equivalent Debt" means Indebtedness Incurred by Borrower or a Guarantor in the form of secured or unsecured notes, loans, bonds or debentures and/or commitments in respect of any of the foregoing issued, Incurred or implemented in lieu of loans under an Incremental Facility; provided, that:

(a) the aggregate principal amount of such Incremental Equivalent Debt outstanding shall not, at the time of determination pursuant to Section 7.1(b)(xxiv), exceed the Incremental Facility Cap (as in effect at the time of determination, including giving effect to any reclassification on or prior to such date of determination),

(b) except as otherwise agreed by the lenders or holders providing such Incremental Equivalent Debt, no Event of Default exists immediately prior to or after giving effect to the Incurrence of such Incremental Equivalent Debt,

(c) the Weighted Average Life to Maturity applicable to any such Incremental Equivalent Debt (other than customary bridge loans; provided, that any loans, notes, bonds or debentures which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (c)) that is secured by Liens on the Collateral on a *pari passu* basis with the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility is no shorter than the Weighted Average Life to Maturity of the Term B Loans (without giving effect to any amortization or prepayments thereof),

(d) the final maturity date with respect to any such Incremental Equivalent Debt (other than customary bridge loans; provided, that any loans, notes, bonds or debentures which are exchanged for or otherwise replace such bridge loans shall be subject to the requirements of this clause (d)) (x) that is secured by Liens on the Collateral on a *pari passu* basis with the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall be no earlier than the Maturity Date with respect to the Term B Loans and (y) that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall be no earlier than the date that is 91 days following the Maturity Date with respect to the Term B Loans,

(e) Incremental Equivalent Debt that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall not have any scheduled amortization prior to the date that is 91 days following the Maturity Date with respect to the Term B Loans;

(f) subject to clauses (c), (d) and (e), may otherwise have an amortization schedule as determined by Borrower and the lenders or holders providing such Incremental Equivalent Debt;

(g) in the case of any such Incremental Equivalent Debt in the form of term loans that are secured by Liens on the Collateral on a *pari passu* basis with the Liens on the Collateral securing the Term B Loans (other than customary bridge loans), the provisions of Section 2.15(c)(v) shall apply,

(h) to the extent such Incremental Equivalent Debt is secured by a Lien on the Collateral that is *pari passu* or junior to the Liens on the Collateral securing the Obligations hereunder, a Senior Representative of such Incremental Equivalent Debt acting on behalf of the lenders or holders of such Incremental Equivalent Debt shall have become party to or otherwise subject to the provisions of the Pari Passu Intercreditor Agreement or the Junior Intercreditor Agreement, as applicable;

(i) no such Incremental Equivalent Debt may be (x) guaranteed by any Subsidiary or any Parent which is not a Credit Party or (y) secured by any assets other than the Collateral;

(j) (x) any Incremental Equivalent Debt secured by Liens on the Collateral on a*pari passu* basis with the Liens on the Collateral securing the Term B Loans may share ratably or less than ratably (but not more than ratably) in any mandatory prepayments of Term B Loans hereunder, except for prepayments in connection with a refinancing of such Incremental Equivalent Debt and (y) any Incremental Equivalent Debt that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans shall not require any mandatory prepayments except to the extent such prepayments are first offered ratably to holders of the Term B Loans hereunder and to holders of any Incremental Equivalent Debt secured by Liens on the Collateral on a *pari passu* basis with the Liens on the Collateral securing the Term B Loans, except for prepayments in connection with a refinancing of such Incremental Equivalent Debt; and

(k) to the extent the terms of any such Incremental Equivalent Debt are inconsistent with the terms set forth herein (except as set forth in clause (a) through (j) above and excluding pricing, interest rate floors, discounts, fees, call protections, premiums and optional prepayment or redemption terms), such terms shall not be materially less favorable (when taken as a whole) to Borrower than the terms and conditions of the Term B Loans unless such less favorable terms are (x) not effective until after the Maturity Date of the Term B Loans or (y) are also applied to the Term B Loans and the Revolving Credit Facility; provided that, to the extent any more restrictive financial maintenance covenant is added for the benefit of (A) any Incremental Equivalent Debt incurred as term B loans, such financial maintenance covenant shall be also added for the benefit of each Facility remaining outstanding after the incurrence or issuance of such Incremental Equivalent Debt or (B) any revolving facility, such financial maintenance covenant (except to the extent only applicable after the Commitment Termination Date) shall be also added for the benefit of the Revolving Credit Facility to the extent it remains outstanding after the incurrence of such Incremental Equivalent Debt; it being understood and agreed that in each such case, no consent of Agent and/or any Lender shall be required in connection with adding any such financial maintenance covenant.

"Incremental Facilities" has the meaning specified in Section 2.15(a).

"Incremental Facility Cap" means an amount equal to the Fixed Incremental Amount*plus* the Ratio Incremental Amount*plus* the Voluntary Prepayment Incremental Amount.

"Incremental Lender" has the meaning specified in Section 2.15(d).

"Incremental Revolving Credit Commitments" has the meaning specified in Section 2.15(a).

"Incremental Term Loans" has the meaning specified in Section 2.15(a).

"Incur" means issue, assume, guarantee, incur or otherwise become liable for;provided, however, that any Indebtedness or Capital Stock of a Person existing at the time such Person becomes a Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary. "Incurred" and "Incurrence" shall have like meanings.

"Incurred Acquisition Debt" has the meaning specified in Section 7.1(b)(xvi)

"Incurrence-Based Amounts" has the meaning set forth in Section 1.9.

"Indebtedness" means, with respect to any Person:

(1) the principal of any indebtedness of such Person, whether or not contingent, (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit or bankers' acceptances (or, without duplication, reimbursement agreements in respect thereof), (c) representing the deferred and unpaid purchase price of any property (except any such balance that constitutes (i) a trade payable or similar obligation to a trade creditor Incurred in the ordinary course of business, (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP and (iii) liabilities accrued in the ordinary course of business), which purchase price is due more than twelve months after the date of placing the property in service or taking delivery and title thereto, (d) in respect of Capitalized Lease Obligations, (e) in respect of Securitization Financings or (f) representing any Hedging Obligations, if and to the extent that any of the foregoing indebtedness would appear as a liability on a balance sheet (excluding the footnotes thereto) of such Person prepared in accordance with GAAP;

(2) to the extent not otherwise included, any obligation of such Person to be liable for, or to pay, as obligor, guarantor or otherwise, the obligations referred to in clause (1) of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and

(3) to the extent not otherwise included, Indebtedness of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); provided, however, that the amount of such Indebtedness will be the lesser of: (a) the Fair Market Value (as determined in good faith by Borrower) of such asset at such date of determination, and (b) the amount of such Indebtedness of such other Person;

provided, however, that, notwithstanding the foregoing, Indebtedness shall be deemed not to include (1) Contingent Obligations Incurred in the ordinary course of business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; (4) trade and other ordinary course payables, accrued expenses and intercompany liabilities arising in the ordinary course of business; (5) obligations in respect of Cash Management Services; (6) in the case of Borrower and the Restricted Subsidiaries (x) all intercompany Indebtedness having a term not exceeding 364 days (inclusive of any roll-over or extensions of terms) and made in the ordinary course of business and (y) intercompany liabilities in connection with cash management, tax and accounting operations of Borrower and the Restricted Subsidiaries; and (7) any obligations under Hedging Obligations; *provided* that such agreements are entered into for bona fide hedging purposes of Borrower or the Restricted Subsidiaries (as determined in good faith by the Board of Directors or senior management of Borrower, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement, such agreements are related to business transactions of Borrower or the Restricted Subsidiaries entered into in the ordinary course of business and, in the case of any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement, such agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Indebtedness of Borrower or the Restricted Subsidiaries Incurred without violation of this Agreement.

Notwithstanding anything in this Agreement to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Statement of Financial Accounting Standards No. 133 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness; and any such amounts that would have constituted Indebtedness under this Agreement but for the application of this sentence shall not be deemed an Incurrence of Indebtedness under this Agreement.

"Indemnified Person" has the meaning ascribed to in Section 2.11.

"Indemnified Tax" means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of a Credit Party under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

"Independent Financial Advisor" means an accounting, appraisal or investment banking firm or consultant, in each case of nationally recognized standing, that is, in the good faith determination of Borrower, qualified to perform the task for which it has been engaged.

"Information" has the meaning ascribed to it in Section 12.8.

"Insolvency Law" means the Bankruptcy Code, as now and hereafter in effect, any successors to such statute and any other applicable insolvency or other similar law of any jurisdiction including, without limitation, any law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it.

"Intellectual Property" means any and all Patents, Copyrights and Trademarks.

"Intellectual Property Security Agreements" means, collectively, any and all Copyright Security Agreements, Patent Security Agreements and Trademark Security Agreements, made in favor of Agent, on behalf of itself and the Secured Parties, by each Credit Party signatory thereto, as amended from time to time.

"Intercreditor Agreement" has the meaning specified in Section 10.15.

"Interest Payment Date" means (a) as to any Base Rate Loan, the last Business Day of each Fiscal Quarter to occur while such Loan is outstanding and the Maturity Date applicable to such Loan and (b) as to any Term SOFR Loan, the last day of the applicable Interest Period and the Maturity Date applicable to such Loan; provided, that in the case of any Interest Period greater than three months in duration, interest shall be payable at three-month intervals and on the last day of such Interest Period.

"Interest Period" means, as to any borrowing, the period commencing on the date of such Loan or borrowing and ending on the numerically corresponding day in the calendar month that is one, three or six months thereafter (in each case, subject to the availability thereof), as specified in the applicable Notice of Borrowing or Notice of Conversion/Continuation; provided that (i) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day, (ii) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period, (iii) no Interest Period shall extend beyond the Maturity

Date and (iv) no tenor that has been removed from this definition pursuant to Section 2.18(d) shall be available for specification in such Notice of Borrowing or Notice of Conversion/Continuation unless and until such tenor is later reinstated into this definition pursuant to Section 2.18(d). For purposes hereof, the date of a Loan or borrowing initially shall be the date on which such Loan or borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Loan or borrowing.

"Internally Generated Cash Flow" means any cash of Borrower and its Restricted Subsidiaries that is not generated from an Incurrence of long-term Indebtedness.

"Investment Grade Securities" means:

(1) securities issued or directly and fully guaranteed or insured by the U.S. government or any agency or instrumentality thereof (other than Cash Equivalents),

(2) securities that have a rating equal to or higher than Baa3 (or equivalent) by Moody's andBBB- (or equivalent) by S&P, but excluding any debt securities or loans or advances between and among Borrower and its Subsidiaries,

(3) investments in any fund that invests exclusively in investments of the type described in clauses (1) and (2) which fund may also hold material amounts of cash pending investment and/or distribution, and

(4) corresponding instruments in countries other than the United States customarily utilized for high quality investments and in each case with maturities not exceeding two years from the date of acquisition.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions (excluding accounts receivable, trade credit and advances to customers and commission, travel and similar advances to officers, employees and consultants made in the ordinary course of business and any assets or securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and any prepayments and other credits to suppliers made in the ordinary course of business), purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet of such Person in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of "Unrestricted Subsidiary" and Section 7.2:

(1) "Investments" shall include the portion (proportionate to Borrower's Equity Interest in such Subsidiary) of the Fair Market Value (as determined in good faith by Borrower) of the net assets of such Subsidiary at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided, however, that upon a redesignation of such Subsidiary as a Restricted

Subsidiary, Borrower shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary equal to an amount (if positive) equal to:

(a) its "Investment" in such Subsidiary at the time of such redesignation less

(b) the portion (proportionate to its Equity Interest in such Subsidiary) of the Fair Market Value (as determined in good faith by Borrower) of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value (as determined in good faith by Borrower) at the time of such transfer, in each case as determined in good faith by the Board of Directors of Borrower.

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

"IRS" means the Internal Revenue Service.

"ISDA CDS Definitions" has the meaning specified in Section 12.2.

"Joint Venture" means any Person a portion (but not all) of the Capital Stock of which is owned directly or indirectly by Borrower or a Subsidiary thereof but which is not a Wholly Owned Subsidiary.

"Junior Indebtedness" means any (i) Subordinated Indebtedness and/or (ii) any Indebtedness secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility.

"Junior Intercreditor Agreement" means the intercreditor agreement to be entered into among Agent, the Senior Representative of any Indebtedness that is to be secured by a Lien on the Collateral that is not prohibited by this Agreement and is junior to the Lien on the Collateral of the Secured Parties, and the Credit Parties, in a form reasonably acceptable to Agent and the Borrower, as the same may be amended, restated, supplemented or otherwise modified from time to time, or any other intercreditor agreement among the foregoing on terms that are reasonably acceptable to Agent and Borrower.

"Latest Maturity Date" means, at any date of determination, the latest maturity or expiration date applicable to any Loan or Commitment hereunder at such time, including the latest maturity or expiration date of any Incremental Facility, any Refinancing Facility or any Extended Loan, in each case as extended in accordance with this Agreement from time to time.

"L/C Issuer" means each entity that agrees to act as an L/C Issuer pursuant to the Escrow Release Date Incremental Revolving Amendment or any of their respective Affiliates or branches, each in its capacity as issuer of any Letter of Credit, or such other Revolving Lender as Borrower may select after the Escrow Release Date (subject to Agent's consent, not to be unreasonably withheld, delayed or conditioned, and the consent of such Revolving Lender) as an L/C Issuer under this Agreement.

"L/C Issuer Fronting Sublimit Amount" means (a) as to each L/C Issuer party to the Escrow Release Date Incremental Revolving Amendment, such sublimit as set forth in such Escrow Release Date Incremental Revolving Amendment and (b) as to each L/C Issuer that becomes an L/C Issuer hereunder after the Escrow Release Date, the fronting sublimit amount of such L/C Issuer set forth in the instrument under which such L/C Issuer becomes an L/C Issuer. The L/C Issuer Fronting Sublimit Amount of any L/C Issuer may be changed by written agreement between Borrower and such L/C Issuer, without the consent of any other party hereto (but with notice to Agent), it being understood that no such change shall impact the L/C Sublimit.

"L/C Sublimit" has the meaning specified in Section 2.6(a).

"LCA Election" has the meaning specified in Section 1.8.

"LCA Test Date" has the meaning specified in Section 1.8.

"Lead Arrangers" means Citigroup Global Markets Inc., Morgan Stanley Senior Funding, Inc., Goldman Sachs Bank USA, JPMorgan Chase Bank, N.A., U.S. Bank National Association, PNC Capital Markets LLC, Capital One, National Association, Deutsche Bank Securities Inc., TD Securities (USA) LLC and Citizens Bank, N.A., each in its capacities as a Joint Lead Arranger and Joint Bookrunner.

"Lender" means each financial institution or other entity that (a) is listed on the signature pages hereof as a "Lender" or, pursuant to an Incremental Amendment or Refinancing Amendment, becomes an Additional Lender, or (b) from time to time becomes a party hereto by execution of an Assignment Agreement, in each case, other than any such Person that ceases to be a party hereto by execution of an Assignment Agreement.

"Letter of Credit Fee" has the meaning specified in Section 2.6(d).

"Letter of Credit Obligations" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all payments made by the L/C Issuers pursuant to Letters of Credit that have not yet been reimbursed by or on behalf of Borrower at such time.

"Letters of Credit" means letters of credit issued for the account of Borrower by any L/C Issuer pursuant hereto (including as provided in Section 2.6(j)).

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or similar encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement or any lease in the nature thereof); provided that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

"Limited Condition Acquisition" means any acquisition or other investment by Borrower or one or more of the Restricted Subsidiaries permitted by this Agreement, the consummation of which is not conditioned on the availability of, or on obtaining, third party financing.

"Litigation" has the meaning ascribed to it in Section 4.13.

"Loan Documents" means this Agreement, the Guaranties, the Intercreditor Agreements, the Collateral Documents, any Notes, any Incremental Amendment, any Refinancing Amendment and any Extension Amendment. Any reference in this Agreement or any other Loan Document to a Loan Document shall include all appendices, exhibits or schedules thereto, and all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

"Loans" means the Term B Loans and the Revolving Credit Loans, collectively.

"Material Adverse Effect" means a material adverse effect on (i) the business, assets, financial condition or results of operations, in each case, of Borrower and its Restricted Subsidiaries, taken as a whole, (ii) the rights and remedies (taken as a whole) of Agent and the Lenders under the Loan Documents or (iii) the ability of Borrower and the Guarantors (taken as a whole) to perform their payment obligations under the Loan Documents.

"Material Intellectual Property" means any Intellectual Property owned by Parent Guarantor, Borrower or any Restricted Subsidiary that is material to the business of Parent Guarantor, Borrower and its Restricted Subsidiaries, taken as a whole (as determined by Borrower in good faith).

"Material Real Property" means any fee-owned real property located in the United States that is owned by a Credit Party and that has a fair market value in excess of $7.5 million (at the Escrow Release Date or, with respect to fee-owned real property located in the United States acquired after the Escrow Release Date, at the time of acquisition).

"Maturity Date" means (x) with respect to the Term B Loans, December 19, 2030 and (y) with respect to the Revolving Credit Facility, the date that is five years after the Escrow Release Date; *provided* that, in each case, if such date is not a Business Day, then the applicable Maturity Date shall be the next succeeding Business Day.

"Maximum Lawful Rate" has the meaning ascribed to it inSection 2.5(f).

"Merger" has the meaning ascribed to it in the preamble to this Agreement.

"Merger Agreement" has the meaning ascribed to it in the preamble to this Agreement

"Merger Agreement Representations" means such of the representations made by or on behalf of Omni in the Merger Agreement as are material to the interests of the Lenders, but only to the extent that Parent Guarantor or its applicable affiliates has the right to terminate its obligations under the Merger Agreement or refuse to consummate the Merger as a result of a breach of such representations in the Merger Agreement.

"Minimum Collateral Amount" means, at any time, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 103% of the Fronting Exposure of all L/C Issuers with respect to all Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by Agent and the L/C Issuers in their sole discretion.

"MNPI" means information that is (a) not publicly available with respect to Borrower (or any Subsidiary of Borrower, as the case may be) and (b) material with respect to Borrower (or its Subsidiaries) or their securities for purpose of United States federal and state securities laws (as reasonably determined by Borrower).

"Moody's" means Moody's Investors Service, Inc. and any successor to its rating agency business.

"Mortgage Policies" has the meaning ascribed to it in Schedule 6.14 hereto.

"Mortgaged Properties" has the meaning ascribed to it in Schedule 6.14 hereto.

"Mortgages" means collectively, the deeds of trust, trust deeds, hypothecs and mortgages made by a Credit Party in favor or for the benefit of Agent on behalf of the Secured Parties creating and evidencing a Lien on a Mortgaged Property in form and substance reasonably satisfactory to Agent (taking account of relevant local Law matters), and any other mortgages executed and delivered pursuant to Section 6.12 or Section 6.14, in each case, as the same may from time to time be amended, restated, supplemented or otherwise modified.

"Multiemployer Plan" means a "multiemployer plan" as defined in Section 4001(a)(3) of ERISA, and to which any Credit Party or ERISA Affiliate is making, is obligated to make, or has made or been obligated to make, contributions on behalf of participants who are or were employed by any of them.

"Net Income" means, with respect to any Person, the net income (loss) of such Person and its Restricted Subsidiaries, determined in accordance with GAAP and before any reduction in respect of Preferred Stock dividends.

"Net Proceeds" means:

(a) with respect to any Prepayment Disposition, the aggregate cash proceeds received by Borrower or any Restricted Subsidiary in respect of such Prepayment Disposition (including, without limitation, any cash received in respect of or upon the sale or other disposition of any Designated Non-cash Consideration received in such Prepayment Disposition and any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or otherwise, but only as and when received, but excluding the assumption by the acquiring Person of Indebtedness relating to the disposed assets or other consideration received in any other non-cash form), net of the direct costs relating to such Prepayment Disposition and the sale or disposition of such Designated Non-cash Consideration (including, without limitation, legal, accounting and investment banking fees, and brokerage and sales commissions), and any relocation expenses Incurred as a result thereof, taxes paid or reasonably estimated by Borrower to be payable as a result thereof (including Tax Distributions and after taking into account any available tax credits or deductions and any tax sharing arrangements related solely to such disposition), amounts required to be applied to the repayment of principal, premium (if any) and interest on Indebtedness required (other than the Loans and other Indebtedness secured on a *pari passu* with, or junior lien basis to, the Liens on the Collateral securing the Obligations under this Agreement) to be paid as a result of such transaction, and any deduction of appropriate amounts to be provided by Borrower and the Restricted Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the asset disposed of in such transaction and retained by Borrower and the Restricted Subsidiaries after such sale or other disposition thereof, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations associated with such transaction; *provided*, that no net cash proceeds calculated in accordance with the foregoing shall constitute Net Proceeds in any Fiscal Year until the aggregate amount of all such net cash proceeds otherwise constituting Net Proceeds pursuant to the foregoing clause (a) in such Fiscal Year shall exceed $100.0 million (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds); and

(b) with respect to the Incurrence of Indebtedness, the aggregate cash proceeds received by Borrower or any Restricted Subsidiary in respect of the Incurrence of such Indebtedness, net of the direct costs of such Incurrence (including, without limitation, legal, accounting and investment banking fees, and brokerage and sales commissions).

To the extent Net Proceeds of any Prepayment Disposition are received by a Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary, Net Proceeds of such Prepayment Disposition shall be deemed to be an amount equal to the gross Net Proceeds of such Prepayment Disposition multiplied by Borrower's percentage of ownership of the economic interests in the Equity Interests of the Restricted Subsidiary.

"Net Short Lender" has the meaning specified in Section 12.2.

"Non-Consenting Lender" has the meaning ascribed to it in Section 12.2(d).

"Note" means a promissory note made by Borrower in favor of a Lender evidencing Loans made by such Lender hereunder, substantially in the form of Exhibit 1.1(g).

"Notice of Borrowing" has the meaning ascribed to it in Section 2.1(b).

"Notice of Conversion/Continuation" has the meaning ascribed to it in Section 2.5(e).

"NYFRB" means the Federal Reserve Bank of New York.

"Obligations" means all loans, advances, debts, liabilities and obligations for the performance of covenants or for payment of monetary amounts (whether or not such performance is then required or contingent, or such amounts are liquidated or determinable) owing by any Credit Party to any Secured Party under any Loan Document, and all covenants and duties regarding such amounts, of any kind or nature, present or future, whether or not evidenced by any note, letter of credit agreement, agreement or other instrument, arising under this Agreement, any of the other Loan Documents, any Cash Management Agreement entered into with a Cash Management Bank or any Secured Hedge Agreement (other than with respect to any Credit Party's obligations that constitute Excluded Swap Obligations solely with respect to such Credit Party). This term includes all principal, Letter of Credit Obligations, interest (including all interest that accrues after the commencement of any case or proceeding by or against any Credit Party in bankruptcy, whether or not allowed in such case or proceeding), Fees, Secured Hedging Obligations (other than with respect to any Credit Party's Secured Hedging Obligations that constitute Excluded Swap Obligations solely with respect to such Credit Party), expenses, attorneys' fees, the Credit Parties' obligations to pay, discharge and satisfy the Erroneous Payment Subrogation Rights and any other sum chargeable to any Credit Party under this Agreement, any of the other Loan Documents, any Cash Management Agreements entered into with a Cash Management Bank or any Secured Hedge Agreements.

"OFAC" has the meaning ascribed to it in Section 4.23.

"Officer" means, with respect to any Person, the Chairman of the Board, Chief Executive Officer, Chief Financial Officer, President, any Executive Vice President, Senior Vice President or Vice President, the Treasurer or the Secretary of such Person.

"Officer's Certificate" means, with respect to any Person, a certificate signed on behalf of such Person by two Officers of such Person, one of whom must be the principal executive officer, the principal financial officer, the treasurer or the principal accounting officer of such Person.

"Omni" means Omni Newco, LLC, a Delaware limited liability company.

"Opinion of Counsel" means, with respect to any Person, a customary written opinion from legal counsel. The counsel may be an employee of or counsel to such Person.

"Other Applicable Indebtedness" has the meaning specified in Section 2.3(b)(ii).

"Other Connection Taxes" means, with respect to a Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising solely from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).

"Other Lender" has the meaning ascribed to it in Section 2.19(a)(i).

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Documents, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.14(d)).

"Parent" means Parent Guarantor and any other Person that is a Subsidiary of Parent Guarantor and of which Borrower is a Subsidiary, in each case, solely for so long as Borrower remains a Subsidiary of Parent Guarantor or such other Person.

"Parent Guarantor" means Forward Air Corporation, a Tennessee corporation (but only from and after such Person's execution of the Escrow Release Date Assumption and Joinder Agreement on the Escrow Release Date).

"Pari Passu Intercreditor Agreement" means (x) the intercreditor agreement to be dated as of the Escrow Release Date, among Borrower, Agent, the 2031 Notes Collateral Agent and other parties thereto, as the same may be amended, restated, supplemented or otherwise modified from time to time and (y) any other intercreditor agreement to be entered into among Agent, the Senior Representative of any Indebtedness that is to be secured by a Lien on the Collateral that is not prohibited by this Agreement and is *pari passu* to the Lien on the Collateral of the Secured Parties, and the Credit Parties, substantially in the form of Exhibit 1.1(e) hereto, as the same may be amended, restated, supplemented or otherwise modified from time to time, or any other intercreditor agreement among the foregoing on terms that are reasonably acceptable to Agent and Borrower.

"Participant Register" has the meaning ascribed to it in Section 11.1(c).

"Patents" has the meaning specified in the Security Agreement.

"PATRIOT Act" has the meaning ascribed to it in Section 4.23.

"Payment Recipient" has the meaning ascribed to it in Section 10.17(a).

"PBGC" means the Pension Benefit Guaranty Corporation.

"Pension Plan" means a Plan described in Section 3(2) of ERISA.

"Periodic Term SOFR Determination Day" has the meaning specified in the definition of "Term SOFR".

"Permitted Investments" means:

(1) any Investment in Borrower or any Restricted Subsidiary; *provided* that the aggregate amount of Investments made by Credit Parties in Restricted Subsidiaries that are not Credit Parties, together with the aggregate amount of Investments pursuant to clause (3) below in Persons that do not become Credit Parties, shall not exceed the greater of $140.0 million and 25% of EBITDA at the time such Investment is made;

(2) any Investment in Cash Equivalents or Investment Grade Securities;

(3) any Investment by Borrower or any Restricted Subsidiary in a Person if as a result of such Investment (a) such Person becomes a Restricted Subsidiary, or (b) such Person, in one transaction or a series of related transactions, is merged, consolidated or amalgamated with or into, or transfers or conveys all or substantially all of its assets to, or is liquidated into, Borrower or a Restricted Subsidiary; *provided* that the aggregate amount of Investments in Persons that do not become Credit Parties, together with the aggregate amount of Investments pursuant to clause (1) above in Restricted Subsidiaries that are not Credit Parties, shall not exceed the greater of $140.0 million and 25% of EBITDA at the time such Investment is made;

(4) any Investment in securities or other assets not constituting Cash Equivalents and received in connection with an Asset Sale made pursuant to Section 7.4 or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on, or made pursuant to binding commitments existing on, the Escrow Funding Date or an Investment consisting of any extension, modification or renewal of any Investment existing on the Escrow Funding Date; provided that the amount of any such Investment may be increased (x) as required by the terms of such Investment as in existence on the Escrow Funding Date or (y) as otherwise permitted under this Agreement;

(6) loans and advances to officers, directors, employees or consultants of Borrower or any of its Subsidiaries or any Parent (i) in the ordinary course of business in an aggregate outstanding amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed $10.0 million at the time of such Incurrence, (ii) in respect of payroll payments and expenses in the ordinary course of business and (iii) in connection with such Person's purchase of Equity Interests of Borrower or any Parent solely to the extent that the amount of such loans and advances shall be contributed to Borrower in cash as common equity;

(7) any Investment acquired by Borrower or any Restricted Subsidiary (a) in exchange for any other Investment or accounts receivable held by Borrower or such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable, or (b) as a result of a foreclosure by Borrower or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default, or as a result of a Bail-In Action with respect to any contractual counterparty of Borrower or any Restricted Subsidiary;

(8) Hedging Obligations permitted under Section 7.1(b)(x);

(9) any Investment by Borrower or any Restricted Subsidiary in a Similar Business having an aggregate Fair Market Value (as determined in good faith by Borrower), taken together with all other Investments made pursuant to this clause (9) that are at that time outstanding, not to exceed the sum of (x) the greater of $140.0 million and 25% of Consolidated EBITDA at the time such Investment is made, plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); provided, however, that if any Investment pursuant to this clause (9) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (9) for so long as such Person continues to be a Restricted Subsidiary;

(10) additional Investments by Borrower or any Restricted Subsidiary having an aggregate Fair Market Value (as determined in good faith by Borrower), taken together with all other Investments made pursuant to this clause (10) that are at that time outstanding, not to exceed the sum of (x) the greater of $165.0 million and 30% of Consolidated EBITDA as of the date of such Investment plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); provided, however, that if any Investment pursuant to this clause (10) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (10) for so long as such Person continues to be a Restricted Subsidiary;

(11) loans and advances to officers, directors or employees of Borrower or any of its Subsidiaries or any Parent for business-related travel expenses, moving expenses and other similar expenses, in each case Incurred in the ordinary course of business or consistent with past practice or to fund such Person's purchase of Equity Interests of Borrower or any Parent;

(12) Investments the payment for which consists of Equity Interests of Borrower (other than Disqualified Stock) or any Parent, as applicable; provided, however, that such Equity Interests will not increase the amount available for Restricted Payments under clause (4) of the definition of "Cumulative Credit";

(13) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 7.5(b) (except transactions described in clauses (ii), (iv), (vi), (viii)(B) and (xv) of Section 7.5(b));

(14) guarantees issued in accordance with Section 7.1 and Section 6.12 including, without limitation, any guarantee or other obligation issued or Incurred under this Agreement (or any credit facility or facilities which amend, restate, refinance, replace, increase or otherwise modify this Agreement) in connection with any letter of credit issued for the account of Borrower or any of its Subsidiaries (including with respect to the issuance of, or payments in respect of drawings under, such letters of credit);

(15) Investments consisting of or to finance purchases and acquisitions of inventory, supplies, materials, services or equipment or purchases of contract rights or licenses or leases of intellectual property;

(16) any Investment in a Securitization Subsidiary or any Investment by a Securitization Subsidiary in any other Person in connection with a Qualified Securitization Financing, including Investments of funds held in accounts permitted or required by the arrangements governing such Qualified Securitization Financing or any related Indebtedness;

(17) any Investment in an entity which is not a Restricted Subsidiary to which a Restricted Subsidiary sells Securitization Assets pursuant to a Securitization Financing;

(18) Investments of a Restricted Subsidiary acquired after the Escrow Release Date or of an entity merged into, amalgamated with, or consolidated with Borrower or a Restricted Subsidiary in a transaction that is not prohibited by Section 7.8 after the Escrow Release Date to

the extent that such Investments were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(19) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers;

(20) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of Borrower or the Restricted Subsidiaries;

(21) Investments in joint ventures or Unrestricted Subsidiaries having an aggregate Fair Market Value (as determined in good faith by Borrower), taken together with all other Investments made pursuant to this clause (21), not to exceed the sum of (x) the greater of (A) $110.0 million and (B) 20% of Consolidated EBITDA in the aggregate as of the date of such Investment, *plus* (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); *provided*, *however*, that if any Investment pursuant to this clause (21) is made in any Person that is not a Restricted Subsidiary at the date of the making of such Investment and such Person becomes a Restricted Subsidiary after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (21) for so long as such Person continues to be a Restricted Subsidiary;

(22) any Investment in any Subsidiary of Borrower or any joint venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business;

(23) Guarantied Obligations of Borrower or any Restricted Subsidiary of leases or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business; and

(24) other Investments; *provided* that the Consolidated Total Net Leverage Ratio of Borrower for the most recently ended four full fiscal quarters for which internal financial statements are available, determined on a pro forma basis after giving effect to such Investment, is less than 3.30 to 1.00.

"Permitted Jurisdictions" has the meaning ascribed to it in Section 7.8(a).

"Permitted Liens" means, with respect to any Person:

(1) pledges, bonds or deposits and other Liens granted by such Person under workmen's compensation laws, unemployment insurance laws or similar legislation, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds, performance and return of money bonds, or deposits as security for contested Taxes or import duties or for the payment of rent, in each case Incurred in the ordinary course of business;

(2) Liens imposed by law, such as landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, construction or other like Liens securing obligations that are not overdue by more than 30 days or that are being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review;

(3) Liens for Taxes, assessments or other governmental charges not yet overdue by more than 30 days, or that are being contested in good faith by appropriate proceedings;

(4) Liens in favor of issuers of performance and surety bonds or bid bonds or with respect to other regulatory requirements or letters of credit, bankers' acceptances or similar obligations issued pursuant to the request of and for the account of such Person in the ordinary course of its business;

(5) minor survey exceptions, minor encumbrances, trackage rights, special assessments, easements or reservations of, or rights of others for, licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines and other similar purposes, servicing agreements, development agreements, site plan agreements and other similar encumbrances Incurred in the ordinary course of business or zoning or other restrictions as to the use of real properties or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which were not Incurred in connection with Indebtedness and which do not in the aggregate materially adversely affect the value of said properties or materially impair their use in the operation of the business of such Person;

(6) (A) Liens on assets of a Subsidiary that is not a Guarantor securing Indebtedness of a Subsidiary that is not a Guarantor permitted to be Incurred pursuant to Section 7.1;

(B) Liens securing any Indebtedness permitted to be Incurred by this Agreement if, as of the date such Indebtedness was Incurred, and after giving *pro forma* effect thereto and the application of the net proceeds therefrom (but without netting the proceeds thereof), such Liens rank (A) junior in priority with the Liens securing the Obligations and the Consolidated Secured Net Leverage Ratio of Borrower does not exceed 3.30 to 1.00 or (B) equal in priority with the Liens securing the Obligations and the Consolidated First Lien Net Leverage Ratio of Borrower does not exceed 2.80 to 1.00;

provided that:

(i) any such Lien securing Indebtedness shall be either (A) secured by the Collateral on a*pari passu* basis (but without regard to the control of remedies) with the Liens securing the Obligations hereunder and shall not be secured by any property or assets of Borrower or any Restricted Subsidiary other than Collateral, and a Senior Representative acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of the Pari Passu Intercreditor Agreement (reflecting the *pari passu* status of the Liens securing such Indebtedness), or (B) secured by the Collateral on a junior basis (including with respect to the control of remedies) with the Liens securing the Obligations hereunder and shall not be secured by any property or assets of Borrower or any Restricted Subsidiary other than Collateral, and a Senior Representative acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of the Junior Intercreditor Agreement (reflecting the junior-lien status of the Liens securing such Indebtedness);

(ii) in the case of *pari passu* Indebtedness that is in the form of term loans, such Indebtedness is subject to the provisions of Section 2.15(c)(v) as if such Indebtedness were Incurred thereunder as part of an Incremental Facility;

(iii) the final maturity date with respect to any such Indebtedness (other than customary bridge loans; provided, that any Indebtedness that is exchanged for or otherwise replaces such bridge loans shall be subject to the requirements of this clause (iii)) (x) that is secured by Liens on the Collateral on a *pari passu* basis with the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall be no earlier than the Maturity Date with respect to the Term B Loans and (y) that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall be no earlier than the date that is 91 days following the Maturity Date with respect to the Term B Loans;

(iv) the Weighted Average Life to Maturity applicable to any such Indebtedness (other than customary bridge loans; provided, that any Indebtedness that is exchanged for or otherwise replaces such bridge loans shall be subject to the requirements of this clause (iv)) that is secured on a *pari passu* basis with the Term B Loans and the Revolving Credit Facility is no shorter than the Weighted Average Life to Maturity of the Term B Loans (without giving effect to any amortization or prepayments thereof); and

(v) any such Indebtedness secured by Liens on the Collateral on a *pari passu* basis with the Liens on the Collateral securing the Term B Loans may share ratably or less than ratably (but not more than ratably) in any mandatory prepayments of Term B Loans hereunder, except for prepayments in connection with a refinancing of such Indebtedness and (y) any such Indebtedness that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans shall not require any mandatory prepayments except to the extent such prepayments are first offered ratably to holders of the Term B Loans hereunder and to holders of any such Indebtedness secured by Liens on the Collateral on a *pari passu* basis with the Liens on the Collateral securing the Term B Loans, except for prepayments in connection with a refinancing of such Indebtedness;

provided, *further*, that the amount of Indebtedness (including Acquired Indebtedness), Disqualified Stock and Preferred Stock that may be secured by Liens pursuant to the foregoing by Restricted Subsidiaries that are not Guarantors, together with all Indebtedness, Disqualified Stock or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors pursuant to Sections 7.1(a), (b)(xii) and (xvi)(A), together with any Refinancing Indebtedness in respect thereof, shall not exceed, in the aggregate, the greater of $330.0 million and 60% of Consolidated EBITDA as of the date on which such Indebtedness is Incurred (*plus*, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(C) Liens securing obligations in respect of Indebtedness permitted to be Incurred pursuant to clause (iv) or (xiv) (to the extent such guarantees are issued in respect of any Indebtedness) of Section 7.1(b);

(D) Liens created pursuant to this Agreement and the Collateral Documents or otherwise securing the Obligations;

(7) Liens existing on the Escrow Funding Date (excluding Liens in favor of the holders of the 2031 Notes);

(8) Liens on assets, property or shares of stock of a Person at the time such Person becomes a Subsidiary provided, however, that such Liens are not created or Incurred in connection with, or in contemplation of, such other Person becoming a Subsidiary; provided, further, however, that such Liens may not extend to any other property owned by Borrower or any Restricted Subsidiary (other than pursuant to after-acquired property clauses in effect with respect to such Lien at the time of acquisition on property of the type that would have been subject to such Lien notwithstanding the occurrence of such acquisition);

(9) Liens on assets or property at the time Borrower or a Restricted Subsidiary acquired the assets or property, including any acquisition by means of a merger, amalgamation or consolidation with or into Borrower or any Restricted Subsidiary; provided, however, that such Liens are not created or Incurred in connection with, or in contemplation of, such acquisition; provided, further, however, that the Liens may not extend to any other property owned by Borrower or any Restricted Subsidiary (other than pursuant to after-acquired property clauses in effect with respect to such Lien at the time of acquisition on property of the type that would have been subject to such Lien notwithstanding the occurrence of such acquisition);

(10) Liens securing Indebtedness or other obligations of Borrower or a Restricted Subsidiary owing to Borrower or another Restricted Subsidiary permitted to be Incurred in accordance with Section 7.1;

(11) Liens securing Hedging Obligations (and, for the avoidance of doubt, Swap Obligations) not Incurred in violation of this Agreement;

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

(13) leases, subleases, licenses and sublicenses of real property which do not materially interfere with the ordinary conduct of the business of Borrower or any of the Restricted Subsidiaries;

(14) Liens arising from Uniform Commercial Code financing statement filings regarding operating leases or other obligations not constituting Indebtedness;

(15) Liens in favor of Borrower or any Subsidiary Guarantor;

(16) Liens on assets of the type specified in the definition of "Securitization Financing" Incurred in connection with a Qualified Securitization Financing;

(17) pledges and deposits and other Liens made in the ordinary course of business to secure liability to insurance carriers;

(18) Liens on the Equity Interests of Unrestricted Subsidiaries;

(19) leases or subleases, and licenses or sublicenses (including with respect to intellectual property) granted to others in the ordinary course of business, and Liens on real property which is not owned but is leased or subleased by Borrower or any Restricted Subsidiary;

(20) Liens to secure any refinancing, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses (6), (7), (8), (9), (10), (11), (15), (25) and (37) of this definition; provided, however, that (x) such new Lien shall be limited to all or part of the same property (including any after acquired property to the extent it would have been subject to the original Lien) that secured the original Lien (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to the after-acquired property clauses to the extent such assets secured (or would have secured) the Indebtedness being refinanced, refunded, extended, renewed or replaced), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount (or accreted value, if applicable) or, if greater, committed amount of the applicable Indebtedness described under clauses (6), (7), (8), (9), (10), (11), (15), (25) and (37) at the time the original Lien became a Permitted Lien under this Agreement, (B) unpaid accrued interest and premiums (including tender premiums), and (C) an amount necessary to pay any underwriting discounts, defeasance costs, commissions, fees and expenses related to such refinancing, refunding, extension, renewal or replacement; provided, further, however, that (X) in the case of any Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clause (6)(B), (6)(C) or (25), the principal amount of any Indebtedness Incurred for such refinancing, refunding, extension or renewal shall be deemed secured by a Lien under clause (6)(B), (6)(C) or (25) and not this clause (20) for purposes of determining the principal amount of Indebtedness outstanding under clause (6)(B), (6)(C) or (25) and (Y) in the case of Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clause (6)(B) or (25), such new Lien shall have priority equal to or more junior than the Lien securing such refinanced, refunded, extended or renewed Indebtedness; provided, further, however, that in the case of any Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clause (6)(D) secured by the Collateral on a *pari passu* basis (but without regard to the control of remedies) with the Liens securing the Obligations hereunder, a Senior Representative acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of the Pari Passu Intercreditor Agreement (reflecting the *pari passu* status of the Liens securing such Indebtedness);

(21) Liens on equipment of Borrower or any Restricted Subsidiary granted in the ordinary course of business to Borrower's or such Restricted Subsidiary's client at which such equipment is located;

(22) judgment and attachment Liens not giving rise to an Event of Default and notices of lis pendens and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made;

(23) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale or purchase of goods entered into in the ordinary course of business;

(24) Liens Incurred to secure Cash Management Services or to implement cash pooling arrangements in the ordinary course of business;

(25) other Liens securing obligations the outstanding principal amount of which does not, taken together with the principal amount of all other obligations secured by Liens Incurred under this clause (25) that are at that time outstanding, exceed the greater of $165.0 million and 30% of Consolidated EBITDA at the time of Incurrence;

(26) any encumbrance or restriction (including put and call arrangements) with respect to Capital Stock of any joint venture or similar arrangement securing obligations of such joint venture or pursuant to any joint venture or similar agreement;

(27) any amounts held by a trustee in the funds and accounts under any indenture issued in escrow pursuant to customary escrow arrangements pending the release thereof, or under any indenture pursuant to customary discharge, redemption or defeasance provisions;

(28) Liens (i) arising by virtue of any statutory or common law provisions relating to banker's Liens, rights ofset-off or similar rights and remedies as to deposit accounts or other funds maintained with a depository or financial institution, (ii) attaching to commodity trading accounts or other commodity brokerage accounts Incurred in the ordinary course of business or (iii) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to brokerage accounts Incurred in the ordinary course of business and not for speculative purposes;

(29) Liens (i) in favor of credit card companies pursuant to agreements therewith and (ii) in favor of customers;

(30) Liens disclosed by the title commitments or title insurance policies delivered pursuant to this Agreement and any replacement, extension or renewal of any such Lien; provided that such replacement, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, extension or renewal; provided, further, that the Indebtedness and other obligations secured by such replacement, extension or renewal Lien are permitted under this Agreement;

(31) Liens that are contractual rights of set-off relating to purchase orders and other agreements entered into with customers, suppliers or service providers of Borrower or any Restricted Subsidiary in the ordinary course of business;

(32) in the case of real property that constitutes a leasehold or subleasehold interest, (x) any Lien to which the fee simple interest (or any superior leasehold interest) is subject or may become subject and any subordination of such leasehold or subleasehold interest to any such Lien in accordance with the terms and provisions of the applicable leasehold or subleasehold documents, and (y) any right of first refusal, right of first negotiation or right of first offer which is granted to the lessor or sublessor;

(33) agreements to subordinate any interest of Borrower or any Restricted Subsidiary in any accounts receivable or other prices arising from inventory consigned by Borrower or any such Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business;

(34) Liens on securities that are the subject of repurchase agreements constituting Cash Equivalents under clause (4) of the definition thereof;

(35) (x) Liens securing the 2031 Notes outstanding on the Escrow Release Date (and the related guarantees on the Escrow Release Date), which Liens are subject to the Pari Passu Intercreditor Agreement and (y) Liens in favor of U.S. Bank Trust Company, National Association, as trustee for the 2031 Notes, for its benefit and the benefit of the holders of the 2031 Notes, securing the Escrowed Property (as defined in the 2031 Notes Indenture) and the Escrow Account (as defined in the 2031 Notes Indenture);

(36) Liens securing insurance premium financing arrangements; provided that such Liens are limited to the applicable unearned insurance premium;

(37) Liens granted in the ordinary course of business consistent with past practice to lessors of trucks, trailers or tractors, leased by Borrower or any Restricted Subsidiary pursuant to arrangements which are intended to be true leases; and

(38) Liens securing Incremental Equivalent Debt.

"Permitted Loan Purchase" has the meaning specified in Section 11.1(h) hereof.

"Permitted Loan Purchase Assignment and Acceptance" shall mean an assignment and acceptance entered into by a Lender as an assignor and Parent Guarantor or any of the Subsidiaries as an assignee, as accepted by Agent (if required by Section 11.1) in the form of Exhibit 1.1(h) hereto or such other form as shall be approved by Agent and Borrower (such approval not to be unreasonably withheld or delayed).

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Plan" means, at any time, an "employee benefit plan", as defined in Section 3(3) of ERISA (other than a Multiemployer Plan), that any Credit Party or ERISA Affiliate maintains, contributes to or has an obligation to contribute to or has maintained, contributed to or had an obligation to contribute to at any time within the past seven (7) years on behalf of participants who are or were employed by any Credit Party or ERISA Affiliate.

"Platform" means Debt Domain, Intralinks, Syndtrak, DebtX or a substantially similar electronic transmission system.

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

"Prepayment Disposition" means (i) any Asset Sale and (ii) any Casualty Event (other than a Casualty Event relating to property or assets which, had they been disposed of immediately prior to the applicable Casualty Event, would not have constituted an "Asset Sale"). "Prime Rate" means the rate of interest per annum publicly announced from time to time by Agent as its prime rate in effect at its principal office in New York City. Any change in the Prime Rate shall take effect at the opening of business on the day specified in the public announcement of such change.

"Pro Rata Share" means, with respect to all matters relating to any Lender, (i) with respect to the Revolving Credit Loans, Revolving Credit Commitments, Aggregate Revolving Credit Exposure, Letter of Credit Obligations or participations in Letters of Credit, the percentage obtained by dividing (A) the Revolving Credit Commitment of that Lender by (B) the aggregate Revolving Credit Commitments of all Lenders (provided that if the Commitments shall have terminated, the Pro Rata Share of each Lender shall be determined based upon the Revolving Credit Commitments most recently in effect and taking into account any subsequent assignments), as any such percentages may be adjusted by increases or decreases in Revolving Credit Commitments pursuant to the terms and conditions hereof or by assignments permitted pursuant to Section 11.1 and (ii) with respect to Term B Loans and Term B Commitments, the percentage obtained by dividing (A) the aggregate outstanding principal balance of the

Term B Loans held by that Lender, if any, together with such Lender's Term B Commitment, if any, by (B) the aggregate outstanding principal balance of the Term B Loans held by all Lenders, if any, together with the aggregate Term B Commitment of all Lenders, if any.

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

"Public Lender" has the meaning ascribed to it in Section 10.13(a).

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

"QFC Credit Support" has the meaning ascribed to it in Section 12.27.

"Qualified Plan" means a Pension Plan that is intended to betax-qualified under Section 401(a) of the IRC.

"Qualified Securitization Financing" means any Securitization Financing that meets the following conditions:

(1) Borrower shall have determined in good faith that such Qualified Securitization Financing (including financing terms, covenants, termination events and other provisions) is in the aggregate economically fair and reasonable to Borrower or the applicable Subsidiary, as the case may be;

(2) all sales of Securitization Assets and related assets by Borrower or the applicable Subsidiary (other than a Securitization Subsidiary) either to the applicable Securitization Subsidiary or directly to the applicable third-party financing providers (as the case may be) are made at Fair Market Value (as determined in good faith by Borrower); and

(3) the financing terms, covenants, termination events and other provisions thereof shall be market terms (as determined in good faith by Borrower) and may include Standard Securitization Undertakings.

For the avoidance of doubt, the grant of a security interest in any Securitization Assets of Borrower or any Restricted Subsidiary (other than a Securitization Subsidiary) to secure Indebtedness in respect of the 2031 Notes, Indebtedness hereunder or any Refinancing Indebtedness with respect to the foregoing (in each case, to the extent not constituting a Securitization Financing) shall not be deemed a Qualified Securitization Financing.

"Ratio Debt" has the meaning specified in Section 7.1(a).

"Ratio Incremental Amount" means such amount as would not result in, (a) with respect to Incremental Facilities secured on a *pari passu* basis with the Term B Loans and the Revolving Credit Facility, Borrower's Consolidated First Lien Net Leverage Ratio exceeding 2.80 to 1.00, (b) with respect to Incremental Facilities secured on a junior lien basis to the Term B Loans and the Revolving Credit Facility, Borrower's Consolidated Secured Net Leverage Ratio exceeding 3.30 to 1.00, or (c) with respect to unsecured Incremental Facilities, Borrower's Consolidated Total Net Leverage Ratio exceeding 3.30 to 1.00, in each case, calculated on a pro forma basis, including the application of the proceeds thereof, consistent with the calculations made under the definition of "Fixed Charge Coverage Ratio",

"Consolidated First Lien Net Leverage Ratio", "Consolidated Secured Net Leverage Ratio" or "Consolidated Total Net Leverage Ratio", as applicable (without "netting" the cash proceeds of the applicable Incremental Facility), and in the case of any Incremental Revolving Credit Facility, assuming a full drawing of such Incremental Revolving Credit Facility.

"Real Property" means collectively, all right, title and interest (including any leasehold estate) in and to any and all parcels of or interests in real property owned in fee or leased by any Credit Party, whether by lease, license, or other means, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, all general intangibles and contract rights and other property and rights incidental to the ownership, lease or operation thereof.

"Recipient" means (a) Agent, (b) any Lender or (c) any L/C Issuer, as applicable.

"Refinancing" means with respect to (i) the Existing Forward Air Credit Agreement, (ii) the Existing Omni First Lien Credit Agreement, and (iii) the Existing Omni Second Lien Credit Agreement, in each case, the repayment of all outstanding amounts thereunder (other than contingent obligations), the termination of all commitments in respect thereof, the release of all guarantees and liens in respect thereof and the termination, cash collateralization or backstopping of all letters of credit outstanding thereunder.

"Refinancing Amendment" has the meaning specified in Section 2.16.

"Refinancing Amount" has the meaning specified in Section 2.16.

"Refinancing Facilities" has the meaning specified in Section 2.16.

"Refinancing Indebtedness" has the meaning ascribed to it in Section 7.1(b)(xv).

"Refinancing Lender" has the meaning specified in Section 2.16.

"Refinancing Revolving Facility" has the meaning specified in Section 2.16.

"Refinancing Term Facility" has the meaning specified in Section 2.16.

"Refunding Capital Stock" has the meaning ascribed to it in Section 7.2(b)(ii)(A).

"Register" has the meaning ascribed to it in Section 11.1(a)(i).

"Regulated Bank" means an Approved Commercial Bank that is (i) a U.S. depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation; (ii) a corporation organized under section 25A of the U.S. Federal Reserve Act of 1913; (iii) a branch, agency or commercial lending company of a foreign bank operating pursuant to approval by and under the supervision of the Board of Directors under 12 CFR part 211; (iv) a non-U.S. branch of a foreign bank managed and controlled by a U.S. branch referred to in clause (iii); or (v) any other U.S. or non-U.S. depository institution or any branch, agency or similar office thereof supervised by a bank regulatory authority in any jurisdiction.

"Related Persons" means, with respect to any Person, each Affiliate of such Person and each director, officer, employee, agent, trustee, representative, attorney, accountant and each insurance, environmental, legal, financial and other advisor and other consultants and agents of or to such Person or any of its Affiliates.

"Release" means any release, threatened release, spill, emission, leaking, pumping, pouring, emitting, emptying, escape, injection, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Material in the environment, including the migration of Hazardous Material through or in the air, soil, surface water, ground water or property.

"Relevant Governmental Body" means the Federal Reserve Board or the NYFRB, or a committee officially endorsed or convened by the Federal Reserve Board or the NYFRB, or any successor thereto.

"Relevant Transaction" has the meaning set forth in Section 1.9.

"Replacement Lender" has the meaning ascribed to it in Section 2.14(d).

"Requisite Lenders" means, at any time, Lenders having more than 50% of the Commitments, Loans and Letter of Credit Obligations of all Lenders at such time.

"Requisite Revolving Lenders" means, at any time, Revolving Lenders having more than 50% of the Revolving Credit Commitments, Revolving Credit Loans and Letter of Credit Obligations of all Revolving Lenders at such time.

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

"Restricted Cash" means cash and Cash Equivalents held by Borrower and the Restricted Subsidiaries that would appear as "restricted" on a consolidated balance sheet of Borrower or any of the Restricted Subsidiaries.

"Restricted Investment" means an Investment other than a Permitted Investment.

"Restricted Payments" has the meaning ascribed to such term in Section 7.2.

"Restricted Subsidiary" means, with respect to any Person, any Subsidiary of such Person other than an Unrestricted Subsidiary of such Person. Unless the context otherwise requires, the term "Restricted Subsidiary" shall mean a Restricted Subsidiary of Borrower.

"Retired Capital Stock" has the meaning ascribed to it in Section 7.2(b)(ii).

"Retiree Welfare Plan" means, at any time, a welfare plan (within the meaning of Section 3(1) of ERISA) that provides for continuing coverage or benefits for any participant or any beneficiary of a participant after such participant's termination of employment, other than continuation coverage provided pursuant to Section 4980B of the IRC or other similar state law and at the sole expense of the participant or the beneficiary of the participant.

"Revolving Credit Commitment" means, with respect to each Revolving Lender, such Revolving Lender's commitment to make Revolving Credit Loans to Borrower in accordance with this Agreement.

"Revolving Credit Commitment Increase" has the meaning ascribed to in Section 2.15(a).

"Revolving Credit Facility" means the revolving credit facility provided by the Lenders on the Escrow Release Date pursuant to Section 2.1(a)(ii) under this Agreement.

"Revolving Credit Loans" means the loans made by the Revolving Lenders to Borrower pursuant to this Agreement.

"Revolving Lender" means, at any time, any Lender with a Revolving Credit Commitment or an outstanding Revolving Credit Loan at such time.

"S&P" means Standard & Poor's Ratings Group or any successor to the rating agency business thereof.

"Sale/Leaseback Transaction" means an arrangement relating to property now owned or hereafter acquired by Borrower or a Restricted Subsidiary whereby Borrower or such Restricted Subsidiary transfers such property to a Person and Borrower or such Restricted Subsidiary leases it from such Person, other than leases between any of Borrower and a Restricted Subsidiary or between Restricted Subsidiaries.

"Schedules" means the Schedules prepared by Borrower and attached to this Agreement.

"SDN List" has the meaning ascribed to it in Section 4.23.

"SEC" means the United States Securities and Exchange Commission.

"Secured Hedge Agreement" means any Swap Contract by and between any Credit Party and any Hedge Bank.

"Secured Hedging Obligations" means the obligations of any Credit Party arising under any Secured Hedge Agreement.

"Secured Indebtedness" means any Consolidated Total Indebtedness secured by a Lien.

"Secured Parties" means, collectively, with respect to the Obligations, Agent, the Lenders, the L/C Issuers, any Cash Management Bank that is a party to a Cash Management Agreement and any Hedge Bank that is a party to a Secured Hedge Agreement.

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

"Securitization Assets" means any of the following assets (or interests therein) from time to time originated, acquired or otherwise owned by Borrower or any Restricted Subsidiary or in which Borrower or any Restricted Subsidiary has any rights or interests, in each case, without regard to where such assets or interests are located: (1) receivables, payment obligations, installment contracts, and similar rights, whether currently existing or arising or estimated to arise in the future, and whether in the form of accounts, chattel paper, general intangibles, instruments or otherwise (including any drafts, bills of exchange or similar notes and instruments), (2) royalty and other similar payments made related to the use of trade names and other intellectual property, business support, training and other services, including, without limitation, licensing fees, lease payments and similar revenue streams, (3) revenues related to distribution and merchandising of the products of Borrower and the Restricted Subsidiaries, (4) intellectual property rights relating to the generation of any of the foregoing types of assets, (5) parcels of or interests in real property, together with all easements, hereditaments and appurtenances thereto, all improvements

and appurtenant fixtures and equipment, incidental to the ownership, lease or operation thereof and (6) any other assets and property to the extent customarily included in securitization transactions or factoring transactions of the relevant type in the applicable jurisdictions (as determined by Borrower in good faith).

"Securitization Fees" means distributions or payments made directly or by means of discounts with respect to any participation interests issued or sold in connection with, and all other fees paid to a Person that is not a Restricted Subsidiary in connection with, any Securitization Financing.

"Securitization Financing" means any transaction or series of related transactions that may be entered into by Borrower or any of its Subsidiaries pursuant to which Borrower or any of its Subsidiaries may sell, assign, convey or otherwise transfer to any other Person, or may grant a security interest in, any Securitization Assets (whether now existing or arising in the future) of Borrower or any of its Subsidiaries, and any assets related thereto including, without limitation, all collateral securing such Securitization Assets, all contracts and all guarantees or other obligations in respect of such Securitization Assets, proceeds of such Securitization Assets and other assets which are customarily sold, assigned, conveyed or transferred or in respect of which security interests are customarily granted in connection with asset securitization transactions or factoring transactions involving Securitization Assets and any Hedging Obligations entered into by Borrower or any such Subsidiary in connection with such Securitization Assets.

"Securitization Repurchase Obligation" means any obligation of a seller of Securitization Assets in a Qualified Securitization Financing to repurchase Securitization Assets arising as a result of a breach of a representation, warranty or covenant or otherwise, including as a result of a Securitization Asset or portion thereof becoming subject to any asserted defense, dispute, dilution, off-set or counterclaim of any kind as a result of any action taken by, any failure to take action by or any other event relating to the seller.

"Securitization Subsidiary" means a Wholly Owned Restricted Subsidiary (or another Person formed for the purposes of engaging in a Qualified Securitization Financing with Borrower or any of its Subsidiaries in which Borrower or any of its Subsidiaries makes an Investment and to which Borrower or any of its Subsidiaries transfers Securitization Assets and related assets) which engages in no activities other than in connection with the financing of Securitization Assets of Borrower and its Subsidiaries, all proceeds thereof and all rights (contractual or other), collateral and other assets relating thereto, and any business or activities incidental or related to such business, and which is designated by Borrower as a Securitization Subsidiary and:

(a) no portion of the Indebtedness or any other obligations (contingent or otherwise) of which (i) is guaranteed by Borrower or any other Restricted Subsidiary (excluding guarantees of obligations (other than the principal of and interest on, Indebtedness) pursuant to Standard Securitization Undertakings), (ii) is recourse to or obligates Borrower or any other Restricted Subsidiary in any way other than pursuant to Standard Securitization Undertakings, or (iii) subjects any property or asset of Borrower or any other Restricted Subsidiary, directly or indirectly, contingently or otherwise, to the satisfaction thereof, other than pursuant to Standard Securitization Undertakings;

(b) with which neither Borrower nor any Restricted Subsidiary has any material contract, agreement, arrangement or understanding other than on terms which Borrower reasonably believes to be no less favorable to Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons that are not Affiliates of Borrower (other than pursuant to Standard Securitization Undertakings); and

(c) to which neither Borrower nor any Restricted Subsidiary has any obligation to maintain or preserve such entity's financial condition or cause such entity to achieve certain levels of operating results (other than pursuant to Standard Securitization Undertakings).

"Security Agreement" means that certain Security Agreement, dated as of the Escrow Release Date, made by the Credit Parties party thereto in favor of Agent, on behalf of the Lenders, as amended, restated, supplemented or otherwise modified from time to time, in the form of Exhibit 1.1(d) hereto.

"Senior Representative" means, with respect to any Indebtedness, the trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, Incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

"Significant Subsidiary" means any Restricted Subsidiary that would be a "Significant Subsidiary" within the meaning of Rule1-02 under Regulation S-X promulgated by the SEC (or any successor provisions).

"Similar Business" means any business (x) the majority of whose revenues are derived from business or activities conducted by Borrower and its Subsidiaries on the Escrow Release Date (after giving effect to the Merger), (y) that is a natural outgrowth or reasonable extension, development, expansion of any business or activities conducted by Borrower and its Subsidiaries on the Escrow Release Date (after giving effect to the Merger) or any business similar, reasonably related, incidental, complementary or ancillary to any of the foregoing and (z) any business that in Borrower's good faith business judgment constitutes a reasonable diversification of businesses conducted by Borrower and its Subsidiaries.

"SOFR" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the NYFRB (or a successor administrator of the secured overnight financing rate).

"Solvent" means, with respect to any Person as of any date of determination, that on such date (a) the sum of the debt (including contingent liabilities) of such Person does not exceed the fair value of the assets of such Person; (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liabilities of such Person on its debts as they become absolute and matured; (c) such Person is able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured in the ordinary course of business; and (d) the capital of such Person is not unreasonably small in relation to the business of such Person contemplated as of the date hereof. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of 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 ascribed to it in Section 11.1(g).

"Special Mandatory Prepayment" has the meaning ascribed to it in Section 2.21(a).

"Special Mandatory Prepayment Date" has the meaning ascribed to it in Section 2.21(b).

"Special Mandatory Prepayment Price" has the meaning ascribed to it in Section 2.21(a).

"Special Termination Date" has the meaning ascribed to it in Section 2.21(a).

"Specified Escrow Funding Date Representations" means the representations and warranties of Escrow Borrower (solely as and to the extent they relate to Escrow Borrower (and not as they may relate to any other Person)) set forth in Sections 4.1(a), 4.3(a), 4.3(b), 4.3(c), 4.9, 4.10 and 4.21 (solely as it relates to the Escrow Agreement and the security interest in the Escrow Account and the Escrowed Property) and the last sentence of Section 4.3 (solely as it relates to this Agreement and the Escrow Agreement).

"Specified Escrow Release Date Representations" means the representations and warranties of Borrower (solely as and to the extent they relate to Borrower or any Guarantor (and not as they may relate to any other Subsidiary of Borrower or any other Person)) set forth in Sections 4.1(a), 4.3(a), 4.3(b), 4.3(c), 4.9, 4.10, 4.21 (other than as it relates to the Escrow Agreement or the security interest in the Escrow Account and the Escrowed Property) and 4.22, the last sentence of Section 4.3 (other than as it relates to the Escrow Agreement) and the last two sentences of Section 4.24.

"Standard Securitization Undertakings" means representations, warranties, covenants, indemnities, reimbursement obligations, performance undertakings, guarantees of performance and other customary payment obligations entered into by Borrower or any of its Subsidiaries, whether joint and several or otherwise, which Borrower has determined in good faith to be customary in a Securitization Financing including, without limitation, those relating to the servicing of the assets of a Securitization Subsidiary, it being understood that any Securitization Repurchase Obligation shall be deemed to be a Standard Securitization Undertaking.

"Subordinated Indebtedness" means (a) with respect to Borrower, any Indebtedness of Borrower which is by its terms subordinated in right of payment to the Loans, and (b) with respect to any Guarantor, any Indebtedness of such Guarantor which is by its terms subordinated in right of payment to its Guaranty of Indebtedness under this Agreement.

"Subsidiary" means, with respect to any Person, (1) any corporation, association or other business entity (other than a partnership, joint venture or limited liability company) of which more than 50% of the total voting power of shares of Capital Stock entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time of determination owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, and (2) any partnership, joint venture or limited liability company of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general and limited partnership interests, as applicable, are owned or controlled, directly or indirectly, by such Person or one or more of the other Subsidiaries of that Person or a combination thereof, whether in the form of membership, general, special or limited partnership interests or otherwise, and (y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity. Unless the context otherwise requires, the term "Subsidiary" shall mean a Subsidiary of Borrower.

"Subsidiary Guarantor" means any Subsidiary of Borrower that guarantees the Obligations hereunder by executing the Escrow Release Date Assumption and Joinder Agreement or a supplemental guarantee in the form of Exhibit 1.1(a) attached hereto; provided that (i) upon the release or discharge of such Person from its Guaranty in accordance with this Agreement, such Person shall cease to be a Guarantor and (ii) notwithstanding anything to the contrary in any Loan Document, subject to Section 13.10(c), in no event shall an Excluded Subsidiary be a Guarantor.

"Successor Company" has the meaning ascribed to it in Section 7.8(a)(i).

"Supported QFC" has the meaning ascribed to it in Section 12.27.

"Swap Contract" means (a) any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, cross-currency hedges, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of Borrower or any of its Subsidiaries shall be a "Swap Agreement" and (b) any agreement with respect to any transactions (together with any related confirmations) which are subject to the terms and conditions of, or are governed by, any master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement or any other similar master agreement.

"Swap Obligation" means, with respect to any Credit Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1(a)(47) of the Commodity Exchange Act.

"Tax Compliance Certificate" has the meaning ascribed to it in Section 2.13(d).

"Tax Distributions" means any distributions described in Section 7.2(b)(xi).

"Taxes" means present and future taxes (including, but not limited to, income, corporate, capital, excise, property, ad valorem, sales, use, payroll, value added and franchise taxes, deductions, withholdings and custom duties), charges, fees, imposts, levies, deductions or withholdings (including backup withholding) and all liabilities (including interest, additions to tax and penalties) with respect thereto, imposed by any Governmental Authority.

"Term B Commitment" means, with respect to each Term B Lender, such Term B Lender's commitment to make Term B Loans to Escrow Borrower in accordance with this Agreement.

"Term B Facility" shall mean the credit facility provided by the Lenders on the Escrow Funding Date pursuant to Section 2.1(a)(i) under this Agreement.

"Term B Lender" means, at any time, any Lender with a Term B Commitment or an outstanding Term B Loan at such time.

"Term B Loan Yield Differential" has the meaning specified in Section 2.15(c).

"Term B Loans" means the loans made by the Term B Lenders to Escrow Borrower on the Escrow Funding Date pursuant to this Agreement.

"Term SOFR" means,

(a) for any calculation with respect to a Term SOFR Loan, the Term SOFR Reference Rate for a tenor comparable to the applicable Interest Period on the day (such day, the "Periodic Term SOFR Determination Day") that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, however, that

if as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Periodic Term SOFR Determination Day; and

(b) for any calculation with respect to a Base Rate Loan on any day, the Term SOFR Reference Rate for a tenor of one month on the day (such day, the "Base Rate Term SOFR Determination Day") that is two (2) U.S. Government Securities Business Days prior to such day, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Base Rate Term SOFR Determination Day the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Base Rate Term SOFR Determination Day;

provided, *further*, that if Term SOFR determined as provided above (including pursuant to the proviso under clause (a) or clause (b) above) shall ever be less than 0.75% per annum, then Term SOFR shall be deemed to be 0.75% per annum.

"Term SOFR Administrator" means the CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by Agent in its reasonable discretion).

"Term SOFR Loan" means a Loan that bears interest at a rate based on Term SOFR, other than pursuant to clause (c) of the definition of "Base Rate".

"Term SOFR Margin" means, with respect to a Class, the per annum interest rate margin from time to time in effect and payable with respect to Term SOFR Loans of such Class, as determined in accordance with the definition of "Applicable Margin".

"Term SOFR Reference Rate" means the rate per annum determined by Agent (in its reasonable discretion and in a manner consistent with then-prevailing market practice) as the forward-looking term rate based on SOFR.

"Termination Date" means the date on which (a) the Loans have been repaid in full in cash, (b) all other Obligations under this Agreement and the other Loan Documents have been completely discharged or paid (other than contingent indemnification obligations for which no claim has been asserted and other than Secured Hedging Obligations and Cash Management Obligations), (c) all Letter of Credit Obligations have expired or been cash collateralized, canceled or backed by standby letters of credit in accordance with Section 2.6 and (d) all Commitments have been terminated.

"Title IV Plan" means a Pension Plan (other than a Multiemployer Plan) that is covered by Title IV of ERISA or Section 412 of the IRC, and that any Credit Party or ERISA Affiliate maintains, contributes to or has an obligation to contribute to on behalf of participants who are or were employed by any of them.

"Total Assets" means, as of any date, the total consolidated assets of Borrower and its Restricted Subsidiaries on a consolidated basis, as shown on the most recent consolidated balance sheet of the Borrower and its Restricted Subsidiaries, determined on a *pro forma* basis in the manner described in the definition of "Fixed Charge Coverage Ratio", "Consolidated First Lien Net Leverage Ratio", "Consolidated Secured Net Leverage Ratio" and "Consolidated Total Net Leverage Ratio",

"Trademarks" has the meaning to it in the Security Agreement.

"Transactions" means (i) the Merger, the payments of amounts payable by Parent Guarantor and its Subsidiaries pursuant to the Merger Agreement and all other transactions contemplated by the terms of the Merger Agreement and the various other agreements and documents contemplated therein, (ii) the issuance of the 2031 Notes, (iii) the Assumption and Joinder and the entering into and borrowing of Loans and establishment of Revolving Credit Commitments under this Agreement in connection with the Merger, (iv) the consummation of the Refinancing substantially concurrently with the Merger and (v) the payment of fees and expenses in connection with the foregoing.

"U.S. Government Securities Business Day" means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

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

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

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Unfunded Pension Liability" means, at any time, the aggregate amount, if any, of the amount by which the present value of all accrued benefits under each Title IV Plan exceeds the Fair Market Value of all assets of such Title IV Plan, allocable to such benefits in accordance with Title IV of ERISA, all determined as of the most recent valuation date for each such Title IV Plan using the actuarial assumptions for funding purposes in effect under such Title IV Plan.

"United States" and "U.S." mean the United States of America.

"Unrestricted Subsidiary" means:

(1) any Subsidiary of Borrower designated by Borrower as an Unrestricted Subsidiary pursuant to Section 6.17 subsequent to the Escrow Release Date; and

(2) any Subsidiary of an Unrestricted Subsidiary.

In no event may Borrower be an Unrestricted Subsidiary.

"U.S. Person" has the meaning ascribed to it in Section 2.13(d).

"U.S. Special Resolution Regimes" has the meaning ascribed to it in Section 12.27.

"Voluntary Prepayment Incremental Amount" means the aggregate principal amount of voluntary prepayments, redemptions and repurchases (with credit given for the actual amount of cash expended if below par) and other permanent reductions of Term B Loans, Revolving Credit Loans (with a corresponding permanent commitment reduction), Incremental Facilities and Incremental Equivalent Debt, in each case, secured on a *pari passu* basis with the Revolving Credit Facility and Term B Loans, in each case, except to the extent funded with long-term Indebtedness.

"Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the Board of Directors of such Person.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness or Disqualified Stock or Preferred Stock, as the case may be, at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment of principal of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock, including payment at final maturity, if applicable, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment (with the amount of any such required scheduled payment prior to the final maturity thereof to be determined disregarding the effect thereon of any prepayment made in respect of such Indebtedness); by (b) the then outstanding principal amount of such Indebtedness, Disqualified Stock or Preferred Stock.

"Wholly Owned Restricted Subsidiary" means any Wholly Owned Subsidiary that is a Restricted Subsidiary.

"Wholly Owned Subsidiary" of any Person means a Subsidiary of such Person 100% of the outstanding Capital Stock or other ownership interests of which (other than directors' qualifying shares or shares required pursuant to applicable law) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

"Withholding Agent" means any Credit Party, Agent or any other applicable withholding agent.

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

1.2 Rules of Construction. Unless otherwise specified, references in this Agreement or any of the Appendices to a Section, subsection or clause refer to such Section, subsection or clause as contained

in this Agreement. The words "herein", "hereof" and "hereunder", and other words of similar import refer to this Agreement as a whole, including all Annexes, Exhibits and Schedules, as the same may from time to time be amended, restated, modified or supplemented, and not to any particular section, subsection or clause contained in this Agreement or any such Annex, Exhibit or Schedule.

1.3 Interpretive Matters. Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders. The words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; the word "or" is not exclusive; references to Persons include their respective successors and assigns (to the extent and only to the extent permitted by the Loan Documents) or, in the case of governmental Persons, Persons succeeding to the relevant functions of such Persons; and all references to agreements and instruments, statutes and related regulations shall include any amendments of the same and any successor statutes and regulations. Whenever any provision in any Loan Document refers to the knowledge (or an analogous phrase) of any Credit Party, such words are intended to signify that such Credit Party has actual knowledge or awareness of a particular fact or circumstance or that such Credit Party, if it had exercised reasonable diligence, would have known or been aware of such fact or circumstance. In addition, for purposes hereof, (a) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP; (b) unsecured Indebtedness shall not be deemed to be subordinate or junior to secured Indebtedness merely by virtue of its nature as unsecured Indebtedness; (c) the principal amount of any non-interest bearing or other discount security at any date shall be the principal amount thereof that would be shown on a balance sheet of a Person dated such date prepared in accordance with GAAP; (d) the principal amount of any Preferred Stock shall be (i) the maximum liquidation value of such Preferred Stock or (ii) the maximum mandatory redemption or mandatory repurchase price with respect to such Preferred Stock, whichever is greater; and (e) unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with GAAP; *provided*, that, if Borrower notifies Agent that Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Escrow Funding Date in GAAP or in the application thereof on the operation of such provision (or if Agent notifies Borrower that the Requisite Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith.

1.4 Effectuation of Transactions.

(a) Notwithstanding anything set forth in this Agreement or any other Loan Document to the contrary, no provision of this Agreement or any other Loan Document shall prohibit any of the Transactions, nor shall the Transactions give rise to any Default or Event of Default.

(b) Each of the representations and warranties contained in this Agreement (and all corresponding definitions) is made after giving effect to the Transactions, unless the context otherwise requires.

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

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

1.7 Rates. Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, administration of, submission of, calculation of or any other matter related to the Base Rate, the Term SOFR Reference Rate or Term SOFR, or any component definition thereof or rates referred to in the definition thereof, or any alternative, successor or replacement rate thereto (including any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement) will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, the Base Rate, the Term SOFR Reference Rate, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. Agent and its affiliates or other related entities may engage in transactions that affect the calculation of the Base Rate, the Term SOFR Reference Rate, Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto, in each case, in a manner adverse to Borrower. Agent may select information sources or services in its reasonable discretion to ascertain the Base Rate, the Term SOFR Reference Rate, Term SOFR, or any other Benchmark, or any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to Borrower, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

1.8 Limited Condition Acquisitions. In connection with any action being taken in connection with a Limited Condition Acquisition, for purposes of:

(a) determining compliance with any provision of this Agreement that requires the calculation of the Fixed Charge Coverage Ratio, the Consolidated Total Net Leverage Ratio, the Consolidated First Lien Net Leverage Ratio or the Consolidated Secured Net Leverage Ratio;.

(b) determining the accuracy of representations and warranties and/or whether a Default or Event of Default shall have occurred and be continuing (or any subset of Defaults or Events of Default);

(c) testing availability under baskets, ratios or financial metrics under this Agreement (including those measured as a percentage of Consolidated EBITDA or Fixed Charges or by reference to Cumulative Credit);

in each case, at the option of Borrower (the election to exercise such option in connection with any Limited Condition Acquisition, an "LCA Election"), with such option to be exercised on or prior to the date of execution of the definitive agreements or letter of intent, as applicable, with respect to such Limited Condition Acquisition, the date of determination of whether any such action is permitted under this Agreement, shall be deemed to be the date of entry into the definitive agreements or letter of intent for such Limited Condition Acquisition (such date, the "LCA Test Date") is made, and if, after giving *pro forma* effect to the Limited Condition Acquisition and the other transactions to be entered into in connection

therewith (including any Incurrence of Indebtedness or Liens and the use of proceeds thereof) as if they had occurred at the beginning of the most recent four consecutive fiscal quarters of Borrower ending prior to the LCA Test Date, Borrower could have taken such action on the relevant LCA Test Date in compliance with such ratio, basket or financial metric, such ratio, basket or financial metric shall be deemed to have been complied with.

For the avoidance of doubt, if Borrower has made an LCA Election and any of the ratios, baskets or financial metrics for which compliance was determined or tested as of the LCA Test Date are exceeded or not complied with as a result of fluctuations in any such ratio, basket or financial metrics, including due to fluctuations in Fixed Charges, Consolidated Net Income, Consolidated EBITDA or Consolidated Total Indebtedness of Borrower, the target company or the Person subject to such Limited Condition Acquisition, at or prior to the consummation of the relevant transaction or action, such ratios, baskets or financial metrics will not be deemed to have been exceeded as a result of such fluctuations and such baskets, ratios or financial metrics shall not be tested at the consummation of the Limited Condition Acquisition except as contemplated in clause (a) of the immediately succeeding proviso; *provided*, *however*, that (a) if financial statements for one or more subsequent fiscal quarters shall have become available, Borrower may elect, in its sole discretion, to re-determine all such baskets, ratios and financial metrics on the basis of such financial statements, in which case such date of redetermination shall thereafter be deemed to be the applicable LCA Test Date, (b) if any ratios or financial metrics improve or baskets increase as a result of such fluctuations, such improved ratios, financial metrics or baskets may be utilized and (c) Fixed Charges with respect to any Indebtedness expected to be Incurred in connection with such Limited Condition Acquisition will, for purposes of the Fixed Charge Coverage Ratio, be calculated using an assumed interest rate based on the available documentation therefor, as determined by Borrower in good faith. If Borrower has made an LCA Election for any Limited Condition Acquisition, then, in connection with any subsequent calculation of the ratios, baskets or financial metrics on or following the relevant LCA Test Date and prior to the earlier of (i) the date on which such Limited Condition Acquisition is consummated or (ii) the date that the definitive agreement or letter of intent for such Limited Condition Acquisition is abandoned, terminated or expires without consummation of such Limited Condition Acquisition, any such ratio, basket or financial metric shall be calculated on a *pro forma* basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any Incurrence of Indebtedness or Liens and the use of proceeds thereof) have been consummated. For the avoidance of doubt, if Borrower has exercised its option pursuant to the foregoing and any Default or Event of Default occurs following the LCA Test Date (including any new LCA Test Date) for the applicable Limited Condition Acquisition and prior to or on the date of the consummation of such Limited Condition Acquisition, any such Default or Event of Default shall be deemed not to have occurred or be continuing for purposes of determining whether any action being taken in connection with such Limited Condition Acquisition is permitted under this Agreement.

1.9 Certain Calculations. Notwithstanding anything to the contrary contained in this Agreement, with respect to any amounts Incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that does not require compliance with a financial ratio (including, without limitation, any Fixed Charge Coverage Ratio, Consolidated Total Net Leverage Ratio, Consolidated First Lien Net Leverage Ratio or Consolidated Secured Net Leverage Ratio) (any such amounts, the "Fixed Amounts") substantially concurrently with any amounts Incurred or transactions entered into (or consummated) in reliance on a provision of this Agreement that requires compliance with any such financial ratio (any such amounts, the "Incurrence-Based Amounts"), in a single transaction or action or series of related transactions or actions (for the purposes of this Section 1.9, a "Relevant Transaction"), it is understood and agreed that the Fixed Amounts (and any cash proceeds thereof and the uses of such proceeds) shall be disregarded in the calculation of the financial ratio applicable to the Incurrence-Based Amounts in connection with such Relevant Transaction.

1.10 Cashless Rollovers. Notwithstanding anything to the contrary contained in this Agreement or in any other Loan Document, to the extent that any Lender extends the maturity date of, or replaces, renews or refinances, any of its then-existing Loans with Incremental Facilities, Refinancing Facilities, Refinancing Indebtedness, Extended Loans, Extended Commitments or other loans Incurred under a new credit facility, in each case, to the extent such extension, replacement, renewal or refinancing is effected by means of a "cashless roll" by such Lender pursuant to settlement mechanisms approved by Borrower, Agent and such Lender, such extension, replacement, renewal or refinancing shall be deemed to comply with any requirement hereunder or any other Loan Document that such payment be made "in Dollars", "in immediately available funds", "in cash" or any other similar requirement.

2. AMOUNT AND TERMS OF CREDIT

2.1 Credit Facilities.

(a) Credit Facilities. Subject to the terms and conditions set forth herein,

(i) each Term B Lender severally agrees to make a Term B Loan denominated in Dollars to Escrow Borrower on the Escrow Funding Date in an aggregate amount not to exceed the amount of such Lender's Term B Commitment at such time (it being agreed that on the Escrow Funding Date the Term B Loans shall be funded with an initial issue price equal to 96.0% of the principal amount thereof, and notwithstanding said discount all calculations under this Agreement with respect to the Term B Loans, including the accrual of interest and the repayment or prepayment of principal (other than as described in Section 2.21(a)), shall be based on 100% of the stated principal amount thereof). Immediately after the making of such Loan, each Lender's Term B Commitment shall automatically be reduced to $0. The Term B Commitments are not revolving in nature, and amounts borrowed under this Section 2.1(a)(i) and repaid or prepaid may not be reborrowed. Each Term B Loan made on the Escrow Funding Date shall be made by the Lenders in accordance with their applicable Pro Rata Share of the Term B Commitments as of such date; and

(ii) each Revolving Lender severally agrees to make its Pro Rata Share of Revolving Credit Loans to Borrower from time to time on and after the Escrow Release Date until the Commitment Termination Date. Each Lender's Pro Rata Share of the Aggregate Revolving Credit Exposure shall not at any time exceed such Lender's Revolving Credit Commitment at such time. The obligations of each Revolving Lender hereunder shall be several and not joint. On and after the Escrow Release Date until the Commitment Termination Date, Borrower may borrow, repay and reborrow under this Section 2.1(a)(ii); provided, that the Aggregate Revolving Credit Exposure at any time shall not exceed the aggregate amount of Revolving Credit Commitments at such time. All Revolving Credit Loans shall be denominated in Dollars.

(b) Notice of Borrowing. Each Loan to be made pursuant to Section 2.1(a) shall be made on notice by Borrower to one of the representatives of Agent identified in Schedule 2.1 at the address specified therein. Notice of such Loan must be given no later than (1) 10:00 a.m. (New York time) on the date of the proposed Loan, in the case of a Base Rate Loan, or (2) 10:00 a.m. (New York time) on the date which is three Business Days' prior to the proposed Loan, in the case of a Term SOFR Loan. Each such notice (a "Notice of Borrowing") may be given verbally by telephone but must be promptly confirmed in writing (by fax, electronic mail or overnight courier) substantially in the form of Exhibit 2.1(b), and shall include the information required in such Exhibit. Notices may be revocable or conditional to the extent set forth in the form of Notice of Borrowing attached hereto as Exhibit 2.1(b).

(c) Reliance on Notices. Agent shall be entitled to rely upon, and shall be fully protected in relying upon, any Notice of Borrowing, Notice of Conversion/Continuation or similar notice reasonably believed by Agent to be genuine. Agent may assume that each Person executing and delivering any notice in accordance herewith was duly authorized, unless the responsible individual acting thereon for Agent has actual knowledge to the contrary.

(d) Lender's Making of Loans and Payments. Upon receipt of a Notice of Borrowing, Agent shall promptly forward to each applicable Lender the details of the Notice of Borrowing it received from Borrower requesting such Loan. Each applicable Lender shall make the amount of such Lender's Pro Rata Share of such Loan available to Agent in same day funds by wire transfer to Agent's account as set forth in Annex B not later than (1) 12:00 p.m. (New York time) on the date of the proposed Loan, in the case of a Base Rate Loan that is requested on the proposed date of funding thereof, or (2) 3:00 p.m. (New York time) on the Business Day prior to the requested funding date, in all other cases. After receipt of such wire transfers (or, in Agent's sole discretion, before receipt of such wire transfers), subject to the terms hereof, Agent shall make the requested Loan available to Borrower by (1) 2:00 p.m. (New York time) on the date of the proposed Loan, in the case of a Base Rate Loan that is requested on the proposed date of funding thereof, or (2) 9:00 a.m. (New York time) on the requested funding date, in all other cases. All payments by each Lender shall be made without setoff, counterclaim or deduction of any kind.

(e) Availability of Lender's Pro Rata Share. Agent may assume that each applicable Lender will make its Pro Rata Share of the applicable Loan available to Agent unless Agent has received prior written notice from such Lender that it does not intend to make its Pro Rata Share of a Loan because all or any of the applicable conditions set forth in Section 3 have not been satisfied. If such Pro Rata Share is not, in fact, paid to Agent by such Lender when due, Agent will be entitled to recover such amount on demand from such Lender without setoff, counterclaim or deduction of any kind. If any Lender fails to pay the amount of its Pro Rata Share forthwith upon Agent's demand, Agent shall promptly notify Borrower and Borrower shall repay such amount to Agent within three (3) Business Days of such demand, and the amount so paid shall constitute repayment of such Loan by such amount. Nothing in this Section 2.1(e) or elsewhere in this Agreement or the other Loan Documents shall be deemed to require Agent to advance funds on behalf of any Lender or to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that Borrower may have against any Lender as a result of any default by such Lender hereunder. Unless Agent has received prior written notice from a Lender that it does not intend to make its Pro Rata Share of each Loan available to Agent because all or any of the applicable conditions set forth in Section 3 have not been satisfied, to the extent that Agent advances funds to Borrower on behalf of any Lender and is not reimbursed therefor on the same Business Day as such Loan is made, Agent shall be entitled to retain for its account all interest accrued on such Loan until reimbursed by such Lender.

2.2 Maturity and Repayment of Loans.

(a) Borrower shall pay to Agent, for the account of each Lender holding Term B Loans (i) on the last Business Day of each Fiscal Quarter occurring after the Escrow Release Date (commencing with the first full Fiscal Quarter to occur after the Escrow Release Date) but prior to the applicable Maturity Date, a portion of the principal amount of all Term B Loans then outstanding in an amount equal to 0.25% of the aggregate principal amount of the Term B Loans outstanding on the Escrow Funding Date (which amounts shall be reduced as a result of the application of prepayments in accordance with the order of priority set forth in Section 2.3 of this Agreement) and (ii) on the applicable Maturity Date, the aggregate principal amount of all Term B Loans outstanding on such date and all accrued and unpaid interest thereon.

(b) Borrower shall pay to Agent, for the account of each Lender holding Revolving Credit Loans, on the applicable Maturity Date, the aggregate principal amount of all Revolving Credit Loans outstanding on such date and all accrued and unpaid interest thereon.

2.3 Prepayments; Commitment Reductions.

(a) Voluntary Prepayments; Reductions in Commitments.

(i) Borrower may prepay the Term B Loans and/or Revolving Credit Loans at any time (1) on at least three (3) Business Days' prior written notice, in the case of Term SOFR Loans and (2) on at least one (1) Business Day's prior written notice, in the case of Base Rate Loans, in each case by Borrower to Agent, and Borrower may at any time and from time to time without prior notice permanently reduce or terminate the undrawn Commitments; provided that (i) any such prepayments or reductions shall be in a minimum principal amount of $1,000,000 or a whole multiple thereof and (ii) the aggregate Revolving Credit Commitments of all Revolving Lenders shall not be reduced to an amount that is less than the amount of the Aggregate Revolving Credit Exposure then outstanding unless such Revolving Credit Commitment reduction is accompanied by a prepayment of Revolving Credit Loans (and, to the extent necessary, the cash collateralization of Letters of Credit outstanding) necessary to ensure that the Aggregate Revolving Credit Exposure does not exceed the aggregate Revolving Credit Commitments of all Revolving Lenders (as so reduced). In addition, if Borrower terminates the Revolving Credit Commitments in full, all Revolving Credit Loans and other related Obligations shall be immediately due and payable in full and all Letter of Credit Obligations shall be cash collateralized, backstopped or otherwise satisfied in accordance with Section 2.6(c)(ii) hereto upon the effectiveness of such termination. Any voluntary prepayment must be accompanied by the payment of any Term SOFR funding breakage costs, as applicable, in accordance with Section 2.11(b) and the fee payable in accordance withSection 2.3(a)(ii), if any. Each notice of partial prepayment shall designate the Loans or other Obligations hereunder to which such prepayment is to be applied, and any notice delivered pursuant to this Section 2.3(a) may be conditioned on the occurrence of one or more events described in the applicable notice. If no direction is given as to the application of prepayments in respect of Term B Loans, such prepayments shall be applied first to the amortization payments required by Section 2.2, if any, in direct order of maturity and, thereafter, to the remaining balance of Term B Loans then outstanding.

(ii) In the event that, on or prior to the date that is 12 months after the Escrow Release Date, Borrower (x) prepays, refinances, substitutes or replaces any Term B Loans with the proceeds of any new Indebtedness that has an All-In Yield that is less than the All-In Yield of such Term B Loans or (y) effects any amendment of this Agreement which reduces the All-In Yield of the Term B Loans (other than in the case of each of clauses (x) and (y), any event that is not consummated for the primary purpose of lowering the All-In Yield of the Term B Loans (as determined by Borrower in good faith), including any such event consummated in connection with a Change of Control or a transformative acquisition referred to in the last sentence of this paragraph), Borrower shall pay to Agent, for the ratable account of each of the applicable Lenders holding Term B Loans at such time, (A) in the case of clause (x), a prepayment premium of 1.00% of the aggregate principal amount of the Term B Loans so prepaid and (B) in the case of clause (y), a fee equal to 1.00% of the aggregate principal amount of the applicable Term B Loans for which the All-In Yield has been reduced pursuant to such amendment. Such amounts shall be due and payable on the date of such prepayment or the effective date of such amendment, as the case may be. For purposes of this Section 2.3(a), a transformative acquisition is any acquisition (together with any related transaction, including any Incurrence of indebtedness to finance such acquisition) by Borrower or

any Subsidiary that (i) is not permitted by the terms of the Loan Documents immediately prior to the consummation of such acquisition or (ii) if permitted by the terms of the Loan Documents immediately prior to the consummation of such acquisition, would not provide Borrower and its Subsidiaries with adequate flexibility under the Loan Documents for the continuation and/or expansion of their combined operations following such consummation, as determined by Borrower in good faith.

(b) Mandatory Repayments.

(i) Excess Cash Flow. Within five Business Days after financial statements have been or are required to be delivered pursuant to Section 5.1(c) and the related Compliance Certificate has been or is required to be delivered pursuant toSection 5.1(a), Borrower shall, subject to clause (b)(v) of this Section 2.3, prepay an aggregate principal amount of Term B Loans equal to (A) 50% (such percentage as it may be reduced as described below, the "ECF Percentage") of Excess Cash Flow, if any, for the Fiscal Year covered by such financial statements (commencing with the first full Fiscal Year to occur after the Escrow Release Date) minus (B) the sum of (i) all voluntary prepayments of Term B Loans during such Fiscal Year (or, without duplication, after the end of such Fiscal Year, but prior to the date of such Excess Cash Flow prepayment) pursuant to Section 2.3(a)(i) and Section 11.1(h) (it being understood that the amount of any such payment constituting a below-par Permitted Loan Purchase shall be calculated to equal the amount of cash used and not the principal amount deemed prepaid therewith), (ii) all voluntary prepayments of Indebtedness secured on a *pari passu* basis with the Term B Loans during such Fiscal Year (or, without duplication, after the end of such Fiscal Year, but prior to the date of such Excess Cash Flow prepayment) and (iii) all voluntary prepayments of Revolving Credit Loans or loans under any other revolving credit facilities during such Fiscal Year (or, without duplication, after the end of such Fiscal Year, but prior to the date of such Excess Cash Flow prepayment) to the extent accompanied by a corresponding permanent reduction in the Revolving Credit Commitments or commitments under any other revolving credit facilities in the case of each of the immediately preceding clauses (i), (ii) and (iii), to the extent such prepayments are funded with Internally Generated Cash Flow and without duplication of amounts deducted from Excess Cash Flow; provided, further, that (x) the ECF Percentage shall be 25% if the Consolidated Total Net Leverage Ratio of Borrower for the fiscal year covered by such financial statements was less than or equal to 2.80 to 1.00 and greater than 2.30 to 1.00 and (y) the ECF Percentage shall be 0% if the Consolidated Total Net Leverage Ratio of Borrower for the fiscal year covered by such financial statements was less than or equal to 2.30 to 1.00.

(ii) Prepayment Dispositions. (A) From and after the Escrow Release Date, if Borrower or any of its Restricted Subsidiaries receive Net Proceeds of any Prepayment Disposition, Borrower shall prepay on or prior to the date which is five Business Days after the date of receipt of such Net Proceeds, subject to clause (b)(ii)(B) and clause (b)(v) of this Section 2.3, an aggregate principal amount of Term B Loans equal to 100% of all Net Proceeds so received; provided that if at the time that any such prepayment would be required pursuant to this clause (ii), Borrower is required to repay or offer to repurchase any Indebtedness that is secured on a *pari passu* basis with the Obligations under this Agreement pursuant to the terms of the documentation governing such Indebtedness with the Net Proceeds of such Prepayment Disposition (such Indebtedness required to be so repaid or offered to be so repurchased, "Other Applicable Indebtedness"), then Borrower may apply such Net Proceeds on a pro rata basis to repay Term B Loans and any such Other Applicable Indebtedness (determined on the basis of the aggregate outstanding principal amount of the Term B Loans and such Other Applicable Indebtedness at such time); provided, further, that (I) the portion of such Net Proceeds allocated to any Other Applicable Indebtedness shall not exceed the amount of such Net Proceeds required to be allocated to such Other Applicable Indebtedness pursuant to the terms thereof, and the remaining amount, if any, of such Net Proceeds shall be allocated to the prepayment of the Term B Loans in accordance with the terms hereof and to the

repurchase or prepayment of any other Other Applicable Indebtedness, and the amount of prepayment of the Term B Loans that would have otherwise been required pursuant to this clause (ii) shall be reduced accordingly and (II) to the extent the holders of any Other Applicable Indebtedness decline to have such indebtedness repurchased or prepaid, the declined amount shall promptly (and in any event within ten (10) Business Days after the date of such rejection) be applied to prepay the Term B Loans and to repurchase or prepay any other Other Applicable Indebtedness, as applicable, in accordance with the terms hereof.

(B) With respect to any Net Proceeds received with respect to any Prepayment Disposition, at the option of Borrower and so long as no Event of Default shall have occurred and be continuing, Borrower may, in lieu of applying such Net Proceeds as set forth in Section 2.3(b)(ii)(A), (I) reinvest all or any portion of such Net Proceeds in acquisitions, Investments in Similar Businesses, or assets useful for its business within (x) 12 months following receipt of such Net Proceeds or (y) if Borrower enters into a legally binding commitment to reinvest such Net Proceeds within 12 months following receipt thereof, within 18 months following receipt thereof, and *provided, further,* that to the extent any Net Proceeds are no longer intended to be or cannot be so reinvested at any time after delivery of a notice of reinvestment election, or have not been reinvested within the time period set forth above, an amount equal to such Net Proceeds shall be applied as set forth in Section 2.3(b)(ii)(A) within five Business Days after Borrower reasonably determines that such Net Proceeds are no longer intended to be or cannot be so reinvested to the prepayment of the Loans as set forth in this Section 2.3 or (II) if applicable, apply all or any portion of such Net Proceeds to redeem, repurchase, repay or otherwise satisfy Indebtedness for borrowed money of Borrower or its Restricted Subsidiaries that is secured on a *pari passu* basis with the Obligations under this Agreement (or to replenish such amounts so applied within 90 days prior to receipt of such Net Proceeds, or to repay debt the proceeds of which were so applied) within 12 months following receipt of such Net Proceeds, provided, that if any Net Proceeds are no longer intended to be or cannot be so applied, or have not been applied within the time period set forth above, an amount equal to such Net Proceeds shall be applied as set forth in Section 2.3(b)(ii)(A) or (B)(I) in accordance with the time periods set for therein following Borrower's reasonable determination that such Net Proceeds are no longer intended to be or cannot be so applied as set forth in this Section 2.3(b)(ii)(B)(II).

(iii) Prepayments of Proceeds of Indebtedness. From and after the Escrow Release Date, if Borrower or any Restricted Subsidiary Incurs or issues any Indebtedness (A) not expressly permitted to be Incurred or issued pursuant to Section 7.1 or (B) that constitutes Refinancing Indebtedness with respect to the Loans or Indebtedness Incurred pursuant to a Refinancing Amendment, Borrower shall prepay an aggregate principal amount of Term B Loans equal to 100% of all Net Proceeds received therefrom on or prior to the date which is five Business Days after the receipt of such Net Proceeds.

(iv) If at any time after the Escrow Release Date the outstanding amount of the Aggregate Revolving Credit Exposure exceeds the aggregate Revolving Credit Commitments of all Revolving Lenders, Borrower shall immediately repay outstanding Revolving Credit Loans to the extent required to eliminate such excess. If any such excess remains after repayment in full of all outstanding Revolving Credit Loans, Borrower shall provide cash collateral for, or otherwise backstop, the Letter of Credit Obligations in the manner set forth in Section 2.6(c)(ii) to the extent required to eliminate such excess.

(v) Certain Dispositions. Notwithstanding any other provisions of this Section 2.3(b), (A) to the extent that any or all of the Net Proceeds of any Prepayment Disposition by a Foreign Subsidiary giving rise to a prepayment event pursuant to Section 2.3(b)(ii) (a "Foreign Disposition") or Excess Cash Flow attributable to any Foreign Subsidiary are prohibited or delayed by applicable local law from being repatriated to the United States, the portion of such Net Proceeds or Excess

Cash Flow so affected will not be required to be applied to repay Term B Loans at the times provided in this Section 2.3(b) but may be retained by the applicable Foreign Subsidiary so long, but only so long, as the applicable local law will not permit repatriation to the United States (Borrower hereby agreeing to cause the applicable Foreign Subsidiary to promptly take all actions reasonably required by the applicable local law to permit such repatriation), and once such repatriation of any of such affected Net Proceeds or Excess Cash Flow is permitted under the applicable local law, such repatriation will be promptly effected and such repatriated Net Proceeds or Excess Cash Flow will be promptly (and in any event not later than two Business Days after such repatriation) applied (net of additional Taxes payable, as reasonably estimated by Borrower in good faith, or reserved against as a result thereof) to the repayment of the Term B Loans pursuant to this Section 2.3(b) to the extent provided herein and (B) to the extent that Borrower has determined in good faith that repatriation of any of or all the Net Proceeds of any Foreign Disposition or Excess Cash Flow attributable to any Foreign Subsidiary would have a material adverse Tax consequence (taking into account any foreign Tax credit or benefit actually realized in connection with such repatriation) with respect to such Net Proceeds or Excess Cash Flow, the Net Proceeds or Excess Cash Flow so affected may be retained by the applicable Foreign Subsidiary.

(vi) Declined Proceeds. Any Term B Lender may elect, by notice to Agent at or prior to the time and in the manner specified by Agent, prior to any prepayment of Term B Loans required to be made by Borrower pursuant to Section 2.3(b)(i) or (b)(ii) above, to decline all (but not a portion) of its Pro Rata Share of such prepayment (such declined amounts, the "Declined Proceeds"), in which case such Declined Proceeds may be retained by Borrower; provided that, for the avoidance of doubt, no Lender may decline any prepayment made under Section 2.3(b)(iii) above. If any Lender fails to deliver a notice to Agent of its election to decline receipt of its Pro Rata Share of any mandatory prepayment within the time frame specified by Agent, such failure will be deemed to constitute an acceptance of such Lender's Pro Rata Share of the total amount of such mandatory prepayment of Term B Loans.

(c) All prepayments under this Section 2.3 shall be accompanied by all accrued and unpaid interest thereon, together with any amounts payable pursuant to Section 2.3(a)(ii) and, in the case of any such prepayment of a Term SOFR Loan on a date prior to the last day of an Interest Period, as applicable, therefor, any amounts owing in respect of such Term SOFR Loan pursuant to Section 2.11(b).

(d) Application of Mandatory Prepayments. Mandatory prepayments shall be applied to the Term B Loans as directed by Borrower. If no direction is given as to the application of prepayments, such prepayments shall be applied first to the amortization payments required by Section 2.2, if any, in direct order of maturity and, thereafter, to the remaining balance of Term B Loans then outstanding.

(e) No Implied Consent. Nothing in this Section 2.3 shall be construed to constitute Agent's or any Lender's consent to any transaction that is not permitted by other provisions of this Agreement or the other Loan Documents.

2.4 Use of Proceeds. Borrower shall utilize the proceeds of the Loans made (or released from the Escrow Account) on the Escrow Release Date, together with the net proceeds of the 2031 Notes and, if necessary, cash on hand, to (i) pay the cash consideration and any other amounts payable by Parent Guarantor in connection with the Merger under the Merger Agreement, (ii) effect the Refinancing and (iii) to pay the fees, premiums, expenses and other transaction costs Incurred in connection with the Transactions; provided the amount of Revolving Credit Loans incurred on the Escrow Release Date shall not exceed the sum of (i) $40.0 million, (ii) the amount required to fund original issue discount or upfront fees in respect of Term B Loans incurred on the Escrow Funding Date as a result of the exercise of the "market flex" provisions of the Fee Letter and (iii) amounts required to replace or backstop letters of credit

outstanding on the Escrow Release Date under the Existing Forward Air Credit Agreement and the Existing Omni First Lien Credit Agreement. Borrower shall utilize the proceeds of the Revolving Credit Loans made after the Escrow Release Date and shall utilize the Letters of Credit issued hereunder (i) to provide working capital from time to time for Borrower and its Subsidiaries and (ii) for other general corporate purposes, including transactions that are not prohibited by the terms of the Loan Documents.

2.5 Interest; Applicable Margins.

(a) Borrower shall pay interest to Agent, for the ratable benefit of Lenders under each applicable Class, in arrears on each applicable Interest Payment Date, at the following rates of interest on the unpaid principal amount of each:

(i) Base Rate Loan of such Class at the Base Rate plus the Base Rate Margin (in each case applicable to such Class); and

(ii) Term SOFR Loan of such Class at Term SOFR plus the Term SOFR Margin (in each case applicable to such Class).

(b) If any payment on any Loan becomes due and payable on a day other than a Business Day, the deadline for payment thereof will be extended to the next succeeding Business Day (except as set forth in the definition of "Interest Period"), and, with respect to payments of principal, interest thereon shall be payable at the then applicable rate during such extension.

(c) All computations of Fees are calculated on a per annum basis and interest shall be determined by Agent on the basis of a 360-day year, in each case for the actual number of days occurring in the period for which such interest and Fees are payable, except that with respect to Base Rate Loans based on the Prime Rate, the interest thereon shall be calculated on the basis of a 365- (or 366-, as the case may be) day year for the actual days elapsed. Each determination by Agent of an interest rate and Fees hereunder shall be presumptive evidence of the correctness of such rates and Fees.

(d) All overdue amounts not paid when due hereunder shall bear interest in an amount equal to (i) in the case of overdue principal of any Loan, 2.00% per annum plus the rate otherwise applicable to such Loan as provided in Section 2.5(a)(i) or (ii), as applicable, or (ii) in the case of any other overdue amount, 2.00% per annum plus the rate applicable to Revolving Credit Loans that are Base Rate Loans as provided in Section 2.5(a)(i), in each case unless Agent and Requisite Lenders elect to impose a smaller increase (the "Default Rate"), accruing from the initial date of such non-payment until such payment is made and shall be payable upon demand.

(e) With respect to any Loan, Borrower shall have the option to (i) request that any loan be made as a Term SOFR Loan or a Base Rate Loan, (ii) convert any Base Rate Loan to a Term SOFR Loan, (iii) convert any Term SOFR Loan to a Base Rate Loan subject to payment of Term SOFR breakage costs in accordance with Section 2.11(b) if such conversion is made prior to the expiration of the Interest Period applicable thereto or (iv) continue all or any portion of any Loan as a Term SOFR Loan upon the expiration of the applicable Interest Period and the succeeding Interest Period of that continued Loan shall commence on the first day after the last day of the Interest Period of the Loan to be continued; provided, however, that no Loan shall be converted to, or continued at the end of the Interest Period applicable thereto as a Term SOFR Loan for an Interest Period of longer than one (1) month if any Event of Default has occurred and is continuing. Any Loan or group of Loans having the same proposed Interest Period to be made or continued as, or converted into, a Term SOFR Loan must be in a minimum amount of $5,000,000 and integral multiples of $1,000,000 in excess of such amount. Any such election

must be made by 11:00 a.m. (New York time) on the third Business Day prior to (1) the date of any proposed Loan which is to bear interest at Term SOFR, (2) the end of each Interest Period with respect to any Term SOFR Loans to be continued as such or (3) the date on which Borrower wishes to convert any Base Rate Loan to a Term SOFR Loan for an Interest Period designated by Borrower in such election. If no election is received with respect to a Term SOFR Loan by 11:00 a.m. (New York time) on the third Business Day prior to the end of the Interest Period with respect thereto (or if an Event of Default has occurred and is continuing), that Term SOFR Loan shall be converted to a Term SOFR Loan with an Interest Period of one month at the end of its Interest Period. Borrower must make such election by notice to Agent in writing, by fax or overnight courier. In the case of any conversion or continuation, such election must be made pursuant to a written notice (a "Notice of Conversion/Continuation") in the form of Exhibit 2.5(e). Borrower shall select Interest Periods so that, in the aggregate, there shall be no more than ten (10) separate Term SOFR Loans in existence at any one time.

(f) Anything herein to the contrary notwithstanding, the obligations of Borrower hereunder shall be subject to the limitation that payments of interest shall not be required, for any period for which interest is computed hereunder, to the extent (but only to the extent) that contracting for or receiving such payment by the respective Lender would be contrary to the provisions of any law applicable to such Lender limiting the highest rate of interest which may be lawfully contracted for, charged or received by such Lender, and in such event Borrower shall pay such Lender interest at the highest rate permitted by applicable law (the "Maximum Lawful Rate"); provided, however, that if at any time thereafter the rate of interest payable hereunder is less than the Maximum Lawful Rate, Borrower shall continue to pay interest hereunder at the Maximum Lawful Rate until such time as the total interest received by Agent, on behalf of Lenders, is equal to the total interest that would have been received had the interest rate payable hereunder been (but for the operation of this paragraph) the interest rate payable since the Escrow Funding Date as otherwise provided in this Agreement. Thereafter, interest hereunder shall be paid at the rate(s) of interest and in the manner provided in Sections 2.5(a) through (e), unless and until the rate of interest again exceeds the Maximum Lawful Rate, and at that time this paragraph shall again apply. In no event shall the total interest received by any Lender pursuant to the terms hereof exceed the amount that such Lender could lawfully have received had the interest due hereunder been calculated for the full term hereof at the Maximum Lawful Rate. If the Maximum Lawful Rate is calculated pursuant to this paragraph, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate divided by the number of days in the year in which such calculation is made. If, notwithstanding the provisions of this Section 2.5(f), a court of competent jurisdiction shall finally determine that a Lender has received interest hereunder in excess of the Maximum Lawful Rate, Agent shall, to the extent permitted by applicable law, promptly apply such excess in the order specified in Section 2.9 and thereafter shall refund any excess to Borrower or as a court of competent jurisdiction may otherwise order.

2.6 Letters of Credit.

(a) Issuance. Subject to the terms and conditions of this Agreement, each L/C Issuer agrees, at any time and from time to time between the Escrow Release Date and the Commitment Termination Date, to issue Letters of Credit denominated in Dollars upon the request of Borrower and for Borrower's account (or for the account of any of Borrower's Restricted Subsidiaries designated thereby, *provided* that Borrower will be a co-applicant with respect to any such Letter of Credit) or to amend or renew Letters of Credit previously issued by it. For the avoidance of doubt, no Letter of Credit shall be issued for the account of any Unrestricted Subsidiary. Each Revolving Lender shall, subject to the terms and conditions hereinafter set forth, purchase (or be deemed to have purchased) risk participations in all such Letters of Credit as more fully described in Section 2.6(b)(ii). The aggregate

amount of all Letter of Credit Obligations shall, subject to Section 2.3(b)(ii) and Section 2.3(b)(iii), as applicable, not at any time exceed $0 (or such greater amount as set forth in the Escrow Release Date Incremental Revolving Amendment) (the "L/C Sublimit"). Notwithstanding anything to the contrary contained herein, no L/C Issuer shall be obligated to issue or renew any Letter of Credit if, after giving effect to the issuance or renewal thereof, (x) the aggregate amount of all Letter of Credit Obligations in respect of Letters of Credit issued by such L/C Issuer would exceed such L/C Issuer's L/C Issuer Fronting Sublimit Amount, (y) any Revolving Lender's Pro Rata Share of the Aggregate Revolving Credit Exposure would exceed its Revolving Credit Commitment or (z) the Aggregate Revolving Credit Exposure would exceed the aggregate Revolving Credit Commitments of all Revolving Lenders. No L/C Issuer shall be under any obligation to issue any Letter of Credit if: (1) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such L/C Issuer from issuing such Letter of Credit, or any law applicable to such L/C Issuer or any directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such L/C Issuer shall prohibit, or direct that such L/C Issuer refrain from, the issuance of letters of credit generally or such Letter of Credit in particular or (2) the issuance of such Letter of Credit would violate any policies of the L/C Issuer applicable to letters of credit generally. No such Letter of Credit shall have an expiry date that is more than one year following the date of issuance thereof, but may contain provisions for automatic renewal thereof for periods not in excess of one (1) year, unless otherwise reasonably determined by Agent and the applicable L/C Issuer, in their respective sole discretion, and no Revolving Lender shall be under any obligation to Incur Letter of Credit Obligations in respect of, or purchase risk participations in, any Letter of Credit having an expiry date that is later than the fifth (5th) Business Day prior to the Commitment Termination Date; provided, further that a Letter of Credit may, upon the request of Borrower, be issued or renewed for a period beyond the date that is five (5) Business Days prior to the maturity date thereof if such Letter of Credit becomes subject to cash collateralization on such fifth (5th) Business Day prior to the Commitment Termination Date (at 103% of the face value of such Letter of Credit) or other arrangements, in each case reasonably satisfactory to Agent and the applicable L/C Issuer, have been provided, and the applicable L/C Issuer has released the Revolving Lenders in writing from their participation obligations with respect to such Letter of Credit on the Commitment Termination Date. Notwithstanding anything to the contrary contained herein, no L/C Issuer shall be required to issue a commercial or trade Letter of Credit without its consent.

(b) Advances Automatic; Participations.

(i) If no Revolving Lender is a Defaulting Lender, in the event that any L/C Issuer shall make any payment on or pursuant to any Letter of Credit Obligation, such L/C Issuer shall notify Borrower and Agent thereof, and Borrower shall reimburse such L/C Issuer in respect of such payment by paying to Agent for the account of such L/C Issuer an amount equal to such payment not later than the Business Day immediately after it receives notice of such payment. If the applicable L/C Issuer does not receive such reimbursement on the Business Day immediately after Borrower receives notice of such payment, such payment shall then be deemed automatically to constitute a Revolving Credit Loan under Section 2.1(a)(ii) regardless of whether a Default or Event of Default has occurred and is continuing, and notwithstanding Borrower's failure to satisfy the conditions precedent set forth in Section 3.3, and, if no Lender is a Defaulting Lender (or if the only Defaulting Lender is the L/C Issuer that issued such Letter of Credit), each Revolving Lender shall be obligated to pay its Pro Rata Share of the amount thereof in accordance with this Agreement. If any Revolving Lender other than the L/C Issuer that issued the applicable Letter of Credit is a Defaulting Lender, in the event that any L/C Issuer shall make any payment on or pursuant to any Letter of Credit Obligation and the conditions precedent set forth in Section 3.3 are satisfied at such time, such payment shall then be deemed automatically to constitute a Revolving Credit Loan and that Defaulting Lender's Letter of Credit Obligations shall be reallocated to and assumed by the

other Revolving Lenders pro rata in accordance with their Pro Rata Share of the amount of the Revolving Credit Loan (calculated as if the Defaulting Lender's Pro Rata Share was reduced to zero and each other Revolving Lender's Pro Rata Share had been increased proportionately); provided that no Revolving Lender shall be reallocated any Letter of Credit Obligations to the extent such reallocation shall cause its Pro Rata Share of the Aggregate Revolving Credit Exposure to exceed its Revolving Credit Commitment. If any Revolving Lender is a Defaulting Lender, each Revolving Lender that is not a Defaulting Lender shall pay to Agent for the account of such L/C Issuer its Pro Rata Share (increased as described above) of the Letter of Credit Obligations that from time to time remain outstanding; provided that no Revolving Lender shall be required to fund any amount to the extent such funding shall cause its Pro Rata Share of the Aggregate Revolving Credit Exposure to exceed its Revolving Credit Commitment. The failure of any Revolving Lender to make available to Agent for the applicable L/C Issuer's account its Pro Rata Share of any such Revolving Credit Loan or payment by Agent to the applicable L/C Issuer shall not relieve any other Revolving Lender of its obligation hereunder to make available to Agent its Pro Rata Share thereof.

(ii) If it shall be illegal or unlawful for Borrower to Incur Revolving Credit Loans as contemplated bySection 2.6(b)(i) above, or if it shall be illegal or unlawful for any Revolving Lender to be deemed to have assumed a ratable share of the reimbursement obligations owed to any L/C Issuer, then (A) immediately and without further action whatsoever, each Revolving Lender shall be deemed to have irrevocably and unconditionally purchased from such L/C Issuer an undivided interest and participation equal to such Lender's Pro Rata Share (based on its Revolving Credit Commitment) of the Letter of Credit Obligations in respect of all Letters of Credit then outstanding, and (B) thereafter, immediately upon issuance of any Letter of Credit, each Revolving Lender shall be deemed to have irrevocably and unconditionally purchased from such L/C Issuer an undivided interest and participation in such Revolving Lender's Pro Rata Share (based on its Revolving Credit Commitment) of the Letter of Credit Obligations with respect to such Letter of Credit on the date of such issuance. Each Revolving Lender shall fund its participation in all payments or disbursements made under the Letters of Credit in the same manner as provided in this Agreement with respect to Revolving Credit Loans, including with respect to the reallocation of Letter of Credit Obligations of Defaulting Lenders set forth in Section 2.6(b)(i) above.

(iii) In determining whether to pay under any Letter of Credit, no L/C Issuer shall have any obligation relative to the other Revolving Lenders other than to confirm that any documents required to be delivered under such Letter of Credit appear to have been delivered and that they appear to substantially comply on their face with the requirements of such Letter of Credit. Any action taken or omitted to be taken by an L/C Issuer under or in connection with any Letter of Credit issued by it shall not create for such L/C Issuer any resulting liability to Borrower, any other Credit Party, any Lender or any other Person unless such action is taken or omitted to be taken with gross negligence or willful misconduct on the part of such L/C Issuer (as determined by a court of competent jurisdiction in a final and non-appealable decision).

(c) Cash Collateral.

(i) Except as set forth in Section2.19(d), if Borrower is required to provide cash collateral for any Letter of Credit pursuant to this Agreement prior to the Commitment Termination Date, Borrower will pay to Agent for the ratable benefit of itself, the L/C Issuers and the Revolving Lenders cash or Cash Equivalents Cash Collateral in an amount in Dollars equal to 103% of the maximum amount then available to be drawn under each applicable Letter of Credit outstanding. Such Cash Collateral shall be held by Agent in an interest bearing cash collateral account (the "Cash Collateral Account") maintained at a bank or financial institution acceptable to Agent. The Cash Collateral Account shall be in the name of Borrower and shall be pledged to, and subject to the control of, Agent, for the benefit

of Agent, the Revolving Lenders and the applicable L/C Issuers, in a manner satisfactory to Agent. Borrower hereby pledges and grants to Agent, on behalf of itself and the Revolving Lenders, a security interest in all such Cash Collateral held in the Cash Collateral Account from time to time and all proceeds (including interest) thereof, as security for the payment of all amounts due in respect of the Letter of Credit Obligations and other Obligations, whether or not then due. This Agreement shall constitute a security agreement under applicable law.

(ii) If any Letter of Credit Obligations, whether or not then due and payable, shall for any reason be outstanding on the Commitment Termination Date, Credit Parties shall either (A) provide Cash Collateral therefor in the manner described above, (B) cause all such Letters of Credit to be canceled and returned, or (C) backstop such Letter of Credit Obligations in a manner reasonably satisfactory to the applicable L/C Issuer.

(iii) From time to time after Cash Collateral is deposited in the Cash Collateral Account by Borrower, whether before or after the Commitment Termination Date, Agent shall apply such Cash Collateral then held in the Cash Collateral Account to the payment of any amounts, and in such order as Agent may elect, as shall be or shall become due and payable by Borrower to Agent, L/C Issuers and Revolving Lenders with respect to such Letter of Credit Obligations, and, upon the satisfaction in full of all Letter of Credit Obligations, and after the Commitment Termination Date, to any other Obligations of any Borrower then due and payable. Neither Borrower nor any Person claiming on behalf of or through Borrower shall have any right to withdraw any of the Cash Collateral held in the Cash Collateral Account; *provided* that if at any time prior to the Commitment Termination Date Borrower is no longer required to provide Cash Collateral for any Letter of Credit pursuant to this Agreement, such Cash Collateral (to the extent not previously applied as set forth in this Section 2.6(c)(iii)) shall be returned to Borrower promptly, and in any event within three (3) Business Days.

(d) Fees and Expenses. Borrower agrees to pay to Agent for its own benefit, as applicable, and for the benefit of the Revolving Lenders, (i) all reasonable documented out-of-pocket costs and expenses Incurred by Agent or any Revolving Lender on account of such Letter of Credit Obligations, and (ii) for each Fiscal Quarter during which any Letter of Credit Obligation shall remain outstanding, a fee (the "Letter of Credit Fee") in an amount equal to the Term SOFR Margin then in effect for Revolving Credit Loans multiplied by the aggregate daily face amount of each outstanding Letter of Credit, calculated on the basis of a 360-day year and for the actual number of days such Letter of Credit was outstanding during such Fiscal Quarter. Such Letter of Credit Fee shall be paid to Agent for the benefit of the Revolving Lenders in arrears, on the last Business Day of each Fiscal Quarter (commencing with the Fiscal Quarter during which the Escrow Release Date occurs) and on the Commitment Termination Date, to be distributed to the Revolving Lenders in accordance with their Pro Rata Shares of the aggregate Revolving Credit Commitments of all Revolving Lenders. In addition, Borrower shall pay in Dollars to each L/C Issuer, (i) for each Fiscal Quarter during which any Letter of Credit shall remain outstanding, a fee equal to (x) a percentage to be agreed between Borrower and such L/C Issuer (but not to exceed 0.125%) multiplied by (y) the aggregate daily face amount of each such outstanding Letter of Credit issued by such L/C Issuer, calculated on the basis of a 360-day year and for the actual number of days such Letter of Credit was outstanding during such Fiscal Quarter, and (ii) on demand, such reasonable documented out-of-pocket fees, charges and expenses of each L/C Issuer in respect of the issuance, negotiation, acceptance, amendment, transfer and payment of any Letter of Credit issued by such L/C Issuer or otherwise payable pursuant to the application and related documentation under which such Letter of Credit is issued.

(e) Request for Incurrence of Letter of Credit Obligations. Borrower shall give Agent and the applicable L/C Issuer at least five (5) Business Days' prior written notice prior to the requested date of issuance, amendment or extension, as applicable (or such shorter period as may be acceptable to the L/C Issuer) requesting the issuance, amendment or extension of any Letter of Credit (other than any automatic extension of a Letter of Credit permitted under Section 2.6(a)) and, in the case of a requested issuance, identifying whether such Letter of Credit is to be issued on behalf of Borrower or for the account of any Restricted Subsidiary of Borrower. Each such request, and any Letter of Credit issued pursuant thereto, shall be on the applicable L/C Issuer's standard form documents. Notwithstanding anything contained herein to the contrary, Letter of Credit applications by Borrower and approvals by Agent and the applicable L/C Issuer may be made and transmitted pursuant to communication methods mutually agreed upon and established by and among Borrower, Agent and the applicable L/C Issuer.

(f) Obligations Absolute. The obligation of Borrower in respect of payments made with respect to any Letter of Credit Obligation shall be absolute, unconditional and irrevocable, without necessity of presentment, demand, protest or other formalities, and the obligations of each Revolving Lender pursuant to Section 2.6(b) with respect to Letters of Credit shall be unconditional and irrevocable. Such obligations of Borrower and Revolving Lenders shall be paid strictly in accordance with the terms hereof under all circumstances including the following:

(i) any lack of validity or enforceability of any Letter of Credit or this Agreement or the other Loan Documents or any other agreement;

(ii) the existence of any claim, setoff, defense or other right that Borrower or any of its Affiliates or any Lender may at any time have against a beneficiary or any transferee of any Letter of Credit (or any Persons or entities for whom any such transferee may be acting), Agent, any Lender, any L/C Issuer or any other Person, whether in connection with this Agreement, the Letter of Credit, the transactions contemplated herein or therein or any unrelated transaction (including any underlying transaction between Borrower or any of its Affiliates and the beneficiary for which the Letter of Credit was procured);

(iii) any draft, demand, certificate or any other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) payment by Agent or the applicable L/C Issuer under any Letter of Credit against presentation of a demand, draft, certificate or other document that does not comply with the terms of such Letter of Credit;

(v) any other circumstance or event whatsoever that is similar to any of the foregoing that might, but for the provisions of this Section 2.6, constitute a legal or equitable discharge of, or provide a right of setoff against, the obligations of Borrower hereunder; or

(vi) the fact that a Default or an Event of Default has occurred and is continuing;

Neither Agent, the Revolving Lenders nor the L/C Issuers, nor any of their Related Persons, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in

transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of the applicable L/C Issuer; provided that the foregoing shall not be construed to excuse any L/C Issuer from liability to Borrower to the extent of any direct damages (as opposed to special, indirect, consequential or punitive damages, claims in respect of which are hereby waived by Borrower to the extent permitted by applicable law) suffered by Borrower that are caused by such L/C Issuer's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct, or breach of its obligations hereunder, on the part of any L/C Issuer (as finally determined by a court of competent jurisdiction), such L/C Issuer shall be deemed to have exercised care in each such determination. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, the applicable L/C Issuer may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Indemnification; Nature of Revolving Lenders' Duties.

(i) [Reserved].

(ii) [Reserved].

(iii) In the event of any conflict between the terms of this Agreement and the terms of any letter of credit application, reimbursement agreement or similar document, instrument or agreement between or among Borrower and any L/C Issuer, the terms of this Agreement shall control.

(h) Reporting Obligations of L/C Issuers. Each L/C Issuer agrees to provide Agent, in form and substance satisfactory to Agent, each of the following on the following dates: (i) (A) on or prior to any issuance of any Letter of Credit by such L/C Issuer, (B) immediately after any drawing under any such Letter of Credit or (C) immediately after payment (or failure to pay when due) by Borrower of any related Letter of Credit Obligation, notice thereof, which shall contain a reasonably detailed description of such issuance, drawing or payment, and Agent shall provide copies of such notices to each Lender reasonably promptly after receipt thereof; (ii) upon the request of Agent (or any Revolving Lender through Agent), copies of any Letter of Credit issued by such L/C Issuer and any related Letter of Credit reimbursement agreement and such other documents and information as may be reasonably requested by Agent; and (iii) on the first Business Day of each calendar month, a schedule of the Letters of Credit issued by such L/C Issuer, in form and substance reasonably satisfactory to Agent, setting forth the Letter of Credit Obligations for such Letters of Credit outstanding on the last Business Day of the previous calendar month.

(i) Replacement or Resignation of L/C Issuer. Any L/C Issuer may be replaced with another Revolving Lender (or an Affiliate of a Revolving Lender) at any time by written agreement among Borrower, Agent, the L/C Issuer being replaced and the successor L/C Issuer. Agent shall notify the Revolving Lenders of any such replacement of such L/C Issuer. At the time any such replacement shall become effective, Borrower shall pay all unpaid fees accrued for the account of the replaced L/C Issuer. From and after the effective date of any such replacement, (i) the successor L/C Issuer shall have all the rights and obligations of the applicable L/C Issuer under this Agreement with respect to Letters of Credit to be issued thereafter, and (ii) references herein to the term "L/C Issuer" shall be deemed to refer

to such successor or to any previous L/C Issuer, or to such successor L/C Issuer and all previous L/C Issuers, as the context shall require. After the replacement of an L/C Issuer hereunder, the replaced L/C Issuer shall remain a party hereto and shall continue to have all the rights and obligations of an L/C Issuer under this Agreement and the other Loan Documents with respect to Letters of Credit issued by it prior to such replacement but shall not be required to issue additional Letters of Credit or to extend, renew or increase any existing Letter of Credit. Any L/C Issuer, upon assigning all of its Revolving Credit Commitments and Revolving Credit Loans pursuant to Section 11.1, may resign as an L/C Issuer by giving 30 days' prior notice to Agent, the Lenders and Borrower. After the resignation of an L/C Issuer hereunder, the resigning L/C Issuer shall remain a party hereto and shall continue to have all the rights and obligations of an L/C Issuer under this Agreement and the other Loan Documents with respect to Letters of Credit issued by it prior to such resignation, but shall not be required to issue additional Letters of Credit or to extend, renew or increase any existing Letter of Credit.

(j) Existing Letters of Credit. On the Escrow Release Date, each letter of credit listed on Schedule 2.6, to the extent outstanding, shall be automatically and without further action by the parties thereto (and without payment of any fees otherwise due upon the issuance of a Letter of Credit) deemed converted into Letters of Credit issued pursuant to this Section 2.6 and subject to the provisions hereof. Notwithstanding anything to the contrary contained herein, Schedule 2.6 may be updated at any time between the Escrow Funding Date and the Escrow Release Date to reflect the inclusion of additional letters of credit as may be agreed among Parent Guarantor, Agent and the applicable L/C Issuer.

2.7 Fees.

(a) Borrower shall pay to Agent, for its own account, an agency fee, payable in the amount and at times that have been separately agreed to between Borrower and Agent.

(b) Borrower shall pay to Agent, for the account of each Revolving Lender, from and after the Escrow Release Date and in arrears, on the last Business Day of each Fiscal Quarter (commencing with the Fiscal Quarter in which the Escrow Release Date occurs) and on the Commitment Termination Date, a commitment fee (the "Commitment Fee") on the actual daily unused amount of such Revolving Lender's Revolving Credit Commitment during the preceding Fiscal Quarter (or other period commencing with the Escrow Release Date or ending with the Commitment Termination Date, as the case may be) at a rate equal to the Applicable Commitment Fee Percentage.

2.8 Receipt of Payments. Borrower shall make each payment under this Agreement not later than 3:00 p.m. (New York time) on the day when due in immediately available funds in Dollars to Agent at Agent's Office. For purposes of computing interest and Fees, all payments shall be deemed received on the Business Day on which immediately available funds are received by Agent at Agent's Office prior to 3:00 p.m. (New York time). Payments received after 3:00 p.m. (New York time) on any Business Day, or on a day that is not a Business Day, shall be deemed to have been received on the following Business Day. Agent shall distribute such payments to Lender or other applicable Persons in like funds as received.

2.9 Application and Allocation of Payments. So long as no Event of Default has occurred and is continuing, (i) payments of regularly scheduled payments then due shall be applied to those scheduled payments, (ii) voluntary prepayments shall be applied in accordance with the provisions of Section 2.3(a) and (iii) mandatory prepayments shall be applied as set forth in Section 2.3(d). All payments and prepayments applied to a particular Loan shall be applied ratably to the portion thereof held by each applicable Lender as determined by its Pro Rata Share of the applicable Class. As to all payments made when an Event of Default has occurred and is continuing, Borrower hereby irrevocably waives the right to direct the application of any and all payments received from a Credit Party. All voluntary prepayments

shall be applied as directed by Borrower in accordance with the provisions of Section 2.3(a). In all circumstances after an Event of Default, subject to the Pari Passu Intercreditor Agreement, all payments and all proceeds of Collateral shall be applied to amounts then due and payable in the following order: (1) to Fees and Agent's expenses reimbursable hereunder and to all obligations owing to Agent, any L/C Issuer or any other Lender by any Defaulting Lender under the Loan Documents; (2) to interest on the Loans and any fees, premiums and scheduled periodic payments due under Secured Hedge Agreements and/or Cash Management Agreements constituting Obligations, ratably in proportion to the respective amounts described in this clause; (3) to principal payments on the Loans (or reimbursement in respect of the Letter of Credit Obligations) and any breakage, termination or other payments under Secured Hedge Agreements and/or Cash Management Agreements constituting Obligations, ratably in proportion to the respective amounts described in this clause; and (4) to all other Obligations hereunder on a ratable basis, including expenses of Lenders to the extent reimbursable under Section 12.3.

2.10 Evidence of Debt. Upon the request of any Lender made through Agent, Borrower shall execute and deliver to such Lender (through Agent) one or more Notes, which shall evidence such Lender's Loans.

2.11 Indemnity.

(a) Each Credit Party that is a signatory hereto shall jointly and severally indemnify and hold harmless each of Agent, the Lead Arrangers, the L/C Issuers, the Lenders, and their respective Affiliates, and each such Person's respective officers, directors, employees, attorneys, agents, advisors and representatives (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, claims, damages, losses, liabilities and out-of-pocket expenses (including reasonable attorneys' fees and disbursements and other reasonable documented out-of-pocket costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as the result of credit having been extended, suspended or terminated under this Agreement, the other Loan Documents and the administration of such credit, and in connection with or arising out of the transactions contemplated hereunder (including the syndication of the Facilities and the Commitments) and thereunder and any actions or failures to act in connection therewith, including any and all Environmental Liabilities and disputes between or among any parties to any of the Loan Documents, in each case, whether based on contract, tort or any other theory, whether brought by a third party or any Credit Party, and regardless of whether any Indemnified Person is a party thereto; provided that no such Credit Party shall be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability, or expense results from that Indemnified Person's (or such Indemnified Person's Related Persons) gross negligence, bad faith, willful misconduct or material breach of any of its obligations under any Loan Document as determined by a court of competent jurisdiction in a final and non-appealable judgment; provided, further, that no Indemnified Person will be indemnified for any such suit, action, proceeding, claim, damage, loss, liability or expense to the extent of any dispute solely among Indemnified Persons (other than any claims against Agent or Lead Arrangers acting in their respective capacities as such) that does not involve actions or omissions of any Credit Party or any of its Affiliates. In the absence of an actual conflict of interest, or the written opinion of counsel that a potential conflict of interest exists, Borrower and its Subsidiaries will not be responsible for the fees and expenses of more than one legal counsel for all Indemnified Persons and appropriate local legal counsel; provided that in the case of an actual conflict of interest, or the written opinion of counsel that a potential conflict of interest exists, Borrower and its Subsidiaries shall be responsible for one additional counsel in each applicable jurisdiction for the affected Indemnified Persons, taken as a whole. To the extent permitted by applicable law, no party hereto shall be responsible or liable to any other Person party to any Loan Document, any successor, assignee, or third party

beneficiary of such person or any other person asserting claims derivatively through such party, for indirect, punitive, exemplary or consequential damages which may be alleged as a result of credit having been extended, suspended or terminated under any Loan Document or as a result of any other transaction contemplated hereunder or thereunder; provided that nothing in this sentence shall limit any Credit Party's indemnity and reimbursement obligations to the extent set forth herein. No Indemnified Person referred to in this clause (a) shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(b) To induce Lenders to provide the Term SOFR option on the terms provided herein, if (i) any Term SOFR Loans are repaid in whole or in part prior to the last day of any applicable Interest Period (whether that repayment is made pursuant to any provision of this Agreement or any other Loan Document or occurs as a result of acceleration, by operation of law or otherwise); (ii) Borrower shall default in payment when due of the principal amount of or interest on any Term SOFR Loan; (iii) Borrower shall refuse to accept any borrowing of, or shall request a termination of, any borrowing of, conversion into or continuation of, Term SOFR Loans after Borrower has given notice requesting the same in accordance herewith; (iv) Borrower shall fail to make any prepayment of a Term SOFR Loan after Borrower has given a notice thereof in accordance herewith; or (v) an assignment of Term SOFR Loans is mandated pursuant to Sections 2.14(d) or 12.2(d), then Borrower shall indemnify and hold harmless each Lender from and against all actual losses, costs and reasonable documented out-of-pocket expenses resulting from or arising from any of the foregoing. Such indemnification shall include any actual and documented out-of-pocket loss or expense (other than loss of anticipated profits), if any, arising from the reemployment of funds obtained by it or from fees payable to terminate deposits from which such funds were obtained. For the purpose of calculating amounts payable to a Lender under this Section 2.11(b), each Lender shall be deemed to have actually funded its relevant Term SOFR Loan through the purchase of a deposit bearing interest at Term SOFR in an amount equal to the amount of that Term SOFR Loan and having a maturity comparable to the relevant Interest Period; provided that each Lender may fund each of its Term SOFR Loans in any manner it sees fit, and the foregoing assumption shall be utilized only for the calculation of amounts payable under this Section 2.11(b). This covenant shall survive the termination of this Agreement and the payment of the Obligations hereunder and all other amounts payable hereunder. As promptly as practicable under the circumstances, each Lender shall provide Borrower with its written and detailed calculation of all amounts payable pursuant to this Section 2.11(b), and such calculation shall be binding on the parties hereto absent manifest error, in which case Borrower shall object in writing within ten (10) Business Days of receipt thereof, specifying the basis for such objection in detail.

2.12 Interest Rate Determination. Subject to Section 2.18, if, on or prior to the first day of any Interest Period for any Term SOFR Loan:

(a) Agent determines (which determination shall be conclusive and binding absent manifest error) that "Term SOFR" cannot be determined pursuant to the definition thereof, or

(b) the Requisite Lenders determine that for any reason in connection with any request for a Term SOFR Loan or a conversion thereto or a continuation thereof that Term SOFR for any requested Interest Period does not adequately and fairly reflect the cost to such Lenders of making and maintaining such Loan, and the Requisite Lenders have provided notice of such determination to Agent,

then, in each case, Agent will promptly so notify Borrower and each Lender.

Upon notice thereof by Agent to Borrower, any obligation of the Lenders to make Term SOFR Loans, and any right of Borrower to continue Term SOFR Loans or to convert Base Rate Loans to Term SOFR Loans, shall be suspended (to the extent of the affected Term SOFR Loans or affected Interest Periods) until Agent (with respect to clause (b), at the instruction of the Requisite Lenders) revokes such notice. Upon receipt of such notice, (i) Borrower may revoke any pending request for a borrowing of, conversion to or continuation of Term SOFR Loans (to the extent of the affected Term SOFR Loans or affected Interest Periods) or, failing that, Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (ii) any outstanding affected Term SOFR Loans will be deemed to have been converted into Base Rate Loans at the end of the applicable Interest Period. Upon any such conversion, Borrower shall also pay accrued interest on the amount so converted, together with any additional amounts required pursuant to Section 2.11(b). Subject to Section 2.18, if Agent determines (which determination shall be conclusive and binding absent manifest error) that "Term SOFR" cannot be determined pursuant to the definition thereof on any given day, the interest rate on Base Rate Loans shall be determined by Agent without reference to clause (c) of the definition of "Base Rate" until Agent revokes such determination.

2.13 Taxes.

(a) All payments by or on account of any obligation of any Credit Party hereunder or under any other Loan Document shall be made, in accordance with this Section 2.13, free and clear of and without withholding or deduction for any Taxes, except as required by applicable law. If any Withholding Agent shall be required by law to withhold or deduct any Taxes from or in respect of any sum payable hereunder (including any payments made pursuant to this Section 2.13) or under any other Loan Document, (i) if such Tax is an Indemnified Tax, the sum payable by the applicable Credit Party shall be increased, without duplication, as much as shall be necessary so that, after making all required withholdings and deductions (including withholdings and deductions applicable to additional sums payable under this Section 2.13), Agent or Lenders, as applicable, receive an amount equal to the sum they would have received had no such withholdings and deductions been made, (ii) the relevant Withholding Agent shall make such withholdings and deductions, and (iii) such Withholding Agent shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law. Each Lender agrees that, as promptly as reasonably practicable after it becomes aware of any circumstances that would result in additional payments under this Section 2.13, it shall notify Borrower thereof.

(b) Without duplication of any obligation set forth in subsection (a), each Credit Party shall timely pay any Other Taxes to the relevant Governmental Authority (or, at the option of Agent, to Agent as reimbursement for Agent's payment thereof).

(c) Each Credit Party shall, without duplication of any obligation set forth in subsection (a), jointly and severally indemnify and, within ten (10) days of demand therefor, pay Agent and each Lender for the full amount of Indemnified Taxes (including, any Indemnified Taxes imposed by any jurisdiction on amounts payable under this Section 2.13) paid by (or on behalf of) Agent or such Lender as a result of payments made pursuant to this Agreement or any other Loan Document, as appropriate, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally asserted by the relevant Governmental Authority. A certificate as to the amount of such Taxes and evidence of payment thereof submitted to the Credit Parties shall be conclusive evidence, absent manifest error, of the amount due from the Credit Parties to Agent or such Lenders. Upon learning of the imposition of any such Taxes, Agent or such Lender, as the case may be, shall act in good faith to notify Borrower of the imposition of such Taxes arising hereunder.

(d) (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under this Agreement or any other Loan Documents shall deliver to Borrower (with a copy to Agent), on or prior to the date on which such Lender becomes a Lender under this Agreement and at the time or times reasonably requested by Borrower or Agent, such properly completed and executed documentation reasonably requested by Borrower or Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. Without limiting the generality of the foregoing, each Lender, and any successor or assignee of a Lender, that is a "United States person" within the meaning of section 7701(a)(30) of the IRC or any Person that is disregarded as an entity separate from any such "United States person" for U.S. federal income Tax purposes (a U.S. Person") shall deliver to Borrower (with a copy to Agent) a properly completed and executed IRS FormW-9 and such other documentation or information prescribed by applicable law or reasonably requested by Agent or Borrower to (i) determine whether such Lender is subject to backup withholding or information reporting requirements and (ii) for Borrower to comply with its obligations under FATCA. Each Lender, and any successor or assignee of a Lender, that is not a U.S. Person (a "Foreign Lender") to whom payments to be made under this Agreement may be exempt from, or eligible for a reduced rate of, United States withholding tax (as applicable) shall, at the time or times prescribed by applicable law, provide to Borrower (with a copy to Agent) a properly completed and executed IRS Form W-8ECI, Form W-8BEN, Form W-8BEN-E, Form W-8IMY, as applicable and any other applicable form, certificate (including, but not limited to, certification, if applicable, that such Foreign Lender is not a "bank," a "10 percent shareholder," or a "controlled foreign corporation" for purposes of the portfolio interest exemption of section 881(c) of the IRC, a "Tax Compliance Certificate") or document prescribed by the IRS or the United States. Each Lender shall deliver to Borrower and Agent (in such number of copies as shall be requested by Borrower or Agent) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of Borrower or Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit Borrower or Agent, as applicable, to determine the withholding or deduction required to be made. Notwithstanding anything to the contrary in this paragraph, the completion, execution, and submission of such documentation (other than (A) IRS Form W-9, (B) applicable IRS Form W-8, (C) a Tax Compliance Certificate, if applicable, and (D) any information or documentation reasonably requested by Borrower or Agent in connection with FATCA (which, for this purpose shall include any amendments made to FATCA after the date hereof)) shall not be required if in the Lender's reasonable judgment, such completion, execution, or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) On or prior to the date Agent becomes a party to this Agreement (including pursuant toSection 10.6), Agent shall deliver to Borrower a properly completed and executed (x) IRS Form W-9 or (y) a U.S. branch withholding certificate on IRS Form W-8IMY evidencing its agreement with Borrower to be treated as a U.S. Person (with respect to amounts received on account of any Lender) and IRS Form W-8ECI (with respect to amounts received on its own account), with the effect that, in either case, Borrower will be entitled to make payments hereunder to Agent without withholding or deduction of any Taxes imposed by the United States.

(iii) Each Lender and Agent agrees that if any form or certification it previously delivered pursuant to thisSection 2.13 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify Borrower and Agent in writing of its legal ineligibility to do so.

(iv) Each Lender authorizes Agent to deliver to the Credit Parties and to any successor Agent any documentation provided by such Lender to Agent pursuant to this Section 2.13.

(e) If Agent or any Lender, as applicable, determines, in its sole discretion, exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Credit Party or with respect to which any Credit Party has paid additional amounts pursuant to this Section 2.13, it shall pay over such refund to such Credit Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Credit Party under this Section 2.13 with respect to the Taxes giving rise to such refund), net of allout-of-pocket expenses of Agent or Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such Credit Party, upon the request of Agent or Lender, shall repay to Agent or Lender the amount paid over pursuant to this paragraph (e) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that Agent or Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (e), in no event will Agent or a Lender be required to pay any amount to a Credit Party pursuant to this paragraph (e) the payment of which would place Agent or Lender in a less favorable net after-Tax position than Agent or such Lender would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to a Credit Party or any other Person.

(f) Each Lender shall severally indemnify Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that a Credit Party has not already indemnified Agent for such Indemnified Taxes and without limiting the obligation of any Credit Party to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.1(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by Agent shall be conclusive absent manifest error. Each Lender hereby authorizes Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by Agent to the Lender from any other source against any amount due to Agent under this paragraph (f).

(g) For the avoidance of doubt, the term "Lender" shall, for purposes of this Section 2.13, include any L/C Issuer.

(h) The provisions of this Section 2.13 shall survive the termination of this Agreement and repayment of all Obligations hereunder.

2.14 Capital Adequacy; Increased Costs; Illegality.

(a) If any Lender shall have determined that any law, treaty, governmental (or quasi-governmental) rule, regulation, guideline or order regarding capital adequacy, liquidity, reserve requirements or similar requirements or compliance by any Lender with any request or directive regarding capital adequacy, liquidity, reserve requirements or similar requirements (whether or not having the force of law), in each case, adopted after the Escrow Release Date, from any central bank or other Governmental Authority increases or would have the effect of increasing the amount of capital, reserves or other funds required to be maintained by such Lender and thereby reducing the rate of return on such

Lender's capital as a consequence of its obligations hereunder, then Borrower shall from time to time upon demand by such Lender (with a copy of such demand to Agent) pay to Agent, for the account of such Lender, additional amounts sufficient to compensate such Lender for such reduction. A certificate as to the amount of that reduction and setting forth in reasonable detail the basis of the computation thereof submitted by such Lender to Borrower and to Agent shall, absent manifest error, be final, conclusive and binding for all purposes.

(b) If, due to either (i) the introduction of or any change in any law or regulation (or any change in the interpretation thereof) or (ii) the compliance with any guideline or request from any central bank or other Governmental Authority (whether or not having the force of law), in each case adopted after the Escrow Release Date, there shall be any increase in the cost to any Lender of agreeing to make or making, funding or maintaining, continuing, converting to any Term SOFR Loan, or there shall be a Tax (other than Indemnified Taxes or Excluded Taxes) on any Recipient on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves or other liabilities, or capital attributable thereto, then Borrower shall from time to time, upon demand by such Lender (with a copy of such demand to Agent), pay to Agent for the account of such Lender additional amounts sufficient to compensate such Lender for such increased cost. A certificate setting forth in reasonable detail the amount of such increased cost and the basis of the calculation thereof, submitted to Borrower and to Agent by such Lender, shall, absent manifest error, be final, conclusive and binding for all purposes. Each Lender agrees that, as promptly as practicable after it becomes aware of any circumstances referred to above which would result in any such increased cost, the affected Lender shall, to the extent not inconsistent with such Lender's internal policies of general application, use reasonable commercial efforts to minimize costs and expenses incurred by it and payable to it by Borrower pursuant to this Section 2.14(b).

(c) Notwithstanding anything to the contrary contained herein, if the introduction of or any change in any law or regulation (or any change in the interpretation thereof) shall make it unlawful, or any central bank or other Governmental Authority shall assert that it is unlawful, for any Lender to agree to make or to make or to continue to fund or maintain any Term SOFR Loan, as contemplated by this Agreement, then, unless that Lender is able to make or to continue to fund or to maintain such Term SOFR Loan at another branch, office or Affiliate of that Lender without, in that Lender's reasonable opinion, materially adversely affecting it or its Loans or the income obtained therefrom, on notice thereof and demand therefor by such Lender to Borrower through Agent, (i) the obligation of such Lender to agree to make or to make or to continue to fund or maintain such Term SOFR Loans, as the case may be, shall terminate and (ii) Borrower shall forthwith prepay in full all outstanding Term SOFR Loans owing by it to such Lender, together with interest accrued thereon, unless such Lender may maintain such Term SOFR Loans through the end of such Interest Period under applicable law or unless Borrower, within five (5) Business Days after the delivery of such notice and demand, converts all Term SOFR Loans owing by it to such Lender into Base Rate Loans. Notwithstanding the foregoing, if Borrower provides Agent and the Affected Lender notice that it seeks to replace such Affected Lender in accordance with Section 2.14(d), Borrower's obligation to prepay Loans pursuant to this Section 2.14(c) shall be suspended; provided that if no Replacement Lender is found within the time provided for in Section 2.14(d), Borrower shall have five (5) Business Days to prepay such Affected Lender's Term SOFR Loans or convert such Term SOFR Loans into Base Rate Loans. In the event Borrower relies on this provision to suspend its obligation to prepay Term SOFR Loans, such Loans shall be converted to Base Rate Loans at the end of the applicable Interest Period.

(d) Within thirty (30) days after receipt by Borrower of written notice and demand from any Lender (an "Affected Lender") for payment of additional amounts or increased costs as provided

in Sections 2.13(a), 2.14(a) or 2.14(b), or notice and demand that Borrower prepay or convert Term SOFR Loans pursuant toSection 2.14(c), Borrower may, at its option, notify Agent and such Affected Lender of its intention to replace the Affected Lender. So long as no Event of Default has occurred and is continuing, Borrower, with the consent of Agent, may obtain, at Borrower's expense, a replacement Lender ("Replacement Lender") for the Affected Lender, which Replacement Lender must be reasonably satisfactory to Agent. If Borrower obtains a Replacement Lender within ninety (90) days following notice of its intention to do so, the Affected Lender must sell and assign its Loans, Letter of Credit Obligations and Commitments to such Replacement Lender for an amount equal to the principal balance of all Loans and all Letter of Credit Obligations held by the Affected Lender and all accrued interest and Fees with respect thereto through the date of such sale and such assignment shall not require the payment of an assignment fee to Agent; provided, that Borrower shall have reimbursed such Affected Lender for the additional amounts or increased costs that it is entitled to receive under this Agreement through the date of such sale and assignment. Notwithstanding the foregoing, Borrower shall not have the right to obtain a Replacement Lender if the Affected Lender rescinds its demand for increased costs or additional amounts within fifteen (15) days following its receipt of Borrower's notice of intention to replace such Affected Lender. Furthermore, if Borrower gives a notice of intention to replace and does not so replace such Affected Lender within ninety (90) days thereafter, Borrower's rights under this Section 2.14(d) shall terminate with respect to such Affected Lender for such request for additional amounts or increased costs and Borrower shall promptly pay all increased costs or additional amounts demanded by such Affected Lender to the extent required pursuant to Sections 2.13(a), 2.14(a) and 2.14(b). An exercise of Borrower's option under this Section 2.14(d) shall not suspend Borrower's obligation to pay such increased costs or additional amounts demanded by such Affected Lender pursuant to Sections 2.13(a), 2.14(a) and 2.14(b) until such Affected Lender is replaced.

(e) It is understood and agreed that (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, guidelines or directives in connection therewith (collectively, the "Dodd-Frank Act") are deemed to have been adopted and gone into effect after the date of this Agreement to the extent necessary to provide Lenders with the benefit of this Section 2.14 with respect to any "change in law or regulation" resulting from the Dodd-Frank Act and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall, for the purposes of this Agreement, be deemed to have been adopted and gone into effect after the date of this Agreement to the extent necessary to provide Lenders with the benefit of this Section 2.14 with respect to any "change in law or regulation" resulting from Basel III.

(f) No Lender shall request compensation under Section 2.14(a) or (b) hereof unless such Lender is generally requesting similar compensation from its borrowers with similar provisions in their loan or credit documents. Borrower shall not be required to compensate a Lender for any increased costs incurred or reduced rate of return suffered more than six months prior to the date that the Lender notifies Borrower of the change in law giving rise to such increased costs or reduced return and of such Lender's intention to claim compensation therefor; provided that to the extent the change is law is retroactive to a date that is prior to the date such change in law is enacted, such six months period shall commence on the date of enactment of such change in law.

(g) Within thirty (30) days after receipt by Borrower of written notice and demand from any Affected Lender for payment of additional amounts or increased costs as provided in Sections 2.13(a), 2.14(a) or 2.14(b), then such Lender shall (at Borrower's request) use reasonable efforts to designate a different lending office for funding or booking its Loans or to assign its rights and

obligations hereunder to another of its offices, branches or affiliates, if, in the good-faith judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Sections 2.13(a), 2.13(b), 2.14(a), or 2.14(b), as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Borrower shall pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

2.15 Incremental Credit Extensions.

(a) From and after the Escrow Release Date, Borrower may, by written notice to Agent from time to time, request an increase in the principal amount of the Term B Loans, request one or more additional Classes of term loans (any such Term B Loans or additional tranche of term loans, the "Incremental Term Loans"), request an increase in the amount of Revolving Credit Commitments (a "Revolving Credit Commitment Increase") and/or request one or more new revolving credit commitments (an "Additional Revolving Credit Commitment" and, together any Revolving Credit Commitment Increases, the "Incremental Revolving Credit Commitments"; together with the Incremental Term Loans, the "Incremental Facilities"); *provided* that the aggregate principal amount of Incremental Facilities Incurred under this Section 2.15 after the Escrow Release Date (and excluding, for the avoidance of doubt, any Revolving Credit Commitments incurred pursuant to the Escrow Release Date Incremental Revolving Amendment), together with the aggregate principal amount of all Incremental Equivalent Debt, shall not exceed the Incremental Facility Cap; *provided*, *further*, that the Borrower hereby requests an increase in the amount of Revolving Credit Commitments pursuant to an Incremental Amendment to be effective as of the Escrow Release Date (the "Escrow Release Date Incremental Revolving Amendment"), in an aggregate amount of $400,000,000, with such Revolving Credit Commitments having such terms as are set forth herein with respect to the Revolving Credit Commitments as of the Escrow Funding Date, subject to any modifications thereto set forth in the Escrow Release Date Incremental Revolving Amendment as would otherwise be permitted by Section 12.2 (it being understood that, notwithstanding anything in Section 2.15(b) or (c) to the contrary, there shall be no conditions to the effectiveness of such Escrow Release Date Incremental Revolving Amendment other than those set forth in Section 3.2). Any such notice (other than, for the avoidance of doubt, with respect to the Revolving Credit Commitment Increase to be effectuated pursuant to the Escrow Release Date Incremental Revolving Amendment) shall set forth (x) the amount of the Incremental Facilities being requested (which shall be in minimum increments of $1,000,000 and a minimum amount of $5,000,000) and (y) the date on which such Incremental Facilities are requested to become effective (which shall not be less than ten (10) Business Days nor more than sixty (60) days after the date of such notice (or such longer or shorter periods as Agent shall agree)). Borrower may seek Incremental Facilities from existing Lenders or any Additional Lender.

(b) Subject to Section 2.15(a), it shall be a condition precedent to the Incurrence of the Incremental Facilities that (i) no Event of Default shall have occurred and be continuing immediately prior to or immediately after the Incurrence of such Incremental Facility; provided that if such Incurrence is in connection with a Permitted Investment, the condition in this clause (i) may be waived by the providers of such Incremental Facility (other than an Event of Default under Sections 9.1(a), (g) or (h)), (ii) the representations and warranties set forth in Section 4 and in each other Loan Document shall be true and correct in all material respects on and as of the date the applicable Incremental Facility is established, except to the extent that such representations or warranties expressly relate to an earlier date, in which case they shall be true and correct in all material respects as of such earlier date; provided that if such Incurrence is in connection with a Permitted Investment, the condition in this clause (ii) may be waived by the providers of such Incremental Facility (other than (I) the Specified Escrow Release Date

Representations and (II) representations made in the definitive agreement related to such Permitted Investment by or on behalf of the seller as are material to the interests of the providers of the Incremental Facility, but only to the extent that Borrower or its applicable affiliate has the right to terminate its obligations under such definitive agreement or refuse to consummate such Permitted Investment as a result of a breach of such representations in such definitive agreement) and (iii) the terms of such Incremental Facility shall comply with Section 2.15(c).

(c) The terms of any Incremental Facility shall be determined by Borrower and the Persons providing the applicable Incremental Facility (each, an "Incremental Lender") and set forth in an Incremental Amendment;*provided* that (i) the final maturity date of any Incremental Term Loans (other than customary bridge loans) shall be no earlier than the Maturity Date with respect to the Term B Loans, (ii) the Weighted Average Life to Maturity of the Incremental Term Loans (other than customary bridge loans) shall be no shorter than the remaining Weighted Average Life to Maturity of the Term B Loans (without giving effect to any amortization or prepayments thereof), (iii) the Incremental Facilities will rank *pari passu* or junior in right of payment and with respect to security with the Loans or will be unsecured, (iv) no such Incremental Facility may be guaranteed by any Subsidiary or Parent that is not a Credit Party or secured by any assets other than Collateral, (v) with respect to any Incremental Term Loans in the form of term loans secured on a *pari passu* basis with the Term B Loans, if the All-In Yield on any tranche of such Incremental Term Loans exceeds the initial All-In Yield for the Term B Loans by more than 50 basis points (the amount of such excess above 50 basis points being referred to herein as the "Term B Loan Yield Differential"), then the Applicable Margin for such Term B Loans shall automatically be increased by the Term B Loan Yield Differential applicable to such Term B Loans effective upon the making of the Incremental Term Loans (and Borrower shall be entitled, without the consent of any other Lender, to increase the All-In Yield on such Term B Loans or make any other changes to such Term B Loans (so long as any such other changes are favorable to the Term B Lenders), in each case as necessary to ensure the Incremental Term Loans are "fungible" with such Term B Loans); provided, that, if any Incremental Term Loans include a Term SOFR or Base Rate floor that is greater than the Term SOFR or Base Rate floor applicable to the Term B Loans, such differential between interest rate floors shall be included in the calculation of Term B Loan Yield Differential, but only to the extent an increase in the Term SOFR or Base Rate floor applicable to the Term B Loans would cause an increase in the interest rate then in effect thereunder, and in such case the Term SOFR and Base Rate floors (but not the Applicable Margin) applicable to the Term B Loans shall be increased to the extent of such differential between interest rate floors, (vi) the Incremental Term Loans may share ratably or less than ratably (but not more than ratably) in any mandatory prepayments of Term B Loans hereunder, except for prepayments in connection with a refinancing of such Incremental Term Loans, (vii) to the extent the terms of the Incremental Term Loans are inconsistent with the terms set forth herein (except as set forth in clause (i) through (vi) above and excluding pricing, interest rate floors, discounts, fees, call protections, premiums and optional prepayment or redemption terms), such terms shall not be materially less favorable (when taken as a whole) to Borrower than the terms and conditions of the Term B Loans unless such less favorable terms are (x) not effective until after the Maturity Date of the Term B Loans or (y) are also applied to the Term B Loans and (viii) except as otherwise set forth in this Section 2.15, the terms and provisions of any Incremental Revolving Credit Commitments shall be either (x) the same as those applicable to the Revolving Credit Commitments or (y) reasonably satisfactory to Agent.

(d) In connection with any Incremental Facility, Borrower, Agent and each Incremental Lender shall execute and deliver to Agent an amendment to this Agreement (which may take the form of an amendment and restatement of this Agreement) (an "Incremental Amendment") and such other documentation as Agent shall reasonably specify to evidence the Incremental Term Loans and/or Incremental Revolving Credit Commitments, as applicable, of each Incremental Lender. Agent shall

promptly notify each Lender as to the effectiveness of each Incremental Amendment. Any Incremental Amendment may, without consent of any other Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of Agent and Borrower, to effect the provisions of this Section 2.15, including any amendments necessary to establish the Incremental Term Loans and/or Incremental Revolving Credit Commitments as a new Class of Loans and/or Commitments, as applicable, and such other technical amendments as may be necessary or appropriate in the reasonable opinion of Agent and Borrower in connection with the establishment of such new Class, in each case on terms consistent with this Section 2.15.

(e) This Section 2.15 shall supersede any provision in Section 2.9 or 12.2 to the contrary.

2.16 Refinancing Facilities.

(a) From and after the Escrow Release Date, Borrower may, by written notice to Agent from time to time, request one or more new term facilities (each, a "Refinancing Term Facility") or new revolving credit facilities (each, a "Refinancing Revolving Facility"; the Refinancing Term Facilities and the Refinancing Revolving Facilities are collectively referred to as "Refinancing Facilities"), in each case to refinance all or a portion of any existing Loans or Commitments in an aggregate principal amount not to exceed (i) the aggregate principal amount of the Loans or Commitments being refinanced, plus (ii) any accrued interest, fees, premiums (if any), costs and expenses related thereto (including any original issue discount or upfront fees) (clauses (i) and (ii) together, the "Refinancing Amount"). Such notice shall set forth the amount of the Refinancing Facilities (which shall be in minimum increments of $1,000,000 and a minimum amount of $5,000,000), as applicable. Borrower may seek Refinancing Facilities from existing Lenders (each of which shall be entitled to agree or decline to participate in its sole discretion) or any Additional Lender.

(b) It shall be a condition precedent to the Incurrence of any Refinancing Facilities that (i) no Event of Default shall have occurred and be continuing immediately prior to or immediately after giving effect to such the Incurrence of the Refinancing Facilities, (ii) the terms of the Refinancing Facilities shall comply with this Section 2.16 and (iii) substantially concurrently with the Incurrence of any Refinancing Facility, 100% of the Refinancing Amount shall be applied to repay the Loans or Commitments being refinanced (including accrued interest, fees and premiums (if any) payable in connection therewith).

(c) The terms of any Refinancing Facility shall be determined by Borrower and the Persons providing the Refinancing Facility (each, a "Refinancing Lender") and set forth in a Refinancing Amendment; *provided* that (i) the final maturity date of any Refinancing Facility shall be no earlier than the maturity date of the Loans or Commitments being refinanced, (ii) the Weighted Average Life to Maturity of the Refinancing Facility shall be no shorter than the remaining Weighted Average Life to Maturity of any Loans or Commitments being refinanced, (iii) [reserved], (iv) no such Refinancing Facility may be guaranteed by any Subsidiary or Parent that is not a Credit Party and the Refinancing Facility shall not be secured by any assets other than Collateral, (v) the pricing, interest rate floors, discounts, fees, call protections, premiums and optional prepayment and redemption terms applicable to the Refinancing Facility shall be determined by Borrower and the applicable Refinancing Lenders, (vi) the Refinancing Facility may share ratably or less than ratably (but not more than ratably) in any mandatory prepayments hereunder, except for prepayments in connection with a refinancing of such Refinancing Facility and (vii) to the extent the terms of the Refinancing Facility are inconsistent with the terms set forth herein (except as set forth in clauses (i) through (vi) above and excluding pricing, interest rate floors, discounts, fees, call protections, premiums and optional prepayment or redemption terms),

such terms shall be substantially similar to, or not materially more favorable to the Refinancing Lenders than, the terms and conditions of the Loans or Commitments being refinanced, unless such more favorable terms are not effective until after the Latest Maturity Date.

(d) In connection with any Refinancing Facility, Borrower, Agent and each applicable Refinancing Lender shall execute and deliver to Agent an amendment to this Agreement (which may take the form of an amendment and restatement of this Agreement) (a "Refinancing Amendment") and such other documentation as Agent shall reasonably specify to evidence such Refinancing Facility. Agent shall promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Any Refinancing Amendment may, without the consent of any other Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate (but only to such extent), in the reasonable opinion of Agent and Borrower, to effect the provisions of this Section 2.16, including any amendments necessary to establish the applicable Refinancing Facility as a new Class of Loans, and such other technical amendments as may be necessary or appropriate in the reasonable opinion of Agent and Borrower in connection with the establishment of such new Class, in each case on terms consistent with this Section 2.16.

(e) This Section 2.16 shall supersede any provision in Section 2.9, 2.15(c), or 12.2 to the contrary.

2.17 Extended Loans and Commitments.

(a) From and after the Escrow Release Date, Borrower may, by written notice to Agent from time to time, request an extension (each, an "Extension") of the Maturity Date of any Class of Loans or Commitments to the extended maturity date specified in such request. Such notice shall set forth (i) the amount of the applicable Class of Loans (the "Extended Loans") or Commitments (the "Extended Commitments") to be extended (which, in each case shall be in minimum increments of $1,000,000 and a minimum amount of $5,000,000), (ii) the date on which such Extension is requested to become effective (which shall be not less than ten (10) Business Days nor more than sixty (60) days after the date of such requested Extension (or such longer or shorter periods as Agent shall agree)) and (iii) identifying the relevant Class or Classes of Loans or Commitments to which such requested Extension relates. Each Lender of the applicable Class shall be offered (an "Extension Offer") an opportunity to participate in such Extension on a pro rata basis (and shall be entitled to agree or decline to participate in its sole discretion) and on the same terms and conditions as each other Lender of such Class pursuant to procedures established by, or reasonably acceptable to, Agent. If the aggregate principal amount of Loans or Commitments in respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the maximum aggregate principal amount of Loans or Commitments requested to be extended by Borrower pursuant to such Extension Offer, then the Loans or Commitments of Lenders of the applicable Class shall be extended ratably up to such maximum amount based on the respective principal amounts (but not to exceed actual holdings of record) with respect to which such Lenders have accepted such Extension Offer.

(b) It shall be a condition precedent to the effectiveness of any Extension that (i) no Event of Default shall have occurred and be continuing immediately prior to and immediately after giving effect to such Extension and (ii) the terms of such Extended Loans or Extended Commitments shall comply with Section 2.17(c).

(c) The terms of each Extension shall be determined by Borrower and the Lenders agreeing to such extension (the "Extending Lenders") and set forth in an Extension Amendment; *provided* that (i) the final maturity date of any Extended Loan or Extended Commitment shall be no earlier than

the maturity date of the Loans or Commitments being extended, (ii) the Weighted Average Life to Maturity of the Extended Loans or Extended Commitments shall be no shorter than the remaining Weighted Average Life to Maturity of the Loans or Commitments being extended, (iii) the Extended Loans and Extended Commitments will rank *pari passu* in right of payment and with respect to security, (iv) none of the borrower and the guarantors of the Extended Loans or Extended Commitments shall be a Person that is not a Credit Party and the Extended Loans and Extended Commitments shall not be secured by assets that do not constitute Collateral, (v) the interest rate margin, rate floors, fees, original issue discounts and premiums applicable to any Extended Loan or Extended Commitments shall be determined by Borrower and the applicable extending Lender, (vi) the Extended Loans may share ratably or less than ratably (but not more than ratably) in any mandatory prepayments hereunder and (vii) to the extent the terms of the Extended Loans or Extended Commitments are inconsistent with the terms set forth herein (except as set forth in clause (i) through (vi) above), such terms shall be reasonably satisfactory to Agent.

(d) In connection with any Extension, Borrower, Agent and each applicable extending Lender shall execute and deliver to Agent an amendment to this Agreement (which may take the form of an amendment and restatement of this Agreement) (a "Extension Amendment") and such other documentation as Agent shall reasonably specify to evidence the Extension. Agent shall promptly notify each Lender as to the effectiveness of each Extension. Any Extension Amendment may, without the consent of any other Lender, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate (but only to such extent), in the reasonable opinion of Agent and Borrower, to implement the terms of any such Extension, including any amendments necessary to establish the Extended Loans or Extended Commitments as a new Class of Loans or Commitments, as applicable, and such other technical amendments as may be necessary or appropriate in the reasonable opinion of Agent and Borrower in connection with the establishment of such new Class, in each case on terms consistent with this Section 2.17); provided that with respect to any extension of the Revolving Credit Commitments that results in an extension of an L/C Issuer's obligations with respect to Letters of Credit, the consent of such L/C Issuer shall be required.

(e) This Section 2.17 shall supersede any provision in Section 2.9 or 12.2.

2.18 Benchmark Replacement Setting.

(a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Loan Document, upon the occurrence of a Benchmark Transition Event, Agent and Borrower may amend this Agreement to replace the then-current Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. (New York City time) on the fifth (5^{th}) Business Day after Agent has posted such proposed amendment to all affected Lenders and Borrower so long as Agent has not received, by such time, written notice of objection to such amendment from Lenders comprising the Requisite Lenders. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 2.18(a)(i) will occur prior to the applicable Benchmark Transition Start Date.

(b) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(c) Notices; Standards for Decisions and Determinations. Agent will promptly notify Borrower and the Lenders of (i) the implementation of any Benchmark Replacement and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. Agent will notify Borrower of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to Section 2.18(d) and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section 2.18, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document, except, in each case, as expressly required pursuant to this Section 2.18.

(d) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (i) if the then-current Benchmark is a term rate (including Term SOFR Reference Rate) and either (A) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by Agent in its reasonable discretion or (B) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor and (ii) if a tenor that was removed pursuant to clause (i) above either (A) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (B) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(e) Benchmark Unavailability Period. Upon Borrower's receipt of notice of the commencement of a Benchmark Unavailability Period, (i) Borrower may revoke any pending request for a SOFR borrowing of, conversion to or continuation of Term SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans and (ii) any outstanding affected Term SOFR Loans will be deemed to have been converted to Base Rate Loans at the end of the applicable Interest Period. During a Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of ABR.

2.19 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers, Amendments and Assignments. The failure of any Defaulting Lender to make any Loan, purchase a participation in a Letter of Credit or make any payment required by it hereunder on the date specified therefor shall not relieve any other Lender (each such other Lender, an "Other Lender") of its obligations to make the applicable Loan, purchase such participation or

make such payment on such date, but neither any Other Lender nor Agent shall be responsible for the failure of any Defaulting Lender to make such Loan, purchase such participation or make any other payment required hereunder. Notwithstanding anything set forth herein to the contrary, a Defaulting Lender shall not have any voting or consent rights under or with respect to any Loan Document or constitute a "Lender" (or be, or have its Loans and Commitments, included in the determination of "Requisite Lenders," "Requisite Revolving Lenders" or "Lenders directly affected" hereunder) for any voting or consent rights under or with respect to any Loan Document except with respect to any amendment, modification or consent described in Section 12.2(c)(i)-(iv) that directly affects such Defaulting Lender. Moreover, for the purposes of determining Requisite Lenders and/or Requisite Revolving Lenders, the Loans and Commitments held by any Defaulting Lender shall be excluded from the total Loans and Commitments outstanding. At Borrower's request, Agent or a Person reasonably acceptable to Agent shall have the right with Agent's reasonable consent and in Agent's sole discretion (but shall have no obligation) to purchase from any Defaulting Lender, and each Defaulting Lender agrees that it shall, at Agent's request, sell and assign to Agent or such Person, all of the Commitments of that Defaulting Lender for an amount equal to the principal balance of all Loans held by such Defaulting Lender and all accrued interest and fees with respect thereto through the date of sale, such purchase and sale to be consummated pursuant to an executed Assignment Agreement. In the event that a Defaulting Lender does not execute an Assignment Agreement pursuant to Section 11.1 within five (5) Business Days after receipt by such Defaulting Lender of notice of replacement pursuant to this Section 2.19(a)(i) and presentation to such Defaulting Lender of an Assignment Agreement evidencing an assignment pursuant to this Section 2.19(a)(i), Agent shall be entitled (but not obligated) to execute such an Assignment Agreement on behalf of such Defaulting Lender, and any such Assignment Agreement so executed by the replacement Lender and Agent, shall be effective for purposes of this Section 2.19(a)(i) and Section 11.1.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article 9 or otherwise) or received by Agent from a Defaulting Lender pursuant to Section 10.7 shall be applied at such time or times as may be determined by Agent as follows:*first*, to the payment of any amounts owing by such Defaulting Lender to Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to any L/C Issuer hereunder; *third*, to Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender in accordance with paragraph (d) below; *fourth*, as Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by Agent; *fifth*, if so determined by Agent and Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuers' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with paragraph (d) below; *sixth*, to the payment of any amounts owing to the Lenders or the L/C Issuers as a result of any judgment of a court of competent jurisdiction obtained by any Lender or any L/C Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to Borrower as a result of any judgment of a court of competent jurisdiction obtained by Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans or Letter of Credit Obligations in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 3.3 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and Letter of Credit Obligations owed

to, all applicable non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or Letter of Credit Obligations owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letter of Credit Obligations are held by the applicable Lenders pro rata in accordance with the applicable Commitments without giving effect to clause (iv) below. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.19 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender and each L/C Issuer irrevocably consents hereto.

(iii) Commitment and Letter of Credit Fees. (A) No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and Borrower shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Pro Rata Share of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to paragraph (d) below.

(C) With respect to any Letter of Credit Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, Borrower shall (x) pay to each non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letter of Credit Obligations that has been reallocated to such non-Defaulting Lender pursuant to Section 2.6(b)(i) or (ii), (y) pay to each L/C Issuer, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such L/C Issuer's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(b) Defaulting Lender Cure. If Borrower, Agent and each L/C Issuer agree in writing that a Lender is no longer a Defaulting Lender, Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held pro rata by the Lenders in accordance with the Revolving Credit Commitments (without giving effect to Section 2.6(b)(i) or (ii)), whereupon, such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) [Reserved.]

(d) Cash Collateral.

(i) Obligation to Cash Collateralize. At any time that there shall exist a Defaulting Lender, within one Business Day following the written request of Agent or any L/C Issuer (with a copy to Agent), Borrower shall Cash Collateralize the L/C Issuers' Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to any reallocation of Letter of Credit Obligations pursuant to Section 2.6(b)(i) or (ii) and any Cash Collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(ii) Grant of Security Interest. Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to Agent, for the benefit of the L/C Issuers, and agrees to maintain, a first priority security interest in all such Cash Collateral as security for the Defaulting Lender's obligations in respect of Letter of Credit Obligations, to be applied pursuant to paragraph (d)(iii) below. If at any time Agent determines that Cash Collateral is subject to any right or claim of any Person other than Agent and the L/C Issuers as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, Borrower will, promptly upon demand by Agent, pay or provide to Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any reallocation of Letter of Credit Obligations pursuant to Section 2.6(b)(i) or (ii) and any Cash Collateral provided by the Defaulting Lender).

(iii) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.19 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligations in respect of Letter of Credit Obligations (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligations) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(iv) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce any L/C Issuer's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.19 and shall be promptly released following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Revolving Lender), or (ii) the determination by Agent and each L/C Issuer that there exists excess Cash Collateral; provided that, subject to Section 2.19 the Person providing Cash Collateral and each L/C Issuer may agree that Cash Collateral shall not be released but instead shall be held to support future anticipated Fronting Exposure and provided further that to the extent that such Cash Collateral was provided by Borrower, such Cash Collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

2.20 Escrow Matters.

(a) On the Escrow Funding Date, Escrow Borrower and Agent shall enter into the Escrow Agreement with Escrow Agent and Parent Guarantor, pursuant to which (i) Escrow Borrower shall cause to be deposited an amount equal to the proceeds from the borrowing of the Term B Loans at the issue price set forth in Section 2.1(a)(1) and (ii) Escrow Borrower shall deposit or cause to be deposited an amount of cash that would be sufficient to fund all interest that would have accrued on the Term B Loans if a Special Mandatory Prepayment were to occur on the date that is five days after the first Interest Payment Date to occur after the Escrow Funding Date, in each case, into a segregated escrow account (the "Escrow Account"). The Escrow Account and the Escrowed Property in the Escrow Account shall be controlled by Agent.

(b) The Escrowed Property will be held in the Escrow Account until the earlier of (i) the Escrow Release in accordance with Section 2.20(d) and (ii) the Special Mandatory Prepayment Date.

(c) To secure the payment of the Special Mandatory Prepayment, Escrow Borrower shall grant to Agent, for the benefit of the Secured Parties pursuant to the terms of the Escrow Agreement,

a first priority (other than Permitted Liens which have priority as a matter of law), valid and perfected Lien and security interest in the Escrowed Property and the Escrow Account; provided, however, that such Lien and security interest shall automatically be released and terminated at such time as the Escrowed Property is released from the Escrow Account on the Escrow Release Date pursuant to the terms of the Escrow Agreement.

(d) Subject to Section 2.21, Escrow Borrower shall be entitled to direct Escrow Agent to release the Escrowed Property (the "Escrow Release") only upon delivery to Escrow Agent and Agent, on or prior to February 12, 2024 (the "Escrow Termination Date"), of an officers' certificate (the "Escrow Release Officers' Certificate") certifying that the conditions set forth in Section 3.2 (the "Escrow Conditions") have been, or substantially concurrently with the release of the Escrowed Property will be, satisfied (in which case the Escrowed Property shall be disbursed as directed by Escrow Borrower in accordance with the instructions provided in the Escrow Release Officers' Certificate).

(e) Immediately prior to the Escrow Merger and substantially simultaneously with the Escrow Release, Parent Guarantor, Borrower and each Subsidiary of Borrower that is not an Excluded Subsidiary shall execute the Escrow Release Date Assumption and Joinder Agreement.

2.21 Special Mandatory Prepayment.

(a) In the event that (i) the Escrow Termination Date occurs and Escrow Agent shall not have received the Escrow Release Officers' Certificate on or prior to such date or (ii) Parent Guarantor issues a press release indicating that the Merger shall not be consummated on or prior to the Escrow Termination Date (or at all) (the date of any such event in the foregoing clauses (i) and (ii) being the "Special Termination Date"), Escrow Borrower shall prepay each then outstanding Term B Loan (the "Special Mandatory Prepayment") at a price equal to (x) 100% of the initial issue price of each Term B Loan, less (y) any upfront fees paid in respect of such Term B Loan pursuant to the Escrow Funding Date Letter, plus (z) accrued and unpaid interest on such Term B Loan to, but excluding, the Special Mandatory Prepayment Date (the "Special Mandatory Prepayment Price"). If, on the Special Termination Date, the aggregate value of the Escrowed Property is less than the amount required to pay the Special Mandatory Prepayment Price for all of the Term B Loans, Escrow Borrower shall be required to deposit or cause to be deposited into the Escrow Account an amount in cash equal to such shortfall so that the Escrowed Property shall be sufficient to pay the Special Mandatory Prepayment Price for all of the Term B Loans. For the avoidance of doubt, Escrow Borrower shall not be required to effect a Special Mandatory Prepayment following the Escrow Release.

(b) Notice of the Special Mandatory Prepayment shall be delivered by Escrow Borrower, no later than one Business Day following the Special Termination Date, to Agent and Escrow Agent, and such notice shall provide that the Term B Loans shall be prepaid on a date that is no later than the third Business Day after the date such notice is given by Escrow Borrower (the "Special Mandatory Prepayment Date") in accordance with the terms of this Agreement and the Escrow Agreement. Upon the deposit of funds sufficient to pay the Special Mandatory Prepayment Price in respect of the Term B Loans to be prepaid on the Special Mandatory Prepayment Date with Agent on or before the Special Mandatory Prepayment Date, the Term B Loans shall cease to bear interest and all rights of the Lenders under the Term B Loans shall terminate (other than the right to receive the applicable Special Mandatory Prepayment Price).

3. CONDITIONS PRECEDENT

3.1 Conditions to the Escrow Funding Date. (i) The Escrow Funding Date shall not occur and (ii) no Lender shall be obligated to make any Term B Loans to Escrow Borrower on the Escrow Funding Date, in each case until the following conditions have been satisfied (or waived in accordance with Section 12.2):

(a) Loan Documents. The following agreements shall have been duly executed by Escrow Borrower and delivered to Agent:

(i) Agreement. This Agreement, dated the Escrow Funding Date, and all annexes, exhibits and schedules hereto.

(ii) Escrow Agreement. The Escrow Agreement, dated the Escrow Funding Date, and all annexes, exhibits and schedules hereto.

(b) Formation and Good Standing. Agent shall have received (a) Escrow Borrower's certificate of formation and all amendments thereto, each certified as of the Escrow Funding Date by Escrow Borrower's corporate secretary or an assistant secretary, managing member, manager or equivalent senior officer, as applicable, as being in full force and effect without any further modification or amendment and (b) a good standing certificate (including verification of Tax status, to the extent such concept is applicable in the relevant jurisdiction) or like certificate in its jurisdiction of formation, as of a recent date.

(c) Limited Liability Company Agreement and Resolutions. Agent shall have received (a) Escrow Borrower's limited liability company agreement, together with all amendments thereto and (b) resolutions of Escrow Borrower's members approving and authorizing the execution, delivery and performance of the Loan Documents to which Escrow Borrower is a party and the transactions to be consummated in connection therewith, each certified as of the Escrow Funding Date by Escrow Borrower's corporate secretary or an assistant secretary, managing member, manager or equivalent senior officer, as applicable, as being in full force and effect without any modification or amendment.

(d) Incumbency Certificate. Agent shall have received, for Escrow Borrower, signature and incumbency certificates of the officers of each such Person executing any of the Loan Documents, certified as of the Escrow Funding Date by Escrow Borrower's corporate secretary or an assistant secretary, managing member, manager or equivalent senior officer, as applicable, as being true, accurate, correct and complete.

(e) Opinion of Counsel. Agent shall have received a duly executed copy of a legal opinion of Cravath, Swaine & Moore LLP, with respect to Escrow Borrower.

(f) Specified Escrow Funding Date Representations. The Specified Escrow Funding Date Representations shall be true and correct in all material respects (except that any Specified Escrow Funding Date Representations that are qualified by materiality or in relation to material adverse effect shall be true and correct in all respects).

(g) Notice of Borrowing. Agent shall have received a duly completed Notice of Borrowing for the borrowing of the Term B Loans to be borrowed on the Escrow Funding Date substantially in the form of Exhibit 2.1(b) hereto.

(h) Patriot Act. Agent shall have received at least three (3) Business Days prior to the Escrow Funding Date (x) all documentation and other information with respect to Escrow Borrower required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act, that has been reasonably requested by Agent (in its capacity as Term B Lender) at least ten (10) Business Days in advance of the Escrow Funding Date and (y) with respect to Escrow Borrower, to the extent that it qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation to the extent requested in writing by Agent at least ten (10) Business Days prior to the Escrow Funding Date.

(i) Escrow Account. (i) Escrow Agent and Escrow Borrower shall have established the Escrow Account and shall have provided to Agent evidence thereof reasonably satisfactory to Agent, (ii) Escrow Borrower shall have deposited (or caused to be deposited) into the Escrow Account the amounts required pursuant to Section 2.20(a)(ii) and (iii) all other actions to be taken under the Escrow Agreement by Escrow Borrower in order to grant to Agent a first priority perfected security interest in the Escrow Account and all Escrowed Property (including the delivery of a Uniform Commercial Code financing statement in appropriate form for filing) shall have been taken.

(j) Officer's Certificate. Agent shall have received a duly executed copy of a certificate of a Financial Officer of Escrow Borrower, dated the Escrow Funding Date, certifying as to the satisfaction of the condition set forth in clause (f) of this Section 3.1.

(k) Escrow Funding Date Letter. Agent shall have receive a duly executed copy of the Escrow Funding Date Letter.

For purposes of determining compliance with the conditions specified in this Section 3.1, each Lender 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 the Lenders unless an officer of Agent responsible for the transactions contemplated by the Loan Documents shall have received notice from such Lender prior to the Escrow Funding Date specifying its objection thereto and, in the case of the borrowing of Loans, such Lender shall not have made available to Agent such Lender's Pro Rata Share of the borrowing of Loans.

3.2 Conditions to the Escrow Release Date. No Lender shall be obligated to make any Revolving Credit Loan and no L/C Issuer shall be obligated to Issue any Letter of Credit, in each case until the following conditions have been satisfied (or waived in accordance with Section 12.2):

(a) Loan Documents. The following agreements shall have been duly executed by Borrower and each other Credit Party party thereto and delivered to Agent:

(i) Escrow Release Date Assumption and Joinder Agreement. The Escrow Release Date Assumption and Joinder Agreement, dated the Escrow Release Date.

(ii) Security Agreement. The Security Agreement, dated the Escrow Release Date, and all annexes, exhibits and schedules thereto.

(iii) Intellectual Property Security Agreements. The Intellectual Property Security Agreements, dated the Escrow Release Date, with respect to Copyrights, Patents and Trademarks.

(iv) Intercreditor Agreement. The Pari Passu Intercreditor Agreement, dated the Escrow Release Date.

(b) Filings, Registrations, and Recordings. Subject to the last paragraph of this Section 3.2, Agent shall have received the certificates, if any, representing the shares or membership or partnership units of Capital Stock and the instruments, if any, representing Indebtedness, in each case, pledged pursuant to the Collateral Documents, together with an undated stock power or other instruments of transfer executed in blank by a duly authorized representative or officer of the pledgor thereof, in each case, as required to be delivered to Agent on the Escrow Release Date pursuant to the Collateral Documents. Subject to the last paragraph of this Section, Agent shall have received each document (including, without limitation, any financing statement authorized for filing under the Code) required by the Collateral Documents to be filed, registered or recorded in order to create in favor of Agent, for the benefit of the Lenders and other Secured Parties, a perfected Lien on the Collateral described therein (subject to Permitted Liens) which can be perfected by the filing of such document and authorization for filing, registering or recording each such document (including, without limitation, any financing statement authorized for filing under the Code).

(c) Formation and Good Standing. Agent shall have received, for each Credit Party, (a) such Person's articles of incorporation or certificate of formation, as applicable, and all amendments thereto, each certified as of the Escrow Release Date by such Person's corporate secretary or an assistant secretary, managing member, manager or equivalent senior officer, as applicable, as being in full force and effect without any further modification or amendment, (b) a good standing certificate (including verification of Tax status, to the extent such concept is applicable in the relevant jurisdiction) or like certificate in its jurisdiction of incorporation or formation, as applicable, as of a recent date.

(d) Bylaws and Resolutions. Agent shall have received, for each Credit Party, (a) such Person's bylaws, operating agreement, limited liability company agreement or limited partnership agreement, as applicable, together with all amendments thereto and (b) resolutions of such Person's members or board of directors, as the case may be, and, to the extent required under applicable law, stockholders, approving and authorizing the execution, delivery and performance of the Loan Documents to which such Person is a party and the transactions to be consummated in connection therewith, each certified as of the Escrow Release Date by such Person's corporate secretary or an assistant secretary, managing member, manager or equivalent senior officer, as applicable, as being in full force and effect without any modification or amendment.

(e) Incumbency Certificates. Agent shall have received, for each Credit Party, signature and incumbency certificates of the officers of each such Person executing any of the Loan Documents, certified as of the Escrow Release Date by such Person's corporate secretary or an assistant secretary, managing member, manager or equivalent senior officer, as applicable, as being true, accurate, correct and complete.

(f) Opinions of Counsel. Agent shall have received duly executed copies of a legal opinion of (i) Cravath, Swaine & Moore LLP, U.S. special counsel to the Credit Parties and (ii) Bass, Berry & Sims, PLC, Tennessee special counsel to the Credit Parties.

(g) Officer's Certificate. Agent shall have received duly executed copies of a certificate of a Financial Officer of Borrower, dated the Escrow Release Date, stating that:

(i) the Merger has been consummated in accordance in all material respects with the terms of the Merger Agreement;

(ii) (I) the Specified Escrow Release Date Representations are true and correct in all material respects and (II) Merger Agreement Representations are true and correct in all material respects (except that any Specified Escrow Release Date Representations that are qualified by materiality or in relation to material adverse effect are true and correct in all respects); and

(iii) since August 10, 2023 through the Escrow Release Date (as defined in the Merger Agreement as in effect on August 10, 2023), there has not been any event, occurrence, state of facts, development, circumstance, change or effect that, individually or in the aggregate with all other events, occurrences, state of facts, developments, circumstances, changes and effects, has had or would have been reasonably expected to have a Company Material Adverse Effect (as defined in the Merger Agreement as in effect on August 10, 2023).

(h) Solvency Certificate. Agent shall have received a duly completed solvency certificate substantially in the form of Exhibit 3.2 hereto.

(i) Notice of Borrowing. Agent shall have received a duly completed Notice of Borrowing for the borrowing of any Loans to be borrowed on the Escrow Release Date substantially in the form of Exhibit 2.1(b) hereto.

(j) Financial Statements. The Lead Arrangers shall have received (a) audited consolidated balance sheets of Parent Guarantor and Omni Parent, LLC, in each case as of the years ended December 31, 2021 and 2022 and audited consolidated statements of income, cash flows and shareholder's equity of Parent Guarantor and Omni Parent, LLC, in each case for the years ended December 31, 2021 and 2022, (b) unaudited consolidated balance sheets and related statements of income and cash flows of Parent Guarantor and Omni Newco, LLC for the fiscal quarter ended September 30, 2023 and (c) a pro forma consolidated statement of income for Parent Guarantor and a pro forma consolidated balance sheet of Parent Guarantor as of and for the twelve-month period ended September 30, 2023, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of the statement of income).

(k) Payment of Fees. Borrower shall have paid (or caused to be paid) to Agent and the Lead Arrangers all Fees required to be paid on or before the Escrow Release Date, and shall have reimbursed Agent for all reasonable fees, costs and expenses, including due diligence expenses, syndication expenses, and reasonable fees, disbursements and other charges of counsel presented at least three (3) Business Days prior to the Escrow Release Date.

(l) Patriot Act. Agent and the Lead Arrangers shall have received at least three (3) Business Days prior to the Escrow Release Date (x) all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act, that has been reasonably requested by the Lead Arrangers (including on behalf of the Lenders) at least ten (10) Business Days in advance of the Escrow Release Date and (y) with respect to Borrower, to the extent that it qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation to the extent requested in writing by Agent and/or the Lead Arrangers at least ten (10) Business Days prior to the Escrow Release Date.

(m) Refinancing. Prior to or substantially concurrently with the funding of the initial borrowings under the applicable Facilities on the Escrow Release Date, the Refinancing shall have been (or shall be) consummated.

(n) Merger. The Merger shall be consummated in accordance in all material respects with the terms of the Merger Agreement, but without giving effect to any amendments, waivers or consents by Parent Guarantor or its applicable affiliate that are materially adverse to the interests of the Lead Arrangers, in their respective capacities as such, without the consent of the Lead Arrangers, such consent not to be unreasonably withheld, delayed or conditioned; provided that any modification to the definition of "Company Material Adverse Effect" shall be deemed materially adverse to the interests of the Lead Arrangers.

For purposes of determining compliance with the conditions specified in this Section 3.2, each Lender 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 the Lenders unless an officer of Agent responsible for the transactions contemplated by the Loan Documents shall have received notice from such Lender prior to the Escrow Release Date specifying its objection thereto and, in the case of the borrowing of Loans, such Lender shall not have made available to Agent such Lender's Pro Rata Share of the borrowing of Loans.

Notwithstanding anything to the contrary, it is understood that to the extent any security interest in the intended Collateral or any deliverable (including those referred to in clauses (a)(ii), (a)(iii) and (b) of this Section 3.2 related to the perfection of security interests in the intended Collateral (other than any Collateral the security interest in which may be perfected by (i) the filing of a Code financing statement or (ii) the delivery of stock certificates of Borrower and each material domestic Wholly Owned Restricted Subsidiary (other than any subsidiary which is a subsidiary of Omni)), then the provision and/or perfection of such security interest(s) or deliverable shall not constitute a condition precedent to the availability of the Commitments on the Escrow Release Date but, to the extent otherwise required hereunder, shall be delivered after the Escrow Release Date in accordance with Section 6.14.

3.3 Further Conditions to Each Loan and Each Letter of Credit Obligation following the Escrow Release Date. Other than with respect to any Loans to be made on the Escrow Funding Date or the Escrow Release Date, or in connection with any Permitted Investment (in which case the terms set forth in Section 2.15(b) shall apply), no Lender shall be obligated to fund any Loans (which conditions shall not apply to conversions or continuations of Loans) and no L/C Issuer shall be obligated to issue, amend or renew any Letter of Credit, if, as of the date thereof:

(a) any representation or warranty by any Credit Party contained herein or in any other Loan Document is untrue or incorrect in any material respect (with respect to any representation or warranty that is not otherwise qualified as to materiality) as of such date, except to the extent that such representation or warranty expressly relates to an earlier date and except for changes therein expressly permitted or expressly contemplated by this Agreement;

(b) any Default or Event of Default has occurred and is continuing; or

(c) Agent and, if applicable, the applicable L/C Issuer, shall not have received a duly completed Notice of Borrowing or request for Letter of Credit issuance, amendment or renewal, as applicable.

The request and acceptance by any Borrower of the proceeds of any Loan or the issuance, amendment or renewal of any Letter of Credit following the Escrow Release Date shall be deemed to constitute, as of the date thereof, a representation and warranty by Borrower that the conditions in this Section 3.3 have been satisfied.

4. REPRESENTATIONS AND WARRANTIES

To induce Lenders to make the Loans and Lenders and L/C Issuers to Incur Letter of Credit Obligations, as applicable, (x) Escrow Borrower makes the following representations and warranties to Agent and each Lender with respect to itself, on the Escrow Funding Date (solely to the extent required to be true and correct on the Escrow Funding Date pursuant to Section 3.1) and (y) each Credit Party makes the following representations and warranties to Agent, each L/C Issuer and each Lender with respect to itself and its Restricted Subsidiaries, on the Escrow Release Date (solely to the extent required to be true and correct on the Escrow Release Date pursuant to Section 3.2) and, to the extent required pursuant to Section 3.3, on each other date thereafter on which any Loans are funded or any Letter of Credit is issued, amended or renewed, in each case, each and all of which shall survive the execution and delivery of this Agreement.

4.1 Corporate Existence; Compliance with Law. Each Credit Party (a) is a corporation, limited liability company, limited partnership or other entity duly organized, formed or incorporated, as applicable, validly existing and is in good standing (to the extent such concept is applicable in the relevant jurisdiction) under the laws of its respective jurisdiction of incorporation or organization; (b) is duly qualified to conduct business and is in good standing (to the extent such concept is applicable in the relevant jurisdiction) in each other jurisdiction where its ownership or lease of property or the conduct of its business requires such qualification, except where the failure to be so qualified or be in good standing would not reasonably be expected to have a Material Adverse Effect; (c) has the requisite power and authority, and the legal right, to own and operate in all material respects its properties, to lease the property it operates under lease and to conduct its business in all material respects as now, heretofore and proposed to be conducted and has the requisite power and authority and the legal right to pledge, mortgage, hypothecate or otherwise encumber all material Collateral; (d) has all material licenses, permits, consents or approvals from or by, and has made all material filings with, and has given all material notices to, all Governmental Authorities having jurisdiction over such Credit Party, to the extent required for such ownership, operation and conduct or other organizational documents, except where any such failure to have such license, permit, consent or approval, make such filing or give such notice would not reasonably be expected to have a Material Adverse Effect; and (e) is in compliance in material respects with all applicable provisions of law except where the failure to be in compliance would not reasonably be expected to have a Material Adverse Effect.

4.2 [Reserved].

4.3 Corporate Power; Authorization; Enforceable Obligations; No Conflict. The execution, delivery and performance by each Credit Party of the Loan Documents to which it is a party: (a) are within such Person's power; (b) have been duly authorized by all necessary corporate, limited liability company, limited partnership or other corporate entity action; (c) do not contravene any provision of such Person's charter, bylaws or partnership or operating agreements or other organizational documents, as applicable; (d) do not violate any material provision of any law or regulation, or any material provision of any order or decree of any court or Governmental Authority, except where any such violation would not reasonably be expected to result in a Material Adverse Effect; (e) do not conflict with or result in the breach or termination of, constitute a default under or accelerate or permit the acceleration of any performance required by, any material debt instrument to which such Person is a party or by which such Person or any of its property is bound, except where any such conflict, breach, termination, default or acceleration would not reasonably be expected to result in a Material Adverse Effect; and (f) do not require the consent or approval of any Governmental Authority or any other Person, other than those which will have been duly obtained, made or complied with prior to the Escrow Funding Date or except where the failure to obtain such consent or approval would not reasonably be expected to result in a Material Adverse Effect. Each of the Loan

Documents have been duly executed and delivered by each Credit Party that is a party thereto and, each such Loan Document constitutes a legal, valid and binding obligation of such Credit Party enforceable against it in accordance with its terms, except to the extent that the enforceability thereof may be limited by applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws generally affecting creditors' rights and by equitable principles (regardless of whether enforcement is sought in equity or at law).

4.4 Financial Statements. All Financial Statements concerning Parent Guarantor and its consolidated Subsidiaries that are referred to in clauses (a) and (b) below have been prepared in accordance with GAAP consistently applied throughout the periods covered (except as disclosed therein and except, with respect to unaudited Financial Statements, for the absence of footnotes and normal year-end audit adjustments) and fairly present, in all material respects, the financial position of the Persons covered thereby as at the dates thereof and the results of their operations and cash flows for the periods then ended.

(a) Audited Financial Statements. The audited consolidated balance sheets of Parent Guarantor and Omni Parent, LLC, in each case, as of the years ended December 31, 2021 and 2022 and audited consolidated statements of income, cash flows and shareholder's equity of Parent Guarantor and Omni Parent, LLC, in each case for the years ended December 31, 2021 and 2022 have been delivered to Agent on or prior to the Escrow Funding Date.

(b) Unaudited Financial Statements. The unaudited consolidated balance sheets and related statements of income and cash flows of Parent Guarantor and Omni Newco, LLC for the fiscal quarter ended September 30, 2023 have been delivered to Agent on or prior to the Escrow Funding Date.

(c) Pro Forma Financial Statements. A pro forma consolidated statement of income for Parent Guarantor and a pro forma consolidated balance sheet of Parent Guarantor as of and for the twelve-month period ending on September 30, 2023, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of the statement of income) have been delivered to Agent on or prior to the Escrow Release Date.

4.5 Material Adverse Effect. Since the Escrow Release Date, no event has occurred, that alone or together with other events, has had a Material Adverse Effect.

4.6 Ownership of Property. Each Credit Party owns fee simple title to all of its owned Material Real Property, subject in each case to Agent's Liens and Permitted Liens. Each Credit Party is the sole legal and beneficial owner of and has good and marketable title (subject to Agent's Liens and Permitted Liens) to each component of the Collateral that is material in the ordinary course of their respective businesses or where failure to so own or possess would not reasonably be expected to have a Material Adverse Effect.

4.7 Labor Matters. Except as set forth on Schedule 4.7 or as would not reasonably be expected to result in a Material Adverse Effect, to the knowledge of each Credit Party (a) no strikes or other labor disputes against any Credit Party or any Restricted Subsidiary of any Credit Party are pending or, to the knowledge of any Credit Party, threatened; (b) hours worked by and payment made to employees of each Credit Party and each Restricted Subsidiary of any Credit Party comply with the Fair Labor Standards Act and each other federal, state, local or foreign law applicable to such matters; (c) all payments due from any Credit Party or any Restricted Subsidiary of any Credit Party for employee health and welfare insurance have been paid or accrued as a liability on the books of such Credit Party or such Restricted Subsidiary; (d) there is no organizing activity involving any Credit Party or any Restricted Subsidiary of any Credit

Party pending or threatened by any labor union or group of employees; (e) there are no representation proceedings pending or, to the knowledge of any Credit Party, threatened with the National Labor Relations Board or any other applicable labor relations board, and no labor organization or group of employees of any Credit Party or any Restricted Subsidiary of any Credit Party has made a pending demand for recognition; and (f) there are no material complaints or charges against any Credit Party or any Restricted Subsidiary of any Credit Party pending or, to the knowledge of any Credit Party, threatened to be filed with any Governmental Authority or arbitrator based on, arising out of, in connection with, or otherwise relating to the employment or termination of employment by any Credit Party or any Restricted Subsidiary of any Credit Party of any individual.

4.8 Subsidiaries. As of the Escrow Funding Date, (a) Schedule 4.8 sets forth the name and jurisdiction of incorporation, formation or organization of each direct Subsidiary of each Credit Party and, as to each such direct Subsidiary, the percentage of each class of Capital Stock owned by any Credit Party and (b) there are no outstanding subscriptions, options, warrants, calls, rights or other agreements or commitments (other than (i) any Preferred Stock issued by Borrower in connection with the Transactions and (ii) stock options granted to employees or directors and directors' qualifying shares) of any nature relating to any Capital Stock of Borrower or any of their respective Subsidiaries.

4.9 Investment Company Act. No Credit Party is an "investment company" or a company controlled by an "investment company," as such terms are defined in the Investment Company Act of 1940 as amended.

4.10 Margin Regulations. Neither the making of any Loan hereunder nor the use of the proceeds thereof nor the issuance of any Letter of Credit will violate the provisions of Regulation T, Regulation U or Regulation X of the Federal Reserve Board.

4.11 Taxes/Other. Except as would not reasonably be expected to result in a Material Adverse Effect, (i) all income and other Tax returns, reports, and statements, including information returns, required by any Governmental Authority to have been filed by any Credit Party or any Restricted Subsidiary have been filed (after giving effect to any extensions) with the appropriate Governmental Authority, and (ii) all Taxes have been paid on or prior to the due date therefor, excluding Taxes or other amounts being contested in accordance with Section 6.2(b).

4.12 ERISA.

(a) Borrower has previously delivered or made available to Agent all Pension Plans (including Title IV Plans and Multiemployer Plans) and all Retiree Welfare Plans, as now in effect. Except with respect to Multiemployer Plans, and except as would not reasonably be expected to have a Material Adverse Effect, each Qualified Plan has either received a favorable determination letter from the IRS or may rely on a favorable opinion letter issued by the IRS, and to the knowledge of any Credit Party nothing has occurred that would be reasonably expected to cause the loss of such qualification or tax-exempt status. Each Pension Plan, to the knowledge of Borrower, is in compliance in all respects with the applicable provisions of ERISA, the IRC and its terms, including the timely filing of all reports required under the IRC or ERISA except where the failure to comply would not reasonably be expected to have a Material Adverse Effect. Except as has not resulted, or would not reasonably be expected to result, in a Lien under ERISA or Section 412 of the IRC (each an "ERISA Lien") (whether or not perfected) or except as would not reasonably be expected to have a Material Adverse Effect, neither any Credit Party nor ERISA Affiliate has failed to make any material contribution or pay any material amount due as required by either Section 412 of the IRC or Section 302 of ERISA or the terms of any such Pension Plan. Except as would not reasonably be expected to have a Material Adverse Effect, no

"prohibited transaction," as defined in Section 406 of ERISA and Section 4975 of the IRC, has occurred with respect to any Pension Plan that would subject any Credit Party to a material tax on prohibited transactions imposed by Section 502(i) of ERISA or Section 4975 of the IRC.

(b) Except as would not reasonably be expected to have a Material Adverse Effect: (i) no Title IV Plan is or is reasonably expected to be in "at risk" status (within the meaning of Section 430 of the IRC or Section 303 of ERISA); (ii) no ERISA Event has occurred or to the knowledge of any Credit Party is reasonably expected to occur; (iii) there are no pending, or to the knowledge of any Credit Party, threatened material claims (other than claims for benefits in the normal course), sanctions, actions or lawsuits, asserted or instituted against any Plan or any Person as fiduciary or sponsor of any Plan; (iv) no Credit Party or ERISA Affiliate has Incurred or reasonably expects to Incur any liability as a result of a complete or partial withdrawal from a Multiemployer Plan; and (v) within the last five years no Title IV Plan of any Credit Party or ERISA Affiliate has been terminated, whether or not in a "standard termination" as that term is used in Section 4041 of ERISA, nor has any Title IV Plan of any Credit Party or any ERISA Affiliate (determined at any time within the last five years) with Unfunded Pension Liabilities been transferred outside of the "controlled group" (within the meaning of Section 4001(a)(14) of ERISA) of any Credit Party or ERISA Affiliate (determined at such time).

(c) Except as would not reasonably be expected to result in a Material Adverse Effect, each Foreign Pension Plan is in compliance in all material respects with all requirements of law applicable thereto and the respective requirements of the governing documents for such plan. With respect to each Foreign Pension Plan, neither any Credit Party nor any Subsidiaries or any of their respective directors, officers, employees or agents has engaged in a transaction which would subject any Credit Party or any Subsidiary, directly or indirectly, to a tax or civil penalty which would reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect. With respect to each Foreign Pension Plan, except as would not reasonably be expected to result in a Material Adverse Effect, reserves have been established in the financial statements furnished to Lenders in respect of any unfunded liabilities in accordance with applicable law and prudent business practice or, where required, in accordance with ordinary accounting practices in the jurisdiction in which such Foreign Pension Plan is maintained. The aggregate unfunded liabilities with respect to such Foreign Pension Plans would not reasonably be expected to result individually or in the aggregate in a Material Adverse Effect.

4.13 No Litigation. Except as set forth on Schedule 4.13, no action, claim, lawsuit, demand, investigation or proceeding is now pending or, to the knowledge of any Credit Party, threatened in writing against any Credit Party or any Restricted Subsidiary of any Credit Party, before any Governmental Authority or before any arbitrator or panel of arbitrators (collectively, "Litigation"), on the Escrow Funding Date that challenges such Credit Party's right or power to enter into or perform any of its obligations under the Loan Documents to which it is a party, or the validity or enforceability of any Loan Document or any action taken thereunder, and that would reasonably be expected to result in a Material Adverse Effect.

4.14 [Reserved].

4.15 Intellectual Property. As of the Escrow Funding Date, except as would not reasonably be expected to result in a Material Adverse Effect, each Credit Party owns or has rights to use all Intellectual Property necessary to continue to conduct its business as now conducted by it and material to such Credit Party's business, taken as a whole. To Borrower's knowledge, as of the Escrow Funding Date, each Credit Party conducts its business and affairs without infringement of any Intellectual Property of any other Person that would reasonably be expected to result in a Material Adverse Effect. Except as would not reasonably be expected to result in a Material Adverse Effect, on the Escrow Funding Date no Credit Party is aware of any infringement claim by any other Person that is pending or threatened in writing against any Credit Party with respect to any material Intellectual Property owned by such Credit Party on the Escrow Funding Date.

4.16 Full Disclosure. As of the Escrow Funding Date or the Escrow Release Date, as applicable, no information contained in this Agreement, any of the other Loan Documents or Financial Statements or other written reports from time to time prepared by any Credit Party (other than estimates, forecasts, projections or forward-looking information and information of a general economic or industry-specific nature) and delivered hereunder or under any other Loan Document (in each as modified or supplemented by other information so furnished and taken as a whole) by or on behalf of any Credit Party to Agent or any Lender pursuant to the terms of this Agreement contains any untrue statement of a material fact or omits to state a material fact necessary to make the statements contained herein or therein not materially misleading in light of the circumstances under which they were made (after giving effect to all supplements and updates thereto); *provided* that, with respect to estimates, forecasts, projections or forward-looking information, Borrower represents only that such estimates, forecasts, projections and information were prepared in good faith based upon assumptions believed to be reasonable as of the time of preparation and delivery (it being understood that such estimates, forecasts, projections and information are not to be viewed as facts or a guarantee of performance and are subject to significant uncertainties and contingencies, many of which are beyond Borrower's control, that no assurance can be given that any such estimates, forecasts, projections and/or information will be realized, that actual results may differ significantly from projected results and that such differences may be material).

4.17 Environmental Matters. Except as set forth in Schedule 4.17 or would not reasonably be expected to have a Material Adverse Effect, as of the Escrow Funding Date: (i) the Real Property of each Credit Party and each of their Restricted Subsidiaries is free of contamination from any Hazardous Material; (ii) no Credit Party nor any Restricted Subsidiary of any Credit Party has caused or knowingly allowed to occur any Release of Hazardous Materials on, at, in, under, above, to, from or about any of its Real Property; (iii) the Credit Parties and each of their Restricted Subsidiaries are and, except for matters which have been fully resolved, have, for the past three (3) years, been in compliance with all Environmental Laws; (iv) the Credit Parties and each of their Restricted Subsidiaries (A) have obtained, (B) possess as valid, uncontested and in good standing, and (C) are in compliance with all Environmental Permits required by Environmental Laws for the operation of their respective businesses as presently conducted; (v) there is no Litigation by a Governmental Authority arising under or related to any Environmental Laws, Environmental Permits or Hazardous Material that seeks damages, penalties, fines, costs or expenses from, or that alleges criminal misconduct by, any Credit Party or any Restricted Subsidiary of any Credit Party; (vi) except for matters which have been fully resolved, no written notice has been received by any Credit Party or any Restricted Subsidiary of any Credit Party identifying it as a "potentially responsible party" or requesting information under CERCLA or analogous state statutes; and (vii) the Credit Parties and each of their Restricted Subsidiaries have provided to Agent copies of existing material environmental reports, reviews and audits relating to actual or potential material Environmental Liabilities and relating to any Credit Party or any Restricted Subsidiary of any Credit Party.

4.18 Insurance. Borrower has previously delivered or made available to Agent lists of all material insurance policies of any nature maintained, as of the Escrow Funding Date, for current occurrences by each Credit Party and each Restricted Subsidiary.

4.19 [Reserved].

4.20 [Reserved].

4.21 Creation and Perfection of Security Interests. Once executed and delivered, the Escrow Agreement will create in favor of Agent for the benefit of the Secured Parties a valid, enforceable and perfected first priority (other than Permitted Liens which have priority as a matter of law) security interest in the Collateral described therein, subject to no other Lien, charge or encumbrance, except as permitted by the Escrow Agreement. In the case of the Escrowed Property, when Code financing statements in appropriate form are filed in the appropriate Code filing offices, the Lien and security interest created by the Escrow Agreement in favor of Agent for the benefit of the Secured Parties shall constitute a perfected Lien under the Code (to the extent a Lien on such Collateral can be perfected by filings) on, and security interest in, all right, title and interest of Escrow Borrower in such Escrowed Property, as security for the Obligations. Once executed and delivered, the Security Agreement will create in favor of Agent for the benefit of the Secured Parties a valid and enforceable security interest in the Collateral described therein, subject to any exceptions contained therein. In the case of the portion of the pledged Collateral consisting of the certificated securities represented by the certificates described in the Security Agreement, when stock certificates representing such pledged Collateral are delivered to Agent and such stock certificates are held in New York, and in the case of the other Collateral described in the Security Agreement (other than the Intellectual Property described therein), when Code financing statements in appropriate form are filed in the appropriate Code filing offices, the Lien and security interest created by the Security Agreement in favor of Agent for the benefit of the Secured Parties shall constitute a perfected Lien under the Code (to the extent a Lien on such Collateral can be perfected by possession or filings) on, and security interest in, all right, title and interest of the Credit Parties signatory to the Security Agreement in such pledged Collateral (other than the Intellectual Property), as security for the Obligations. In the case of the portion of the pledged Collateral consisting of Intellectual Property covered by the Intellectual Property Security Agreements, when the Intellectual Property Security Agreements are filed in and recorded by the United States Patent and Trademark Office or the United States Copyright Office, as applicable, and Code financing statements in appropriate form are filed in the appropriate Code filing offices, the Security Agreement shall constitute the creation of a perfected Lien on, and security interest in, all right, title and interest of the Credit Parties signatory to the Intellectual Property Security Agreements in the Intellectual Property covered thereby, as security for the Obligations (it being understood that subsequent recordings in the United States Patent and Trademark Office and the United States Copyright Office and subsequent Code filings may be necessary to perfect a lien on registered Trademarks, Trademark applications, issued Patents, Patent applications and registered Copyrights (including exclusive licenses to registered Copyrights under which a Credit Party is the licensee) acquired by the Credit Parties after the Escrow Release Date). Upon execution and delivery thereof, the Mortgages will be effective to create in favor of Agent for the benefit of the Secured Parties, legal, valid, enforceable and perfected Liens with the priority that such Liens are expressed to have under the relevant Mortgages, on all right, title and interest of the respective Credit Parties in the Collateral described therein, subject to Permitted Liens.

4.22 Solvency. Immediately after giving effect to (a) the Loans and Letter of Credit Obligations to be made or Incurred, and the release of the Escrowed Property from the Escrow Account, in each case on the Escrow Release Date, (b) the consummation of the Transactions on the Escrow Release Date, and (c) the payment and accrual of all transaction costs in connection with the foregoing, Parent Guarantor and its Subsidiaries, taken as a whole on a consolidated basis, are Solvent as of the Escrow Release Date.

4.23 Economic Sanctions and Anti-Money Laundering. Each Credit Party and each Subsidiary of each Credit Party is in compliance in all material respects with all United States economic sanctions, laws, executive orders, and implementing regulations as promulgated by the United States Treasury Department's Office of Foreign Assets Control ("OFAC"), and the USA PATRIOT ACT (Title 111 of Pub. L. 107-56 (signed into law October 26, 2001)) (as amended, the "Patriot Act"). No Credit Party and no Subsidiary of a Credit Party (a) is a Person designated by the United States government on the list of the

Specially Designated Nationals and Blocked Persons (the "SDN List") with which a United States Person cannot deal with or otherwise engage in business transactions, (b) is a Person who is otherwise the target of United States economic sanctions laws such that a United States Person cannot deal or otherwise engage in business transactions with such Person or (c) is controlled by (including, without limitation, by virtue of such Person being a director or owning voting shares or interests), or acts, directly or indirectly, for or on behalf of, any Person on the SDN List or a foreign government that is the target of United States economic sanctions prohibitions such that the entry into, or performance under, this Agreement or any other Loan Document would be prohibited under United States law.

4.24 Economic Sanctions, Patriot Act; Use of Proceeds. Each Credit Party and each of its Subsidiaries is in compliance with (a) the Trading with the Enemy Act, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (b) the Patriot Act. No part of the proceeds of any Loan or any Letter of Credit will be used directly or indirectly for any payments to any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the FCPA. Borrower will not, directly or to the knowledge of Borrower, indirectly, use the proceeds of any Loan or use any Letter of Credit to fund any activities or business of or with any Person, or in any country or territory, that, at the time of such funding, is, or whose government is, the target of United States economic sanctions or export control laws in violation of such economic sanctions or export control laws, as applicable.

4.25 [Reserved].

4.26 [Reserved].

4.27 FCPA and Related. No Credit Party nor any of its Subsidiaries nor any director, officer or, to the knowledge of such Credit Party, agent or employee of such Credit Party or Subsidiary, is aware of or has taken any action, directly or indirectly, that would result in a material violation by such persons of the FCPA, including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization or approval of the payment of any money, or other property, gift, promise to give or authorization of the giving of anything of value, directly or indirectly, to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office in contravention of the FCPA. Each Credit Party and its Subsidiaries have conducted their businesses in compliance with, in all material respects, the FCPA and have established, and maintain, and will continue to maintain, policies and procedures designed to promote and achieve compliance with such laws and with the representation and warranty contained herein.

5. FINANCIAL STATEMENTS AND INFORMATION

5.1 Financial Reports and Notices. Each Credit Party executing this Agreement hereby agrees that from and after the Escrow Release Date and until the Termination Date, it shall deliver to Agent or to Agent for distribution to Lenders, as required, the following Financial Statements, notices and other information at the times, to the Persons and in the manner set forth below:

(a) Compliance Certificate. To Agent, not later than five days after the delivery of any Financial Statements delivered pursuant to Section 5.1(b) or 5.1(c), a completed Compliance Certificate.

(b) Quarterly Financials. To Agent, within forty-five (45) days after the end of the first three Fiscal Quarters of each Fiscal Year, commencing with the Fiscal Quarter during which the Escrow Release Date occurs (or, if the Escrow Release Date occurs during the fourth Fiscal Quarter of a Fiscal Year, commencing with the first full Fiscal Quarter to occur after the Escrow Release Date), consolidated financial information regarding Parent Guarantor and its consolidated Restricted Subsidiaries, certified by a Financial Officer of Borrower, consisting of (i) unaudited balance sheets as of the close of such Fiscal Quarter and (ii) unaudited statements of comprehensive income and cash flows for such Fiscal Quarter, in each case setting forth in comparative form the figures for the corresponding period in the prior year and the related statements of income and cash flow for that portion of the Fiscal Year ending as of the close of such Fiscal Quarter, all prepared in accordance with GAAP (subject to absence of footnotes and normal year-end adjustments).

(c) Annual Audited Financials. To Agent, within ninety (90) days after the end of each Fiscal Year, audited Financial Statements for Parent Guarantor and its consolidated Restricted Subsidiaries on a consolidated basis, consisting of balance sheets and statements of comprehensive income and shareholders' equity and cash flows, setting forth in comparative form in each case the figures for the previous Fiscal Year, which Financial Statements shall be prepared in accordance with GAAP (except as approved by accountants or officers, as the case may be, and disclosed in reasonable detail therein, including the economic impact of such exception), and certified without qualification as to going-concern or qualification arising out of the scope of the audit (other than with respect to, or resulting from, an upcoming maturity date under any series of Indebtedness, any breach of a financial maintenance covenant (including the Financial Performance Covenant) or any potential inability to satisfy a financial maintenance covenant (including the Financial Performance Covenant) on a future date or in a future period), by an independent certified public accounting firm of national standing or a firm otherwise reasonably acceptable to Agent.

(d) [Reserved].

(e) Information required to be delivered pursuant to thisSection 5.1 may be delivered by electronic communication pursuant to procedures approved hereunder.

(f) Default Notices. To Agent and Lenders, as soon as practicable, and in any event within five (5) Business Days after a Financial Officer of Borrower has actual knowledge of the existence of any Default, or Event of Default, telephonic or fax or electronic notice specifying the nature of such Default or Event of Default, including the anticipated effect thereof, which notice, if given telephonically, shall be promptly confirmed in writing on the next Business Day.

(g) Budget. To Agent, within ninety (90) days after the end of each Fiscal Year, forecasts for the then-current Fiscal Year prepared by management of Borrower and a summary of material assumptions used to prepare such forecasts, limited to a projected consolidated balance sheet and statements of income or operations and cash flows of Parent Guarantor and its consolidated Restricted Subsidiaries.

(h) Litigation. To Agent in writing, promptly upon learning thereof, notice of any Litigation commenced or threatened in writing against any Credit Party that (i) would reasonably be expected to result in damages in excess of $90.0 million (net of insurance coverages for such damages), (ii) seeks injunctive relief which, if granted, would reasonably be expected to have a Material Adverse Effect or (iii) would otherwise reasonably be expected to have a Material Adverse Effect.

(i) [Reserved].

(j) Other Documents. To Agent for distribution to Lenders, such other financial and other information respecting any Credit Party's or any Subsidiary of any Credit Party's business or financial condition as Agent shall from time to time reasonably request.

(k) Collateral Updates. To Agent, within ninety (90) days after the end of any Fiscal Year (but only in the event reasonably requested by Agent within sixty (60) days after the end of such Fiscal Year), an updated perfection certificate reflecting all changes since the date of the information most recently received pursuant to this clause (k) or Section 3.2 or 6.12.

(l) Environmental Matters. To Agent, notice of any matter under any Environmental Law that has resulted or is reasonably expected to result in a Material Adverse Effect, including arising out of or resulting from the commencement of, or any material adverse development in, any litigation or proceeding affecting any Credit Party or any Subsidiary and arising under any Environmental Law.

(m) ERISA/Pension Matters. To Agent, notice of the occurrence of any ERISA Event that has resulted or would reasonably be expected to result in a liability of any Credit Party and the Restricted Subsidiaries in an aggregate amount exceeding $90.0 million and a statement of a Financial Officer of Borrower setting forth details as to such ERISA Event and the action, if any, that Borrower proposes to take with respect thereto and, upon Agent's request, copies of each Schedule SB (Actuarial Information) to the Annual Report (Form 5500 Series) with respect to each Title IV Plan.

Documents required to be delivered pursuant to Section 5.1(b) or (c) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and, if so delivered, shall be deemed to have been delivered on the date on which such materials are publicly available as posted on the Electronic Data Gathering, Analysis and Retrieval system.

6. AFFIRMATIVE COVENANTS

Each Credit Party executing this Agreement agrees as to itself and its Restricted Subsidiaries that from and after the Escrow Release Date and until the Termination Date:

6.1 Maintenance of Existence and Conduct of Business. Except as otherwise permitted under Section 7.8, each Credit Party shall, and shall cause each Restricted Subsidiary to, do or cause to be done all things necessary to (a) preserve and keep in full force and effect its organizational existence (except, as to Persons other than Parent Guarantor or Borrower, where the failure to do so would not reasonably be expected to result in a Material Adverse Effect); and (b) at all times maintain, preserve and protect all of its assets and properties used or useful in the conduct of its business and keep the same in good repair, working order and condition in all material respects (taking into consideration ordinary wear and tear and except for casualties and condemnations) and from time to time make, or cause to be made, all necessary or appropriate repairs, replacements and improvements thereto consistent with industry practices, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

6.2 Payment of Charges and Taxes.

(a) Subject to Section 6.2(b), each Credit Party shall pay and discharge or cause to be paid and discharged promptly all material Charges and Taxes, including: material Charges and Taxes imposed upon it, its income and profits, or any of its property (real, personal or mixed) and all material Charges with respect to Tax, social security, employer contributions and unemployment withholding with respect to its employees, in each case, before any thereof shall become past due, in each case, where the non-payment of such Charge or Tax could give rise to a material Lien (other than Permitted Liens) or a Material Adverse Effect.

(b) Each Credit Party may in good faith contest, by appropriate proceedings, the validity or amount of any Charges or Taxes described in Section 6.2(a) and not pay or discharge such Charges or Taxes while so contested; provided, that (i) adequate reserves with respect to such contest are maintained on the books of such Credit Party, in accordance with GAAP and (ii) the failure to make such payment would not reasonably be expected to result in a Material Adverse Effect.

6.3 Books and Records. Each Credit Party shall keep adequate books and records with respect to its business activities in which proper entries, reflecting all material financial transactions, are made in accordance with GAAP and on a basis consistent with the Financial Statements delivered pursuant to Section 4.4.

6.4 Insurance.

(a) Borrower will, and will cause each Restricted Subsidiary to, maintain, with financially sound and reputable insurance companies insurance in such amounts and against such risks as are customarily maintained by similarly situated companies engaged in the same or similar businesses operating in the same or similar locations (after giving effect to any self-insurance reasonable and customary for similarly situated companies). Borrower will furnish to Agent, upon written request, information in reasonable detail as to the insurance so maintained.

(b) If the improvements on any Mortgaged Property are at any time located in an area identified by the Federal Emergency Management Agency (or any successor agency) as a special flood hazard area with respect to which flood insurance has been made available under the Flood Insurance Laws, then Borrower shall, or shall cause the applicable Credit Party to, (i) maintain, or cause to be maintained, with a financially sound and reputable insurer, flood insurance in an amount reasonably satisfactory to Agent and otherwise sufficient to comply with all applicable rules and regulations promulgated pursuant to the Flood Insurance Laws, (ii) name Agent, on behalf of the Secured Parties, as lender's loss payee and mortgagee thereunder and (iii) upon the reasonable request of Agent or as required by one of the Lenders or Secured Parties as part of its flood diligence, deliver to Agent evidence of such compliance in form and substance reasonably acceptable to Agent, including without limitation, evidence of annual renewals of such insurance. It is understood and agreed that the requirements of this Section 6.4(b) shall not be applicable with respect to any improvements on any Mortgaged Property to the extent such improvements constitute Excluded Property.

6.5 Compliance with Laws. Each Credit Party shall, and shall cause each Restricted Subsidiary to, comply in all material respects with all applicable provisions of law of any Governmental Authority, unless such failure of compliance would not reasonably be expected to result in a Material Adverse Effect or a material adverse effect on the specific property affected by such non-compliance.

6.6 PATRIOT Act; Sanctions; Anti-Corruption Laws. The Credit Parties will maintain in effect policies and procedures designed to promote compliance by Borrower, its Subsidiaries, and their respective directors, officers, employees, and agents with applicable United States economic sanctions, laws, executive orders, and implementing regulations as promulgated by OFAC and with the PATRIOT Act, the FCPA and any other applicable anti-corruption laws.

6.7 [Reserved].

6.8 Environmental Matters. Except where the failure to do so would not result in a Material Adverse Effect, each Credit Party shall, and shall cause the Restricted Subsidiaries to:

(a) comply in all material respects with, and use commercially reasonable efforts to ensure compliance in all material respects by all tenants and subtenants, if any, with, all applicable Environmental Laws, and obtain and comply in all material respects with and maintain, and use commercially reasonable efforts to ensure that all tenants and subtenants obtain and comply in all material respects with and maintain, any and all Environmental Permits, except in each case, where the failure to do so would not reasonably be expected to have a Material Adverse Effect, and

(b) conduct and complete all investigations, studies, sampling and testing, and all remedial, removal and other actions required under Environmental Laws and comply in all material respects with all lawful orders and directives of all Governmental Authorities regarding Environmental Laws.

6.9 Ratings. Borrower shall use commercially reasonable efforts (x) to cause the Term B Facility to be continuously rated by two of S&P, Moody's and Fitch (but without any requirement to maintain any specific rating), and (y) to continuously maintain a corporate rating or a corporate family rating, as applicable, in respect of Parent Guarantor from two of S&P, Moody's and Fitch (but without any requirement to maintain any specific rating).

6.10 Further Assurances.

(a) Each Credit Party executing this Agreement agrees that it shall and shall cause each applicable Subsidiary to, at such Credit Party's reasonable expense and upon the reasonable request of Agent, duly execute and deliver, or cause to be duly executed and delivered, to Agent such further instruments and take all such further actions (including the authorization of filing and recording of Code financing statements, fixture filings, and other documents, in each case to the extent reasonably requested by Agent), which may be required under any applicable law, or which Agent may reasonably request, to effectuate the transactions contemplated by the Loan Documents or to grant, preserve, protect or perfect the Liens created by the Collateral Documents or the validity or priority of any such Liens (subject to Permitted Liens), all at the reasonable expense of the Credit Parties and to the extent required by the Loan Documents.

(b) [Reserved];

(c) Notwithstanding anything to the contrary contained herein, no Credit Party shall be required to execute and deliver any joinder agreement, Collateral Document or any other document or grant a Lien in any Capital Stock or other property held by it if such action (A) is restricted or prohibited by general statutory limitations, financial assistance, corporate benefit, fraudulent preference, "thin capitalization" rules or similar principles, (B) is not within the legal capacity of such Credit Party or would conflict with the fiduciary duties of its directors or contravene any legal prohibition or result in personal or criminal liability on the part of any officer or (C) for reasons of cost, legal limitations or other matters is unreasonably burdensome in relation to the benefits to the Lenders of such Credit Party's guaranty or security as reasonably determined by Borrower and Agent.

6.11 [Reserved].

6.12 Future Guarantors.

(a) Within thirty (30) Business Days of the formation of any Restricted Subsidiary that is not an Excluded Subsidiary, acquisition of a Restricted Subsidiary that is not an Excluded Subsidiary or at any time a Subsidiary becomes a Restricted Subsidiary that is not an Excluded Subsidiary or a Restricted Subsidiary ceases to be an Excluded Subsidiary, Borrower shall notify Agent of such event and, promptly thereafter (and in any event within thirty (30) days or such longer period as Agent may agree) (i) cause each such Restricted Subsidiary to deliver to Agent (A) a supplement to the Security Agreement substantially in the form attached as Exhibit 2 to the Security Agreement, (B) a supplemental Guaranty in the form attached hereto as Exhibit 1.1(a) and (C) a supplemental joinder to each Intercreditor Agreement, (ii) cause such Restricted Subsidiary to take all actions reasonably necessary to cause the Lien in favor of the Agent for the benefit of the Secured Parties created by the Collateral Documents to be duly perfected to the extent required hereby or by such Collateral Document, including the filing of financing statements under the Code in such jurisdictions as may be reasonably requested by the Agent and Intellectual Property Security Agreements with the United States Patent and Trademark Office and the United States Copyright Office, if applicable, (iii) with respect to all new Restricted Subsidiaries that are directly owned in whole or in part by a Credit Party, cause such Credit Party to provide to Agent a supplement to the Security Agreement providing for the pledge of the Capital Stock in such new Restricted Subsidiary owned by it (or, in the case of a Foreign Subsidiary, sixty-five percent (65%) of the total combined voting power of all classes of the voting Capital Stock of such Foreign Subsidiary and one-hundred percent (100%) of the non-voting Capital Stock of such Foreign Subsidiary, in each case to the extent that such Capital Stock does not constitute Excluded Property), together with appropriate certificates and powers, in form and substance reasonably satisfactory to Agent, and (iv) provide or cause to be provided to Agent all other customary and reasonable documentation which is reasonably requested by Agent in connection with the foregoing clauses (i), (ii) and (iii); provided that, notwithstanding the foregoing, Borrower may elect, in its sole discretion, to make any Excluded Subsidiary a Guarantor by causing such Subsidiary to satisfy the requirements set forth in this Section 6.12(a), subject to, in the case of any Foreign Subsidiary, (x) the jurisdiction of incorporation of such Foreign Subsidiary being reasonably satisfactory to Agent in light of legal permissibility and the policies and procedures of Agent and the Lenders for similarly situated companies, (y) collateral and security provisions reasonably acceptable to Agent to be negotiated in good faith and (z) Agent having received at least three (3) Business Days prior to the effectiveness of such Foreign Subsidiary becoming a Guarantor all documentation and other information required by regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act, that has been reasonably requested by Agent at least ten (10) Business Days in advance (which notice period may be shortened as necessary for Agent to initiate and complete its due diligence analysis if Borrower has not given Agent reasonably sufficient notice prior to such date of effectiveness that such Foreign Subsidiary is joining this Agreement as a Guarantor).

(b) Notwithstanding anything to the contrary herein, with respect to any Material Real Property owned by any Person that becomes a Guarantor after the Escrow Release Date, or with respect to any Material Real Property acquired by a Credit Party after the Escrow Release Date, within 90 days (or such longer period as may be agreed by Agent in its reasonable discretion) of such Person becoming a Guarantor or the acquisition of such Material Real Property by a Credit Party, as applicable, the applicable Credit Party shall, with respect to each such Material Real Property, deliver to Agent the documents listed on Schedule 6.14(1).

(c) Notwithstanding anything to the contrary contained herein, no Credit Party shall be required to execute and deliver any supplemental guarantee, Collateral Document or any other document or grant a Lien on any Capital Stock or other property held by it if such action relates to Excluded Property or otherwise would not be required with respect to the Collateral owned by a Credit Party pursuant to the terms of the Collateral Documents.

6.13 Access. Each Credit Party shall, during normal business hours, from time to time after the Escrow Release Date upon reasonable notice as frequently as Agent reasonably determines to be appropriate: (a) provide Agent and any of its representatives and designees access to its properties, facilities, advisors, officers and employees, (b) permit Agent and any of its officers, employees and agents, to inspect, audit and make extracts from any Credit Party's books and records, and (c) permit Agent and its representatives and other designees, to inspect, review, evaluate and make test verifications and counts of the accounts, equipment and other Collateral of any Credit Party, in each case, subject to reasonable requirements of confidentiality, including requirements imposed by law or by contract or to maintain attorney-client or other privilege; provided, that to the extent that no Event of Default has occurred and is continuing, Borrower shall only be responsible for providing such access once per Fiscal Year. Furthermore, so long as any Event of Default has occurred and is continuing or at any time after all or any portion of the Obligations hereunder have been declared due and payable pursuant to Section 9.2, Borrower shall provide reasonable assistance to Agent to obtain access, which access shall be coordinated in scope and substance in consultation with Borrower, to their suppliers and customers.

6.14 Post-Closing Matters. Execute and deliver the documents and complete the tasks set forth on Schedule 6.14, in each case within the time limits specified on such schedule, as such time limits may be extended from time to time by Agent in its reasonable discretion.

6.15 Use of Proceeds. All proceeds of the Loans shall be used as provided in Section 2.4.

6.16 Lender Calls. On a date to be mutually agreed upon by Borrower and Agent following the end of each fiscal year, Borrower will hold a conference call (at a time mutually agreed upon by Borrower and Agent but, in any event, no earlier than the Business Day following the delivery of applicable financial information pursuant to Section 5.1(c) above) with all Lenders who choose to attend such conference call, at which conference call shall be reviewed the financial results of the previous fiscal year; *provided* that this requirement may be satisfied by permitting Lenders to participate in any comparable call held for Parent Guarantor's securityholders.

6.17 Designation of Subsidiaries. The Borrower may at any time after the Escrow Release Date designate any Restricted Subsidiary as an Unrestricted Subsidiary or any Unrestricted Subsidiary as a Restricted Subsidiary; *provided* that immediately before and after such designation no Event of Default under Sections 9.1(a), (g) or (h) shall have occurred and be continuing. The designation of any Subsidiary as an Unrestricted Subsidiary after the Escrow Release Date shall constitute an Investment by Borrower therein at the date of designation in an amount equal to the Fair Market Value of Borrower's or its Subsidiary's (as applicable) investment therein. The designation of any Unrestricted Subsidiary as a Restricted Subsidiary shall constitute (i) the Incurrence at the time of designation of any Investment made by, Indebtedness Incurred by, or Liens on assets of, such Subsidiary, in each case, outstanding on the date of such designation and (ii) a return on any Investment by Borrower or the applicable Subsidiary in such Unrestricted Subsidiary pursuant to the preceding sentence in an amount equal to the Fair Market Value at the date of such designation of Borrower's or its Subsidiary's (as applicable) Investment in such Subsidiary.

7. NEGATIVE COVENANTS

Each Credit Party (to the extent applicable as set forth below) executing this Agreement agrees as to itself and its Restricted Subsidiaries that (x) other than with respect to Section 7.13, from and after the Escrow Release Date and until the Termination Date and (y) with respect to Section 7.13, from and after the Escrow Funding Date and until the Escrow Release Date:

7.1 Limitation on Incurrence of Indebtedness and Issuance of Disqualified Stock and Preferred Stock.

(a) (i) Borrower shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness (including Acquired Indebtedness) or issue any shares of Disqualified Stock; and (ii) Borrower shall not permit any of the Restricted Subsidiaries (other than any Subsidiary Guarantor) to issue any shares of Preferred Stock; *provided*, *however*, that Borrower and any Subsidiary Guarantor may Incur Indebtedness (including Acquired Indebtedness) or issue shares of Disqualified Stock, and any Restricted Subsidiary that is not a Guarantor may Incur Indebtedness (including Acquired Indebtedness), issue shares of Disqualified Stock or issue shares of Preferred Stock, in each case, if (a) with respect to Indebtedness secured by Liens on the Collateral on a *pari passu* basis with the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility, Borrower's Consolidated First Lien Net Leverage Ratio would exceed 2.80 to 1.00, (b) with respect to Indebtedness secured by Liens on the Collateral on a junior lien basis to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility, Borrower's Consolidated Secured Net Leverage Ratio would exceed 3.30 to 1.00, or (c) with respect to unsecured Indebtedness, Borrower's Consolidated Total Net Leverage Ratio would exceed 3.30 to 1.00, in each case, calculated on a pro forma basis, including the application of the proceeds thereof, consistent with the calculations made under the definition of "Fixed Charge Coverage Ratio", "Consolidated First Lien Net Leverage Ratio", "Consolidated Secured Net Leverage Ratio" or "Consolidated Total Net Leverage Ratio", as applicable (without "netting" the cash proceeds thereof), and in the case of any revolving Indebtedness, assuming a full drawing of such revolving Indebtedness; *provided*, that the amount of Indebtedness (including Acquired Indebtedness), Disqualified Stock and Preferred Stock that may be Incurred or issued, as applicable, pursuant to the foregoing by Restricted Subsidiaries that are not Guarantors, together with all Indebtedness, Disqualified Stock or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors pursuant to Sections 7.1(b)(xii) and (xvi)(A) below, together with any Refinancing Indebtedness in respect thereof, shall not exceed, in the aggregate, the greater of $330.0 million and 60% of Consolidated EBITDA as of the date on which such Indebtedness is Incurred (*plus*, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount) (Indebtedness, Disqualified Stock and Preferred Stock Incurred pursuant to this clause (a), the "Ratio Debt"); *provided*, *further*, that:

(i) no Event of Default under Section 9.1(a), (g) or (h) exists immediately prior to or after giving effect to the Incurrence of such Ratio Debt;

(ii) the Weighted Average Life to Maturity applicable to any such Ratio Debt (other than customary bridge loans; provided, that any Indebtedness which is exchanged for or otherwise replaces such bridge loans shall be subject to the requirements of this clause (ii)) that is secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility is no shorter than the Weighted Average Life to Maturity of the Term B Loans (without giving effect to any amortization or prepayments thereof);

(iii) the final maturity date with respect to any such Ratio Debt (other than customary bridge loans; provided, that any Indebtedness which is exchanged for or otherwise replaces such

bridge loans shall be subject to the requirements of this clause (iii)) (x) that is secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall be no earlier than the Maturity Date with respect to the Term B Loans and (y) that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall be no earlier than the date that is 91 days following the Maturity Date with respect to the Term B Loans;

(iv) Ratio Debt that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall not have any scheduled amortization prior to the date that is 91 days following the Maturity Date with respect to the Term B Loans;

(v) subject to clauses (ii), (iii) and (iv), may otherwise have an amortization schedule as determined by Borrower and the lenders or holders providing such Ratio Debt;

(vi) in the case of any such Ratio Debt in the form of term loans that are secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans (other than customary bridge loans), the provisions of Section 2.15(c)(v) shall apply;

(vii) to the extent such Ratio Debt is secured by a Lien on the Collateral that is pari passu or junior to the Liens on the Collateral securing the Obligations hereunder, a Senior Representative of such Ratio Debt acting on behalf of the lenders or holders of such Ratio Debt shall have become party to or otherwise subject to the provisions of the Pari Passu Intercreditor Agreement or the Junior Intercreditor Agreement, as applicable;

(viii) no such Ratio Debt may be (x) guaranteed by any Subsidiary or any Parent which is not a Credit Party or (y) secured by any assets other than the Collateral;

(ix) (x) any Ratio Debt secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans may share ratably or less than ratably (but not more than ratably) in any mandatory prepayments of Term B Loans hereunder, except for prepayments in connection with a refinancing of such Ratio Debt and (y) any Ratio Debt that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans shall not require any mandatory prepayments except to the extent such prepayments are first offered ratably to holders of the Term B Loans hereunder and to holders of any Ratio Debt secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans, except for prepayments in connection with a refinancing of such Ratio Debt.

(b) The limitations set forth in Section 7.1(a) shall not apply to:

(i) [reserved];

(ii) the Incurrence by Borrower and the other Subsidiary Guarantors of Indebtedness under the Loan Documents (including any guarantees thereof);

(iii) Indebtedness, Preferred Stock and Disqualified Stock of Borrower, the Guarantors and their Restricted Subsidiaries outstanding on the Escrow Funding Date (other than Indebtedness described in clause (ii) of this Section 7.1(b)) and Indebtedness represented by the 2031 Notes issued prior to the Escrow Funding Date;

(iv) Indebtedness (including Capitalized Lease Obligations) Incurred by Borrower or any Restricted Subsidiary, Disqualified Stock issued by Borrower or any Restricted Subsidiary and Preferred Stock issued by any Restricted Subsidiary to finance (whether prior to or within 270 days after) the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Capital Stock of any Person owning such assets) that, when aggregated with the principal amount or liquidation preference of all other Indebtedness, Disqualified Stock or Preferred Stock then outstanding and Incurred pursuant to this clause (iv), together with any Refinancing Indebtedness in respect thereof then outstanding and Incurred pursuant to clause (xv) below, does not exceed at any one time outstanding the greater of $275.0 million and 50% of Consolidated EBITDA as of the date such Indebtedness is Incurred (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(v) Indebtedness Incurred by Borrower or any Restricted Subsidiary (i) constituting reimbursement obligations with respect to letters of credit and bank guarantees issued in the ordinary course of business, including without limitation letters of credit in respect of workers' compensation claims, health, disability or other benefits to employees or former employees or their families or property, casualty or liability insurance or self-insurance, and letters of credit in connection with the maintenance of, or pursuant to the requirements of, environmental law or permits or licenses from governmental authorities, or other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims and (ii) represented by cash-collateralized letters of credit issued in the ordinary course of business;

(vi) Indebtedness arising from agreements of Borrower or any Restricted Subsidiary providing for indemnification, adjustment of acquisition or purchase price or similar obligations (including earn-outs), in each case, Incurred or assumed in connection with the Transactions, any Investments or any acquisition or disposition of any business, assets or a Subsidiary not prohibited by this Agreement, other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or Subsidiary for the purpose of financing such acquisition;

(vii) Indebtedness of Borrower to a Restricted Subsidiary, *provided* that (except in respect of intercompany current liabilities Incurred in the ordinary course of business in connection with the cash management, tax and accounting operations of Borrower and its Subsidiaries) any such Indebtedness owed to a Restricted Subsidiary that is not a Guarantor is subordinated in right of payment to the Obligations of Borrower under the Loans; provided, further, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any such Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except any pledge of such Indebtedness constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (vii);

(viii) shares of Preferred Stock of a Restricted Subsidiary issued to Borrower or another Restricted Subsidiary;*provided* that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary that holds such shares of Preferred Stock of another Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to Borrower or another Restricted Subsidiary) shall be deemed, in each case, to be an issuance of shares of Preferred Stock not permitted by this clause (viii);

(ix) Indebtedness of a Restricted Subsidiary to Borrower or another Restricted Subsidiary; provided that (except in respect of intercompany current liabilities Incurred in the ordinary course of business in connection with the cash management, tax and accounting operations of Borrower and its Subsidiaries), any such Indebtedness owed by a Subsidiary Guarantor to a Restricted

Subsidiary that is not a Guarantor is subordinated in right of payment to the Subsidiary Guaranty of such Subsidiary Guarantor; *provided, further*, that any subsequent issuance or transfer of any Capital Stock or any other event which results in any Restricted Subsidiary holding such Indebtedness ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to Borrower or another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (ix);

(x) Hedging Obligations that are not Incurred for speculative purposes but (A) for the purpose of fixing or hedging interest rate risk with respect to any Indebtedness that is permitted by the terms of this Agreement to be outstanding; (B) for the purpose of fixing or hedging currency exchange rate risk with respect to any currency exchanges; or (C) for the purpose of fixing or hedging commodity price risk with respect to any commodity purchases or sales and, in each case, extensions or replacements thereof;

(xi) obligations (including reimbursement obligations with respect to letters of credit, bank guarantees, warehouse receipts and similar instruments) in respect of performance, bid, appeal and surety bonds, completion guarantees and similar obligations provided by Borrower or any Restricted Subsidiary in the ordinary course of business or consistent with past practice or industry practice;

(xii) Indebtedness or Disqualified Stock of Borrower or Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and Incurred pursuant to this clause (xii), together with any Refinancing Indebtedness in respect thereof then outstanding and Incurred pursuant to clause (xv) below, does not exceed at any one time outstanding the greater of $330.0 million and 60% of Consolidated EBITDA as of the date such Indebtedness is Incurred (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount) (it being understood that any Indebtedness Incurred pursuant to this clause (xii) shall cease to be deemed Incurred or outstanding for purposes of this clause (xii) but shall be deemed Incurred for purposes of Section 7.1(a) from and after the first date on which Borrower, or the Restricted Subsidiary, as the case may be, could have Incurred such Indebtedness under Section 7.1(a) without reliance upon this clause (xii)); *provided*, that the amount of Indebtedness, Disqualified Stock and Preferred Stock that may be Incurred or issued, as applicable, pursuant to this clause (xii) by Restricted Subsidiaries that are not Guarantors, together with all Indebtedness, Disqualified Stock or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors pursuant to the first paragraph of this covenant or clause (xvi)(A) below, and any Refinancing Indebtedness of Restricted Subsidiaries that are not Guarantors Incurred in respect thereof, shall not exceed at any one time outstanding, in the aggregate, the greater of $330.0 million and 60% of Consolidated EBITDA (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xiii) Indebtedness or Disqualified Stock of Borrower or any Restricted Subsidiary and Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference at any time outstanding, together with Refinancing Indebtedness in respect thereof then outstanding and Incurred pursuant to clause (xv) hereof, not greater than 100.0% of the net cash proceeds received by Borrower and the Restricted Subsidiaries since immediately after the Escrow Release Date from the issue or sale of Equity Interests of Borrower or any Parent (which proceeds are contributed to Borrower or a Restricted Subsidiary) or cash contributed to the capital of Borrower (in each case other than proceeds of Disqualified Stock or sales of Equity Interests to, or contributions received from Borrower or any of its Subsidiaries) to the extent such net cash proceeds or cash have not been applied to make Restricted

Payments or to make other Investments, payments or exchanges pursuant to Section 7.2(b) or to make Permitted Investments (other than Permitted Investments specified in clauses (1) and (3) of the definition thereof) (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount) (it being understood that any Indebtedness Incurred pursuant to this clause (xiii) shall cease to be deemed Incurred or outstanding for purposes of this clause (xiii) but shall be deemed Incurred for the purposes of Section 7.1(a) from and after the first date on which Borrower, or the Restricted Subsidiary, as the case may be, could have Incurred such Indebtedness under Section 7.1(a) without reliance upon this clause (xiii));

(xiv) any guarantee by Borrower or any Restricted Subsidiary of Indebtedness or other Obligations of Borrower or any Restricted Subsidiary so long as the Incurrence of such Indebtedness Incurred by Borrower or such Restricted Subsidiary is permitted under the terms of this Agreement; *provided* that (A) if such Indebtedness is by its express terms subordinated in right of payment to the Loans or the Guaranty of such Restricted Subsidiary, as applicable, any such guarantee with respect to such Indebtedness shall be subordinated in right of payment to the Loans or such Guaranty, as applicable, substantially to the same extent as such Indebtedness is subordinated in right of payment to the Loans or such Guaranty, as applicable, and (B) if such guarantee is of Indebtedness of Borrower, such guarantee is Incurred in accordance with, or not in contravention of, Section 6.12 solely to the extent Section 6.12 is applicable;

(xv) the Incurrence by Borrower or any of the Restricted Subsidiaries of Indebtedness or Disqualified Stock, or by any Restricted Subsidiary of Preferred Stock of a Restricted Subsidiary, that serves to refund, refinance or defease any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued as permitted under Section 7.1(a) and clauses (ii), (iii), (iv), (xii), (xiii), (xv), (xvi), (xx), (xxiv) and (xxv) of this Section 7.1(b) up to the outstanding principal amount (or, if applicable, the liquidation preference, face amount, or the like) or, if greater, committed amount (only to the extent the committed amount could have been Incurred on the date of initial Incurrence and was deemed Incurred at such time for the purposes of this Section 7.1) of such Indebtedness or Disqualified Stock or Preferred Stock, in each case at the time such Indebtedness was Incurred or Disqualified Stock or Preferred Stock was issued pursuant to Section 7.1(a) or clauses (ii), (iii), (iv), (xii), (xiii), (xv), (xvi), (xx), (xxiv) and (xxv) of this Section 7.1(b), or any Indebtedness, Disqualified Stock or Preferred Stock Incurred to so refund or refinance such Indebtedness, Disqualified Stock or Preferred Stock, plus any additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay premiums (including tender premiums), accrued and unpaid interest, expenses, defeasance costs and fees in connection therewith (subject to the following proviso, "Refinancing Indebtedness") prior to its respective maturity; *provided, however*, that such Refinancing Indebtedness:

(A) has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred which is not less than the remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced or defeased;

(B) to the extent such Refinancing Indebtedness refinances (a) Indebtedness junior in right of payment to the Loans or a Guaranty, as applicable, such Refinancing Indebtedness is junior in right of payment to the Loans or such Guaranty, as applicable, (b) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Disqualified Stock or Preferred Stock and (c) Indebtedness secured by a Lien on the Collateral that is *pari passu* or junior to the Lien on the Collateral securing the Obligations hereunder, such Refinancing Indebtedness is secured by a Lien on the Collateral that is *pari passu* with or junior to the Lien on the Collateral securing the Obligations hereunder to the same extent as such Indebtedness, and a Senior Representative of such Refinancing Indebtedness acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of the Pari Passu Intercreditor Agreement or the Junior Intercreditor Agreement, as applicable; and

(C) shall not include (x) Indebtedness of a Restricted Subsidiary that is not a Guarantor that refinances Indebtedness of Borrower or a Subsidiary Guarantor, or (y) Indebtedness of Borrower or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary;

(xvi) Indebtedness, Disqualified Stock or Preferred Stock of Borrower or any Restricted Subsidiary Incurred to finance an acquisition (such Indebtedness, Disqualified Stock or Preferred Stock, "Incurred Acquisition Debt"); *provided* that after giving effect to such acquisition, Borrower would be permitted to Incur at least $1.00 of additional Indebtedness pursuant to the applicable test set forth in Section 7.1(a); *provided*, *further*, that:

(A) the Weighted Average Life to Maturity applicable to any such Incurred Acquisition Debt (other than customary bridge loans; provided, that any Indebtedness which is exchanged for or otherwise replaces such bridge loans shall be subject to the requirements of this clause (A)) that is secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility is no shorter than the Weighted Average Life to Maturity of the Term B Loans (without giving effect to any amortization or prepayments thereof);

(B) the final maturity date with respect to any such Incurred Acquisition Debt (other than customary bridge loans; provided, that any Indebtedness which is exchanged for or otherwise replaces such bridge loans shall be subject to the requirements of this clause (B)) (x) that is secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall be no earlier than the Maturity Date with respect to the Term B Loans and (y) that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall be no earlier than the date that is 91 days following the Maturity Date with respect to the Term B Loans;

(C) Incurred Acquisition Debt that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans and the Revolving Credit Facility shall not have any scheduled amortization prior to the date that is 91 days following the Maturity Date with respect to the Term B Loans;

(D) subject to clauses (A), (B) and (C), may otherwise have an amortization schedule as determined by Borrower and the lenders or holders providing such Incurred Acquisition Debt;

(E) in the case of any such Incurred Acquisition Debt in the form of term loans that are secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans (other than customary bridge loans), the provisions of Section 2.15(c)(v) shall apply;

(F) to the extent such Incurred Acquisition Debt is secured by a Lien on the Collateral that is pari passu or junior to the Liens on the Collateral securing the Obligations hereunder, a Senior Representative of such Incurred Acquisition Debt acting on behalf of the lenders or holders of such Incurred Acquisition Debt shall have become party to or otherwise subject to the provisions of the Pari Passu Intercreditor Agreement or the Junior Intercreditor Agreement, as applicable;

(G) no such Incurred Acquisition Debt may be (x) guaranteed by any Subsidiary or any Parent which is not a Credit Party or (y) secured by any assets other than the Collateral; and

(H) (x) any Incurred Acquisition Debt secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans may share ratably or less than ratably (but not more than ratably) in any mandatory prepayments of Term B Loans hereunder, except for prepayments in connection with a refinancing of such Incurred Acquisition Debt and (y) any Incurred Acquisition Debt that is unsecured or secured by Liens on the Collateral junior in priority to the Liens on the Collateral securing the Term B Loans shall not require any mandatory prepayments except to the extent such prepayments are first offered ratably to holders of the Term B Loans hereunder and to holders of any Incurred Acquisition Debt secured by Liens on the Collateral on a pari passu basis with the Liens on the Collateral securing the Term B Loans, except for prepayments in connection with a refinancing of such Incurred Acquisition Debt;

provided, *further*, that the amount of Indebtedness, Disqualified Stock and Preferred Stock that may be Incurred or issued, as applicable, pursuant to clause (xvi) by Restricted Subsidiaries that are not Guarantors, together with all Indebtedness, Disqualified Stock or Preferred Stock Incurred by Restricted Subsidiaries that are not Guarantors pursuant the first paragraph of this covenant or clause (xii) above, together with any Refinancing Indebtedness of Restricted Subsidiaries that are not Guarantors Incurred in respect thereof, shall not exceed at any one time outstanding, in the aggregate, the greater of $330.0 million and 60% of Consolidated EBITDA (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xvii) Indebtedness, Disqualified Stock or Preferred Stock of Persons that are acquired by Borrower or any Restricted Subsidiary or are merged, consolidated or amalgamated with or into Borrower or any Restricted Subsidiary in accordance with the terms of this Agreement (so long as (i) such Indebtedness is not Incurred in contemplation of such acquisition, merger, consolidation or amalgamation and (ii) Borrower is in compliance with Section 7.12 on a *pro forma* basis after giving effect to such acquisition, merger, consolidation or amalgamation);

(xviii) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; *provided* that such Indebtedness is extinguished within five Business Days of its Incurrence;

(xix) Indebtedness of Borrower or any Restricted Subsidiary supported by a letter of credit or bank guarantee, in a principal amount not in excess of the stated amount of such letter of credit;

(xx) Indebtedness of Restricted Subsidiaries of Borrower that are not Guarantors not to exceed at any one time outstanding (together with any Refinancing Indebtedness of Restricted Subsidiaries that are not Guarantors Incurred in respect thereof pursuant to clause (xv) above) the greater of $165.0 million or 30% of Consolidated EBITDA as of the date on which such Indebtedness is Incurred (*plus*, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(xxi) Indebtedness of Borrower or any Restricted Subsidiary consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(xxii) Indebtedness consisting of Indebtedness of Borrower or a Restricted Subsidiary to current or former officers, directors and employees thereof or any direct or indirect parent thereof, their respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of Borrower or any Parent to the extent described in Section 7.2(b)(iv);

(xxiii) Indebtedness in respect of obligations of Borrower or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; *provided* that such obligations are Incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedging Obligations;

(xxiv) Incremental Equivalent Debt;

(xxv) Indebtedness under asset-level financings, Capitalized Lease Obligations and purchase money Indebtedness incurred by any Foreign Subsidiary, in each case in the ordinary course of business; *provided* that the amount of Indebtedness outstanding under this clause (xxv), together with any Refinancing Indebtedness in respect thereof incurred pursuant to clause (xv) above, shall not exceed at any one time outstanding, in the aggregate, the greater of $5.0 million and 1% of Consolidated EBITDA (*plus*, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount); and

(xxvi) Indebtedness consisting of Qualified Securitization Financings in an aggregate amount not to exceed at any one time outstanding the greater of $140.0 million and 25% of Consolidated EBITDA;

provided that any Indebtedness owed to a Restricted Subsidiary that is not a Guarantor shall be subordinated in right of payment to the Obligations of Borrower under the Loans.

(c) For purposes of determining compliance with this Section 7.1:

(i) in the event that an item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) meets the criteria of more than one of the categories of permitted Indebtedness described in clauses (ii) through (xxvi) of Section 7.1(b) above or is entitled to be Incurred pursuant to Section 7.1(a), then Borrower may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if Incurred at such later time), such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) in any manner that complies with this Section 7.1; and

(ii) at the time of Incurrence, Borrower will be entitled to divide and classify an item of Indebtedness in more than one of the categories of Indebtedness described in Section 7.1(a) or (ii) through (xxvi) of Section 7.1(b) (or any portion thereof) without giving pro forma effect to the Indebtedness Incurred pursuant to any other clause or paragraph of Section 7.1(a) (or any portion thereof) when calculating the amount of Indebtedness that may be Incurred pursuant to any such clause or paragraph (or any portion thereof).

(iii) in connection with the Incurrence (including with respect to any Incurrence on a revolving basis pursuant to a revolving loan commitment) of any Indebtedness under Section 7.1(a) or clause (xvi) of Section 7.1(b), Borrower or the applicable Restricted Subsidiary may, by notice to Agent at any time prior to the actual Incurrence of such Indebtedness designate such Incurrence as having occurred on the date of such prior notice, and any related subsequent actual Incurrence will be deemed for all purposes under this Agreement to have been Incurred on the date of such prior notice until such date as such notice is withdrawn.

Accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock, as applicable, amortization of original issue discount, the accretion of liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an Incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 7.1. Guaranties of, or obligations in respect of letters of credit relating to, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included in the determination of such amount of Indebtedness; *provided* that the Incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was in compliance with this Section 7.1.

For purposes of determining compliance with any Dollar-denominated restriction on the Incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term debt, or first committed or first Incurred (whichever yields the lower Dollar equivalent), in the case of revolving credit debt. However, if the Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and the refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of the refinancing, the Dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of the refinancing Indebtedness does not exceed the principal amount of the Indebtedness being refinanced.

Notwithstanding any other provision of this Section 7.1, the maximum amount of Indebtedness that Borrower and the Restricted Subsidiaries may Incur pursuant to this Section 7.1 shall not be deemed to be exceeded, with respect to any outstanding Indebtedness, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which the respective Indebtedness is denominated that is in effect on the date of the refinancing.

7.2 Limitation on Restricted Payments.

(a) Borrower shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any distribution on account of any of Borrower's or any of the Restricted Subsidiaries' Equity Interests, including any payment made in connection with any merger, amalgamation or consolidation involving Borrower (other than (A) dividends or distributions payable solely in Equity Interests (other than Disqualified Stock) of Borrower; or (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary that is not a Wholly Owned Restricted Subsidiary, Borrower or a Restricted Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities);

(ii) purchase or otherwise acquire or retire for value any Equity Interests of Borrower or any Parent;

(iii) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case prior to any scheduled repayment or scheduled maturity, any Junior Indebtedness of Borrower, or any Guarantor (other than the payment, redemption, repurchase,

defeasance, acquisition or retirement of (A) Junior Indebtedness in anticipation of satisfying a sinking fund obligation, principal installment or final maturity, in each case due within one year of the date of such payment, redemption, repurchase, defeasance, acquisition or retirement and (B) Indebtedness permitted under clauses (vii) and (ix) of Section 7.1(b)); or

(iv) make any Restricted Investment

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

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

(B) immediately after giving effect to such transaction on a *pro forma* basis, Borrower could Incur $1.00 of additional Indebtedness under Section 7.1(a); and

(C) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by Borrower and the Restricted Subsidiaries after the Escrow Release Date (including Restricted Payments permitted by clauses (vi)(B) and (viii) of Section 7.2(b), but excluding all other Restricted Payments permitted by Section 7.2(b)), is less than the amount equal to the Cumulative Credit.

(b) The provisions of Section 7.2(a) shall not prohibit:

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

(ii) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Retired Capital Stock") or Junior Indebtedness of Borrower, any Parent or any Subsidiary Guarantor in exchange for, or out of the proceeds of, the substantially concurrent sale of, Equity Interests of Borrower or any Parent or contributions to the equity capital of Borrower (other than any Disqualified Stock or any Equity Interests sold to a Subsidiary of Borrower) (collectively, including any such contributions, "Refunding Capital Stock");

(A) the declaration and payment of dividends on the Retired Capital Stock out of the proceeds of the substantially concurrent sale (other than to a Subsidiary of Borrower) of Refunding Capital Stock; and

(B) if immediately prior to the retirement of Retired Capital Stock, the declaration and payment of dividends thereon was permitted under clause (vi) of this Section 7.2(b) and not made pursuant to clause (ii)(B), the declaration and payment of dividends on the Refunding Capital Stock (other than Refunding Capital Stock the proceeds of which were used to redeem, repurchase, retire or otherwise acquire any Equity Interests of any Parent) in an aggregate amount per year no greater than the aggregate amount of dividends per annum that were declarable and payable on such Retired Capital Stock immediately prior to such retirement;

(iii) the redemption, repurchase, defeasance, or other acquisition or retirement of Junior Indebtedness of Borrower or any Subsidiary Guarantor made by exchange for, or out

of the proceeds of the substantially concurrent sale of (x) Equity Interests (other than Disqualified Stock) of Borrower or any Parent or (y) new Indebtedness of Borrower or a Subsidiary Guarantor, which in the case of this clause (y) is Incurred in accordance with Section 7.1 so long as:

(A) the principal amount (or accreted value, if applicable) of such new Indebtedness does not exceed the principal amount (or accreted value, if applicable), *plus* any accrued and unpaid interest, of the Junior Indebtedness being so redeemed, repurchased, defeased, acquired or retired for value (*plus* the amount of any premium required to be paid under the terms of the instrument governing the Junior Indebtedness being so redeemed, repurchased, acquired or retired, *plus* any tender premiums, *plus* any defeasance costs, fees and expenses Incurred in connection therewith);

(B) such Indebtedness is subordinated to the Loans or the related Subsidiary Guaranty of such Subsidiary Guarantor, as the case may be, at least to the same extent as such Junior Indebtedness so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value;

(C) such Indebtedness has a final scheduled maturity date equal to or later than the earlier of (x) the final scheduled maturity date of the Junior Indebtedness being so redeemed, repurchased, acquired or retired and (y) 91 days following the last maturity date of any Loans then outstanding; and

(D) such Indebtedness has a Weighted Average Life to Maturity at the time Incurred which is not less than the remaining Weighted Average Life to Maturity of the Junior Indebtedness being so redeemed, repurchased, defeased, acquired or retired;

(iv) a Restricted Payment to pay for the repurchase, retirement or other acquisition for value of Equity Interests of Borrower or any Parent held by any future, present or former employee, director, officer or consultant of Borrower or any Subsidiary of Borrower or any Parent pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or other agreement or arrangement; *provided, however*, that the aggregate Restricted Payments made under this clause (iv) do not exceed the greater of $10.0 million and 2.0% of Consolidated EBITDA in any calendar year, with unused amounts in any calendar year being permitted to be carried over to succeeding calendar years up to a maximum of the greater of $15.0 million and 3.0% of Consolidated EBITDA in any calendar year; *provided, further, however*, that such amount in any calendar year may be increased by an amount not to exceed:

(A) the cash proceeds received by Borrower or any of the Restricted Subsidiaries from the sale of Equity Interests (other than Disqualified Stock) of Borrower or any Parent (to the extent contributed to Borrower) to employees, directors, officers or consultants of Borrower and the Restricted Subsidiaries or any Parent that occurs after the Escrow Release Date (*provided* that the amount of such cash proceeds utilized for any such repurchase, retirement, other acquisition or dividend will not increase the amount available for Restricted Payments under Section 7.2(b)(viii)), *plus*

(B) the cash proceeds of key man life insurance policies received by Borrower or any Parent (to the extent contributed to Borrower) or the Restricted Subsidiaries after the Escrow Release Date;

provided that Borrower may elect to apply all or any portion of the aggregate increase contemplated by clauses (A) and (B) above in any calendar year; and *provided, further*, that cancellation of Indebtedness owing to Borrower or any Restricted Subsidiary from any present or former employees, directors, officers

or consultants of Borrower, any Restricted Subsidiary or Parent in connection with a repurchase of Equity Interests of Borrower or any Parent will not be deemed to constitute a Restricted Payment for purposes of this Section 7.2 or any other provision of this Agreement;

(v) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of Borrower or any Restricted Subsidiary issued or Incurred in accordance with Section 7.1;

(vi) the declaration and payment of dividends or distributions to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) issued after the Escrow Release Date;

(A) a Restricted Payment to any Parent, the proceeds of which will be used to fund the payment of dividends to holders of any class or series of Designated Preferred Stock (other than Disqualified Stock) of any Parent issued after the Escrow Release Date; *provided* that the aggregate amount of dividends declared and paid pursuant to this clause (B) does not exceed the net cash proceeds actually received by Borrower from any such sale of Designated Preferred Stock (other than Disqualified Stock) issued after the Escrow Release Date; and

(B) the declaration and payment of dividends on Refunding Capital Stock that is Preferred Stock in excess of the dividends declarable and payable thereon pursuant to Section 7.2(b)(ii);

provided, however, in the case of each of clauses (A) and (B) above of this clause (vi), that for the most recently ended four full Fiscal Quarters for which internal financial statements are available immediately preceding the date of issuance of such Designated Preferred Stock, after giving effect to such issuance (and the payment of dividends or distributions and treating such Designated Preferred Stock as Indebtedness for borrowed money for such purpose) on a *pro forma* basis (including a *pro forma* application of the net proceeds therefrom), Borrower would have had a Fixed Charge Coverage Ratio no less than 2.00 to 1.00.

(vii) [reserved];

(viii) Restricted Payments that are made with (or in an aggregate amount that does not exceed the aggregate amount of) Excluded Contributions;

(ix) other Restricted Payments in an aggregate amount, when taken together with all other Restricted Payments made pursuant to this clause (ix) that are at that time outstanding, not to exceed the greater of $165.0 million and 30% of Consolidated EBITDA;

(x) the distribution, as a dividend or otherwise, of shares of Capital Stock of, or Indebtedness owed to Borrower or a Restricted Subsidiary by, Unrestricted Subsidiaries (other than to the extent substantially all of the assets of such Unrestricted Subsidiaries, directly or indirectly, consist of cash or Cash Equivalents);

(xi) tax distributions made in accordance with the Opco LLCA (as defined in the Merger Agreement) ("Tax Distributions");

(xii) any Restricted Payment, if applicable:

(A) in amounts required for any Parent to pay fees and expenses Incurred in connection with its reporting obligations under, or in connection with compliance with, applicable laws or applicable rules of any governmental, regulatory or self-regulatory body or stock exchange, this Agreement, the 2031 Notes Indenture or any other agreement or instrument relating to Indebtedness of Borrower or any Restricted Subsidiary, including in respect of any reports filed with respect to the Securities Act, the Exchange Act or the respective rules and regulations promulgated thereunder;

(B) in amounts required for any Parent to pay fees and expenses (including franchise or similar Taxes) required to maintain its corporate existence, customary salary, bonus and other benefits payable to, and indemnities provided on behalf of, officers and employees of any Parent and general corporate operating and overhead expenses of any Parent, in each case, to the extent such fees and expenses are attributable to the ownership or operation of Borrower, if applicable, and its Subsidiaries;

(C) in amounts required for any Parent to pay indemnification obligations owed by any such Parent to directors, officers, employees or other Persons under its charter or bylaws or pursuant to written agreements with or for the benefit of any such Person, or obligations in respect of director and officer insurance (including premiums therefor);

(D) in amounts required for any Parent to pay other administrative and operational expenses of any such Parent Incurred in the ordinary course of business, including fees and expenses Incurred by any such Parent in connection with maintenance and implementation of any management equity incentive plan;

(E) in amounts required for any Parent, if applicable, to pay interest and/or principal on Indebtedness the proceeds of which have been contributed to Borrower or any Restricted Subsidiary and that has been guaranteed by, or is otherwise considered Indebtedness of, Borrower Incurred in accordance with Section 7.1;

(F) in amounts required for any Parent to make payments required by the terms of the Tax Receivable Agreement (as defined in the Merger Agreement); and

(G) in amounts required for any Parent to pay fees and expenses related to any equity or debt offering of such Parent (whether or not successful);

(xiii) repurchases of Equity Interests that occur or are 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;

(xiv) purchases of Securitization Assets pursuant to a Securitization Repurchase Obligation in connection with a Qualified Securitization Financing and the payment or distribution of Securitization Fees;

(xv) Restricted Payments by Borrower or any Restricted Subsidiary to allow the payment of cash in lieu of the issuance of fractional shares upon the exercise of options or warrants or upon the conversion or exchange of Capital Stock of any such Person;

(xvi) the repurchase, redemption or other acquisition or retirement for value of any Junior Indebtedness pursuant to provisions similar to those described in Section 7.4 or in connection with customary change of control offers; *provided* that if such transaction constitutes a Change of Control, all Loans shall have been repaid in full (or the Change of Control Event of Default shall have been waived);

(xvii) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of Borrower and the Restricted Subsidiaries, taken as a whole, that complies with Section 7.8; *provided* that if such consolidation, amalgamation, merger or transfer of assets constitutes a Change of Control, all Loans shall have been repaid in full (or the Change of Control Event of Default shall have been waived);

(xviii) Restricted Payments by Borrower or any Restricted Subsidiary to pay or to allow any Parent to pay (i) ordinary quarterly dividends on Parent Guarantor's common stock and on Parent Guarantor's and Borrower's Preferred Stock in an aggregate amount not to exceed $60.0 million in any fiscal year and (ii) annual cumulative dividends on each of Parent Guarantor's and Borrower's Preferred Stock issued in connection with the Transactions, at Borrower's option, (A) in cash in an aggregate amount not to exceed $150.0 million in any fiscal year or (B) in kind;

(xix) other Restricted Payments; *provided* that the Consolidated Total Net Leverage Ratio of Borrower for the most recently ended four full Fiscal Quarters for which internal financial statements are available, determined on a *pro forma* basis, is less than 2.30 to 1.00; and

(xx) Restricted Payments attributable to, or arising or made in connection with the Transactions or used to fund payments required to be made in connection with the Transactions.

provided, however, that at the time of, and after giving effect to, any Restricted Payment permitted under clauses (vi)(B), (vii), (ix), (x) and (xix) of this Section 7.2(b), no Default shall have occurred and be continuing or would occur as a consequence thereof; *provided, further*, that any Restricted Payments made with property other than cash shall be calculated using the Fair Market Value (as determined in good faith by Borrower) of such property.

(c) For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by Borrower and the Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Restricted Payments in an amount determined as set forth in the last sentence of the definition of "Investments." Such designation will only be permitted if a Restricted Payment or Permitted Investment in such amount would be permitted at such time and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

Notwithstanding anything herein to the contrary, (w) no Investment may be made in any Unrestricted Subsidiary other than pursuant to clause (21) of the definition of "Permitted Investments," (x) no Restricted Subsidiary may be designated as an Unrestricted Subsidiary if, on the date of and after giving effect to such designation, such Unrestricted Subsidiary (or any Subsidiary thereof) would own (or hold an exclusive license with respect to) any Material Intellectual Property, (y) no Material Intellectual Property may be transferred (including by way of an exclusive license) to an existing Unrestricted Subsidiary and (z) no Unrestricted Subsidiary may, at any time, own (or hold an exclusive license with respect to) Material Intellectual Property.

7.3 Dividend and Other Payment Restrictions Affecting Subsidiaries. Borrower shall not, and shall not permit any Restricted Subsidiary to, directly or indirectly, create or otherwise cause or suffer to exist any consensual encumbrance or consensual restriction which prohibits or limits the ability of any Restricted Subsidiary to:

(a) pay dividends or make any other distributions to Borrower or any Restricted Subsidiary (1) on its Capital Stock; or (2) with respect to any other interest or participation in, or measured by, its profits; or

(b) make loans or advances to Borrower or any Restricted Subsidiary that is a direct or indirect parent of such Restricted Subsidiary;

e*xcept* in each case for such encumbrances or restrictions existing under or by reason of:

(i) (i) contractual encumbrances or restrictions in effect on the Escrow Funding Date and (ii) contractual encumbrances or restrictions pursuant to this Agreement, the other Loan Documents (and all other documents relating thereto) and, in each case, similar contractual encumbrances effected by any amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings of such agreements or instruments;

(ii) the 2031 Notes Indenture (and all guarantee, security and other documents relating thereto) or the Pari Passu Intercreditor Agreement;

(iii) applicable law or any applicable rule, regulation or order;

(iv) any agreement or other instrument of a Person acquired by Borrower or any Restricted Subsidiary which was in existence at the time of such acquisition (but not created in contemplation thereof or to provide all or any portion of the funds or credit support utilized to consummate such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired;

(v) contracts or agreements for the sale of assets, including any restriction with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Capital Stock or assets of such Restricted Subsidiary;

(vi) Secured Indebtedness otherwise permitted to be Incurred pursuant to Section 7.1 and Section 7.7 that limits the right of the debtor to dispose of the assets securing such Indebtedness;

(vii) restrictions on cash or other deposits or net worth imposed by customers under contracts entered into in the ordinary course of business;

(viii) customary provisions in joint venture agreements and other similar agreements entered into in the ordinary course of business;

(ix) purchase money obligations for property acquired and Capitalized Lease Obligations in the ordinary course of business;

(x) customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business;

(xi) any encumbrance or restriction that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any such lease, license (including without limitation, licenses of intellectual property) or other contracts;

(xii) any encumbrance or restriction of a Securitization Subsidiary effected in connection with a Qualified Securitization Financing; *provided, however*, that such restrictions apply only to such Securitization Subsidiary;

(xiii) other Indebtedness, Disqualified Stock or Preferred Stock (a) of Borrower or any Restricted Subsidiary that is a Guarantor or a Foreign Subsidiary or (b) of any Restricted Subsidiary that is not a Guarantor or a Foreign Subsidiary so long as such encumbrances and restrictions contained in any agreement or instrument will not materially affect Borrower's or any Subsidiary Guarantor's ability to make anticipated principal or interest payments on the Loans (as determined in good faith by Borrower), *provided* that in the case of each of clauses (a) and (b), such Indebtedness, Disqualified Stock or Preferred Stock is permitted to be Incurred subsequent to the Escrow Release Date pursuant to Section 7.1;

(xiv) any Restricted Investment not prohibited by Section 7.2 and any Permitted Investment; or

(xv) any encumbrances or restrictions of the type referred to in Section 7.3(a) or (b) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) through (xiv) above; *provided* that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of Borrower, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

For purposes of determining compliance with this Section 7.3, (i) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Capital Stock and (ii) the subordination of loans or advances made to Borrower or a Restricted Subsidiary to other Indebtedness Incurred by Borrower or any such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

7.4 Asset Sales.

(a) Borrower shall not, and shall not permit any of the Restricted Subsidiaries to, cause or make an Asset Sale, unless (x) Borrower or any Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value (as determined in good faith by Borrower) of the assets sold or otherwise disposed of, and (y) at least 75% of the consideration therefor received by Borrower or such Restricted Subsidiary, as the case may be, is in the form of Cash Equivalents; *provided* that the amount of:

(i) any liabilities (as shown on Borrower's or a Restricted Subsidiary's most recent balance sheet or in the notes thereto) of Borrower or a Restricted Subsidiary (other than liabilities that are by their terms subordinated to the Loans or any Guaranty) that are assumed by the transferee of any such assets or that are otherwise cancelled or terminated in connection with the transaction with such transferee,

(ii) any notes or other obligations or other securities or assets received by Borrower or such Restricted Subsidiary from such transferee that are converted by Borrower or such Restricted Subsidiary into cash within 180 days of the receipt thereof (to the extent of the cash received),

(iii) Indebtedness of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Asset Sale, to the extent that Borrower and each other Restricted Subsidiary are released from any guarantee of payment of such Indebtedness in connection with such Asset Sale,

(iv) consideration consisting of Indebtedness of Borrower (other than Junior Indebtedness) received after the Escrow Release Date from Persons who are not Borrower or any Restricted Subsidiary, and

(v) any Designated Non-cash Consideration received by Borrower or any Restricted Subsidiary in such Asset Sale having an aggregate Fair Market Value (as determined in good faith by Borrower), taken together with all other Designated Non-cash Consideration received pursuant to this Section 7.4(a)(v) that is at that time outstanding, not to exceed the greater of $140.0 million and 25% of Consolidated EBITDA at the time of the receipt of such Designated Non-cash Consideration (with the Fair Market Value of each item of DesignatedNon-cash Consideration being measured at the time received and without giving effect to subsequent changes in value),

shall be deemed to be Cash Equivalents for the purposes of thisSection 7.4(a).

Notwithstanding anything herein to the contrary, (w) no assets may be transferred to any Unrestricted Subsidiary other than pursuant to clause (21) of the definition of "Permitted Investments," (x) no Restricted Subsidiary may be designated as an Unrestricted Subsidiary if, on the date of and after giving effect to such designation, such Unrestricted Subsidiary (or any Subsidiary thereof) would own (or hold an exclusive license with respect to) any Material Intellectual Property, (y) no Material Intellectual Property may be transferred (including by way of an exclusive license) to an existing Unrestricted Subsidiary and (z) no Unrestricted Subsidiary may, at any time, own (or hold an exclusive license with respect to) Material Intellectual Property.

7.5 Transactions with Affiliates.

(a) Borrower shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of related transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of Borrower (each of the foregoing, an "Affiliate Transaction") involving aggregate consideration in excess of $25.0 million per transaction or series of related transactions, unless:

(i) such Affiliate Transaction is on terms that are not materially less favorable to Borrower or the relevant Restricted Subsidiary than those that could have been obtained in a comparable transaction by Borrower or such Restricted Subsidiary with an unrelated Person; and

(ii) with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate consideration in excess of $50.0 million, Borrower delivers to Agent a resolution adopted in good faith by the majority of the Board of Directors of Borrower, approving such Affiliate Transaction and set forth in an Officer's Certificate certifying that such Affiliate Transaction complies with clause (i) above.

(b) The provisions of Section 7.5(a) shall not apply to the following:

(i) transactions between or among Borrower and/or any of the Restricted Subsidiaries (or an entity that becomes a Restricted Subsidiary as a result of such transaction) and any merger, consolidation or amalgamation of Borrower and any direct parent of Borrower; *provided* that such parent shall have no material liabilities and no material assets other than cash, Cash Equivalents and the Capital Stock of Borrower and such merger, consolidation or amalgamation is otherwise in compliance with the terms of this Agreement and effected for a bona fide business purpose;

(ii) Restricted Payments permitted by Section 7.2 and Permitted Investments;

(iii) the payment of reasonable and customary fees and reimbursement of expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of Borrower, any Restricted Subsidiary, or any Parent;

(iv) transactions in which Borrower or any Restricted Subsidiary, as the case may be, delivers to Agent a letter from an Independent Financial Advisor stating that such transaction is fair to Borrower or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (i) of Section 7.5(a);

(v) payments or loans (or cancellation of loans) to officers, directors, employees or consultants of Borrower or any of its Subsidiaries or any Parent which are approved by a majority of the Board of Directors of Borrower in good faith;

(vi) any agreement as in effect as of the Escrow Funding Date or any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous to the Lenders in any material respect than the original agreement as in effect on the Escrow Funding Date) or any transaction contemplated thereby as determined in good faith by Borrower;

(vii) the existence of, or the performance by Borrower or any Restricted Subsidiary of its obligations under the terms of, any stockholders or limited liability company agreement (including any registration rights agreement or purchase agreement related thereto) to which it is a party as of the Escrow Funding Date, any transaction, agreement or arrangement described in the 2031 Notes Offering Memoranda and, in each case, any amendment thereto or similar transactions, agreements or arrangements which it may enter into thereafter; *provided, however*, that the existence of, or the performance by Borrower or any Restricted Subsidiary of its obligations under, any future amendment to any such existing transaction, agreement or arrangement or under any similar transaction, agreement or arrangement entered into after the Escrow Funding Date shall only be permitted by this clause (vii) to the extent that the terms of any such existing transaction, agreement or arrangement together with all amendments thereto, taken as a whole, or new transaction, agreement or arrangement are not otherwise more disadvantageous to the Lenders in any material respect than the original transaction, agreement or arrangement as in effect on the Escrow Funding Date;

(viii) (A) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services,

in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement, which are fair to Borrower and the Restricted Subsidiaries in the reasonable determination of the Board of Directors or the senior management of Borrower, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party or (B) transactions with joint ventures or Unrestricted Subsidiaries entered into in the ordinary course of business and consistent with past practice or industry norm;

(ix) any transaction effected as part of a Qualified Securitization Financing;

(x) the issuance of Equity Interests (other than Disqualified Stock) of Borrower to any Person;

(xi) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, management equity plans, stock option and stock ownership plans or similar employee benefit plans approved by the Board of Directors of Borrower or the Board of Directors of any Parent, or the Board of Directors of a Restricted Subsidiary, as applicable, in good faith;

(xii) the entering into of any tax sharing agreement or arrangement among Borrower, its Subsidiaries and any Parent on customary terms, to the extent attributable to the ownership and operation of Borrower and its Subsidiaries and the performance under any such agreement or arrangement; *provided* that such agreement or arrangement is not materially adverse to the interests of the Lenders;

(xiii) any contribution to the capital of Borrower;

(xiv) transactions permitted by, and complying with, Section 7.8;

(xv) transactions between Borrower or any Restricted Subsidiary and any Person, a director of which is also a director of Borrower or any Parent; *provided, however*, that such director abstains from voting as a director of Borrower or such Parent, as the case may be, on any matter involving such other Person;

(xvi) pledges of Equity Interests of Unrestricted Subsidiaries;

(xvii) the formation and maintenance of any consolidated group or subgroup for tax, accounting or cash pooling or management purposes in the ordinary course of business;

(xviii) any employment agreements entered into by Borrower or any Restricted Subsidiary in the ordinary course of business;

(xix) transactions undertaken in good faith (as determined by a responsible financial or accounting officer of Borrower) for the purpose of improving the consolidated tax efficiency of Borrower and its Subsidiaries and not for the purpose of circumventing any covenant set forth in this Agreement;

(xx) non-exclusive licenses of Intellectual Property to or among Borrower, its Restricted Subsidiaries and their Affiliates; and

(xxi) the Transactions.

7.6 Amendment of Certain Documents; Line of Business.

(a) No Credit Party shall amend its charter, bylaws or other organizational documents in any manner materially adverse to the interest of the Lenders (taken as a whole).

(b) The Borrower shall not, and shall not permit any of the Restricted Subsidiaries, to amend, modify or change in any manner materially adverse to the interest of the Lenders (taken as a whole) any term or condition of any documentation governing any Junior Indebtedness having an outstanding principal amount in excess of $100.0 million (other than as a result of any permitted Refinancing thereof) without the consent of Agent (which consent shall not be unreasonably withheld, conditioned or delayed).

(c) No Credit Party shall engage in any business other than the businesses currently engaged in by it on the Escrow Release Date (after giving effect to the Merger) or a Similar Business.

7.7 Liens.

(a) Borrower shall not, and shall not permit any of the Restricted Subsidiaries to, directly or indirectly, create, Incur or suffer to exist any Lien securing Indebtedness of Borrower or any Restricted Subsidiary, other than Permitted Liens, on any asset or property of Borrower or such Restricted Subsidiary.

(b) [Reserved].

(c) For purposes of determining compliance with this Section 7.7, (i) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" but may be permitted in part under any combination thereof and (ii) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" or pursuant to Section 7.7(a), Borrower may, in its sole discretion, classify or reclassify, or later divide, classify or reclassify (as if Incurred at such later time), such Lien securing such item of Indebtedness, Disqualified Stock or Preferred Stock (or any portion thereof) in any manner that complies with this covenant and will be entitled to only include the amount and type of such Lien or such item of Indebtedness secured by such Lien (or any portion thereof) in one of the categories of permitted Liens (or any portion thereof) described in the definition of "Permitted Liens" and, in such event, such Lien securing such item of Indebtedness (or any portion thereof) will be treated as being Incurred or existing pursuant to only such clause or clauses (or any portion thereof) without giving pro forma effect to such item (or portion thereof) when calculating the amount of Liens or Indebtedness that may be Incurred pursuant to any other clause or paragraph.

(d) With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The "Increased Amount" of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common stock of Borrower, the payment of dividends on Preferred Stock in the form of additional shares of Preferred Stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness described in clause (3) of the definition of "Indebtedness."

7.8 When Borrower and Guarantors May Merge or Transfer Assets.

(a) Except for the Escrow Merger and the Escrow Merger (as defined in the 2031 Notes Indenture), each of which shall be explicitly permitted, Borrower may not, directly or indirectly, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not Borrower is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions, to any Person unless:

(i) Borrower is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation, merger, winding up or conversion (if other than Borrower) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a corporation, partnership or limited liability company or similar entity organized or existing under the laws of the United States, any state thereof, or the District of Columbia (Borrower or such Person, as the case may be, being herein called the "Successor Company");

(ii) the Successor Company (if other than Borrower) expressly assumes all the obligations of Borrower under the Loan Documents pursuant to joinder or other applicable documents or instruments (including Collateral Documents or supplements or joinders thereto) in form reasonably satisfactory to Agent;

(iii) immediately after giving effect to such transaction (and treating any Indebtedness which becomes an obligation of the Successor Company or any of its Restricted Subsidiaries as a result of such transaction as having been Incurred by the Successor Company or such Restricted Subsidiary at the time of such transaction) no Default shall have occurred and be continuing;

(iv) immediately after giving pro forma effect to such transaction, as if such transaction had occurred at the beginning of the applicable four-quarter period (and treating any Indebtedness which becomes an obligation of the Successor Company or any of its Restricted Subsidiaries as a result of such transaction as having been Incurred by the Successor Company or such Restricted Subsidiary at the time of such transaction), either

(A) the Successor Company would be permitted to Incur at least $1.00 of additional Indebtedness pursuant to the Fixed Charge Coverage Ratio test set forth in Section 7.1(a); or

(B) the Fixed Charge Coverage Ratio of Borrower would be no less than such ratio immediately prior to such transaction;

(v) if Borrower is not the Successor Company, each Subsidiary Guarantor, unless it is the other party to the transactions described above, shall have by supplemental documentation confirmed that its Guaranty of the Obligations hereunder (and related grant of a security interest in the Collateral) shall apply to such Person's obligations under the Loan Documents; and

(vi) the Successor Company shall have delivered to Agent (x) information reasonably requested in writing by Agent (or any Lender through Agent) reasonably required by regulatory authorities under "know your customer" and anti-money laundering rules and regulations and (y) an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, amalgamation or transfer and such supplemental documentation (if any) comply with this Agreement.

The Successor Company (if other than Borrower) will succeed to, and be substituted for, Borrower under this Agreement and the other Loan Documents, and in such event Borrower will automatically be released and discharged from its obligations under this Agreement and the other Loan Documents. Notwithstanding the foregoing clauses (iii) and (iv) of this Section 7.8(a), (A) Borrower or any Restricted Subsidiary may merge, consolidate or amalgamate with or transfer all or part of its properties and assets to a Restricted Subsidiary or, provided that Borrower is the Successor Company, Borrower, and (B) Borrower may merge, consolidate or amalgamate with an Affiliate incorporated solely for the purpose of reincorporating Borrower in another state of the United States or the District of Columbia (collectively, "Permitted Jurisdictions") or may convert into a corporation, partnership or limited liability company, so long as the amount of Indebtedness of Borrower and the Restricted Subsidiaries is not increased thereby. This Section 7.8(a) will not apply to a sale, assignment, transfer, conveyance or other disposition of assets between or among Borrower and the Restricted Subsidiaries.

(b) Subject to Section 13.10 hereof, no Subsidiary Guarantor shall, and Borrower shall not permit any such Subsidiary Guarantor to, consolidate, amalgamate or merge with or into or wind up or convert into (whether or not such Subsidiary Guarantor is the surviving Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets in one or more related transactions to, any Person, unless:

(i) either (A) such Subsidiary Guarantor is the surviving Person or the Person formed by or surviving any such consolidation, amalgamation or merger (if other than such Subsidiary Guarantor) or to which such sale, assignment, transfer, lease, conveyance or other disposition shall have been made is a company, corporation, partnership or limited liability company or similar entity organized or existing under the laws of the United States, any state thereof or the District of Columbia (such Subsidiary Guarantor or such Person, as the case may be, being herein called the "Successor Guarantor") and the Successor Guarantor (if other than such Subsidiary Guarantor) expressly assumes all the obligations of such Subsidiary Guarantor under this Agreement and the other Loan Documents or the Guaranty, as applicable, pursuant to supplemental documentation or other applicable documents or instruments (including Collateral Documents, or supplements or joinders thereto) in form reasonably satisfactory to Agent, or (B) such sale or disposition or consolidation, amalgamation or merger is not in violation of Section 7.4; and

(ii) the Successor Guarantor (if other than such Subsidiary Guarantor) shall have delivered or caused to be delivered to Agent an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, amalgamation, merger or transfer and such supplemental documentation (if any) comply with this Agreement.

Except as otherwise provided in this Agreement, the Successor Guarantor (if other than such Subsidiary Guarantor) will succeed to, and be substituted for, such Subsidiary Guarantor under this Agreement and the other Loan Documents or the Guaranty, as applicable, and such Guarantor will automatically be released and discharged from its obligations under this Agreement and the other Loan Documents or its Guaranty. Notwithstanding the foregoing, (1) a Subsidiary Guarantor may merge,

amalgamate or consolidate with an Affiliate incorporated solely for the purpose of reincorporating such Subsidiary Guarantor in a Permitted Jurisdiction or may convert into a limited liability company, corporation, partnership or similar entity organized or existing under the laws of any Permitted Jurisdiction so long as the amount of Indebtedness of such Subsidiary Guarantor is not increased thereby and (2) a Subsidiary Guarantor may merge, amalgamate or consolidate with Borrower or another Subsidiary Guarantor.

In addition, notwithstanding the foregoing, a Subsidiary Guarantor may (i) consolidate, amalgamate or merge with or into or wind up or convert into, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its properties or assets to Borrower or any Subsidiary Guarantor or (ii) liquidate or dissolve if Borrower determines in good faith that such liquidation or dissolution is in the best interests of Borrower.

7.9 [Reserved].

7.10 Change of Fiscal Year. Borrower shall not change its Fiscal Year without prior notice to Agent, in which case, Borrower and Agent will, and are hereby authorized by the Lenders to, make any adjustments to this Agreement that are necessary to reflect such change in Fiscal Year.

7.11 [Reserved].

7.12 Financial Performance Covenant. With respect to the Revolving Credit Facility only, Borrower shall not permit the Consolidated First Lien Net Leverage Ratio as of the last day of any fiscal quarter (commencing with the first full fiscal quarter of Borrower ending after the Escrow Release Date) to exceed 4.50 to 1.00.

7.13 Activities of Escrow Borrower Prior to the Escrow Release Date. Prior to the Escrow Release Date, Escrow Borrower shall not engage in any material business activity or enter into any material transaction or agreement except borrowing the Term B Loans, performing its obligations in respect of the Term B Loans, this Agreement and the Escrow Agreement, consummating the Transactions and the Escrow Release, satisfying the Escrow Conditions, prepaying the Term B Loans as set forth under Section 2.21, if applicable, and conducting such other activities as are necessary or appropriate to carry out the foregoing.

8. TERM

8.1 Termination. The financing arrangements contemplated hereby shall be in effect until the Termination Date.

8.2 Survival of Obligations Upon Termination of Financing Arrangements. Except as otherwise expressly provided for in the Loan Documents, no termination or cancellation (regardless of cause or procedure) of any financing arrangement under this Agreement shall in any way affect or impair the obligations, duties and liabilities of the Credit Parties or the rights of Agent, the L/C Issuers and the Lenders relating to any unpaid portion of the Loans or any other Obligations, due or not due, liquidated, contingent or unliquidated, or any transaction or event occurring prior to such termination, or any transaction or event, the performance of which is required after the Termination Date. Except as otherwise expressly provided herein or in any other Loan Document, all undertakings, agreements, covenants, warranties and representations of or binding upon the Credit Parties, and all rights of Agent, each L/C Issuer and each Lender, all as contained in the Loan Documents, shall not terminate or expire, but rather shall survive any such termination or cancellation and shall continue in full force and effect until the Termination Date; provided, that the payment obligations under Sections 2.13 and 2.14, and the indemnities contained in the Loan Documents, shall survive the Termination Date.

9. DEFAULTS AND REMEDIES

9.1 Events of Default. The occurrence of any one or more of the following events constitute an "Event of Default":

(a) there is a default in any payment of interest or other amounts (other than principal or premium) on any Loans or Letter of Credit Obligations when due, and such default continues for a period of five Business Days; or

(b) there is a default in the payment of principal or premium, if any, of any Loans or Letter of Credit Obligations when due, upon declaration or otherwise; or

(c) any representation or warranty made or deemed made in or in connection with any Loan Document or the borrowings hereunder shall prove to have been false or misleading in any material respect when so made or deemed made; or

(d) default shall be made in the due observance or performance by Escrow Borrower (but only prior to the Assumption and Joinder), Borrower or any Restricted Subsidiary, as applicable, of any covenant, condition or agreement contained in Section 2.20, 2.21, 5.1(f), 6.1(a) (solely as to Borrower), in Section 7 or in the Escrow Agreement; provided that (A) no Default or Event of Default under Section 7.12 shall be deemed to have occurred until the date the financial statements for the relevant fiscal quarter are required to be delivered under Section 6.1(b) or (c), as applicable, and (B) no Default or Event of Default under Section 7.12 shall constitute a Default or an Event of Default with respect to any Loans or Commitments hereunder, other than the Revolving Credit Loans and the Revolving Credit Commitments, until the date on which the Requisite Revolving Lenders have declared all amounts outstanding under the Revolving Credit Facility to be immediately due and payable and/or terminated all outstanding Revolving Credit Commitments as a result of such Event of Default (and for so long as the Requisite Revolving Lenders have not rescinded such acceleration); or

(e) default shall be made in the due observance or performance by Borrower or any Restricted Subsidiary of any covenant, condition or agreement contained in any Loan Document (other than those specified in (a), (b) or (d) above) and such default shall continue unremedied for a period of 30 days after notice thereof from Agent to Borrower (which notice shall also be given at the request of any Lender); or

(f) (i) Borrower or any Restricted Subsidiary shall fail to pay any principal or interest, regardless of amount, due in respect of any Indebtedness for borrowed money for which the aggregate principal amount exceeds $100.0 million, when and as the same shall become due and payable, or (ii) Borrower or any Restricted Subsidiary shall breach or default under any other material term of Indebtedness for borrowed money for which the aggregate principal amount exceeds $100.0 million beyond the grace period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of that Indebtedness (or a trustee on behalf of such holder or holders), to cause, that Indebtedness to become or be declared due and payable (or redeemable) prior to its stated maturity, provided that this clause (f)(ii) 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; or

(g) Borrower or any Significant Subsidiary (or any group of Subsidiaries that together would constitute a Significant Subsidiary) pursuant to or within the meaning of any Bankruptcy Law:

(i) commences a voluntary case; or

(ii) consents to the entry of an order for relief against it in an involuntary case; or

(iii) consents to the appointment of a Custodian of it or for any substantial part of its property; or

(iv) makes a general assignment for the benefit of its creditors or takes any comparable action under any foreign laws relating to insolvency, or

(h) a court of competent jurisdiction enters an order or decree under any Bankruptcy Law that:

(i) is for relief against Borrower or any Significant Subsidiary in an involuntary case; or

(ii) appoints a Custodian of Borrower or any Significant Subsidiary or for any substantial part of its property; or

(iii) orders the winding up or liquidation of Borrower or any Significant Subsidiary; or

any similar relief is granted under any foreign laws and, in each case, the order or decree remains unstayed and in effect for 60 days; or

(i) there is a failure by Borrower or any Restricted Subsidiary to pay final judgments aggregating in excess of $100.0 million or its foreign currency equivalent (net of any amounts which are covered by enforceable insurance policies issued by solvent carriers), which judgments are not discharged, waived or stayed for a period of 60 days; or

(j) any material provision of any Loan Document for any reason (other than due to (i) Agent's failure to take or refrain from taking any action under its sole control or (ii) Agent's loss of possessory Collateral that was in its possession or failure to file Code financing statements or continuation statements or other equivalent filings) ceases to be in full force and effect (or any Credit Party shall challenge in writing the enforceability of any Loan Document or shall assert in writing that any provision of any of the Loan Documents has ceased to be or otherwise is not valid, binding and enforceable in accordance with its terms), or any Loan Document ceases to create a valid and perfected security interest in favor of Agent for the benefit of the Secured Parties in any material portion of the Collateral purported to be covered thereby (subject to Permitted Liens and qualifications with respect to perfection set forth in this Agreement) having the priority contemplated by the Collateral Documents and the applicable Intercreditor Agreements, except to the extent that any such loss of perfection or priority results from the failure of Agent to maintain possession of certificates actually delivered to them representing securities pledged under the Collateral Documents or to file Code financing statements or continuation statements or other equivalent filings; or

(k) a Change of Control shall have occurred after the Escrow Release Date;

(l) an ERISA Event shall have occurred that, when taken either alone or together with all other such ERISA Events then outstanding, would reasonably be expected to have a Material Adverse Effect; or

(m) Borrower fails to comply with the fifth to last paragraph of the Escrow Funding Date Letter.

The foregoing shall constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

9.2 Remedies. If any Event of Default (other than (x) an Event of Default specified in Section 9.1(m) or (y) an Event of Default specified in Section 9.1(d) as a result of a default in the observance of Section 7.12) has occurred and is continuing, Agent may, and at the written request of the Requisite Lenders, shall, by notice to Borrower, take any or all of the following actions, at the same or different times: (i) terminate any outstanding Commitments, and thereupon such Commitments shall terminate immediately; (ii) declare all or any portion of the Obligations hereunder (other than, for the avoidance of doubt, Cash Management Obligations and Secured Hedging Obligations), including all or any portion of any Loan to be forthwith due and payable, and require that the Letter of Credit Obligations be cash collateralized in the manner set forth in Section 2.6, all without presentment, demand, protest or further notice of any kind, all of which are expressly waived by Borrower and each other Credit Party; or (iii) exercise any rights and remedies provided to Agent under the Loan Documents or at law or equity, including all remedies provided under the Code and any other applicable law of any jurisdiction; provided that, upon the occurrence of an Event of Default specified in Section 9.1(f) relating to Borrower only, or Section 9.1(g) relating to Borrower only, all Revolving Credit Commitments shall be terminated and all of the Obligations hereunder (other than Cash Management Obligations and Secured Hedging Obligations) shall become immediately due and payable without declaration, notice or demand by any Person. If any Event of Default specified in Section 9.1(m) has occurred and is continuing, at the written request of the Majority Bank Lead Arrangers (as defined in the Escrow Funding Date Letter), Agent shall, by notice to Borrower, take any or all of the following actions, at the same or different times: (i) terminate any outstanding Commitments, and thereupon such Commitments shall terminate immediately; (ii) declare all or any portion of the Obligations hereunder (other than, for the avoidance of doubt, Cash Management Obligations and Secured Hedging Obligations), including all or any portion of any Loan to be forthwith due and payable, and require that the Letter of Credit Obligations be cash collateralized in the manner set forth in Section 2.6, all without presentment, demand, protest or further notice of any kind, all of which are expressly waived by Borrower and each other Credit Party; or (iii) exercise any rights and remedies provided to Agent under the Loan Documents or at law or equity, including all remedies provided under the Code and any other applicable law of any jurisdiction. If any Event of Default specified in Section 9.1(d) as a result of a default in the observance of Section 7.12 has occurred and is continuing, at the written request of the Required Revolving Lenders (but not the Required Lenders or any other Lender or group of Lenders), Agent shall, by notice to Borrower, take any or all of the following actions, at the same or different times: (i) terminate any outstanding Revolving Credit Commitments, and thereupon such Revolving Credit Commitments shall terminate immediately; (ii) declare all or any portion of the Obligations hereunder in respect of the Revolving Credit Commitments, including all or any portion of any Revolving Credit Loan to be forthwith due and payable, and require that the Letter of Credit Obligations be cash collateralized in the manner set forth in Section 2.6, all without presentment, demand, protest or further notice of any kind,

all of which are expressly waived by Borrower and each other Credit Party; or (iii) exercise any rights and remedies provided to Agent under the Loan Documents or at law or equity, including all remedies provided under the Code and any other applicable law of any jurisdiction. Agent shall, as soon as reasonably practicable, provide to Borrower notice of any action taken pursuant to this Section 9.2 (but failure to provide such notice shall not impair the rights of Agent or the Lenders hereunder and shall not impose any liability upon Agent or the Lenders for not providing such notice).

9.3 Waiver by Credit Parties Except as otherwise provided for in this Agreement or by applicable law, each Credit Party waives, to the fullest extent permitted by law (including for purposes of Article 13): (a) presentment, demand and protest and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by Agent as Collateral on which any Credit Party may in any way be liable, and hereby ratifies and confirms whatever Agent may do in this regard, (b) all rights to notice and a hearing prior to Agent's taking possession or control of, or to Agent's replevy, attachment or levy upon, the Collateral or any bond or security that might be required by any court prior to allowing Agent to exercise any of its remedies, and (c) the benefit of all valuation, appraisal, marshaling and exemption laws. Each Credit Party acknowledges that in the event such Credit Party fails to perform, observe or discharge any of its obligations or liabilities under this Agreement or any other Loan Document, any remedy of law may prove to be inadequate relief to Agent and the Lenders; therefore, such Credit Party agrees, except as otherwise provided in this Agreement or by applicable law, that Agent and the Lenders shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.

10. APPOINTMENT OF AGENT

10.1 Appointment of Agent. Citi, as Agent, is hereby appointed to act on behalf of all Lenders with respect to the administration of the Loans and the Commitments made to Borrower and to act as agent on behalf of all Lenders with respect to Collateral of the Credit Parties under this Agreement and the other Loan Documents. The provisions of this Section 10.1 are solely for the benefit of Agent and Lenders and no Credit Party nor any other Person shall have any rights as a third party beneficiary of any of the provisions hereof (other than Sections 10.6 and 10.11). In performing its functions and duties under this Agreement and the other Loan Documents, Agent shall act solely as an agent of Lenders and does not assume or shall not be deemed to have assumed any obligation toward or relationship of agency or trust with or for any Credit Party or any other Person. Agent shall not have any duties or responsibilities except for those expressly set forth in this Agreement and the other Loan Documents. The duties of Agent shall be mechanical and administrative in nature and no Agent shall have, or be deemed to have, by reason of this Agreement, any other Loan Document or otherwise a fiduciary relationship in respect of any Lender. Except as expressly set forth in this Agreement and the other Loan Documents, Agent shall not have any duty to disclose, nor shall they be liable for failure to disclose, any information relating to any Credit Party or any of their respective Subsidiaries that is communicated to or obtained by Agent or any of its Affiliates in any capacity. Agent nor any of its Affiliates nor any of their respective officers, directors, employees, agents or representatives shall be liable to any Lender for any action taken or omitted to be taken by it hereunder or under any other Loan Document, or in connection herewith or therewith, except for damages caused by its or their own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment.

If Agent shall request instructions from Requisite Lenders or all affected Lenders with respect to any act or action (including failure to act) in connection with this Agreement or any other Loan Document, then Agent shall be entitled to refrain from such act or taking such action unless and until Agent

shall have received instructions from Requisite Lenders or all affected Lenders, as the case may be, and Agent shall not Incur liability to any Person by reason of so refraining. Agent shall be fully justified in failing or refusing to take any action hereunder or under any other Loan Document (a) if such action would, in the opinion of Agent be contrary to law or the terms of this Agreement or any other Loan Document, (b) if such action would, in the reasonable opinion of Agent expose Agent to Environmental Liabilities, or (c) if Agent shall not first be indemnified to its satisfaction against any and all liability and expense which may be Incurred by it by reason of taking or continuing to take any such action. Without limiting the foregoing, no Lender shall have any right of action whatsoever against Agent as a result of Agent acting or refraining from acting hereunder or under any other Loan Document in accordance with the instructions of Requisite Lenders or all affected Lenders, as applicable.

10.2 Agent's Reliance, Etc. Neither Agent nor any of its Affiliates nor any of their respective directors, officers, agents or employees shall be liable for any action taken or not taken by it or them under or in connection with this Agreement or the other Loan Documents, except for damages caused by its or their own gross negligence or willful misconduct or that of its Affiliates or their respective directors, officers, agents or employees as determined by a court of competent jurisdiction in a final and non-appealable judgment. Without limiting the generality of the foregoing, Agent: (a) may treat the payee of any Note as the holder thereof until Agent receives written notice of the assignment or transfer thereof signed by such payee and in form reasonably satisfactory to Agent; (b) may consult with legal counsel, independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts; (c) makes no warranty or representation to any Lender and shall not be responsible to any Lender for any statements, warranties or representations made in or in connection with this Agreement or the other Loan Documents; (d) shall not have any duty to ascertain or to inquire as to the performance or observance of any of the terms, covenants or conditions of this Agreement or the other Loan Documents on the part of any Credit Party or to inspect the Collateral (including the books and records) of any Credit Party; (e) shall not be responsible to any Lender for the due execution, legality, validity, enforceability, genuineness, sufficiency or value of this Agreement or the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto or the value or the sufficiency of any Collateral; (f) shall Incur no liability under or in respect of this Agreement or the other Loan Documents by acting upon any notice, consent, certificate or other instrument or writing (which may be by fax, telegram, cable or telex) believed by it to be genuine and signed or sent by the proper party or parties; and (g) shall be entitled to delegate any of its duties hereunder to one or more sub-agents.

Except for action requiring the approval of Requisite Lenders or all Lenders, as the case may be, Agent shall be entitled to use its discretion with respect to exercising or refraining from exercising any rights which may be vested in it by, and with respect to taking or refraining from taking any action or actions which it may be able to take under or in respect of, this Agreement, unless Agent shall have been instructed by Requisite Lenders or all Lenders, as the case may be, to exercise or refrain from exercising such rights or to take or refrain from taking such action. No Agent shall Incur any liability to the Lenders under or in respect of this Agreement with respect to anything which it may do or refrain from doing in the reasonable exercise of its judgment or which may seem to it to be necessary or desirable in the circumstances, except for its own gross negligence, bad faith, material breach or willful misconduct as determined by a court of competent jurisdiction in a final and non-appealable judgment. No Agent shall be liable to any Lender in acting or refraining from acting under this Agreement in accordance with the instructions of Requisite Lenders or all Lenders, as the case may be, and any action taken or failure to act pursuant to such instructions shall be binding on all Lenders.

10.3 Citi and Affiliates. With respect to its Commitments hereunder, Citi shall have the same rights and powers under this Agreement and the other Loan Documents as any other Lender and may exercise the same as though it were not Agent; and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated, include Citi in its individual capacity. Citi and each of its Affiliates may lend money to, invest in, and generally engage in any kind of business with, any Credit Party, any of their Affiliates and any Person who may do business with or own securities of any Credit Party or any such Affiliate, all as if Citi were not Agent and without any duty to account therefor to Lenders. Citi and each of its Affiliates may accept fees and other consideration from any Credit Party for services in connection with this Agreement or otherwise without having to account for the same to Lenders.

10.4 Lender Credit Decision. Each (x) Term B Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender and based on the Financial Statements referred to in Section 4.4(a) and such other documents and information as it has deemed appropriate, made its own credit and financial analysis of the Credit Parties and its own decision to enter into this Agreement and (y) Revolving Lender acknowledges that it has, independently and without reliance upon Agent or any other Lender and based on the most recent Financial Statements as of the Escrow Funding Date and such other documents and information as it has deemed appropriate, made its own credit and financial analysis of the Credit Parties and its own decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement. Each Lender acknowledges the potential conflict of interest of each other Lender as a result of Lenders holding disproportionate interests in the Loans, and expressly consents to, and waives any claim based upon, such conflict of interest. Each Lender acknowledges the potential conflict of interest between Citi, as a Lender, holding disproportionate interests in the Loans, and Citi, as Agent.

10.5 Indemnification. Each Lender and each L/C Issuer severally agrees to indemnify Agent (to the extent not reimbursed by Credit Parties and without limiting the obligations of Credit Parties hereunder), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever that may be imposed on, Incurred by, or asserted against Agent in any way relating to or arising out of this Agreement or any other Loan Document or any action taken or omitted to be taken by Agent in connection therewith in accordance with its Pro Rata Share; provided, that no Lender or L/C Issuer shall be liable to Agent for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from Agent's gross negligence or willful misconduct of Agent as determined by a court of competent jurisdiction in a final and non-appealable judgment. Without limiting the foregoing, each Lender and each L/C Issuer severally agrees to reimburse Agent promptly upon demand for its Pro Rata Share of any out-of-pocket expenses (including reasonable counsel fees) Incurred by 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 and each other Loan Document, to the extent that Agent is not reimbursed for such expenses by Credit Parties.

10.6 Successor Agent. Agent may resign at any time by giving not less than thirty (30) days' prior written notice thereof to Lenders and Borrower. Upon any such resignation, the Requisite Lenders (in consultation with Borrower) shall have the right to appoint a successor Agent. If no successor Agent shall have been so appointed by the Requisite Lenders and shall have accepted such appointment within thirty (30) days after the resigning Agent's giving notice of resignation, then the resigning Agent may, on behalf of Lenders, appoint a successor Agent, which shall be a Lender, if a Lender is willing to accept such

appointment, or otherwise shall be a commercial bank, financial institution or trust company. If no successor Agent has been appointed pursuant to the foregoing, within thirty (30) days after the date such notice of resignation was given by the resigning Agent, such resignation shall become effective and the Requisite Lenders shall thereafter perform all the duties of Agent hereunder, in each case, until such time, if any, as the Requisite Lenders appoint a successor Agent as provided above. Any successor Agent appointed by Requisite Lenders hereunder shall be subject to the approval of Borrower, such approval not to be unreasonably withheld or delayed; provided that such approval shall not be required if an Event of Default has occurred and is continuing. Upon the acceptance of any appointment as Agent hereunder by a successor Agent, such successor Agent shall succeed to and become vested with all the rights, powers, privileges and duties of the resigning Agent. Upon the earlier of the acceptance of any appointment as Agent hereunder by a successor Agent or the effective date of the resigning Agent's resignation, the resigning Agent shall be discharged from its duties and obligations under this Agreement and the other Loan Documents, except that any indemnity rights or other rights in favor of such resigning Agent shall continue. After any resigning Agent's resignation hereunder, the provisions of this Section 10 shall inure to its benefit as to any actions taken or omitted to be taken by it while it was acting as Agent under this Agreement and the other Loan Documents.

10.7 Setoff and Sharing of Payments. In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuance of any Event of Default, each Lender and L/C Issuer is hereby authorized at any time or from time to time, without prior notice to any Credit Party or to any Person other than Agent, any such notice being hereby expressly waived, to offset and to appropriate and to apply any and all balances held by it at any of its offices for the account (other than Excluded Accounts (as defined in the Security Agreement)) of a Credit Party (regardless of whether such balances are then due to such Credit Party) and any other Indebtedness at any time held or owing by that Lender or L/C Issuer to or for the credit or for the account of a Credit Party against and on account of any of the Obligations hereunder that are not paid when due; provided that the Lender or L/C Issuer exercising such offset rights shall give notice thereof to the affected Credit Party promptly after exercising such rights. Any Lender or L/C Issuer exercising a right of setoff or otherwise receiving any payment on account of the Obligations hereunder in excess of its Pro Rata Share thereof shall purchase for cash (and the other Lenders or L/C Issuers shall sell) such participations in each such other Lender's or L/C Issuer's Pro Rata Share of the Obligations hereunder as would be necessary to cause such Lender or L/C Issuer to share the amount so offset or otherwise received with each other Lender or L/C Issuer in accordance with their respective Pro Rata Shares (other than payments made pursuant to Section 2.2 or 2.3 and offset rights exercised by any Lender or L/C Issuer with respect to Sections 2.11, 2.16 or 2.14). Each Lender's obligation under this Section 10.7 shall be in addition to and not in limitation of its obligation to purchase a participation in an amount equal to its Pro Rata Share of Letter of Credit Obligations under Section 2.6. Each Credit Party agrees, to the fullest extent permitted by law and subject to the limitations set forth herein, that any Lender or L/C Issuer may exercise its right to offset with respect to amounts in excess of its Pro Rata Share of the Obligations hereunder owed to it and may sell participations in such amounts so offset to other Lenders and L/C Issuers. Notwithstanding the foregoing, if all or any portion of the offset amount or payment otherwise received is thereafter recovered from the Lender or L/C Issuer that has exercised the right of offset, the purchase of participations by that Lender or L/C Issuer shall be rescinded and the purchase price restored without interest. If a Defaulting Lender or Impacted Lender receives any such payment as described in this Section 10.7, such Lender shall turn over such payments to Agent as cash collateral to be applied in accordance with the provisions of Section 2.9.

10.8 Dissemination of Information. Agent shall not be required to deliver to any Lender originals or copies of any documents, instruments, notices, communications or other information received by Agent from any Credit Party, any Subsidiary, any Lender or any other Person under or in connection

with this Agreement or any other Loan Document except (i) as specifically provided for in this Agreement or any other Loan Document, and (ii) as specifically requested from time to time in writing by any Lender with respect to a specific document, instrument, notice or other written communication received by and in the possession of Agent at the time of receipt of such request and then only in accordance with such specific request.

10.9 Actions in Concert. Anything in this Agreement to the contrary notwithstanding, each Lender hereby agrees with each other Lender that no Lender shall take any action to protect or enforce its rights arising out of this Agreement or the Notes (other than exercising any rights of setoff) without first obtaining the prior written consent of Agent and Requisite Lenders, it being the intent of Lenders that any such action to protect or enforce rights under this Agreement and the Notes shall be taken in concert and at the direction or with the consent of Agent or Requisite Lenders; provided, however, that (i) each Lender shall be entitled to file a proof of claim in any proceeding under any Insolvency Law to the extent that such Lender disagrees with Agent's composite proof of claim filed on behalf of all Lenders, (ii) each Lender shall be entitled to vote its claim with respect to any plan of reorganization in any proceeding under any Insolvency Law and (iii) each Lender shall be entitled to pursue its deficiency claim after liquidation of all or substantially all of the Collateral and application of the proceeds therefrom.

10.10 Procedures. Agent is hereby authorized by each Credit Party and each other Person to whom any Obligations hereunder are owed to establish procedures (and to amend such procedures from time to time) to facilitate administration and servicing of the Loans and other matters incidental thereto. Without limiting the generality of the foregoing, Agent is hereby authorized to establish procedures to make available or deliver, or to accept, notices, documents and similar items on, by posting to or submitting and/or completion on, the Platform. The posting, completion and/or submission by any Credit Party of any communication pursuant to the Platform shall constitute a representation and warranty by the Credit Parties that any representation, warranty, certification or other similar statement required by the Loan Documents to be provided, given or made by a Credit Party in connection with any such communication is true, correct and complete in all material respects except as expressly noted in such communication or otherwise on the Platform.

10.11 Collateral Matters.

(a) Lenders hereby irrevocably authorize and direct Agent to release any Liens upon any Collateral (and any such Liens shall be automatically released), without further action by Agent or any other Person, (i) upon the Termination Date; (ii) in respect of property of any Subsidiary being sold or disposed of or transferred (including property owned by any Subsidiary being sold or disposed of or transferred) to a Person that is not a Credit Party if the sale or disposition or transfer is made in compliance with this Agreement and the Loan Documents (or otherwise is not prohibited) (and Agent may, in its discretion, request, and rely conclusively without further inquiry on, a certificate from Borrower certifying as such prior to Agent taking any action to evidence such release) or such sale or disposition is approved by the Requisite Lenders (or such greater number of Lenders as may be required under Section 12.2); (iii) to the extent the applicable Collateral is or becomes Excluded Property pursuant to a transaction made in compliance with this Agreement; (iv) to the extent the applicable Collateral constitutes property leased to Credit Parties under a lease which has expired or been terminated in a transaction permitted under this Agreement; (v) to the extent the Credit Party owning such Collateral is released from its Obligations hereunder (pursuant to Section 13.10 or otherwise); (vi) as required by the terms of any Intercreditor Agreement; or (vii) in respect of the Escrow Account and the Escrowed Property, on the Escrow Release Date in accordance with the terms hereof and of the Escrow Agreement. Upon request by Agent or Borrower at any time, Lenders will confirm in writing Agent's authority to

release any Lien upon particular types or items of Collateral pursuant to this Section 10.11. In addition, the Lenders hereby authorize Agent to subordinate any Lien granted to or held by Agent upon any Collateral to any Lien on such asset permitted pursuant to paragraph (6)(C) of the definition of "Permitted Liens" (to the extent relating to Indebtedness permitted to be Incurred pursuant to clause (iv) of Section 7.1(b)). In addition, the Guaranty of the Obligations by, and the liens on the assets of, any Restricted Subsidiary which is designated as an Unrestricted Subsidiary in compliance with this Agreement will automatically be terminated and released at the time of such designation.

(b) Promptly, and in any event not later than five (5) Business Days' following written request by Borrower, Agent shall (and is hereby irrevocably authorized and directed by Lenders to) execute such documents as may be necessary to evidence the release (or subordination) of its Liens upon such Collateral as contemplated by Section 10.11(a); provided, however, that (i) Agent may request certification to the effect that such release or subordination and the transactions related thereto are made in compliance with this Agreement and the Loan Documents and shall be fully protected in relying on such certification by Borrower (and shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty contained therein) and any execution and delivery of such requested documentation shall be without recourse or warranty to Agent (other than Agent's authority to execute and deliver such documents) and (ii) such release shall not in any manner discharge, affect or impair the Obligations hereunder or any Liens (other than those expressly being released) upon (or obligations of Credit Parties in respect of) all interests retained by Credit Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral to the extent contemplated by the Collateral Documents.

10.12 Additional Agents. None of the Lenders or Lead Arrangers shall have any right, power, obligation, liability, responsibility or duty under this Agreement or any other Loan Document other than those applicable to all Lenders as such. No Agent, Lender or Lead Arranger has any fiduciary, advisory or agency relationship with or duty to any Credit Party arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Agent and Lenders, on one hand, and the Credit Parties, on the other hand, in connection herewith or with such other Loan Documents is solely that of debtor and creditor. Without limiting the foregoing, none of the Lenders so identified shall have or be deemed to have any fiduciary relationship with any other Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other entities so identified in deciding to enter into this Agreement or any other Loan Document or in taking or not taking action hereunder or thereunder. If necessary or appropriate Agent may appoint a Person to serve as separate collateral agent under any Loan Document. Each right and remedy intended to be available to Agent under the Loan Document shall also be vested in Agent. The Secured Parties shall execute and deliver any instrument or agreement that Agent may request to effect such appointment. If such Person appointed by Agent shall die, dissolve, become incapable of acting, resign or be removed, then all the rights and remedies of Agent, to the extent permitted by applicable law, shall vest in and be exercised by Agent until appointment of a new agent.

10.13 Distribution of Materials to Lenders and L/C Issuers.

(a) Borrower acknowledges and agrees that the Loan Documents and all reports, notices, communications and other information or materials provided or delivered by, or on behalf of, Borrower hereunder (collectively, the "Borrower Materials") may be disseminated by, or on behalf of, Agent, and made available to, the Lenders and L/C Issuers by posting such Borrower Materials on the Platform. Borrower authorizes Agent to download copies of its logos from its website and post copies thereof on the Platform. Borrower hereby acknowledge that certain of the Lenders may be "public-side" Lenders (i.e., Lenders that do not wish to receive MNPI) (each, a "Public Lender"). Borrower hereby

agrees that it will use commercially reasonable efforts to identify that portion of Borrower Materials that may be distributed to the Public Lenders and that (i) all such Borrower Materials shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof, (ii) by marking Borrower Materials "PUBLIC," Borrower shall be deemed to have authorized Agent and the Lenders to treat such Borrower Materials as either publicly available information or not material information (although it may be sensitive, confidential and proprietary) with respect to Borrower, Parent Guarantor, their Subsidiaries or their securities for purposes of United States federal and state securities laws, (iii) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Lender", and (iv) Agent shall be entitled to treat Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Lender."

(b) Each Lender and each L/C Issuer represents, warrants, acknowledges and agrees that (i) Borrower Materials may contain MNPI concerning Borrower, its Affiliates or their securities, (ii) it has developed compliance policies and procedures regarding the handling and use of MNPI, and (iii) it shall use all such Borrower Materials in accordance with Section 12.8 and any applicable laws and regulations, including federal and state securities laws and regulations.

(c) If any Lender or L/C Issuer has elected to abstain from receiving MNPI concerning Borrower, Parent Guarantor, their respective Affiliates or their respective securities, such Lender or L/C Issuer acknowledges that, notwithstanding such election, Agent and/or Borrower will, from time to time, make available syndicate-information (which may contain MNPI) as required by the terms of, or in the course of administering, the credit facilities, including this Agreement and the other Loan Documents, to the credit contact(s) identified for receipt of such information on such Lender's or L/C Issuer's administrative questionnaire who are able to receive and use all syndicate-level information (which may contain MNPI) in accordance with such Lender's or L/C Issuer's compliance policies and Contractual Obligations and applicable law, including federal and state securities laws; provided that if such contact is not so identified in such questionnaire, the relevant Lender or L/C Issuer hereby agrees to promptly (and in any event within one (1) Business Day) provide such a contact to Agent and Borrower upon oral or written request therefor by Agent or Borrower. Notwithstanding such Lender's or L/C Issuer's election to abstain from receiving MNPI, such Lender or L/C Issuer acknowledges that if such Lender or L/C Issuer chooses to communicate with Agent, it assumes the risk of receiving MNPI concerning Borrower, Parent Guarantor, their Affiliates or their securities.

10.14 Agent. Notwithstanding anything to the contrary set forth in this Agreement, all determinations of Agent under the Loan Documents shall be made by Agent.

10.15 Intercreditor Agreements. The Lenders and the other Secured Parties hereby irrevocably authorize and instruct Agent to, without any further consent of any Lender or any other Secured Party, enter into (or join, acknowledge and consent to) or amend, renew, extend, supplement, restate, replace, waive or otherwise modify (i) the Pari Passu Intercreditor Agreement and any joinder to the Pari Passu Intercreditor Agreement and (ii) any Junior Intercreditor Agreement with the collateral agent or representative of the holders of Indebtedness secured by a Lien permitted hereunder and intended to be junior to the Liens on the Collateral securing the Obligations under this Agreement (any of the foregoing, an "Intercreditor Agreement" and, collectively, the "Intercreditor Agreements"). The Lenders and the other Secured Parties irrevocably agree that (x) Agent may rely exclusively on a certificate of an Officer of Borrower as to whether the Liens governed by such Intercreditor Agreements and the priority of such Liens as contemplated thereby are not prohibited and (y) any Intercreditor Agreement entered into by Agent shall be binding on the Secured Parties, and each Lender and the other Secured Parties hereby agrees that it will

take no actions contrary to the provisions of, if entered into and if applicable, any Intercreditor Agreement. The foregoing provisions are intended as an inducement to any provider of any Indebtedness not prohibited by Section 7.1 hereof to extend credit to the Credit Parties and such persons are intended third-party beneficiaries of such provisions.

10.16 Certain ERISA Matters.

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

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans and this Agreement,

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

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

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) such Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, Agent and not, for the avoidance of doubt, to or for the benefit of Borrower or any Guarantor, that Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans and this Agreement (including in connection with the reservation or exercise of any rights by Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

10.17 Erroneous Payments.

(a) If Agent (x) notifies a Lender, L/C Issuer or Secured Party, or any Person who has received funds on behalf of a Lender, L/C Issuer or Secured Party (any such Lender, L/C Issuer or Secured Party or other recipient (and each of their respective successors and assigns), but for the avoidance of doubt excluding Borrower and its Subsidiaries, a "Payment Recipient") that Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds (as set forth in such notice from Agent) received by such Payment Recipient from Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, L/C Issuer, Secured Party or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "Erroneous Payment") and (y) demands in writing the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of Agent pending its return or repayment as contemplated below in this Section 10.17 and held in trust for the benefit of Agent, and such Lender, L/C Issuer or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter (or such later date as Agent may, in its sole discretion, specify in writing), return to Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon (except to the extent waived in writing by Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to Agent in same day funds at the greater of the Federal Funds Rate and a rate determined by Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

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

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

(ii) such Lender, L/C Issuer or Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of the occurrence of any of the circumstances described in immediately preceding clauses (x), (y) and (z)) notify Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying Agent pursuant to this Section 10.17(b).

For the avoidance of doubt, the failure to deliver a notice to Agent pursuant to this Section 10.17(b) shall not have any effect on a Payment Recipient's obligations pursuant to Section 10.17(a) or on whether an Erroneous Payment has been made.

(c) Each Lender, L/C Issuer or Secured Party hereby authorizes Agent to set off, net and apply any and all amounts at any time owing to such Lender, L/C Issuer or Secured Party under any Loan Document, or otherwise payable or distributable by Agent to such Lender, L/C Issuer or Secured Party under any Loan Document with respect to any payment of principal, interest, fees or other amounts, against any amount that Agent has demanded to be returned under clause (a) above.

(d) (i) In the event that an Erroneous Payment (or portion thereof) is not recovered by Agent for any reason, after demand therefor in accordance with Section 10.17(a), from any Lender that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "Erroneous Payment Return Deficiency"), upon Agent's notice to such Lender at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto), (A) such Lender shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the "Erroneous Payment Impacted Class") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the "Erroneous Payment Deficiency Assignment") (on a cashless basis and such amount calculated at par plus any accrued and unpaid interest (with the assignment fee to be waived by Agent in such instance)), and is hereby (together with Borrower) deemed to execute and deliver an Assignment Agreement (or, to the extent applicable, an agreement incorporating an Assignment Agreement by reference pursuant to an approved electronic platform as to which Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and such Lender shall deliver any Notes evidencing such Loans to Borrower or Agent (but the failure of such Person to deliver any such Notes shall not affect the effectiveness of the foregoing assignment), (B) Agent as the assignee Lender shall be deemed to have acquired the Loans subject to the Erroneous Payment Deficiency Assignment, (C) upon such deemed acquisition, Agent as the assignee Lender shall become a Lender, as applicable, hereunder with respect to the Loans subject to such Erroneous Payment Deficiency Assignment and the assigning Lender shall cease to be a Lender, as applicable, hereunder with respect to the Loans subject to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender, (D) Agent and Borrower shall each be deemed to have waived any consents required under this Agreement to any such Erroneous Payment Deficiency Assignment, and (E) Agent will reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender and such Commitments shall remain available in accordance with the terms of this Agreement.

(ii) Subject to Section 11.1 (but excluding, in all events, any assignment consent or approval requirements (whether from Borrower or otherwise)), Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and Agent shall retain all other

rights, remedies and claims against such Lender (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Lender (x) shall be reduced by the proceeds of prepayments or repayments of principal and interest, or other distribution in respect of principal and interest, received by Agent on or with respect to any such Loans acquired from such Lender pursuant to an Erroneous Payment Deficiency Assignment (to the extent that any such Loans are then owned by Agent) and (y) may, in the sole discretion of Agent, be reduced by any amount specified by Agent in writing to the applicable Lender from time to time.

(e) The parties hereto agree that (x) irrespective of whether Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Lender, L/C Issuer or Secured Party, to the rights and interests of such Lender, L/C Issuer or Secured Party, as the case may be) under the Loan Documents with respect to such amount (the "Erroneous Payment Subrogation Rights") (*provided* that the Credit Parties' Obligations under the Loan Documents in respect of the Erroneous Payment Subrogation Rights shall not be duplicative of such Obligations in respect of Loans that have been assigned to Agent under an Erroneous Payment Deficiency Assignment) and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by Borrower or any other Credit Party; *provided* that this Section 10.17 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of Borrower relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by Agent; *provided*, *further*, that for the avoidance of doubt, immediately preceding clauses (x) and (y) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by Agent from Borrower for the purpose of making any payment hereunder that became subject to such Erroneous Payment.

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

(g) Each party's obligations, agreements and waivers under this Section 10.17 shall survive the resignation or replacement of Agent, any transfer of rights or obligations by, or the replacement of, a Lender or L/C Issuer, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

11. ASSIGNMENT AND PARTICIPATIONS; SUCCESSORS AND ASSIGNS

11.1 Assignment and Participations.

(a) Subject to the terms of this Section 11.1, any Lender may make an assignment of, at any time or times, Loans, Letter of Credit Obligations and any Commitment or any portion thereof or interest therein, including any Lender's rights, title, interests, remedies, powers or duties thereunder, to an Eligible Assignee (and, in the case of an assignment pursuant to Section 11.1(h), Borrower, Parent

Guarantor or any respective Subsidiary or any Affiliate thereof) other than a Defaulting Lender. Any assignment by a Lender shall be subject to the following conditions:

(i) Assignment Agreement. Any assignment by a Lender shall require (A) the execution of an assignment agreement (the "Assignment Agreement") substantially in the form attached hereto as Exhibit 11.1(a) or otherwise in form and substance reasonably satisfactory to and acknowledged by Agent and (B) the payment of a processing and recordation fee of $3,500 by the assignor or assignee to Agent (unless such assignment is to a Lender or an Affiliate of a Lender or an Approved Fund). Agent, acting as Borrower's agent, shall maintain at Agent's Office, a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of each Lender pursuant to the terms hereof from time to time (the "Register"). Agent shall accept and record into the Register each Assignment Agreement that it receives which is executed and delivered in accordance with the terms of this Agreement. The entries in the Register shall be conclusive, absent manifest error, and Borrower, Agent and the Lenders may 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 Borrower and the Lenders, at any reasonable time and from time to time upon reasonable prior notice.

(ii) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's Term B Commitment and the Term B Loans at the time owing to it or the assigning Lender's Revolving Credit Commitment and the Revolving Credit Loans at any time owing to it, or in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in Section 11.1(a)(ii)(A), the aggregate amount of the Commitment (which for this purpose includes Loans outstanding thereunder) or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment shall not be less than (x) $2,500,000 in the case of the Revolving Credit Facility and (y) $1,000,000 in the case of Term B Loans, and, in each case, in increments of $1,000,000 unless each of Agent and Borrower otherwise consents.

(iii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Loan or the Commitment assigned, except that this Section 11.1(a)(iii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate tranches on a non-pro rata basis (if any).

(iv) Required Consents. No consent shall be required for any assignment except to the extent required by Section 11.1(a)(ii)(B) and, in addition:

(A) the consent of Borrower for any assignment (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default under Sections 9.1(a), (g) or (h) has occurred and is continuing at the time of such assignment or (y) such assignment is of a (I) Term B Loan to a Lender, an Affiliate of a Lender or an Approved Fund or (II) Revolving Credit Commitment or Revolving Credit Loan to a Revolving Lender or an Affiliate of a Revolving Lender; provided that Borrower shall be deemed to have consented to any such assignment of Term B Loans unless it shall object thereto by written notice to Agent within fifteen (15) Business Days after having received written notice thereof;

(B) the consent of Agent (such consent not to be unreasonably withheld, conditioned or delayed) shall be required for assignments in respect of any Loan or Commitment if such assignment is to a Person that is not a Lender, an Affiliate of a Lender or an Approved Fund; and

(C) the consent of each L/C Issuer (such consent not to be unreasonably withheld or delayed) shall be required for any assignment that increases the obligation of the assignee to participate in exposure under one or more Letters of Credit (whether or not then outstanding).

(b) In the case of an assignment by a Lender under this Section 11.1, the assignee shall have, to the extent of such assignment, the same rights, benefits and obligations as all other Lenders hereunder. The assigning Lender shall be relieved of its obligations hereunder with respect to its Commitments or assigned portion thereof from and after the date of such assignment. Borrower hereby acknowledges and agrees that any assignment shall give rise to a direct obligation of Borrower to the assignee and that the assignee shall be considered to be a "Lender". In all instances, each Lender's liability to make Loans hereunder shall be several and not joint and shall be limited to such Lender's Pro Rata Share of the applicable Commitment. In the event Agent or any Lender assigns or otherwise transfers all or any part of the Obligations hereunder, Agent or any such Lender shall so notify Borrower and Borrower shall, upon the request of Agent or such Lender, execute new Notes in exchange for the Notes, if any, being assigned. Notwithstanding the foregoing provisions of this Section 11.1 (but, in the case of clause (ii) below, except as set forth in Section 11.1(h)), (i) any Lender may at any time pledge the Obligations hereunder held by it and such Lender's rights under this Agreement and the other Loan Documents to a Federal Reserve Bank, and any Lender that is a fund may assign the Obligations hereunder held by it and such Lender's rights under this Agreement and the other Loan Documents to another fund managed by the same advisor; provided, that no such pledge to a Federal Reserve Bank shall release such Lender from such Lender's obligations hereunder or under any other Loan Document and (ii) no assignment shall be made to any Credit Party, any Subsidiary of a Credit Party or any Affiliate of a Credit Party.

(c) A Lender may at any time, without consent of or notice to Borrower or Agent, sell participations to any Person (other than a natural person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person) or Borrower, any Subsidiary or any Affiliate thereof, any Defaulting Lender or any Disqualified Institution (to the extent that the list of Disqualified Institutions has been made available to all Lenders who specifically request a copy thereof)) in all or a portion of such Lender's rights and/or obligation under this Agreement; provided that any such participation by a Lender shall be made with the understanding that all amounts payable by Borrower hereunder shall be determined as if that Lender had not sold such participation, and that the holder of any such participation shall not be entitled to require such Lender to take or omit to take any action hereunder except actions directly affecting (i) any reduction in the principal amount of, or interest rate or Fees payable with respect to, the Loans participated (it being understood that the implementation or revocation of Default Rate interest shall not constitute a reduction in the rate of interest or any Fee); (ii) any extension of the final maturity date thereof; and (iii) any release of all or substantially all of the value of the Collateral or the value of the Guaranties (other than in accordance with the terms of this Agreement, the Collateral Documents or the other Loan Documents). Solely for purposes of Sections 2.11, 2.13 and 2.14, Borrower acknowledges and agrees that a participation shall give rise to an obligation of Borrower to the participant and the participant shall be considered to be a "Lender"; provided, that, such participant (A) shall not be entitled to receive any greater payment under Sections 2.13 and 2.14 than the Lender from whom it received its participation would have been entitled to receive with respect to the participation sold to such participant and (B) complies with the provisions of Sections 2.13(d), 2.14(d) and 2.14(g) as though it were a Lender. Each Lender that sells a participation

shall, acting solely for this purpose as a non-fiduciary agent of Borrower, maintain a register on which it enters the name and address of each participant and the principal amounts (and stated interest) of each participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any participant or any information relating to a participant's interest in any Commitments, Loans, Letters of Credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such Commitment, Loan, Letter of Credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register. Except as set forth in this paragraph, neither Borrower nor any Credit Party shall have any obligation or duty to any participant and shall continue to deal solely and directly with the Lender selling the participation. Neither Agent nor any Lender (other than the Lender selling a participation) shall have any duty to any participant and may continue to deal solely with the Lender selling a participation as if no such sale had occurred. Notwithstanding anything to the contrary contained in the Loan Documents, no Lender may assign or sell a participation to any Person that is not an Eligible Assignee and participations shall not require Borrower's or Agent's prior written consent.

(d) Except as expressly provided in this Section 11.1, no Lender shall, as between Borrower and that Lender, or Agent and that Lender, be relieved of any of its obligations hereunder as a result of any sale, assignment, transfer or negotiation of, or granting of participation in, all or any part of the Loans, the Notes or other Obligations hereunder owed to such Lender.

(e) [Reserved].

(f) No Lender shall assign or sell participations in any portion of its Loans or Commitments to a potential Lender or participant, if, as of the date of the proposed assignment or sale, the assignee Lender or participant would be subject to capital adequacy or similar requirements under Section 2.14(a), increased costs under Section 2.14(b), an inability to fund Term SOFR Loans under Section 2.14(c), or withholding taxes in accordance with Section 2.13(a).

(g) Notwithstanding anything to the contrary contained herein, any Lender (a "Granting Lender"), may grant to a special purpose funding vehicle (an "SPC"), identified as such in writing by the Granting Lender to Agent and Borrower, the option to provide to Borrower all or any part of any Loans that such Granting Lender would otherwise be obligated to make to Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan; and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Lender to the same extent, and as if such Loan were made by such Granting Lender. No SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Lender). Any SPC may (i) with notice to, but without the prior written consent of, Borrower and Agent assign all or a portion of its interests in any Loans to the Granting Lender or to any financial institutions (consented to by Borrower and Agent) providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Loans and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of

any surety, guaranty or credit or liquidity enhancement to such SPC. This Section 11.1(g) may not be amended without the prior written consent of each Granting Lender, all or any of whose Loans are being funded by an SPC at the time of such amendment. For the avoidance of doubt, the Granting Lender shall for all purposes, including, without limitation, the approval of any amendment or waiver of any provision of any Loan Document or the obligation to pay any amount otherwise payable by the Granting Lender under the Loan Documents, continue to be the Lender of record hereunder.

(h) Notwithstanding anything to the contrary in this Agreement, includingSection 10.7 (pertaining to sharing of payments) (which provisions shall not be applicable to clauses (h) or (i) of this Section 11.1), any of Parent Guarantor, Borrower or their respective Subsidiaries may purchase by way of assignment and become an assignee with respect to Term B Loans at any time and from time to time from Lenders either through a "Dutch auction" open to all Term B Lenders on a pro rata basis or through open market purchases (each, a "Permitted Loan Purchase"); provided, that, in respect of any Permitted Loan Purchase, (A) no Permitted Loan Purchase shall be made from the proceeds of any Revolving Credit Loans, (B) upon consummation of any such Permitted Loan Purchase, the Term B Loans purchased pursuant thereto shall be deemed to be automatically and immediately cancelled and extinguished in accordance with Section 11.1(i), (C) in connection with any such Permitted Loan Purchase, any of Parent Guarantor, Borrower or their respective Subsidiaries and such Lender that is the assignor shall execute and deliver to Agent a Permitted Loan Purchase Assignment and Acceptance (and for the avoidance of doubt, (x) shall make the representations and warranties set forth in the Permitted Loan Purchase Assignment and Acceptance and (y) shall not be required to execute and deliver an Assignment Agreement pursuant to Section 11.1(a)(i)) and shall otherwise comply with the conditions to assignments under this Section 11.1 and (D) no Default or Event of Default would exist immediately after giving effect on a pro forma basis to such Permitted Loan Purchase.

(i) Borrower shall, upon consummation of any Permitted Loan Purchase, notify Agent that the Register be updated to record such event as if it were a prepayment of such Loans.

11.2 Successors and Assigns. This Agreement and the other Loan Documents is binding on and inures to the benefit of each Credit Party, Agent, Lender, L/C Issuer and their respective successors and assigns (including, in the case of any Credit Party, a debtor-in-possession on behalf of such Credit Party), except as otherwise provided herein or therein. No Credit Party may assign, transfer, hypothecate or otherwise convey its rights, benefits, obligations or duties hereunder or under any of the other Loan Documents without the prior express written consent of Agent and all of the Lenders; provided that Agent and the Lenders shall be deemed to have consented to any assignment, transfer, hypothecation or conveyance of rights, benefits, obligations or duties to any successor of a Credit Party as a result of the consummation of a merger, consolidation, amalgamation or other fundamental change or transaction not prohibited under Section 7. Any such purported assignment, transfer, hypothecation or other conveyance by any Credit Party without the prior express written consent of Agent and all of the Lenders shall be void. The terms and provisions of this Agreement are for the purpose of defining the relative rights and obligations of each Credit Party, Agent, Lenders and L/C Issuers with respect to the transactions contemplated hereby and no Person shall be a third party beneficiary of any of the terms and provisions of this Agreement or any of the other Loan Documents (other than the Indemnified Persons).

11.3 Certain Assignees. Subject to Section 11.1(h), no assignment or participation may be made to Borrower, any Affiliate of Borrower, any Defaulting Lender, any Disqualified Institution or a natural person, and any attempted assignment or participation to any such Person shall be null and void.

12. MISCELLANEOUS

12.1 Complete Agreement; Modification of Agreement. This Agreement shall become effective when it shall have been executed by Borrower, the Lenders signatory hereto as of the date hereof and Agent. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, Borrower, the other Credit Parties party hereto from time to time, Agent, each L/C Issuer and each Lender party hereto from time to time, their respective successors and permitted assigns. Except as expressly provided in any Loan Document, none of Borrower, any other Credit Party, any L/C Issuer, any Lender or Agent shall have the right to assign any rights or obligations hereunder or any interest herein. The Loan Documents, the Escrow Funding Date Letter, the Fee Letter and any other separate fee letter agreements with respect to fees payable to Agent and/or the Lead Arrangers constitute the complete agreement between the parties with respect to the subject matter thereof and may not be modified, altered or amended except as set forth in Section 12.2.

12.2 Amendments and Waivers.

(a) Except (i) for actions expressly permitted to be taken by Agent and (ii) as expressly provided elsewhere in thisSection 12.2 and in Section 12.10(b)(i), no amendment, modification, termination or waiver of any provision of this Agreement or any other Loan Document, or any consent to any departure by any Credit Party therefrom, shall in any event be effective unless the same shall be in writing and signed by Borrower and by Requisite Lenders.

(b) [Reserved].

(c) Notwithstanding anything contained in 12.2(a) to the contrary, (A) no amendment, modification, termination or waiver shall, unless in writing and signed by Borrower, Agent and each Lender and L/C Issuer directly affected thereby: (i) extend or increase the principal amount of any Lender's Commitment (which action shall be deemed only to affect those Lenders whose Commitments are extended or increased, as applicable); (ii) reduce the principal of, rate of interest on, or Fees payable with respect to any Loan or Letter of Credit Obligations of any affected Lender (provided, however, in each case, the waiver of any Default or Event of Default or mandatory prepayment underSection 2.3(b) or the implementation or revocation of Default Rate interest shall not constitute a reduction in principal, the rate of interest or any Fee); (iii) extend the final maturity date or scheduled payment date of any principal amount of any Loan of any Lender (provided, however, that any amendment or modification of the definition of "Escrow Termination Date" shall not constitute an extension of the final maturity date or any scheduled payment date); (iv) waive, forgive, defer, extend or postpone any payment of interest or Fees or other Obligations hereunder as to any affected Lender (provided, however, in each case, the waiver of any Default or Event of Default or mandatory prepayment under Section 2.3(b), the implementation or revocation of Default Rate interest or the amendment or modification of the definition of "Escrow Termination Date" shall not constitute a waiver, forgiveness, deferral, extension or postponement of the rate of interest or any Fee); (v) change the percentage of the Commitments or of the aggregate unpaid principal amount of the Loans that shall be required for Lenders or any of them to take any action hereunder; (vi) amend the allocation and waterfalls in Section 2.9; (vii) amend the definition of "Pro Rata Share" or Section 10.7; (viii) amend the provisions applicable to the Special Mandatory Prepayment as set forth inSection 2.21 (provided, however, that any amendment or modification of the definition of "Escrow Termination Date" shall not be subject to this clause); or (ix) make any change to the Escrow Agreement that would adversely affect the Lenders (provided, however, that any amendment or modification of the definition of "Escrow Termination Date" shall not be subject to this clause); (B) no amendment, modification, termination or waiver shall, unless in writing and signed by Borrower, Agent and each Lender and L/C Issuer: (i) release all or substantially all of the value of the Guaranties,

release (or subordinate the Lien of Agent in), or permit any Credit Party to sell or otherwise dispose of, all or substantially all of the Collateral (which action shall be deemed to directly affect all Lenders and all L/C Issuers), in each case except as otherwise permitted herein or in the other Loan Documents; (ii) amend or waive this Section 12.2 or the definition of the term "Requisite Lenders" or "Requisite Revolving Lenders" or (iii)(a) subordinate, or have the effect of subordinating, the Obligations hereunder to any other Indebtedness and (b) subordinate, or have the effect of subordinating, the Liens securing the Obligations to Liens securing any other Indebtedness, in each case except as otherwise permitted by this Agreement or in the other Loan Documents, each as in effect on the Escrow Release Date; and (C) the conditions precedent set forth in Section 3.3 with respect to funding Revolving Credit Loans after the Escrow Release Date may be amended or rights and privileges thereunder waived only with the consent of the Requisite Revolving Lenders and, in the case of the issuance of a Letter of Credit, the applicable L/C Issuer. Furthermore, no amendment, modification, termination or waiver affecting the rights or duties of Agent or any L/C Issuer, as the case may be, under this Agreement or any other Loan Document, including, in the case of an L/C Issuer, any increase in the L/C Sublimit or, in the case of Agent, any release of any Guaranty requiring a writing signed by all of the Lenders or release of any Collateral requiring a writing signed by all Lenders, shall be effective unless in writing and signed by Agent or the L/C Issuers, as the case may be, in addition to Lenders required hereinabove to take such action. Notwithstanding anything in this Section 12.2 to the contrary, this Agreement and the other Loan Documents may be amended by Agent and each Credit Party party thereto in accordance with Section 2.15, 2.16 and 2.17 to provide for, or to incorporate the terms of, any Incremental Facility, Refinancing Facility or Extended Loans and to provide fornon-Pro Rata borrowings and payments of any amounts hereunder as between the Loans and any Incremental Facility, Refinancing Facility or Extended Loans, in each case with the consent of Agent but without the consent of any Lender. Each amendment, modification, termination or waiver shall be effective only in the specific instance and for the specific purpose for which it was given. No amendment, modification, termination or waiver shall be required for Agent to take additional Collateral pursuant to any Loan Document. No amendment, modification, termination or waiver of any provision of any Note shall be effective without the written concurrence of the holder of that Note. No notice to or demand on any Credit Party in any case shall entitle such Credit Party or any other Credit Party to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 12.2 shall be binding upon each holder of the Obligations hereunder at the time outstanding and each future holder of the Obligations hereunder. Notwithstanding the foregoing, only the consent of the Requisite Revolving Lenders shall be necessary to amend, modify or waive the terms and provisions of, or any Default or Event of Default with respect to, the Financial Performance Covenant set forth in Section 7.12 (and any related definitions as used in such Section, but not as used in other Sections of this Agreement). Notwithstanding the foregoing, only the consent of the Majority Bank Lead Arrangers (as defined in the Escrow Funding Date Letter) shall be necessary to waive any Default or Event of Default under Section 9.1(m) or to amend, modify or waive Section 9.1(m).

(d) If, in connection with any proposed amendment, modification, waiver or termination requiring the consent of all Lenders (or all Lenders of a Class) or all directly and adversely affected Lenders (or all directly and adversely affected Lenders of a Class), the consent of Requisite Lenders is obtained, but the consent of other Lenders whose consent is required is not obtained (any such Lender whose consent is not obtained as described in this Section 12.2(d) being referred to as a "Non-Consenting Lender"), then, Borrower may, at its sole expense and effort, upon notice to such Non-Consenting Lender and Agent, require such Non-Consenting Lender to assign and delegate, without recourse, all of its Commitment, Loans and Letter of Credit Obligations to an Eligible Assignee for an amount equal to the par principal balance of all Loans and participations in unreimbursed Letter of Credit disbursements held by such Non-Consenting Lenders and all accrued interest and Fees (including fees

payable in accordance with Section 2.3(a)(ii)) with respect thereto through the date of sale, such purchase and sale to be consummated pursuant to an executed Assignment Agreement; provided that Borrower shall have received the prior written consent of (x) Agent to the extent such consent would be required pursuant to Section 11.1(a)(iv)(B) for an assignment of such Loans, Commitments and/or Letter of Credit Obligations, as applicable and (y) each L/C Issuer to the extent such consent would be required pursuant to Section 11.1(a)(iv)(C) for an assignment of such Loans, Commitments and/or Letter of Credit Obligations, as applicable. In the event that a Non-Consenting Lender does not execute an Assignment Agreement pursuant to Section 11.1 within five (5) Business Days after receipt by such Non-Consenting Lender of notice of replacement pursuant to this Section 12.2(d) and presentation to such Non-Consenting Lender of an Assignment Agreement evidencing an assignment pursuant to this Section 12.2(d), Borrower shall be entitled (but not obligated) to execute such Assignment Agreement on behalf of any such Non-Consenting Lender, and any such Assignment Agreement so executed by Borrower, the replacement Lender, Agent and each L/C Issuer, if applicable, shall be effective for purposes of this Section 12.2(d) and Section 11.1.

(e) Upon the Termination Date, Agent shall deliver to Borrower termination statements, security releases and other documents necessary or appropriate to evidence the termination of the Liens securing payment of the Obligations.

(f) Notwithstanding the foregoing, no Lender's consent is required for Agent to enter into any Intercreditor Agreement, or to effect any amendment, modification or supplement to the Pari Passu Intercreditor Agreement or any other Intercreditor Agreement permitted under this Agreement (i) that is for the purpose of adding the holders of Indebtedness permitted hereunder (or a Senior Representative with respect thereto) as parties thereto, as expressly contemplated by the terms of the Pari Passu Intercreditor Agreement or such other Intercreditor Agreement or arrangement permitted under this Agreement or in any document pertaining to any Indebtedness permitted hereby that is permitted to be secured by Liens with the contemplated priority on the Collateral, as applicable (it being understood that any such amendment or supplement may make such other changes to the applicable Intercreditor Agreement or other arrangement as, in the good faith determination of Agent, are required to effectuate the foregoing; *provided* that such other changes are not adverse, in any material respect, to the interests of the Lenders), (ii) that is expressly contemplated by the Pari Passu Intercreditor Agreement (or the comparable provisions, if any, of any other Intercreditor Agreement or arrangement permitted under this Agreement) or (iii) that is otherwise permitted by Section 10.15 hereof; *provided further* that no such agreement shall amend, modify or otherwise affect the rights or duties of Agent hereunder or under any other Loan Document without the prior written consent of Agent, as applicable.

(g) Notwithstanding anything herein to the contrary, any amendment, modification, waiver, consent, termination or release of any Cash Management Agreement or Secured Hedge Agreement may be effected by the parties thereto without the consent of the Lenders.

(h) Further, notwithstanding anything to the contrary contained in this Section 12.2, technical and conforming modifications to the Loan Documents may be made with the consent of Borrower and Agent (but without the consent of any Lender) to the extent necessary to cure any ambiguity, omission, defect or inconsistency; *provided*, that Agent shall notify the Lenders of any such modifications upon effectiveness.

(i) Further, notwithstanding anything to the contrary contained in this Section 12.2, any amendment, modification, termination or waiver of this Agreement that by its terms affects the rights or duties under this Agreement of Lenders holding Loans or Commitments of a particular Class (but not the Lenders holding Loans or Commitments of any other Class) may be effected by an agreement or

agreements in writing entered into solely by Borrower, Agent and the requisite percentage in interest of the affected Class of Lenders that would be required to consent thereto under this Section if such Class of Lenders were the only Class of Lenders hereunder at the time.

Notwithstanding anything to the contrary herein, in connection with any determination as to whether the Requisite Lenders or Requisite Revolving Lenders have (A) consented (or not consented) to any amendment or waiver of any provision of this Agreement or any other Loan Document or any departure by any Credit Party therefrom, (B) otherwise acted on any matter related to any Loan Document, or (C) directed or required Agent or any Lender to undertake any action (or refrain from taking any action) with respect to or under any Loan Document, any Lender (other than any Lender that is (x) a Regulated Bank, (y) a Revolving Lender or (z) an Affiliate of the foregoing) that, as a result of its interest in any total return swap, total rate of return swap, credit default swap or other derivative contract (other than any such total return swap, total rate of return swap, credit default swap or other derivative contract entered into pursuant to bona fide market making activities), has a net short position with respect to the Loans (each, a "Net Short Lender") shall not, without the consent of Borrower (in its sole discretion), have any right to vote any of its Loans or Commitments and shall be deemed to have voted its interest as a Lender without discretion in the same proportion as the allocation of voting with respect to such matter by Lenders who are not Net Short Lenders.

For purposes of determining whether a Lender has a "net short position" on any date of determination:

(i) derivative contracts with respect to the Loans and/or Commitments and such contracts that are the functional equivalent thereof shall be counted at the notional amount thereof in Dollars,

(ii) the notional amounts in other currencies shall be converted to the Dollar equivalent thereof by such Lender in a commercially reasonable manner consistent with generally accepted financial practices and based on the prevailing conversion rate (determined on a midmarket basis) on the date of determination,

(iii) derivative contracts in respect of an index that includes Borrower or other Credit Parties or any instrument issued or guaranteed by Borrower or other Credit Parties shall not be deemed to create a short position with respect to the Loans and/or Commitments, so long as (x) such index is not created, designed, administered or requested by such Lender or its Affiliates and (y) Borrower and the other Credit Parties and any instrument issued or guaranteed by Borrower or other Credit Parties, collectively, shall represent less than five percent (5%) of the components of such index,

(iv) derivative transactions that are documented using either the 2014 ISDA Credit Derivatives Definitions or the 2003 ISDA Credit Derivative Definitions (collectively, the "ISDA CDS Definitions") shall be deemed to create a short position with respect to the Loans and/or Commitments if such Lender is a protection buyer or the equivalent thereof for such derivative transaction and (x) the Loans are a "Reference Obligation" under the terms of such derivative transaction (whether specified by name in the related documentation, included as a "Standard Reference Obligation" on the most recent list published by Markit, if "Standard Reference Obligation" is specified as applicable in the relevant documentation, or in any other manner), (y) the Loans and/or Commitments would be a "Deliverable Obligation" under the terms of such derivative transaction or (z) Borrower or other Credit Parties (or its successor) is designated as a "Reference Entity" under the terms of such derivative transaction, and

(v) credit derivative transactions or other derivatives transactions not documented using the ISDA CDS Definitions shall be deemed to create a short position with respect to the Loans and/or Commitments if such transactions are functionally equivalent to a transaction that offers the Lender protection in respect of the Loans and/or Commitments, or as to the credit quality of Borrower or other Credit Parties other than, in each case, as part of an index so long as (x) such index is not created, designed, administered or requested by such Lender or its Affiliates and (y) Borrower and other Credit Parties and any instrument issued or guaranteed by any of Borrower or other Credit Parties, collectively, shall represent less than five percent (5%) of the components of such index.

In connection with any such determination, each Lender shall promptly notify Agent in writing that it is a Net Short Lender, or shall otherwise be deemed to have represented and warranted to Borrower and Agent that it is not a Net Short Lender (it being understood and agreed that Borrower and Agent shall be entitled to rely on each such representation and deemed representation without independent verification thereof).

Notwithstanding anything to the contrary contained in this Section 12.2, Agent and Escrow Borrower or Borrower, as applicable, may amend or modify any provision of this Agreement or the other Loan Documents solely to implement the provisions that the Majority Bank Lead Arrangers (as defined in Escrow Funding Date Letter) are then entitled to implement under the Escrow Funding Date Letter and, in each case, such amendments and modifications shall become effective without any further action or consent of any Lender; provided that such amendments or modifications shall be on terms, taken as a whole, that are not materially adverse to the Lenders (as reasonably determined by the Majority Bank Lead Arrangers). The Lenders hereby expressly authorize Agent to enter into any amendment to the Loan Documents contemplated by the preceding sentence.

12.3 Fees and Expenses. If the Escrow Release Date occurs, Borrower shall reimburse Agent, the Lead Arrangers, the L/C Issuers and, in the case of clause (b) below, the Revolving Lenders for all reasonable documented out-of-pocket expenses (including the reasonable documented fees and out-of-pocket expenses of one firm of counsel for Agent, the Lead Arrangers, the L/C Issuers and the Revolving Lenders (if applicable), taken as a whole (and, if reasonably necessary, of one local counsel in any relevant material jurisdiction (which may include a single special counsel acting in multiple jurisdictions) to all such persons, taken as a whole)) Incurred in connection with (a) the syndication of the Facilities, the preparation, execution, delivery and administration of the Loan Documents, and any amendment, modification or waiver of the provisions thereof and (b) any attempt to enforce any of their respective rights or remedies in connection with any of the Loan Documents, including any such expenses Incurred in the course of any work-out or restructuring of the Loans during the pendency of one or more Events of Default.

12.4 No Waiver. Agent's, any L/C Issuer's or any Lender's failure, at any time or times, to require strict performance by the Credit Parties of any provision of this Agreement or any other Loan Document shall not waive, affect or diminish any right of Agent, such L/C Issuer or such Lender thereafter to demand strict compliance and performance herewith or therewith. Any suspension or waiver of an Event of Default shall not suspend, waive or affect any other Event of Default whether the same is prior or subsequent thereto and whether the same or of a different type. Subject to the provisions of Section 12.2, none of the undertakings, agreements, warranties, covenants and representations of any Credit Party contained in this Agreement or any of the other Loan Documents and no Default or Event of Default by any Credit Party shall be deemed to have been suspended or waived by Agent or any Lender, unless such waiver or suspension is by an instrument in writing signed by an officer of or other authorized employee of Agent and the applicable Requisite Lenders, and directed to Borrower specifying such suspension or waiver.

12.5 Remedies. Agent's, L/C Issuers' and Lenders' rights and remedies under this Agreement shall be cumulative and nonexclusive of any other rights and remedies that Agent, any L/C Issuer or any Lender may have under any other agreement, including the other Loan Documents, by operation of law or otherwise. Recourse to the Collateral shall not be required.

12.6 Severability. Wherever possible, each provision of this Agreement and the other Loan Documents shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement or any other Loan Document shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement or such other Loan Document.

12.7 Conflict of Terms. Except as otherwise provided in this Agreement or any of the other Loan Documents by specific reference to the applicable provisions of this Agreement, if any provision contained in this Agreement conflicts with any provision in any of the other Loan Documents, the provision contained in this Agreement shall govern and control.

12.8 Confidentiality. Each Lender, each L/C Issuer and Agent agrees to maintain the confidentiality of information obtained by it pursuant to any Loan Document (the "Information"), except that such Information may be disclosed by the any Lender, any L/C Issuer or Agent (i) with Borrower's consent, (ii) to Related Persons of such Lender, L/C Issuer or Agent, as the case may be, that are advised of the confidential nature of such Information and are instructed to keep such Information confidential in accordance with the terms hereof, (iii) to the extent such information presently is or hereafter becomes (A) publicly available other than as a result of a breach of this Section 12.8 or (B) available to such Lender, L/C Issuer or Agent or any of their Related Persons, as the case may be, from a source (other than any Credit Party) not known by them to be subject to disclosure restrictions, (iv) to the extent disclosure is required by applicable law or other legal process or requested or demanded by any Governmental Authority, including any governmental bank regulatory authority (in which case Agent shall notify Borrower, to the extent not prohibited by law or legal process; provided that no notice shall be required in the case of disclosure to bank regulatory authorities having jurisdiction over Agent, any L/C Issuer or any Lender), (v) to the extent necessary or customary for inclusion in league table measurements, (vi) (A) to the National Association of Insurance Commissioners or any similar organization, any examiner or any nationally recognized rating agency or (B) otherwise to the extent consisting of general portfolio information that does not identify Credit Parties, (vii) to current or prospective assignees or participants, and to their respective Related Persons, in each case to the extent such assignees, participants or Related Persons agree to be bound by provisions substantially similar to the provisions of this Section 12.8 (and such Person may disclose information to their respective Related Persons in accordance with clause (ii) above), (viii) to any other party hereto, (ix) in connection with the exercise or enforcement of any right or remedy under any Loan Document, in connection with any litigation or other proceeding to which such Lender, L/C Issuer or Agent or any of their Related Persons is a party or bound, or to the extent necessary to respond to public statements or disclosures by Credit Parties or their Related Persons referring to a Lender, L/C Issuer or Agent or any of their Related Persons, (x) to the National Association of Insurance Commissioners, CUSIP Service Bureau or any similar organization, regulatory authority, examiner or nationally recognized ratings agency, (xi) to any actual or prospective party (or its managers, administrators, trustees, partners, directors, officers, employees, agents, advisors and other representatives) to any swap or derivative or similar transaction under which payments are to be made by reference to Borrower and its obligations, this Agreement or payments

hereunder, in each case to the extent such Persons agree to be bound by provisions substantially similar to the provisions of this Section 12.8 and (xii) to the extent required by a potential or actual insurer or reinsurer in connection with providing insurance, reinsurance or credit risk mitigation coverage under which payments are to be made or may be made by reference to this Agreement. In the event of any conflict between the terms of this Section 12.8 and those of any other Loan Document, the terms of this Section 12.8 shall govern.

12.9 GOVERNING LAW. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN ANY OF THE LOAN DOCUMENTS, IN ALL RESPECTS, INCLUDING ALL MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, THE LOAN DOCUMENTS AND THE OBLIGATIONS SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THAT STATE AND ANY APPLICABLE LAWS OF THE UNITED STATES. EACH PARTY HERETO HEREBY CONSENTS AND AGREES THAT THE STATE OR FEDERAL COURTS LOCATED IN THE BOROUGH OF MANHATTAN, CITY OF NEW YORK, NEW YORK SHALL HAVE EXCLUSIVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN THE CREDIT PARTIES, AGENT AND LENDERS PERTAINING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS RELATED TO THIS AGREEMENT OR TO ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS; PROVIDED, THAT AGENT, LENDERS AND THE CREDIT PARTIES ACKNOWLEDGE THAT ANY APPEALS FROM THOSE COURTS MAY HAVE TO BE HEARD BY A COURT LOCATED OUTSIDE OF NEW YORK COUNTY; PROVIDED, FURTHER, THAT NOTHING IN THIS AGREEMENT SHALL BE DEEMED OR OPERATE TO PRECLUDE AGENT FROM BRINGING SUIT OR TAKING OTHER LEGAL ACTION IN ANY OTHER JURISDICTION TO REALIZE ON THE COLLATERAL OR ANY OTHER SECURITY FOR THE OBLIGATIONS, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF AGENT. EACH CREDIT PARTY EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR SUIT COMMENCED IN ANY SUCH COURT, AND EACH CREDIT PARTY HEREBY WAIVES ANY OBJECTION THAT SUCH CREDIT PARTY MAY HAVE BASED UPON LACK OF PERSONAL JURISDICTION, IMPROPER VENUE OR FORUM NON CONVENIENS AND HEREBY CONSENTS TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY SUCH COURT. EACH PARTY HERETO HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS, COMPLAINT AND OTHER PROCESS ISSUED IN ANY SUCH ACTION OR SUIT AND AGREES THAT SERVICE OF SUCH SUMMONS, COMPLAINT AND OTHER PROCESS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO SUCH CREDIT PARTY AT THE ADDRESS SET FORTH IN SECTION 12.10 AND THAT SERVICE SO MADE SHALL BE DEEMED COMPLETED UPON THE EARLIER OF SUCH CREDIT PARTY'S ACTUAL RECEIPT THEREOF OR FIVE (5) BUSINESS DAYS AFTER DEPOSIT IN THE UNITED STATES MAIL, PROPER POSTAGE PREPAID.

12.10 Notices.

(a) Addresses. All notices, demands, requests, directions and other communications required or expressly authorized to be made by this Agreement shall, whether or not specified to be in writing unless otherwise expressly specified to be given by any other means, be given in writing and (i) addressed to (A) the party to be notified and sent to the address, e-mail address or facsimile number indicated on Schedule 12.10 (or to such other address as may be hereafter notified by the respective parties hereto), or (B) the party to be notified at its address specified on the signature page of this Agreement or any applicable Assignment Agreement, (ii) to the extent given by a Credit Party posted to

the Platform set up by or at the direction of Agent in an appropriate location or (iii) addressed to such other address as shall be notified in writing (A) in the case of Borrower and Agent, to the other parties hereto and (B) in the case of all other parties, to Borrower and Agent. Notice addresses as of the Escrow Funding Date for Agent, Borrower and each L/C Issuer shall be as set forth on Schedule 12.10. Notices delivered through electronic communications, to the extent provided in accordance with clause (b) below, shall be effective as provided in said clause (b).

(b) Effectiveness.

(i) All communications described in clause (a) above and all other notices, demands, requests and other communications made in connection with this Agreement shall be effective and be deemed to have been received (i) if delivered by hand, upon personal delivery, (ii) if delivered by overnight courier service, one Business Day after delivery to such courier service, (iii) if delivered by mail, five (5) Business Days after deposit in the mail, (iv) if delivered by facsimile or electronic mail (other than to post to the Platform pursuant to clause (a) above) upon sender's receipt of confirmation of proper transmission, and (v) if delivered by posting to the Platform, on the later of the date of such posting in an appropriate location and the date access to such posting is given to the recipient thereof in accordance with the standard procedures applicable to the Platform. Failure or delay in delivering copies of any notice, demand, request, consent, approval, declaration or other communication to any Person (other than Borrower or Agent) designated in Section 12.10 to receive copies shall in no way adversely affect the effectiveness of such notice, demand, request, consent, approval, declaration or other communication. Notwithstanding anything to the contrary set forth in Section 12.2, the giving of any notice required hereunder may be waived in writing by the party entitled to receive such notice.

(ii) The posting, completion and/or submission by any Credit Party of any communication pursuant to the Platform shall constitute a representation and warranty by the Credit Parties that any representation, warranty, certification or other similar statement required by the Loan Documents to be provided, given or made by a Credit Party in connection with any such communication is true, correct and complete in all material respects (to the extent required under the Loan Documents) except as expressly noted in such communication.

(iii) Notices and other communications to the Lenders and the L/C Issuers hereunder may be delivered or furnished by electronic communication (including e-mail, FpML, and Internet or intranet websites) pursuant to procedures approved by Agent, provided that the foregoing shall not apply to notices to any Lender or L/C Issuer pursuant to Article 2 if such Lender or L/C Issuer, as applicable, has notified Agent that it is incapable of receiving notices under such Article by electronic communication. Agent or Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(iv) Unless Agent otherwise prescribes, (x) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement) and (y) 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 (x), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (x) and (y) above, if such notice, email 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.

(c) Each Lender and L/C Issuer shall notify Agent in writing of any changes in the address to which notices to such Lender or L/C Issuer should be directed, of addresses of its lending office, of payment instructions in respect of all payments to be made to it hereunder and of such other administrative information as Agent shall reasonably request.

12.11 Section Titles. The Section titles and Table of Contents contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

12.12 Counterparts. This Agreement may be executed in any number of separate counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. The words "execution," "signed," "signature," and words of like import in this Agreement and the other Loan Documents, including any Assignment Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

12.13 **WAIVER OF JURY TRIAL. BECAUSE DISPUTES ARISING IN CONNECTION WITH COMPLEX FINANCIAL TRANSACTIONS ARE MOST QUICKLY AND ECONOMICALLY RESOLVED BY AN EXPERIENCED AND EXPERT PERSON AND THE PARTIES WISH APPLICABLE STATE AND FEDERAL LAWS TO APPLY (RATHER THAN ARBITRATION RULES), THE PARTIES DESIRE THAT THEIR DISPUTES BE RESOLVED BY A JUDGE APPLYING SUCH APPLICABLE LAWS. THEREFORE, TO ACHIEVE THE BEST COMBINATION OF THE BENEFITS OF THE JUDICIAL SYSTEM AND OF ARBITRATION, THE PARTIES HERETO KNOWINGLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT TO RESOLVE ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE, AMONG AGENT, LENDERS, L/C ISSUERS AND ANY CREDIT PARTY ARISING OUT OF, CONNECTED WITH, RELATED TO, OR INCIDENTAL TO THE RELATIONSHIP ESTABLISHED AMONG THEM IN CONNECTION WITH, THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS RELATED THERETO.**

12.14 Press Releases and Related Matters. Each Credit Party consents to the publication by Agent or any Lender of customary advertising material relating to the financing transactions contemplated by this Agreement using Borrower's name, product photographs, logo or trademark. Agent reserves the right to provide to industry trade organizations information necessary and customary for inclusion in league table measurements.

12.15 Reinstatement. This Agreement shall remain in full force and effect should any petition be filed by or against Borrower for liquidation or reorganization, should Borrower become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver, interim receiver, receiver and manager or trustee be appointed for all or any significant part of Borrower's assets, and shall continue to be effective or to be reinstated, as the case may be, if at any time payment and performance of the Obligations hereunder, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Obligations hereunder, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance

had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Obligations hereunder shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

12.16 Advice of Counsel. Each of the parties represents to each other party hereto that it has discussed this Agreement and, specifically, the provisions of Sections 12.9 and 12.13, with its counsel.

12.17 No Strict Construction. The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provisions of this Agreement.

12.18 Patriot Act Notice. Each Lender and Agent (for itself and not on behalf of any Lender) hereby notifies the Credit Parties that pursuant to the requirements of the Patriot Act, such Lender and Agent may be required to obtain, verify and record information that identifies the Credit Parties, which information includes the name and address of the Credit Parties and other information that will allow such Lender and Agent, as the case may be, to identify the Credit Parties in accordance with the Patriot Act.

12.19 [Reserved].

12.20 [Reserved].

12.21 Platform.

(a) Borrower agrees that Agent may, but shall not be obligated to, make the Communications (as defined below) available to the L/C Issuers and the other Lenders by posting the Communications on the Platform.

(b) The Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall Agent or any of its Related Persons (collectively, the "Agent Parties") have any liability to Borrower, any Lender, any L/C Issuer or any other Person for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of Borrower's or Agent's transmission of communications through the Platform. "Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of Borrower pursuant to any Loan Document or the transactions contemplated therein that is distributed to Agent, any Lender or any L/C Issuer by means of electronic communications pursuant to this Section, including through the Platform.

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

12.23 No Third Parties Benefited. This Agreement is made and entered into for the sole protection and legal benefit of the Credit Parties, the Lenders, the L/C Issuers, Agent, the Lead Arrangers, and for the purposes of Section 2.11, the Indemnified Persons and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Agreement or any of the other Loan Documents. Neither Agent nor any Lender, nor any L/C Issuer nor any Credit Party (except as otherwise specifically provided under the Loan Documents) shall have any obligation to any Person not a party to this Agreement or the other Loan Documents.

12.24 Relationships between Lenders and Credit Parties. Borrower acknowledges and agrees that the Lenders, the L/C Issuers, the Lead Arrangers and Agent are acting solely in the capacity of an arm's length contractual counterparty to Borrower with respect to the Loans and other financial accommodations contemplated hereby and not as a financial advisor or a fiduciary to, or an agent of, Borrower or any other Person. Additionally, no Lender, L/C Issuer, Lead Arranger or Agent is advising Borrower or any other Person as to any legal, tax, financial, accounting or regulatory matters in any jurisdiction. The Credit Parties shall consult with their own advisors concerning such matters and shall be responsible for making their own independent investigation and appraisal of the transactions contemplated hereby, and the Lenders, L/C Issuers, Lead Arrangers and Agent shall have no responsibility or liability to the Credit Parties with respect thereto. Any review by the Lenders, the L/C Issuers, the Lead Arrangers or Agent of Borrower, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Lenders, the L/C Issuers, the Lead Arrangers or Agent, as applicable, and shall not be on behalf of Borrower. The Lenders, the Lead Arrangers, the L/C Issuers, Agent and their respective branches and Affiliates may be engaged, for their own accounts or the accounts of customers, in a broad range of transactions that involve interests that differ from those of the Borrower and its Affiliates, and none of the Lenders, the Lead Arrangers, the L/C Issuers or Agent has any obligation to disclose any of such interests to the Borrower or its Affiliates. To the fullest extent permitted by law, Borrower hereby waives and releases any claims that it may have against any of the Lenders, the Lead Arrangers, the L/C Issuers and Agent with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

12.25 [Reserved] .

12.26 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

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

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

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

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

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

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

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

13. GUARANTY

13.1 Guaranty.

(a) From and after the Escrow Release Date, each Guarantor hereby agrees that such Guarantor is jointly and severally liable for, and hereby absolutely and unconditionally guarantees to Agent, the Lenders and the L/C Issuers and their respective successors and assigns, the full and prompt payment (whether at stated maturity, by acceleration or otherwise) and performance of, all Obligations owed or hereafter owing to Agent, the Lenders and the L/C Issuers by Borrower. Each Guarantor agrees that its guaranty obligation hereunder is a continuing guaranty of payment and performance and not of collection, that its obligations under this Section 13 shall not be discharged until the repayment of the Loans and Letter of Credit Obligations and termination of the Commitments, and that its obligations under this Section 13 shall be absolute and unconditional, irrespective of, and unaffected by,

(i) the genuineness, validity, regularity, enforceability or any future amendment of, or change in, this Agreement, any other Loan Document or any other agreement, document or instrument to which Borrower is or may become a party;

(ii) the absence of any action to enforce this Agreement (including this Section 13) or any other Loan Document or the waiver or consent by Agent and Lenders with respect to any of the provisions thereof;

(iii) the existence, value or condition of, or failure to perfect its Lien, if any, against, any security for the Obligations hereunder or any action, or the absence of any action, by Agent and Lenders in respect thereof (including the release of any such security);

(iv) the insolvency of any Credit Party; or

(v) any other action or circumstances that might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor.

Each Guarantor shall be regarded, and shall be in the same position, as principal debtor with respect to the Obligations guarantied hereunder.

(b) Each Guarantor expressly represents and acknowledges that it is part of a common enterprise with Borrower and that any financial accommodations by Lenders, or any of them, to Borrower hereunder and under the other Loan Documents are and will be of direct and indirect interest, benefit and advantage to all Guarantors.

13.2 Waivers by Guarantors. Each Guarantor expressly waives, to the extent permitted by law, all rights it may have now or in the future under any statute, or at common law, or at law or in equity, or otherwise, to compel Agent or Lenders to marshal assets or to proceed in respect of the Obligations hereunder guarantied hereunder against any other Credit Party, any other party or against any security for the payment and performance of the Obligations hereunder before proceeding against, or as a condition to proceeding against, such Guarantor. It is agreed among each Guarantor, Agent and Lenders that the foregoing waivers are of the essence of the transaction contemplated by this Agreement and the other Loan Documents and that, but for the provisions of this Section 13 and such waivers, Agent and Lenders would decline to enter into this Agreement. Each Guarantor expressly waives diligence, presentment and demand (whether for non-payment or protest or of acceptance, maturity, extension of time, change in nature or form of the Obligations hereunder, acceptance of further security, release of further security, composition or agreement arrived at as to the amount of, or the terms of, the Obligations hereunder, notice of adverse change in Borrower's financial condition or any other fact which might increase the risk to Borrower).

13.3 Benefit of Guaranty. Each Credit Party agrees that the provisions of this Section 13 are for the benefit of Agent and Lenders and their respective successors, transferees, endorsees and assigns, and nothing herein contained shall impair, as between any other Credit Party and Agent or Lenders, the obligations of such other Credit Party under the Loan Documents.

13.4 Subordination of Subrogation, Etc. Notwithstanding anything to the contrary in this Agreement or in any other Loan Document, and except as set forth in Section 13.7, each Credit Party hereby expressly and irrevocably subordinates to payment of the Obligations hereunder any and all rights at law or in equity to subrogation, reimbursement, exoneration, contribution, indemnification or set off and any and all defenses available to a surety, guarantor or accommodation co-obligor until the Maturity Date. Each Credit Party acknowledges and agrees that this subordination is intended to benefit Agent and Lenders and

shall not limit or otherwise affect such Credit Party's liability hereunder or the enforceability of this Section 13, and that Agent, Lenders and their respective successors and assigns are intended third party beneficiaries of the waivers and agreements set forth in this Section 13.4.

13.5 Election of Remedies. If Agent or any Lender may, under applicable law, proceed to realize its benefits under any of the Loan Documents giving Agent or such Lender a Lien upon any Collateral, whether owned by any Credit Party or by any other Person, either by judicial foreclosure or by non-judicial sale or enforcement, Agent or any Lender may, at its sole option, determine which of its remedies or rights it may pursue without affecting any of its rights and remedies under this Section 13. If, in the exercise of any of its rights and remedies, Agent or any Lender shall forfeit any of its rights or remedies, including its right to enter a deficiency judgment against any Credit Party or any other Person, whether because of any applicable laws pertaining to "election of remedies" or the like, each Credit Party hereby consents to such action by Agent or such Lender and waives any claim based upon such action, even if such action by Agent or such Lender shall result in a full or partial loss of any rights of subrogation that such Credit Party might otherwise have had but for such action by Agent or such Lender. Any election of remedies that results in the denial or impairment of the right of Agent or any Lender to seek a deficiency judgment against any Credit Party shall not impair any other Credit Party's obligation to pay the full amount of the Obligations hereunder. In the event Agent or any Lender shall bid at any foreclosure or trustee's sale or at any private sale permitted by law or the Loan Documents, Agent or such Lender may bid all or less than the amount of the Obligations hereunder and the amount of such bid need not be paid by Agent or such Lender but shall be credited against the Obligations hereunder. The amount of the successful bid at any such sale, whether Agent, Lender or any other party is the successful bidder, shall be conclusively deemed to be the Fair Market Value of the Collateral and the difference between such bid amount and the remaining balance of the Obligations shall be conclusively deemed to be the amount of the Obligations guaranteed under this Section 13, notwithstanding that any present or future law or court decision or ruling may have the effect of reducing the amount of any deficiency claim to which Agent or any Lender might otherwise be entitled but for such bidding at any such sale.

13.6 Limitation. Notwithstanding any provision herein contained to the contrary, each Guarantor's liability under this Section 13 shall be limited to an amount not to exceed as of any date of determination the greater of:

(a) the amount of all Loans advanced to Borrower and Letters of Credit issued for the account of Borrower and its Restricted Subsidiaries; and

(b) the amount that could be claimed by Agent and Lenders from such Guarantor under this Section 13 without rendering such claim voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar foreign or domestic statute or common law after taking into account, among other things, such Guarantor's right of contribution and indemnification from each other Guarantor under Section 13.7.

13.7 Contribution with Respect to Guaranty Obligations.

(a) To the extent that any Guarantor shall make a payment under this Section 13 of all or any of the Obligations hereunder (a "Guarantor Payment") that, taking into account all other Guarantor Payments then previously or concurrently made by any other Guarantor, exceeds the amount that such Guarantor would otherwise have paid if Borrower had paid the aggregate Obligations hereunder satisfied by such Guarantor Payment in the same proportion that such Guarantor's "Allocable Amount" (as defined below) (as determined immediately prior to such Guarantor Payment) bore to the aggregate

Allocable Amounts of each of the Guarantors as determined immediately prior to the making of such Guarantor Payment, then, following the repayment of the Loans and termination of the Commitments, such Guarantor shall be entitled to receive contribution and indemnification payments from, and be reimbursed by, Borrower for the amount of such excess, pro rata based upon their respective Allocable Amounts in effect immediately prior to such Guarantor Payment.

(b) As of any date of determination, the "Allocable Amount" of any Guarantor shall be equal to the maximum amount of the claim that could then be recovered from such Guarantor under this Section 13 without rendering such claim voidable or avoidable under Section 548 of Chapter 11 of the Bankruptcy Code or under any applicable state Uniform Fraudulent Transfer Act, Uniform Fraudulent Conveyance Act or similar statute or common law.

(c) This Section 13.7 is intended only to define the relative rights of the Credit Parties and nothing set forth in this Section 13.7 is intended to or shall impair the obligations of the Credit Parties, jointly and severally, to pay any amounts as and when the same shall become due and payable in accordance with the terms of, and subject to the limitations contained in, this Agreement, including Section 13.1. Nothing contained in this Section 13.7 shall limit the liability of Borrower to pay the Loans made to it and accrued interest, Fees and expenses with respect thereto for which it is primarily liable.

(d) The parties hereto acknowledge that the rights of contribution and indemnification hereunder shall constitute assets of the Guarantors to which such contribution and indemnification is owing.

(e) The rights of the indemnifying Borrower against other Credit Parties under this Section 13.7 shall be exercisable upon the full and indefeasible payment of the Obligations hereunder and the termination of the Commitments.

13.8 Liability Cumulative. The liability of each Guarantor under this Section 13 is in addition to and shall be cumulative with all liabilities of such Guarantor to Agent and Lenders under this Agreement and the other Loan Documents to which such Guarantor is a party or in respect of any Obligations hereunder or obligation of the other Guarantors, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

13.9 [Reserved].

13.10 Release of Guaranties. A Guaranty as to any Subsidiary Guarantor (and, in the case of the occurrence of the events described in Section 13.10(f), Parent Guarantor) shall automatically terminate and be of no further force or effect and such Subsidiary Guarantor shall be automatically released from all obligations under this Agreement and all the Loan Documents upon:

(a) the sale, disposition, exchange or other transfer (including through merger, consolidation amalgamation or otherwise) of the Capital Stock of the applicable Subsidiary Guarantor following which the applicable Subsidiary Guarantor is no longer a Wholly Owned Restricted Subsidiary if such sale, disposition, exchange or other transfer is made in a manner not in violation of this Agreement; *provided* that if any Subsidiary Guarantor ceases to be a Wholly Owned Subsidiary, such Subsidiary shall not be released from its Guaranty solely as a result of ceasing to be a Wholly Owned Subsidiary unless either (x) it is no longer a direct or indirect Subsidiary of Borrower or (y) such disposition is a good faith disposition to a bona fide unaffiliated third party (as determined by Borrower in good faith) for fair market value and for a bona fide business purpose (as determined by Borrower in good faith) (it being understood that this proviso shall not limit the release of any Subsidiary Guarantor that otherwise qualifies as an

Excluded Subsidiary for reasons other than not being a Wholly Owned Subsidiary); *provided*, *further*, that the fair market value of such Subsidiary Guarantor at the time it is released from its Guaranty in accordance with clause (x) or (y) above as a result of a sale, disposition, exchange or other transfer of a portion (but not all) of its Capital Stock shall be treated as an Investment by Borrower at the time of such release (and such release shall only be permitted if such deemed Investment is permitted); or

(b) the designation of such Subsidiary Guarantor as an Unrestricted Subsidiary in accordance with Section 6.17; or

(c) such Subsidiary Guarantor becomes an Excluded Subsidiary in a transaction not in violation of this Agreement (as evidenced by a notice in writing from an Officer of Borrower); or

(d) such Subsidiary Guarantor ceasing to be a Subsidiary as a result of any foreclosure of any pledge or security interest securing the Obligations or other exercise of remedies in respect thereof subject to, in each case, the application of the proceeds of such foreclosure or exercise of remedies in accordance with the Loan Documents; or

(e) the liquidation of such Subsidiary Guarantor in a transaction not in violation of this Agreement;

(f) repayment of all of the Loans and termination of all of the Commitments hereunder; or

(g) in the case of any Guaranty provided pursuant to the proviso to Section 6.12(a), Borrower's provision of notice to Agent that it desires to release such Guaranty (so long as such Guaranty is not required to be provided at the time of such release).

13.11 Effectiveness of Article 13. This Article 13 shall only become effective upon the execution of the Escrow Release Date Assumption and Joinder Agreement and the consummation of the Assumption and Joinder on the Escrow Release Date.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

GN LOANCO, LLC,
as Escrow Borrower

By /s/ Zhuo Chen
Name: Zhuo Chen
Title: Chief Financial Officer

CITIBANK, N.A.,
as a Term B Lender and as Agent

By /s/ Jyothi Narayanan
Name: Jyothi Narayanan
Title: Vice President

Exhibit 10.2

Execution Version

ESCROW RELEASE DATE ASSUMPTION AND JOINDER AGREEMENT (this "Assumption and Joinder Agreement"), dated as of January 25, 2024 among GN LOANCO, LLC, a Delaware limited liability company ("Escrow Borrower"), CLUE OPCO LLC, a Delaware limited liability company ("Borrower"), FORWARD AIR CORPORATION, a Tennessee corporation ("Parent Guarantor"), the Subsidiaries of Borrower party hereto (the "Subsidiary Guarantors" and, collectively with Parent Guarantor, the "Guarantors") and CITIBANK, N.A., as administrative agent and collateral agent for the Lenders and L/C Issuers (together, with any permitted successors in such capacity, "Agent").

W I T N E S S E T H :

WHEREAS on December 19, 2023 (the "Escrow Funding Date"), Escrow Borrower (i) borrowed $1,125,000,000 aggregate principal amount of Term B Loans under the Credit Agreement (the "Credit Agreement"), dated as of the Escrow Funding Date, by and among, *inter alia*, Escrow Borrower and Agent, and (ii) deposited the proceeds of the Term B Loans and other funds into the Escrow Account; and

WHEREAS on the Escrow Release Date, (i) Parent Guarantor, Borrower and the Subsidiary Guarantors shall enter into this Assumption and Joinder Agreement substantially simultaneously with the release of the proceeds of the Term B Loans and the other Escrowed Property from the Escrow Account, and then (ii) immediately after the completion of the actions set forth in the foregoing clause (i), the Escrow Merger shall occur.

Capitalized terms used herein but not otherwise defined herein shall have the meanings assigned to them in the Credit Agreement.

NOW THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Escrow Borrower, Borrower and the Guarantors mutually covenant and agree for the benefit of Agent, the L/C Issuers and the Lenders as follows:

1. Agreement to Assume. Borrower hereby assumes all of the Obligations of Escrow Borrower under the Credit Agreement and hereafter shall be deemed to be "Borrower" for all purposes under the Credit Agreement and the other Loan Documents.

2. Agreement to Guarantee. Each Guarantor hereby agrees, jointly and severally with each other Guarantor, to unconditionally guarantee Borrower's Obligations on the terms and subject to the conditions set forth in Article 13 of the Credit Agreement and to be bound as a Guarantor by all the other applicable provisions of the Credit Agreement.

3. Ratification of Credit Agreement; Assumption and Joinder Agreement Part of Credit Agreement. Except as expressly amended hereby, the Credit Agreement is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Assumption and Joinder Agreement shall form a part of the Credit Agreement for all purposes, and Agent, each L/C Issuer and each Lender shall be bound hereby.

4. Governing Law. **THIS ASSUMPTION AND JOINDER AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

5. Counterparts. This Assumption and Joinder Agreement may be executed in any number of separate counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. The words "executed," and words of like import in this Assumption and Joinder Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

6. Section Titles. The Section titles contained in this Assumption and Joinder Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

7. Effectiveness; Successors and Assigns. This Assumption and Joinder Agreement shall become effective when it shall have been executed by Escrow Borrower, Borrower, the Guarantors and Agent. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, Borrower, the Guarantors, Agent, each L/C Issuer and each Lender, and their respective successors and permitted assigns.

8. Severability. Wherever possible, each provision of this Assumption and Joinder Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Assumption and Joinder Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Assumption and Joinder Agreement.

9. Amendments and Modification. This Assumption and Joinder Agreement may be amended, modified, or supplemented only as permitted by the Credit Agreement and by written agreement of each of the parties hereto.

[Remainder of page intentionally left blank]

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

GN LOANCO, LLC, as Escrow Borrower

By: /s/ Rebecca Garbrick
Name: Rebecca Garbrick
Title: Chief Financial Officer and Treasurer

CLUE OPCO LLC, as Borrower

By: /s/ Rebecca Garbrick
Name: Rebecca Garbrick
Title: Chief Financial Officer and Treasurer

FORWARD AIR CORPORATION, as Parent Guarantor

By: /s/ Rebecca Garbrick
Name: Rebecca Garbrick
Title: Chief Financial Officer and Treasurer

CENTRAL STATES TRUCKING LLC
FACSBI, LLC
FAF, LLC
FORWARD AIR LOGISTICS SERVICES, LLC
FORWARD AIR ROYALTY, LLC
FORWARD AIR SERVICES, LLC
FORWARD AIR TECHNOLOGY AND LOGISTICS SERVICES, LLC
FORWARD AIR, LLC
TAF, LLC
TOWNE AIR FREIGHT, LLC
TOWNE HOLDINGS, LLC
TQI HOLDINGS, LLC
TQI LLC
A G WORLD TRANSPORT, INC.
AG CUSTOMS BROKERAGE, INC.
BIGGER, FARTHER, FASTER, LLC
EPIC FREIGHT SOLUTIONS LLC
GROUND EXPRESS SERVICE, INC.
IVIA SERVICES, LLC
MACH 1 AIR SERVICES (HONG KONG), LLC
MACH 1 AIR SERVICES (MEXICO), LLC
MACH 1 AIR SERVICES, LLC
MACH 1 GLOBAL SERVICES (INDIA), LLC
MACH 1 GLOBAL SERVICES (INDONESIA), LLC
MACH 1 GLOBAL SERVICES (U.A.E.), LLC
MILLHOUSE EXPRESS SERVICES, LLC
MILLHOUSE LOGISTICS SERVICES, LLC
OMNI HOLDCO, LLC
OMNI INTERMEDIATE HOLDINGS, LLC
OMNI LOGISTICS, LLC
OMNI NEWCO, LLC
OMNI PARENT, LLC
OMNI TRADE SERVICES, LLC
PACIFIC LOGISTICS, LLC
TRINITY LOGISTICS USA, INC,
each as a Subsidiary Guarantor

By: /s/ Rebecca Garbrick
Name: Rebecca Garbrick
Title: Chief Financial Officer and Treasurer

CITIBANK, N.A., AS CREDIT AGREEMENT AGENT

By: /s/ Joythi Narayanan
Name: Joythi Narayanan
Title: Vice President

[Signature Page to Assumption and Joinder Agreement]

Exhibit 10.3

Execution Version

ESCROW RELEASE DATE INCREMENTAL REVOLVING AMENDMENT dated as of January 25, 2024 (this "Agreement"), relating to the CREDIT AGREEMENT dated as of December 19, 2023 (as amended, supplemented or otherwise modified on or prior to the date hereof, the "Credit Agreement" and the Credit Agreement as amended by this Agreement, the "Amended Credit Agreement"), among CLUE OPCO LLC, a Delaware limited liability company (as successor by merger to GN Loanco, LLC) ("Borrower"), the Credit Parties signatory thereto from time to time, the Lenders signatory thereto from time to time and CITIBANK, N.A., as administrative agent and collateral agent for the Lenders and L/C Issuers (together, with any permitted successors in such capacity, "Agent").

A. Pursuant to Section 2.15 of the Credit Agreement, Borrower has requested that the Persons set forth on Schedule I hereto (the "Revolving Lenders") provide Revolving Credit Commitments under the Amended Credit Agreement (the "Revolving Credit Commitments") to Borrower in an aggregate amount equal to $400,000,000.

B. The Revolving Lenders are willing to provide Borrower with the Revolving Credit Commitments on the terms and subject to the conditions set forth herein and in the Credit Agreement.

C. Pursuant to Sections 2.6 and 2.15 of the Credit Agreement, Borrower has requested that the Revolving Lenders provide an increase in the L/C Sublimit under the Credit Agreement (the "Letter of Credit Commitments") in an aggregate amount equal to $50,000,000 (which Letter of Credit Commitments shall be a part of, and not in addition to, the Revolving Credit Commitments) and that each Revolving Lender agree to the L/C Issuer Fronting Sublimit Amount set forth opposite its name on Part B of Schedule I hereto.

D. The Revolving Lenders are willing to act as L/C Issuers and provide Borrower with the Letter of Credit Commitments on the terms and subject to the conditions set forth herein and in the Credit Agreement.

E. Accordingly, in consideration of the mutual agreements herein contained and other good and valuable consideration, the sufficiency and receipt of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. Defined Terms. Capitalized terms used and not defined herein shall have the meanings assigned to such terms in the Credit Agreement. The rules of construction and interpretation set forth in Sections 1.2 and 1.3 of the Credit Agreement are hereby incorporated by reference herein, *mutatis mutandis*.

SECTION 2. Revolving Credit Commitments and Letter of Credit Commitments.

(a) Pursuant to (x) Section 2.15 of the Credit Agreement and on the terms and subject to the conditions set forth herein and in the Credit Agreement, each Revolving Lender hereby severally agrees to make Revolving Credit Commitments available to Borrower on the Effective Date in the aggregate amount set forth opposite its name under the heading "Revolving Credit Commitments" on Part A of Schedule I hereto and (y) Section 2.6 of the Credit Agreement and on the terms and subject to the conditions set forth herein and in the Credit Agreement, each Revolving Lender hereby agrees to make Letter of Credit Commitments available to Borrower on the Effective Date in the aggregate amount set forth opposite its name under the heading "L/C Issuer Fronting Sublimit Amount" on Part B of Schedule I hereto. It is understood and agreed that, after giving effect to this Agreement, (i) the portion of Schedule B to the Credit Agreement that is set forth under the heading "Revolving Credit Commitments" will be amended and replaced with Part A of Schedule I hereto and (ii) the portion of Schedule B to the Credit Agreement that is set forth under the heading "L/C Issuer Fronting Sublimit Amount" will be amended and replaced with Part B of Schedule I hereto.

(b) From and after the Effective Date, (x) the Revolving Credit Commitments shall have the same terms as the "Revolving Credit Commitments" described in the Credit Agreement and shall constitute "Commitments", "Revolving Credit Commitments" and "Incremental Revolving Credit Commitments" for all purposes of the Amended Credit Agreement and the other Loan Documents, (y) Loans incurred under the Revolving Credit Commitments shall have the same terms as the "Revolving Credit Loans" described in the Credit Agreement and shall constitute "Loans" and "Revolving Credit Loans" for all purposes of the Amended Credit Agreement and the other Loan Documents and (z) the Revolving Lenders shall constitute "Lenders", "Revolving Lenders", "Incremental Lenders" and "L/C Issuers" for all purposes of the Amended Credit Agreement and the other Loan Documents. This Agreement is the "Escrow Release Date Incremental Revolving Amendment" described in Section 2.15(a) of the Credit Agreement and shall constitute an "Incremental Amendment" and a "Loan Document" for all purposes of the Amended Credit Agreement and the other Loan Documents.

SECTION 3. Conditions to Effectiveness. The effectiveness of this Agreement and the obligations of the Revolving Lenders to provide the Revolving Credit Commitments and the Letter of Credit Commitments are subject to the satisfaction or waiver of the following conditions (the date on which all such conditions are satisfied or waived, the "Effective Date"):

(a) all conditions precedent to the Escrow Release Date set forth in Section 3.2 of the Credit Agreement shall have been satisfied (or waived by the Revolving Lenders) and the Escrow Release Date shall have occurred; provided that such conditions set forth in Section 3.2 of the Credit Agreement, including, for the avoidance of doubt, the opinions required to be delivered thereunder, shall be modified as necessary to give effect to this Agreement and the transactions contemplated hereby; and

(b) Agent (or its counsel) shall have received from Borrower, each Revolving Lender and each Issuing Bank (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence reasonably satisfactory to Agent (which may include facsimile or electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

SECTION 4. Governing Law; Waiver of Jury Trial.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

(b) EACH PARTY HERETO KNOWINGLY WAIVES ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, SUIT OR PROCEEDING RELATING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM HEREIN.

SECTION 5. Counterparts; Electronic Execution of Documents. This Agreement may be executed in any number of separate counterparts and by different parties in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart. The words "executed," and words of like import in this Agreement shall be deemed to include electronic signatures or electronic records, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 6. Section Titles. The Section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

SECTION 7. Effectiveness; Successors and Assigns. This Agreement shall become effective when it shall have been executed by Borrower, each Revolving Lender and Agent. Thereafter, it shall be binding upon and inure to the benefit of, but only to the benefit of, Borrower, the Guarantors, Agent, each L/C Issuer and each Lender, and their respective successors and permitted assigns.

SECTION 8. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Agreement.

SECTION 9. Amendments and Modification. This Agreement may be amended, modified or supplemented only as permitted by the Amended Credit Agreement and by written agreement of each of the parties hereto.

SECTION 10. Reference to and Effect on the Loan Documents. On and after the Effective Date, each reference in the Amended Credit Agreement to "this Agreement," "hereunder," "hereof" or words of like import referring to the Credit Agreement, and each reference in each of the other Loan Documents to "the Credit Agreement," "thereunder," "thereof" or words of like import referring to the Credit Agreement, shall mean and be a reference to the Amended Credit Agreement. The execution, delivery and effectiveness of this Agreement shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender or Agent under any of the Loan Documents, nor constitute a waiver of any provision of any of the Loan Documents. This Agreement shall not constitute a novation of the Credit Agreement or any of the Loan Documents. This Agreement shall constitute a "Loan Document" for all purposes of the Amended Credit Agreement and the other Loan Documents.

SECTION 11. Reaffirmation of Guaranties and Security Interests. The Borrower hereby acknowledges, on behalf of each Credit Party, receipt of a copy of this Agreement and its review of the terms and conditions hereof and consents on behalf of each Credit Party to the terms and conditions of this Agreement and the transactions contemplated hereby, including the extension of credit in the form of an increase in the amount of Revolving Credit Commitments. The Borrower, on behalf of each Credit Party, hereby (a) affirms and confirms its guarantees and its prior pledges and grants of Liens on the Collateral, with all such Liens continuing in full force and effect after giving effect to this Agreement, and its other undertakings under the Loan Documents to which it is a party, (b) agrees that (i) each Loan Document to which it is a party shall continue to be in full force and effect and (ii) all guarantees and prior pledges and grants of Liens on the Collateral and other undertakings thereunder shall continue to be in full force and effect and shall accrue to the benefit of the Secured Parties, including the Revolving Lenders and L/C Issuer, and (c) acknowledges that, from and after the Effective Date, the Revolving Credit Commitments from time to time outstanding shall be Obligations.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

CLUE OPCO LLC, as Borrower

By: /s/ Rebecca Garbrick
Name: Rebecca Garbrick
Title: Chief Financial Officer and Treasurer

[Project Game Night - Signature Page to Incremental Assumption Agreement]

CITIBANK, N.A., as Agent, a Revolving Lender and an L/C Issuer

by /s/ Jyothi Narayanan
Name: Jyothi Narayanan
Title: Vice President

[Project Game Night - Signature Page to Incremental Assumption Agreement]

MORGAN STANLEY BANK, N.A. as a Revolving Lender and an L/C Issuer

by /s/ Michael King
Name: Michael King
Title: Authorized Signatory

MORGAN STANLEY SENIOR FUNDING, INC., as a Revolving Lender

by /s/ Michael King
Name: Michael King
Title: Authorized Signatory

GOLDMAN SACHS BANK USA,. as a Revolving Lender and an L/C Issuer

by /s/ Robert Ehudin
Name: Robert Ehudin
Title: Authorized Signatory

[Project Game Night - Signature Page to Incremental Assumption Agreement]

JPMORGAN CHASE BANK, N.A., as a Revolving Lender and an L/C Issuer

by /s/ Ryan P Viaclovsky
Name: Ryan P Viaclovsky
Title: Authorized Officer

U.S. BANK NATIONAL ASSOCIATION, as a Revolving Lender and an L/C Issuer

by /s/ Eric M. Herm
Name: Eric M. Herm
Title: Vice President

[Project Game Night - Signature Page to Incremental Assumption Agreement]

PNC BANK, NATIONAL ASSOCIATION, as a Revolving Lender and an L/C Issuer

by /s/ Larry D. Jackson
Name: Larry D. Jackson
Title: Senior Vice President

CAPITAL ONE, NATIONAL ASSOCIATION, as a
Revolving Lender and an L/C Issuer

by /s/ Brian Keane
Name: Brian Keane
Title: Authorized Signatory

DEUTSCHE BANK AG NEW YORK BRANCH, as a Revolving Lender and an L/C Issuer

by /s/ Philip Tancorra
Name: Philip Tancorra
Title: Director

by /s/ Lauren Danbury
Name: Lauren Danbury
Title: Vice President

THE TORONTO-DOMINION BANK, NEW YORK BRANCH, as a Revolving Lender and an L/C Issuer

by /s/ David Perlman
Name: David Perlman
Title: Authorized Signatory

[Project Game Night - Signature Page to Incremental Assumption Agreement]

CITIZENS BANK, N.A, as a Revolving Lender and an L/C Issuer

by /s/ Jacqueline VanDeventer
Name: Jacqueline VanDeventer
Title: Managing Director

[Project Game Night - Signature Page to Incremental Assumption Agreement]

Exhibit 10.4

EXECUTION VERSION

SHAREHOLDERS AGREEMENT

by and among

FORWARD AIR CORPORATION

and

R INVESTORS (as defined herein)

Dated as of January 25, 2024

Table of Contents

Exhibits and Annexes

SHAREHOLDERS AGREEMENT dated as of January 25, 2024 (this "Agreement"), among:

A. Forward Air Corporation, a Tennessee corporation (the "Parent");

B. (i) REP Omni Holdings, L.P., a Delaware limited partnership, (ii) REP III B Feeder, L.P., a Delaware limited partnership, (iii) REP III C Feeder, L.P., a Delaware limited partnership, (iv) REP Coinvest III-A Omni, L.P., a Delaware limited partnership, and (v) REP Coinvest III-B Omni, L.P., a Delaware limited partnership (each, an "R Investor" and collectively, the "R Investors");

and any Permitted Transferees (as defined below) that execute joinders to this Agreement pursuant to Section 4.02 after the date of this Agreement.

WHEREAS, upon the consummation of the transactions (the "Transactions") contemplated under that certain Agreement and Plan of Merger, dated as of August 10, 2023, among Parent, Omni Newco, LLC, a Delaware limited liability company, and the other parties thereto (as amended from time to time, the "Merger Agreement"), the Investors (as defined below) will become holders of Parent Common Stock (as defined below) and Parent Series B Preferred Units, Parent Series C Preferred Units and/or Opco Units (each as defined below);

WHEREAS, simultaneously with the execution of this Agreement, as of the date hereof, the R Investors and Parent, among others, have entered into the Investor Rights Agreement (as defined below); and

WHEREAS, the parties hereto desire to enter into this Agreement to establish certain rights, duties and obligations of the parties hereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby acknowledge, covenant and agree with each other as follows:

ARTICLE I

Definitions

Section 1.01. Definitions. (a) As used in this Agreement, the following terms will have the following meanings:

"13D Group" means any group of Persons formed for the purpose of acquiring, holding, voting or disposing of Voting Securities of Parent that would be required under Section 13(d) of the Exchange Act to file a statement on Schedule 13D with the SEC as a "person" within the meaning of Section 13(d)(3) of the Exchange Act.

"Action" means any litigation, suit, claim, action, proceeding or investigation.

An "Affiliate" of any Person means another Person that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person; provided, that (x) Parent and its Subsidiaries shall be deemed not to be Affiliates of any Investor for any reason under this Agreement, (y) portfolio companies in which any Investor or any of its Affiliates has an investment (whether as debt or equity) shall be deemed not to be an Affiliate of such Investor so long as such portfolio company or any of its directors, officers, employees or other Representatives (i) have not been directed or encouraged by such Investor or its Affiliates or Representatives to take any actions that would otherwise be prohibited by such Investor or its Affiliates or Representatives under this Agreement and (ii) has not been provided with any Confidential Information by the Investors or their respective Affiliates or Representatives, and (z) any co-investment vehicle or affiliated investment fund controlled by any Investor or any of its Affiliates shall be deemed to be an Affiliate of such Investor. As used in this Agreement, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or other interests, by contract or otherwise.

"beneficial owner" or "beneficially own" or "beneficial ownership" and words of similar import have the meaning assigned to such terms in Rule 13d-3 under the Exchange Act as in effect on the date of this Agreement and a Person's beneficial ownership of Equity Securities shall be calculated in accordance with the provisions of such Rule; provided, however, that for the avoidance of doubt, (i) ownership of Parent Series C Preferred Units or Series C-2 Preferred Units of Opco shall be deemed for purposes of this Agreement to represent, on an as converted or exchanged basis, without duplication, beneficial ownership of Parent Common Stock into which such shares or units are ultimately convertible or exchangeable (including, without duplication, in the case of the Series C-2 Preferred Units of Opco, following conversion into Class B Units pursuant to the Opco LLCA, but for the determination of beneficial ownership, not into any Parent Series B Preferred Units) (disregarding for this purpose any limitations or restrictions on conversion or exchange), and (ii) Opco Units and Surviving Management Holdings Units (other than Series C-2 Preferred Units of Opco), shall not be included in making any such calculation of beneficial ownership of Parent.

"Board" means the board of directors, or any successor governing body, of Parent.

"Business Day" means any day on which banks are not required or authorized to close in the City of New York.

"Bylaws" means the Bylaws of Parent, as in effect from time to time.

"Charter" means the Charter of Parent, as in effect from time to time.

"Competitor" means (a) any Person that is identified as a competitor of Parent in Parent's most recently filed Annual Report on Form 10-K, (b) any Person listed on Annex C hereto and (c) any publicly disclosed controlled Affiliate, or Person otherwise actually known to the Investor to be a controlled Affiliate, of any such Person specified in clause (a) or (b); provided that Parent may update (but is not required to) once each calendar quarter the Persons listed on Annex C hereto to reflect any Person that Parent identifies in good faith is engaged as a material portion of their business in any activity or business that is of a similar nature as, or substantively similar to, any current activity or business of Parent or any of its Affiliates (after giving effect to the consummation of the Transactions) or any successor to such business of Parent or any of its Affiliates (after giving effect to the consummation of the Transactions), by providing R Investors with an updated Annex C hereto; provided further that the list on Annex C shall not exceed 50 Competitors.

"Director" means a member of the Board.

"Encumbrance" means any security interest, pledge, mortgage, lien, or other material encumbrance, except for any restrictions arising under any applicable securities Laws.

"Equity Security" of any Person means, without duplication (i) any common shares or other Voting Securities or such Person, (ii) any options, warrants, convertible or exchangeable securities, stock-based performance units or other rights to acquire common shares or other Voting Securities of such Person (including for the avoidance of doubt, with respect to Parent, the Parent Series B Preferred Units and the Parent Series C Preferred Units and any Opco Units ultimately convertible or exchangeable for or into equity securities of Parent (disregarding for this purpose any limitations or restrictions on conversion or exchange)) or (iii) any other rights that give the holder thereof any economic interest of a nature accruing to the holders of common shares or other Voting Securities.

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

"General Partner" means, with respect to a specified Person, the general partner or managing member, as applicable, of such Person.

"Governmental Entity" any transnational, national, federal, state, provincial, local or other government, domestic or foreign, or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign, or any national securities exchange or national quotation system on which securities issued by Parent or any of its Subsidiaries are listed or quoted.

"Holdco" means Central States Logistics, Inc., an Illinois corporation.

"Incumbent Directors" means (i) the Directors who are members of the Board as of the date of this Agreement and (ii) any Person who becomes a Director subsequent to the date of this Agreement whose election, nomination for election or appointment was approved (including by approval of the proxy statement of Parent in which such Person is named as a Director nominee) by a vote of at least a majority of the Directors who are Incumbent Directors as of such date of approval.

"Independent Director" shall mean a director who would qualify as an "Independent Director" pursuant to the listing standards of the NASDAQ, or, if the Equity Securities of Parent are not quoted or listed for trading on the NASDAQ, pursuant to the rules of the stock exchange on which the Equity Securities of Parent are then quoted or listed for trading. For the avoidance of doubt, each Initial Nominee (other than John J. Schickel, Jr.) and each Investor Director shall be deemed an "Independent Director" regardless of such Initial Nominee's or such Investor Director's affiliation with any Investor (so long as such Director qualifies as such pursuant to the foregoing sentence).

"Information Rights Period" means the period beginning on the date of this Agreement and ending on the date that the R Investor Group beneficially owns in aggregate Equity Securities of Parent representing less than 5% of the then aggregate outstanding Voting Securities of Parent (including for such purpose all Parent Series C Preferred Units and Series C-2 Preferred Units of Opco on anas-converted or as-exchanged basis, notwithstanding any limitations or restrictions on conversion or exchange).

"Investor" means the R Investors and any Permitted Transferee of any R Investor that executes a joinder to this Agreement pursuant to Section 4.02 after the date of this Agreement, and all of them, collectively, the "Investors".

"Investor Director" means each Qualified Nominee nominated and elected to the Board pursuant to Section 2.02(a) together with any replacements appointed to the Board pursuant to Section 2.02(c); provided, for the avoidance of doubt, the R Investor Group shall have the right to nominate or designate in accordance with Section 2.02 and have serve as a Director at any time only two Investor Directors.

"Investor Percentage Interest" means, as of any date of determination with respect to the R Investor Group, the percentage represented by the quotient of (i) the number of votes entitled to be cast as of such date by Voting Securities of Parent that are beneficially owned by the Investors in the R Investor Group, and (ii) the number of votes entitled to be cast on such date by all outstanding Voting Securities of Parent (including for each of clauses (i) and (ii), for such purpose all Parent Series C Preferred Units and Series C-2 Preferred Units of Opco on anas-converted or as-exchanged basis notwithstanding any limitations or restrictions on conversion or exchange).

"Investor Rights Agreement" means the Investor Rights Agreement, dated as of the date of this Agreement, by and among, among others, the Investors and Parent, as the same may be amended, restated or otherwise modified from time to time.

"Law" and "law" means any law, treaty, statute, ordinance, code, rule, regulation, judgment, decree, order, writ, award, injunction, authorization or determination enacted, entered, promulgated, enforced or issued by any Governmental Entity.

"NASDAQ" means The Nasdaq Global Select Market.

"Opco" means Clue Opco LLC, a Delaware limited liability company.

"Opco LLCA" means the amended and restated limited liability company agreement of Opco, as in effect from time to time; provided, that for so long as the definitive agreement constituting the amended and restated limited liability company agreement of Opco contemplated by Section 7.22(a)(i) of the Merger Agreement is not in effect, "Opco LLCA" shall refer to the terms and conditions set forth on Exhibit C to the Merger Agreement.

"Opco Units" means, collectively, the units of Opco designated as Class A Units, the Series C-1 Preferred Units, the Series C-2 Preferred Units and Class B Units pursuant to the Opco LLCA.

"Other Investors" means the Investors (as defined in the Investor Rights Agreement or the Other Shareholders Agreement) other than the Investors (as defined herein).

"Other Shareholders Agreement" means the Shareholders Agreement dated as of the date hereof among, among others, Parent and the E Investors (as defined therein), as the same may be amended, restated or otherwise modified from time to time.

"Parent Common Stock" means the common stock, par value $0.01 per share, of Parent.

"Parent Series B Preferred Stock" means the shares of preferred stock of Parent designated as "Series B Preferred Stock" pursuant to the Charter Amendment and Resolutions as defined in the Merger Agreement.

"Parent Series B Preferred Unit" means a fractional unit of one one-thousandth (1/1,000) of one share of Parent Series B Preferred Stock.

"Parent Series C Preferred Stock" means the shares of preferred stock of Parent designated as "Series C Preferred Stock" pursuant to the Charter Amendment and Resolutions as defined in the Merger Agreement.

"Parent Series C Preferred Unit" means a fractional unit of one-one thousandth (1/1,000) of one share of Parent Series C Preferred Stock.

"Permitted Transferee" means (i) with respect to any Investor that is not a natural person, an Affiliate of such Investor or to (direct or indirect) partners, limited liability company members, stockholders or other equity holders of the Investor, and (ii) with respect to any Investor who is a natural person: (A) in the event of such Investor's death, such Investor's heirs, executors, administrators, testamentary trustees, legatees or beneficiaries, (B) a trust, the beneficiaries of which include only such Investor and the spouse, parents, siblings and descendants (whether natural or adopted) ("Family Members") of such Investor and (C) any partnerships or limited liability companies where the only partners or members are such Investor, such Investor's Family Members or any trust described in clause (B) above.

"Person" means any individual, firm, corporation, partnership, limited partnership, company, limited liability company, trust, joint venture, association, Governmental Entity, unincorporated organization, syndicate or other entity, foreign or domestic.

"Qualified Nominee" means an individual who (i) would be an Independent Director if he or she were a Director, (ii) meets all other generally applicable qualifications required for service as a Director set forth in the Charter and Bylaws and Parent's corporate governance guidelines applicable to Directors and (iii) has provided to Parent (A) all information reasonably requested by Parent that is required to be or is customarily disclosed for directors,

candidates for directors and their respective Affiliates and Representatives in a proxy statement or other filings in accordance with Law or any stock exchange rules or listing standards, (B) all information reasonably requested by Parent in connection with assessing eligibility, independence and other criteria applicable to directors or satisfying compliance and legal or regulatory obligations that is of the same type Parent requests of all other nominees to the Board and (C) an undertaking in writing by such individual, to the extent the same is made by all the other non-employee members of the Board: (1) to be subject to, bound by and duly comply with the code of conduct and other policies of Parent, in each case, to the extent applicable to all other non-executive directors of Parent and (2) to provide such additional information reasonably necessary to comply with future legal or regulatory obligations of Parent; provided, that (w) each of the individuals identified in Section 2.07 of the Merger Agreement or set forth on Section 2.07(f) of the Company Disclosure Letter (as defined in the Merger Agreement) (such individuals set forth therein, the "Initial Nominees") shall be deemed a Qualified Nominee for all purposes hereof so long as such Initial Nominee complies with the foregoing clause (iii) of this definition (subject to clauses (y) and (z) below), except to the extent an event, change in circumstance with respect to such Initial Nominees or change in applicable Law (or interpretation thereof by a court of competent jurisdiction) occurs following the date of the Merger Agreement which results in such Person no longer being a Qualified Nominee under the terms hereof (for the avoidance of doubt, only the impact of such new event or change in applicable Law (or interpretation thereof by a court of competent jurisdiction) shall be taken into account in such determination), (x) no board service or other activity or circumstance of any of Initial Nominees disclosed to Parent as of the date hereof shall be considered in any determination as to whether to disqualify any replacement or future Investor Directors as Qualified Nominees except to the extent of any change in applicable Law (or interpretation thereof by a court of competent jurisdiction) relating thereto, (y) no corporate governance guidelines or code of business conduct and ethics or other policies of Parent (whether existing as of the date hereof or later adopted or amended) shall apply to any Initial Nominees or Investor Directors to the extent such provisions conflict with the express provisions of Section 6.16 (for the avoidance of doubt, to the fullest extent permitted by applicable Law, any activity or omission expressly permitted by Section 6.16 shall not be prohibited) and (z) any share or unit ownership requirement for any Initial Nominee or Investor Director shall credit such Initial Nominee or Investor Director with the share and unit ownership of the R Investor Group.

"R Investor Group" means the R Investors and their respective Permitted Transferees.

"Representative" means, with respect to a specified Person, any officer, agent, advisor (including legal counsel, accountants and financial advisors) or employee of such Person or any partner, member or shareholder of such Person or any director, officer, employee, partner, affiliate, member, manager, shareholder, assignee or representative of any of the foregoing.

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Standstill Termination Date" means with respect to any Investor, the earlier of (i) the first date on which the Investor Percentage Interest for the R Investor Group has been less than 5% for 180 consecutive days or (ii) a Strategic Transaction is consummated; provided, however, that if the R Investor Group has an Ongoing Director Designation Right, the Standstill Termination Date shall not occur until the date the R Investor Group ceases to have an Ongoing Director Designation Right.

"Strategic Transaction" means (i) a transaction in which a Person, the R Investor Group or any 13D Group acquires, directly or indirectly, (A) 50% or more of the Voting Securities of Parent, other than a transaction pursuant to which holders of Voting Securities of Parent immediately prior to the transaction own, directly or indirectly, 50% or more of the Voting Securities of Parent or any successor, surviving entity or direct or indirect parent of Parent immediately following the transaction or (B) properties or assets constituting 50% or more of the consolidated assets of Parent and its Subsidiaries or (ii) in any case not covered by clause (i), a transaction in which (A) Parent issues Equity Securities representing 50% or more of its total voting power, including by way of merger or other business combination with Parent or any of its Subsidiaries or (B) Parent engages in a merger or other business combination such that the holders of Voting Securities of Parent immediately prior to the transaction do not own more than 50% of the Voting Securities of Parent or any successor, surviving entity or direct or indirect parent immediately following the transaction.

"Subsidiary" of any Person means another Person (i) in which such first Person's beneficial ownership of Voting Securities, other voting ownership or voting partnership interests, is in an amount sufficient to elect at least a majority of its board of directors or other governing body (or, if there are no such voting interests, 50% or more of the equity interests of which are beneficially owned directly or indirectly by such first Person) or (ii) which is required to be consolidated with such Person under U.S. generally accepted accounting principles.

"Surviving Management Holdings" means Omni Management Holdings, LLC, a Delaware limited liability company.

"Surviving Management Holdings LLCA" means the amended and restated limited liability company agreement of Surviving Management Holdings, as in effect from time to time; provided, that for so long as the definitive agreement constituting the amended and restated limited liability company agreement of Surviving Management Holdings contemplated by Section 7.22(a)(ii) of the Merger Agreement is not in effect, "Surviving Management Holdings LLCA" shall refer to the terms and conditions set forth on Exhibit K to the Merger Agreement.

"Surviving Management Holdings Units" means the units comprising the equity interests in Surviving Management Holdings pursuant to the Surviving Management Holdings LLCA.

"Suspension Event" means the occurrence of any of the following events: (i) Parent enters into any definitive agreement providing for a Strategic Transaction or Parent redeems any rights under, or modifies or agrees to modify, a shareholder rights plan to facilitate a Strategic Transaction, (ii) a tender or exchange offer which if consummated would constitute a Strategic Transaction is made for Equity Securities of Parent and the Board either recommends that stockholders of Parent accept such offer or fails to recommend that its stockholders reject such offer within ten Business Days from the date of commencement of such offer or (iii) the Incumbent Directors cease for any reason to constitute a majority of the Board.

"Third Party" means any Person other than Parent, the Investors, the Other Investors or any of their respective Affiliates.

"Transfer" means, with respect to any security, any sale, assignment, transfer, distribution or other disposition thereof, or other conveyance, creation, incurrence or assumption of a legal or beneficial interest therein, or a participation or Encumbrance therein, or creation of any short position in any such security or any other action or position otherwise reducing risk related to ownership through hedging or other derivative instrument, whether voluntarily or by operation of Law, whether in a single transaction or a series of related transactions and whether to a single Person or a 13D Group; provided that in no event a Transfer shall be deemed to include (i) any conversion or exchange of Opco Units pursuant to the Opco LLCA, (ii) the conversion or exchange of Surviving Management Holdings Units pursuant to the Surviving Management Holdings LLCA, (iii) any conversion of Parent Series C Preferred Units pursuant to the Charter, (iv) any transfer to a brokerage account where the Investor is the beneficial owner of the brokerage account and of the securities contained therein and (v) any disposition of Equity Securities to Parent in connection with equity awards of Parent; provided further that any Transfer of an Equity Security of a Subsidiary of Parent shall be deemed to be a Transfer of an Equity Security of Parent. The terms "Transferred", "Transferring" and "Transferee" have meanings correlative to the foregoing.

"Voting Securities" of any Person means securities having the right to vote generally in any election of directors or comparable governing Persons of such Person. The percentage of Voting Securities of any Person owned by any holder or holders shall equal the percentage represented by the quotient of (i) the aggregate voting power of all Voting Securities of such Person beneficially owned by such holder or holders and (ii) the aggregate voting power of all outstanding Voting Securities of such Person (including, for each of clause (i) and (ii), for such purpose all Parent Series C Preferred Units and Series C-2 Preferred Units of Opco on anas-converted or as-exchanged basis notwithstanding any limitations or restrictions on conversion or exchange).

(b) As used in this Agreement, the terms set forth below will have the meanings assigned in the corresponding Section listed below:

Term	Section
Agreement	Preamble
Confidential Information	Section 6.13(a)
Consent	ANNEX A
Contract	ANNEX A
Information	Section 5.01
Joinder Agreement	EXHIBIT A
Joining Party	EXHIBIT A
Liens	ANNEX A
Merger Agreement	Recitals
Parent	Preamble
Parent Subsidiaries	ANNEX A
Shareholders Agreement	EXHIBIT A
Transactions	Recitals

ARTICLE II

Corporate Governance; Voting Support

Section 2.01. Composition of the Board . As of the date of this Agreement, the Board shall be comprised of Directors that are consistent with the provisions of Section 2.07(f) of the Merger Agreement.

Section 2.02. Post-Closing Board Matters.

(a) Ongoing Director Designation Right. For so long as either (i) the Investor Percentage Interest of the R Investor Group remains greater than 10% or (ii) the R Investor Group beneficially continues to own in the aggregate greater than 50% of the Voting Securities of Parent beneficially owned by the R Investor Group as of the date hereof (or other Voting Securities received on account thereof), the R Investor Group shall be entitled to nominate for election to the Board at each meeting of stockholders at which directors are to be elected up to two Qualified Nominees designated by the R Investor Group; provided for the avoidance of doubt, the R Investor Group shall have the right to nominate or designate in accordance with this Section 2.02 and have serve as an Investor Director at any time a maximum of two Investor Directors (an "Ongoing Director Designation Right").

(b) Election Rights. For so long as the R Investor Group has an Ongoing Director Designation Right, Parent, the Board and each applicable committee or subcommittee thereof shall take all necessary action within their respective control, and shall use commercially reasonable efforts to cause, any nominee of the R Investor Group designated for election as an Investor Nominee pursuant to its Ongoing Director Designation Right in accordance with to Section 2.02(a) (each, an "Investor Nominee") to be nominated and elected at each annual general meeting of Parent and, if the R Investor Group does not then have two designees serving on the Board consistent with its Ongoing Director Designation Right, at any other meeting where Directors are to be elected including, without limitation and as applicable, calling special Board meetings, recommending to the Board and any applicable committee thereof and to the stockholders of Parent the election and re-election of each Investor Nominee, ensuring sufficient vacancies on the Board for the Investor Nominees, and including each Investor Nominee as a nominee for director in Parent's proxy materials and form of proxy and soliciting proxies from stockholders in favor of the election and re-election of such Investor Nominee in a manner no less rigorous and favorable than the manner in which Parent supports its other nominees. For the avoidance of doubt, failure of the stockholders of Parent to elect an Investor Nominee to the Board shall not affect the right of the R Investor Group to nominate Qualified Nominees for election pursuant to Section 2.02(a) in any future election of Directors.

(c) Replacement. For so long as the R Investor Group has an Ongoing Director Designation Right, in the event that a vacancy is created at any time by the death, disqualification, resignation or removal of an Investor Director, the R Investor Group shall have the right to designate a Qualified Nominee as a replacement to fill such vacancy for such Investor Director and if the R Investor Group exercises such right, Parent and the Board shall use commercially reasonable efforts to cause such designee to be promptly appointed to the Board to fill such vacancy, subject to applicable law. If the R Investor Group does not exercise such right by providing written notice to Parent within 60 days following the date on which a vacancy is created, without prejudice to terms of this Section 2.02, the Board shall be entitled to appoint or nominate another Person to fill the resulting vacancy on the Board.

(d) Removal and Resignation.

(i) For so long as the R Investor Group has an Ongoing Director Designation Right, Parent and the Board shall not remove an Investor Director without the prior written consent of the R Investor Group, except for removal for cause in accordance with the Bylaws.

(ii) The R Investor Group shall promptly take all appropriate action to cause to resign from the Board, and shall vote their Voting Securities in favor of removal of, an Investor Director if the Directors (other than the Investor Director) reasonably determine that such Director ceases to satisfy the requirements to be a Qualified Nominee set forth in the definition thereof. If an Investor Director is so removed, the R Investor Group will be entitled to designate an alternate Qualified Nominee to replace the removed Investor Director in accordance with Section 2.02(c).

(iii) If the R Investor Group ceases to have an Ongoing Director Designation Right, at the written request of the Board, the R Investor Group shall promptly take all appropriate action to cause to resign from the Board, and shall vote their Voting Securities in favor of removal of, the Investor Directors.

(e) Information Sharing. Notwithstanding anything in this Agreement to the contrary, each Initial Nominee or Investor Director may share, and otherwise make available to, the R Investor Group any information it receives, in its capacity a Director, from or on behalf of Parent and its Subsidiaries; provided that any such information shall be subject to Section 6.13.

(f) Committees. The Board shall determine the composition and make-up of the Audit Committee, the Compensation Committee, the Nominating and Corporate Governance Committee, the Executive Committee and any other committee of the Board and make assignments of each Initial Nominee and Investor Director appropriate in its judgment in light of the expertise of potential committee members and the needs of the Board.

(g) Director Compensation and Expenses. Parent shall pay to each Initial Nominee and Investor Director that is not an employee of Parent, Holdco, Opco or one of Parent's other Subsidiaries (i) such fees as may be determined by the Board and (ii) reimburse each Initial Nominee and Investor Director for all reasonable out-of-pocket expenses incurred in connection with such Director's attendance at meetings of the Board and any committee thereof, including reasonable travel, lodging and meal expenses, in each case of clauses (i) and (ii) on the same basis as the other non-employee Directors.

(h) Insurance, Etc. Each Initial Nominee and Investor Director shall be entitled to receive from Parent the same terms of indemnification (and the benefit of the same directors' and officers' liability insurance policy), exculpation and expense reimbursement right as the other Directors in connection with the Initial Nominee's or the Investor Director's role as a Director. Parent acknowledges and agrees that an Initial Nominee or Investor Director who is a partner, member, employee or consultant the R Investor Group may have certain rights to indemnification, advancement of expenses and/or insurance provided by the R Investor Group or their Affiliates (collectively, the "Investor Indemnitors"). Parent acknowledges and agrees that Parent shall be the indemnitor of first resort with respect to any indemnification, advancement of expenses and/or insurance provided in the Charter, Bylaws or any indemnification agreements to an Initial Nominee or Investor Director in his or her capacity as a director of Parent or any of its Subsidiaries (such that Parent's obligations to such indemnitees in their capacities as directors are primary and any obligation of the Investor Indemnitors to advance expenses or to provide indemnification or insurance for the same expenses or liabilities incurred by such indemnitees are secondary). No advancement or payment by the Investor Indemnitors on behalf of such indemnitees with respect to any claim for which such indemnitees have sought indemnification, advancement of expenses or insurance from Parent in their capacities as directors shall affect the foregoing and such Investor Indemnitor or insurer shall be subrogated to all of the claims or rights of such indemnitee under the indemnification agreements or any such other agreement or arrangement with Parent or its Subsidiaries with respect thereto, including to the payment of expenses in an action to collect. Parent irrevocably waives, relinquishes and releases the Investor Indemnitors and such insurers from any and all claims against the Investor Indemnitors or such insurers for contribution, by way of subrogation or any other recovery of any kind in respect thereof. Parent agrees that any Investor Indemnitor or its insurer not a party hereto shall be an express third party beneficiary of this Section 2.02(h), able to enforce this Section 2.02(h) according to its terms as if it were a party hereto. Nothing contained in the indemnification agreements and/or any such other agreement or arrangement is intended to limit the scope of this Section 2.02(h) or the other terms set forth in this Agreement or the rights of the Investor Indemnitors or their insurers hereunder.

Section 2.03. Voting Support.

(a) For so long as the R Investor Group has an Ongoing Director Designation Right and Parent is not in breach of Section 2.02, each Investor agrees (i) to cause all Voting Securities beneficially owned by it and which entitles the holder thereof to vote on such matters to be present at any stockholders' meeting at which Directors are to be elected or removed (whether in an annual or special meeting or by written consent) either in person or by proxy, (ii) to vote such Voting Securities (A) with respect to the Investor Directors as it may determine, (B) with respect to the Directors (other than the Investor Directors), in favor of such Director nominees nominated by the Board and against any other nominees and (C) against the removal of any Director if the Board so recommends.

(b) For so long as the R Investor Group has an Ongoing Director Designation Right and Parent is not in breach of Section 2.02, each Investor hereby irrevocably grants to, and appoints the Secretary of Parent as its proxy and attorney-in-fact (with full power of substitution), for and in the name, place and stead to vote its Voting Securities (the "Proxy Shares"), or grant a consent or approval in respect of such Proxy Shares, in a manner consistent with the terms of Section 2.03(a); provided, however, that such proxy and voting and related rights are expressly limited to those matters set forth in Section 2.03(a). Each Investor hereby further affirms that its respective irrevocable proxy is coupled with an interest and may not be revoked.

(c) In any matter submitted to a vote of stockholders not subject to Section 2.02(d) or Section 2.03(a), each Investor may vote any or all of its Voting Securities in its sole discretion, subject to applicable Law.

ARTICLE III

Standstill, Acquisitions of Securities and Other Matters

Section 3.01. Acquisitions of Parent Common Stock. Until the Standstill Termination Date, without the prior written approval of Parent, no Investor shall, nor shall any Investor permit its Affiliates or General Partners, to, directly or indirectly acquire, offer to acquire, agree to acquire or make a proposal (public or otherwise) to acquire, by purchase or otherwise, (a) beneficial ownership of any Equity Securities, or any direct or indirect right to acquire any Equity Securities, of Parent or (b) any cash settled call options or other derivative securities or contracts or instruments in any way related to the price of Equity Securities of Parent.

Section 3.02. Other Restrictions. Until the Standstill Termination Date, without the prior written approval of Parent, no Investor shall, nor shall any Investor permit any of its Affiliates or General Partners to:

(a) make, initiate, solicit or submit a proposal (public or otherwise) for, or offer of (with or without conditions), any merger, consolidation, business combination, tender or exchange offer, recapitalization, reorganization, purchase or license of (i) a material portion of the assets, properties or businesses of, or other similar extraordinary transaction involving, Parent or any of its Subsidiaries or (ii) any of their respective Equity Securities (provided, that, nothing in this clause (a) shall restrict any tender of shares in any such tender or exchange);

(b) make or in any way participate in any "solicitation" of "proxies" to vote or become a participant in any "election contest" (as such terms are used in the proxy rules of the Exchange Act), or agree or announce an intention to vote with any Person undertaking a "solicitation", or seek to advise or influence any Person or 13D Group (including, for the avoidance of doubt, the Other Investors) with respect to the voting of any Voting Securities of Parent or any Subsidiary thereof;

(c) propose any matter for submission to a vote of stockholders of Parent or call or seek to call a meeting of the stockholders of Parent (other than, for the avoidance of doubt, exercising its rights to designate the Investor Directors pursuant to Section 2.02 of this Agreement);

(d) grant any proxies with respect to any Voting Securities of Parent to any Person or deposit any Voting Securities of Parent in a voting trust or enter into any other agreement or other arrangement with respect to the voting thereof other than (i) as recommended by the Board, including in a proxy solicitation distributed by Parent or (ii) a grant or deposit that is not in connection with an action or inaction otherwise prohibited by this Article III;

(e) form, join, encourage the formation of or in any way engage in discussions relating to the formation of, or in any way participate in, any 13D Group (including, for the avoidance of doubt, any agreement, understanding, arrangement or other contract with any Other Investor or other Person to act as a 13D Group or otherwise act in concert with any Other Investor or other Person) with respect to any Voting Securities of Parent or any Subsidiary thereof or otherwise in connection with any of the actions prohibited by Section 3.01 or this Section 3.02, including pursuant to any voting agreement or trust or with any Other Investor or other Person, in each case, other than a 13D Group or voting agreement or trust solely between and among the Investors for a purpose not otherwise prohibited by this Article III;

(f) take any action, alone or in concert with other Persons, to remove or oppose the election of any Directors or to seek to change the size or composition of the Board or otherwise seek to expand or otherwise modify the Investors' representation on the Board in a manner inconsistent with this Agreement;

(g) take any action, alone or in concert with others, to seek to control or influence the management, board of directors or policies of Parent or any of its Subsidiaries other than through participation of any of its Representatives on the Board and any committees thereof;

(h) enter into any discussions, negotiations, arrangements or understandings with, or advise, assist, finance or knowingly encourage any Person with respect to any of the actions prohibited by, Section 3.01 or this Section 3.02;

(i) make any disclosure inconsistent with the agreements contained in Section 3.01 or this Section 3.02;

(j) take any action that could reasonably be expected to require Parent or any Investor to make a public announcement regarding any of the matters described in Section 3.01 or this Section 3.02;

(k) request, propose or otherwise seek any amendment or waiver of the restrictions contained in Section 3.01 or this Section 3.02;

(l) except to the extent expressly permitted pursuant to Section 5.01 or the other Transaction Agreements (as defined in the Merger Agreement), request, propose or otherwise seek, whether pursuant to applicable Law or otherwise, to inspect the books and records of Parent or any of its Subsidiaries; or

(m) contest the validity or enforceability of the agreements contained in Section 3.01 or this Section 3.02 or seek a release of the restrictions contained in Section 3.01 or this Section 3.02 (whether by legal action or otherwise).

Notwithstanding the foregoing, and for the avoidance of doubt, none of the foregoing restrictions in this Section 3.02 shall limit or restrict (i) the voting or other activities of an Initial Nominee or Investor Director acting solely in his or her capacity as such or impose any restriction on an Initial Nominee or Investor Director in discharging his or her fiduciary duties as a Director acting for the benefit of Parent and all stockholders of Parent or in his or her capacity as a member of a Board Committee, (ii) the ability of the Investors to privately communicate with or attempt to influence the Directors or to designate for nomination the Investor Directors in accordance with Section 2.02 or to vote any Voting Securities held by the Investors not in violation of Sections 2.02(d) or 2.03(a) or (iii) the ability of an Investor or its Affiliates or General Partners to privately respond to requests for assistance from, or privately provide advice or assistance to, Parent management from time to time.

Section 3.03. Exceptions to Standstill and Restrictions on Acquisitions. Notwithstanding anything to the contrary in this Agreement, the parties agree that:

(a) the restrictions set forth in Sections 3.01 and 3.02 shall not apply to:

(i) the acquisition by the Investors of Equity Securities of Parent, Opco or Surviving Management Holdings pursuant to the Merger Agreement;

(ii) the conversion or exchange of Opco Units by the Investors pursuant to the Opco LLCA, the conversion or exchange by the Investors of Surviving Management Holdings Units pursuant to the Surviving Management Holdings LLCA or conversion by the Investors of Parent Series C Preferred Units pursuant to the Charter;

(iii) the acquisition by the Investors of Equity Securities of Parent, Opco, Surviving Management Holdings or their respective Subsidiaries pursuant to stock dividends, stock splits, shareholder rights plans, mergers, reclassifications, recapitalizations or other similar distributions by or at the direction of Parent, Opco or Surviving Management Holdings to similarly situated holders of Equity Securities of Parent, Opco or Surviving Management Holdings;

(iv) any acquisition of Equity Securities of Parent, Opco or Surviving Management Holdings by a Permitted Transferee of an Investor from such Investor (subject to compliance by such Investor with this Agreement and the Investor Rights Agreement);

(v) the acquisition by an Investor of Equity Securities of Parent in public market transactions so long as immediately following such acquisition the Investor's Investor Percentage Interest does not exceed the Investor's Investor Percentage Interest as of the date 180 days prior to the date of such transaction or, if shorter, since the date of this Agreement (provided that in no event shall the Investor's Investor Percentage Interest exceed its Investor Percentage Interest on the date of this Agreement); and

(vi) any issuance by Parent or any of its Subsidiaries of Voting Securities or options, warrants or other rights to acquire such Voting Securities (or the exercise thereof) to the Initial Nominees or the Investor Directors or the Investors as compensation for the membership of the Initial Nominees or the Investor Directors on the Board.

(b) if a Suspension Event occurs after the date of this Agreement, then:

(i) (A) the restrictions set forth in Section 3.02(a) and Section 3.02(b) and (B) solely to the extent necessary to permit the actions described in Section 3.02(a) and Section 3.02(b), the restrictions set forth in Section 3.02(c), Section 3.02(d), Section 3.02(e), Section 3.02(h), Section 3.02(i) and Section 3.02(j), in the case of each of clauses (A) and (B) shall be suspended;

(ii) notwithstanding the restrictions set forth in Section 3.01, the Investors shall be permitted to acquire beneficial ownership of Equity Securities pursuant to the consummation of such Strategic Transaction permitted as a result of the suspension of the restrictions set forth in Section 3.02(a) pursuant to Section 3.03(b)(i), and

(iii) notwithstanding the restrictions set forth in Section 3.02(f) and Section 3.02(g), the Investors shall be permitted to take such actions set forth in such restrictions until the consummation of a Strategic Transaction permitted as a result of the suspension of the restrictions set forth in Section 3.02(a) pursuant to Section 3.03(b)(i) so long as they would not have the effect (other than as a result of the consummation of such Strategic Transaction) of removing or opposing the election of any Director, changing the size or composition of the Board, or controlling or influencing the management, board of directors or policies of Parent or any of its Subsidiaries; provided, however, that, in the event that (x) the agreement contemplated by clause (a) of the definition of Suspension Event is terminated or (y) the tender or exchange offer contemplated by clause (b) of the definition of Suspension Event is terminated without the purchase of shares contemplated thereby being consummated, then, in each case, the Suspension Event shall end and the restrictions set forth in Section 3.01 and Section 3.02 shall be fully reinstated;

(c) the restrictions set forth in Sections 3.02(i) and 3.02(j) shall not apply solely to the extent necessary to allow any Investor to comply with its filing obligations under applicable securities law, rules and regulations solely to report a transaction permitted by this Agreement; and

(d) if the Board resolves after the date of this Agreement to engage in a formal process which is intended to result in a transaction which, if consummated, would constitute a Strategic Transaction, then the restrictions set forth in Section 3.02(a) shall be suspended solely to the extent necessary and only for such period as is necessary to allow the Investors to participate in such process on substantially the same basis generally applicable to other participants in such process; provided, however, that, following the termination of such formal process, the restrictions set forth in Section 3.02(a) shall be fully reinstated.

ARTICLE IV

Restrictions on Transferability of Securities

Section 4.01. Restrictions.

(a) An Investor shall not make or solicit any Transfer of or with respect to, and each Investor shall cause each of its Affiliates not to make or solicit any Transfer of or with respect to, any Equity Securities of Parent now owned or hereafter acquired by such Investor or its Affiliates to the extent prohibited by the terms of the Investor Rights Agreement.

(b) Without limitation of the foregoing, until the earlier of a Strategic Transaction and the date the Investor Percentage Interest for the R Investor Group is less than 5%, without the prior approval of a majority of the Board or as set forth in Section 4.02, no Investor shall make or solicit any Transfer of or with respect to, and each Investor shall cause each of its Affiliates not to make or solicit any Transfer of or with respect to, any Equity Securities of Parent now owned or hereafter acquired by the Investors or their Affiliates, in any single transaction or series of related transactions (including, for the avoidance, intermediate sales transactions), to or with any Person or 13D Group unless:

(i) such Equity Securities would not represent more than 5% of the Voting Securities of Parent (unless as part of a *bona fide*, broadly distributed public offering);

(ii) to the knowledge of such Investor, such Person or 13D Group does not prior to such Transfer, and would not after giving effect to such Transfer, have beneficial ownership of more than 10% of the Voting Securities of Parent; and

(iii) to the knowledge of such Investor, such Person is not a Competitor of Parent or any of its Subsidiaries.

For purposes of the foregoing clauses (ii) and (iii) of this Section 4.01(b), (A) in a case where such Person or 13D Group is reasonably identifiable by such Investor in connection with such transaction or series of related transactions, "knowledge" means the reasonable knowledge of the relevant Investor after (1) review of beneficial ownership and other relevant public filings in respect of Parent and (2) other than with respect to any *bona fide*, broadly distributed public offering or ordinary course brokerage transactions effected based on prevailing market prices obtainable at the time of such transfer and effected on a national securities exchange where the broker does not receive more than the usual and customary broker's commission ("Open Market Sale"), such Investor instructing in writing its broker, agent or other intermediary to Transfer such Equity Securities in a manner consistent with the restrictions in this Section 4.01 and (B) in a case where the such Person or 13D Group otherwise is not reasonably identifiable by such Investor (or by the personnel of its broker, agent or other intermediary who are directly involved in the applicable Transfer), "knowledge" means the "actual" knowledge of the relevant Investor in connection with such transaction or series of related transactions; provided that, notwithstanding anything to the contrary in this Section 4.01(b), any Investor may make or solicit a Transfer of any Equity Securities effected pursuant to a *bona fide*, broadly distributed public offering or Open

Market Sale where an Investor does not have actual knowledge of the transferee of such Equity Securities. An Investor shall not be deemed to have breached its obligation under Section 4.01 with respect to a Transfer of any Equity Securities of Parent to any Person so long as such Investor acted in good faith and did not know or have good reason to believe that such Transfer was in violation of this Section 4.01 and, in the case of an open market sale effected through a broker, agent, or other intermediary, such Investor instructed in writing such broker, agent or other intermediary to Transfer such Equity Securities in a manner consistent with the restrictions in this Section 4.01.

Section 4.02. Permitted Transfers.

(a) Notwithstanding anything to the contrary in Section 4.01, any Investor may make or solicit a Transfer of any Equity Securities of Parent to the extent permitted by Section 3.02 of the Investor Rights Agreement.

(b) No Transfer of Equity Securities of Parent to a Permitted Transferee pursuant to Section 4.02(a) above shall be effective until such time as such Permitted Transferee has executed and delivered to Parent, as a condition precedent to such Transfer, a joinder to this Agreement substantially in the form of Exhibit A hereto. No Investor shall permit a Transfer of control of such Investor other than to a Permitted Transferee and any such Transfer other than to a Permitted Transferee shall be a breach of this Agreement.

(c) Notwithstanding Section 4.01(b), the Investors may make or solicit a Transfer of any Equity Securities of Parent in connection with the grant and maintenance of a *bona fide* lien, security interest, pledge or other similar encumbrance to a nationally or internationally recognized financial institution with assets of not less than $10 billion in connection with a loan; provided further, however, that such Investor so making or soliciting such a Transfer shall, as a condition to such Transfer, provide Parent prior written notice with details (including the identity of the proposed transferee and nature of the lien, security interest, pledge or other similar encumbrance) regarding such transaction and a reasonable opportunity to comment (with such comments considered by such Investor in good faith) on any public filing, report or announcement made by or on behalf of such Investor with respect thereto.

Section 4.03. Improper Transfer or Encumbrance. For so long as Section 4.01(b) is applicable to the Investors, to the extent any Investor proposes to Transfer or shall be deemed to Transfer any Equity Securities of Parent that would represent more than $2,000,000 in a single transaction or series of related transactions, such Investor shall, unless such Transfer is (A) effected pursuant to a "10b5-1 Plan" or similar blinded, discretionary plan not controlled by such Investor (provided, in each such case, Investor has provided notice to Parent that it has entered into such plan and of the maximum amount of Equity Securities subject to such plan and instructed pursuant to such plan that such Equity Securities should be Transferred in a manner consistent with the restrictions in Section 4.01) or (B) permitted under Section 4.02, prior to the consummation of such Transfer or deemed Transfer, deliver notice thereof to Parent stating the maximum number of Equity Securities of Parent to be Transferred, the identity of the transferee (if known) and the manner of Transfer. Any attempt not in compliance with this Agreement to make any Transfer of or with respect to any Equity Securities of Parent shall be null and void and of no force and effect, the purported Transferee shall have no rights or privileges in or with respect to Parent, and Parent shall not give any effect in Parent's stock records to such attempted Transfer.

ARTICLE V

Additional Agreements

Section 5.01. Information Rights. During the Information Rights Period, Parent shall, and shall cause its Subsidiaries to, permit the Investors and their respective designated Representatives, at reasonable times and upon reasonable prior notice to Parent to (i) have access to materials or information distributed to Directors in the ordinary course and (ii) review the books and records of Parent or any of its Subsidiaries to the extent that it would be obligated to provide access to them to stockholders consistent with Tennessee law (all such information so furnished pursuant to this Section 5.01, the "Information"). Subject to Section 6.13, any Investor (and any person receiving Information from an Investor) who shall receive Information shall maintain the confidentiality of such Information. Notwithstanding the foregoing, Parent shall not be required to disclose any privileged Information of Parent and its Subsidiaries.

Section 5.02. Charter; Bylaws. In the event that any provision of this Agreement is or becomes inconsistent or in conflict with the Charter or the Bylaws, Parent shall take all necessary action to amend the Charter or the Bylaws, as applicable, such that the Charter and the Bylaws, as applicable, are not inconsistent or in conflict with this Agreement.

Section 5.03. Proxy Statement. Parent shall provide the Designated Representative (as defined in the Tax Receivable Agreement referred to in the Merger Agreement) a reasonable opportunity to review and comment on the proxy statement (including any amendment or supplement thereto) for any meeting of Parent stockholders at which the Conversion Approval (as defined in the Merger Agreement) is sought and any comments received from the SEC with respect to such matter, and Parent will consider any comments provided by the Designated Representative in good faith. Parent shall keep the Designated Representative reasonably apprised of the status of matters relating to any such proxy statement, the Next Annual Meeting (as defined in the Merger Agreement) and any subsequent annual meeting until such Conversion Approval is obtained, in each case to the extent relating to such matter, including promptly furnishing the Designated Representative with copies of notices or other communications related to any such proxy statement, the Next Annual Meeting, or any subsequent annual meeting or, to the extent reasonably related to the Conversion Approval, received by Parent from the SEC or NASDAQ, in each case to the extent relating to such matter.

ARTICLE VI

Miscellaneous

Section 6.01. Adjustments. References to shares, equity interests or other Equity Securities or to numbers or prices of shares and to sums of money, in each case, including percentages thereof, contained herein will be deemed adjusted to account for any reclassification, exchange, conversion, substitution, combination, consolidation, subdivision, stock or unit split or reverse stock or unit split, stock or unit dividend, share or unit distribution, rights offering or similar transaction (including to property received therein in connection with a merger, consolidation or business combination).

Section 6.02. Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) when delivered in person; (b) when transmitted (except if not a Business Day, then the next Business Day) via email (to such email address set out below) and sender shall bear the burden of proof of delivery, which shall be deemed satisfied if such notice is also delivered by hand, deposited in registered or certified mail (postage prepaid, return receipt requested), or delivered prepaid to a reputable national overnight air courier service on or before the date that is one (1) Business Day after its transmission by email; and (c) on the next Business Day when sent by national overnight courier (providing proof of delivery), in each case to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 6.02):

If to the Investors (unless otherwise specified on any joinder to this Agreement with respect to any individual Investor) to:

Attention:
Email:

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

Alston & Bird LLP
1120 South Tryon Street, Suite 300
Charlotte, NC 28203
Attention: C. Mark Kelly; William B. Snyder Jr.; Daniel C. Rowe
Email: mark.kelly@alston.com; william.snyder@alston.com;
daniel.rowe@alston.com

If to Parent, to:

Forward Air Corporation
Attention:

Email with a copy to:

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, New York 10019
Attention: Thomas E. Dunn; Matthew L. Ploszek
Email: tdunn@cravath.com; mploszek@cravath.com

Section 6.03. Expenses. Except as otherwise set forth herein, each party to this Agreement shall pay its own expenses incurred following the date of this Agreement in connection with this Agreement. Parent shall bear all documented out-of-pocket expenses of the Investors in connection with this Agreement incurred prior to the date of this Agreement.

Section 6.04. Amendments; Waivers; Consents.

(a) No provision of this Agreement may be amended or waived unless such amendment or waiver is in writing and signed, in the case of an amendment, by the R Investors and Parent; provided, however, that any amendment or waiver that materially adversely affects the rights or obligations of an individual Investor hereunder in a manner different than the other Investors shall also require the signature of such affected Investor or, in the case of a waiver, by the party against whom the waiver is to be effective.

(b) The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise will not constitute a waiver of such rights nor will any single or partial exercise by any party to this Agreement of any of its rights under this Agreement preclude any other or further exercise of such rights or any other rights under this Agreement. The rights and remedies herein provided will be cumulative and not exclusive of any rights or remedies provided by Law or otherwise.

Section 6.05. Interpretation. The headings contained in this Agreement and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The word "will" shall be construed to have the same meaning as the word "shall". The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The word "or" shall not be exclusive. The phrase "date hereof" or "date of this Agreement" shall be deemed to refer to January 25, 2024. Unless the context requires otherwise (a) any definition of or reference to any contract, instrument or other document or any Law herein shall be construed as referring to such contract, instrument or other document or Law as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof and (d) all references herein to Articles, Sections and Schedules shall be construed to refer to Articles and Sections of, and Schedules to, this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day. Ownership of Parent Series C Preferred Units or Series C-2 Preferred Units of Opco shall be deemed for purposes of this Agreement to represent, on an as converted or exchanged basis, without duplication, beneficial ownership of Parent Common Stock into which such shares or units are ultimately convertible or exchangeable (including, without duplication, in the case of the Series C-2 Preferred Units of Opco, following conversion into Class B Units pursuant to the Opco LLCA, but for the determination of beneficial ownership, not into any Parent Series B Preferred Units) (disregarding for this purpose any limitations or restrictions on conversion or exchange).

Section 6.06. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law, or public policy, all other conditions and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the purpose of this Agreement is fulfilled to the fullest extent possible.

Section 6.07. Counterparts. This Agreement may be executed and delivered (including by electronic, facsimile transmission, DocuSign or .pdf) in counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto or to any such agreement or instrument will raise the use of electronic delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of electronic delivery as a defense to the formation of a contract, and each such party forever waives any such defense, except to the extent such defense related to lack of authenticity.

Section 6.08. Entire Agreement; No Third-Party Beneficiaries. This Agreement, together with the other Transaction Agreements (as defined in the Merger Agreement), including the Opco LLCA, the Surviving Management Holdings LLCA, the Charter and the Bylaws, constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and is not intended to and does not confer upon any Person other than the parties hereto (and their respective Permitted Transferees) any rights or remedies, except as expressly provided in this Agreement (it being understood and agreed that the Persons referred to in any Section of this Agreement as having such rights and who or which are not parties hereto shall be entitled to the benefits of, and to enforce the provisions of, such Section).

Section 6.09. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice or conflict of law provisions or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. All Actions arising out of or relating to this Agreement or the Transactions shall be heard and determined exclusively in the Court of Chancery of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom). The parties hereto hereby (a) irrevocably submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware and any appellate court therefrom within the State of Delaware (or if the Court of Chancery of the State of Delaware does not have

subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom) for the purpose of any Action arising out of or relating to this Agreement or the Transactions brought by any party; (b) irrevocably waive, and agree not to assert by way of motion, defense or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the Transactions may not be enforced in or by the above-named courts; and (c) agree that such party will not bring any Action arising out of or relating to this Agreement or the Transactions in any court other than the Court of Chancery of the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom). Service of process, summons, notice or document to any party's address and in the manner set forth in Section 6.02 shall be effective service of process for any such action (without limiting other means).

Section 6.10. Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement will be assigned, in whole or in part, by any of the parties without the prior written consent of the other parties, except rights, interests and obligations in respect of Equity Securities may be assigned in conjunction with a Transfer of such Equity Securities to a Permitted Transferee who has executed and delivered a joinder to this Agreement in accordance with Section 4.02(b). Any purported assignment in violation of the preceding sentence will be void. Subject to the preceding sentences, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

Section 6.11. Enforcement. The parties agree that the parties would be irreparably damaged if any provision of this Agreement were not performed in accordance with its specific terms or was otherwise breached, and that monetary damages, even if available, would not be an adequate remedy therefor. Accordingly, the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the performance of the terms of this Agreement, in addition to any other remedy at law or in equity. The parties further agree that no party to this Agreement shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any such legal or equitable relief and each party waives any objection to the imposition of such relief or any right it might have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each of the parties acknowledges and agrees that the right of specific enforcement is an integral part of the transactions contemplated by this Agreement and without such right, none of the parties would have entered into this Agreement.

Section 6.12. Termination; Survival. Notwithstanding anything to the contrary contained in this Agreement, this Agreement will automatically terminate upon the Standstill Termination Date, and this Agreement shall thereafter be null and void, except that this Article VI shall survive any such termination indefinitely. Nothing in this Section 6.12 will be deemed to release any party from any liability for any willful and material breach of this Agreement occurring prior to such termination or impair the right of any party to compel specific performance by the other parties of their respective obligations under this Agreement occurring prior to such termination.

Section 6.13. Confidentiality.

(a) The Investors and their respective Affiliates shall, and shall direct their respective Representatives to, (i) hold confidential and not disclose, without the prior written approval of Parent, all confidential or proprietary written, recorded or oral information or data (including research, developmental, technical, marketing, sales, financial, operating, performance, cost, business and process information or data, knowhow and computer programming and other software techniques) provided by or on behalf of Parent or any of its Subsidiaries to the Investors or their respective Affiliates or Representatives, whether such confidentiality or proprietary status is indicated orally or in writing or if such Investor should reasonably have understood that the information should be treated as confidential, whether or not the specific words "confidential" or "proprietary" are used ("Confidential Information"), and (ii) use such Confidential Information only for the purpose of performing its obligations hereunder, managing and monitoring such Investor's investment in Parent and its Subsidiaries and carrying on the business of Parent and its Subsidiaries; provided that the Investors and their respective Affiliates and Representatives may disclose or use such Confidential Information (x) in their capacity as directors, officers or employees of Parent or its Subsidiaries and (y) to each other, in their capacities as such and, with respective to Representatives that are attorneys, accountants, consultants and other professional advisors, to the extent necessary to their services in connection with monitoring its investment in Parent and its Subsidiaries, to any affiliate of such Investor and their respective directors, employees, consultants and representatives, in each case in the ordinary course of business (provided that the recipients of such Confidential Information are subject to customary confidentiality andnon-disclosure obligations) or (z) as may be necessary in connection with such Investor's enforcement of its rights in connection with this Agreement. Each Investor acknowledges and agrees that it shall be liable for any breach of the terms of this Section 6.13 applicable to Affiliates and Representatives by its Affiliates and Representatives, except with respect to an Affiliate or Representative who enters into or has entered into a confidentiality agreement with Parent with respect to the subject matter of this Section 6.13.

(b) Notwithstanding the foregoing, the confidentiality and non-use obligations of Section 6.13(a) will not apply to Confidential Information:

(i) which any Investor or any of its Representatives is required to disclose by judicial or administrative process, or by other requirements of applicable Law or regulation or any governmental authority (including any applicable rule, regulation or order of a self-governing authority, such as the NASDAQ); provided that, where and to the extent legally permitted and reasonably practicable, such Investor shall (A) give Parent reasonable notice of any such requirement and, to the extent protective measures consistent with such requirement are available, the opportunity to seek appropriate protective measures and (B) reasonably cooperate with Parent, at Parent's sole cost and expense, in attempting to obtain such protective measures;

(ii) which becomes available to the public other than as a result of a breach of Section 6.13(a);

(iii) which can be demonstrated has been independently developed by such Investor without use of or reliance upon Confidential Information; or

(iv) which has been provided to any Investor or any of its Representatives by a Third Party who is not known after reasonable inquiry to be subject to confidentiality obligations to Parent or any of its Affiliates.

Section 6.14. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE, EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (C) IT MAKES THIS WAIVER VOLUNTARILY; AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS IN THIS SECTION 6.14.

Section 6.15. Representations and Warranties.

(a) Parent hereby makes the representations and warranties set forth inAnnex A to the Investors, each of which is true and correct as of the date of this Agreement.

(b) Each Investor, severally and not jointly, hereby makes the representations and warranties set forth inAnnex B to Parent solely as to itself, each of which is true and correct as of the date of this Agreement.

Section 6.16. Waiver of Corporate Opportunity. To the fullest extent permitted by the applicable law, Parent agrees that any Investor Director, Initial Nominee, the R Investor Group and any Affiliate or portfolio company thereof (collectively, "Covered Persons") may, and shall have no duty not to, (a) invest in, carry on and conduct, whether directly, or as a partner in any partnership, or as a joint venturer in any joint venture, or as an officer, director, stockholder, equityholder or investor in any person, or as a participant in any syndicate, pool, trust or association, any business of any kind, nature or description, whether or not such business is competitive with or in the same or similar lines of business as Parent, Opco or any of their Subsidiaries; (b) do business with any client, customer, vendor or lessor of any of Parent, Opco or any of their Affiliates; and/or (c) make investments in any kind of property in which Parent, Opco or any of their Subsidiaries may make investments; provided that Covered Persons remain subject to all duties of confidentiality to Parent and its Subsidiaries and related restrictions on use of

information applicable to them, including under Section 6.13. To the fullest extent permitted by applicable law, Parent renounces any interest or expectancy to participate in any business or investments of any Covered Person as currently conducted or as may be conducted in the future, and waives any claim of corporate opportunity against a Covered Person arising in connection with or relating to a such Covered Person's participation in any such business or investment. Parent agrees that, subject to any express agreement otherwise that may from time to time be in effect, in the event that a Covered Person acquires knowledge of a potential transaction or matter which may constitute a corporate opportunity for both (i) the Covered Person outside of his or her capacity as a Director and (ii) Parent or its Subsidiaries, the Covered Person shall not have any duty to offer or communicate information regarding such corporate opportunity to Parent, Opco or any of their Subsidiaries; provided, for the avoidance of doubt, if such corporate opportunity otherwise comes before the Board, a Covered Person that is a Director will continue to have an obligation, consistent with his or her fiduciary duties to Parent, to disclose his or her interest in such corporate opportunity. To the fullest extent permitted by applicable law, Parent hereby renounces any interest or expectancy in any potential transaction or matter of which the Covered Person acquires knowledge, except as subject to any express agreement otherwise that may from time to time be in effect or for any corporate opportunity which is expressly offered to a Covered Person in writing solely in his or her capacity as a Director, and waives any claim against each Covered Person arising in connection with or relating to the fact that such Covered Person (A) pursues or acquires any corporate opportunity for its own account or the account of any Affiliate or other person, (B) directs, recommends, sells, assigns or otherwise transfers such corporate opportunity to another person or (C) does not communicate information regarding such corporate opportunity to Parent (except as provided in the proviso to the immediately preceding sentence); provided, that, in each such case, that any corporate opportunity which is expressly agreed in writing by the R Investor Group to belong to Parent or is expressly offered to a Covered Person in writing solely in his or her capacity as a Director shall belong to Parent.

Section 6.17. Designated Representative. (a) REP Omni Holdings, L.P., a Delaware limited partnership. (the "Designated Representative") is hereby irrevocably appointed as the representative, agent, proxy, and attorney-in-fact for all the Investors for all purposes under this Agreement, including the full power and authority on the Investors' behalf (i) to perform the rights and acts as described as being within its authority, discretion or power as set forth herein, including all such actions which are contemplated to be performed, reviewed or otherwise within its discretion herein, including the right to negotiate and settle disputes arising under, or relating to, this Agreement (except as otherwise expressly set forth herein or therein by reference to a different standard or requirement for approval) and (ii) to take all other actions to be taken by or on behalf of the Investors in connection with this Agreement and consistent with the foregoing authority. The Investors, by approving this Agreement (whether by written consent, vote or by execution of this Agreement or a Letter of Transmittal (as defined in the Merger Agreement)), further agree that such agency and proxy are coupled with an interest, are therefore irrevocable without the consent of the Designated Representative and shall survive the death, incapacity, bankruptcy, dissolution or liquidation of any Investor. All decisions and actions by the Designated Representative pursuant to the authority granted herein shall be binding upon all of the Investors and no Investor shall have the right to object, dissent, protest or otherwise contest the same. Parent may conclusively rely, without independent verification or investigation, upon any such decision or action of the Designated Representative as being the binding decision or action of every

Investor. The Designated Representative shall have no duties or obligations to the Investors hereunder, except as expressly set forth herein. By its approval of, or consent to, the Transactions and the adoption of this Agreement, its acceptance of any consideration pursuant to the Merger Agreement or this Agreement or delivery of a Letter of Transmittal, each Investor hereby irrevocably approves and adopts the appointment of the Designated Representative as such Investor's representative, agent, proxy, and attorney-in-fact to act in accordance with the authority granted in this Section 6.17.

(b) Following the Closing Date (as defined in the Merger Agreement), amajority-in-interest of the Investors (as determined by their relative entitlement to any consideration pursuant to the Merger Agreement as of the Closing (as defined in the Merger Agreement) may, by written consent, appoint a new representative as the Designated Representative. Notice, together with a copy of the written consent appointing such new representative and bearing the signatures of such majority-in-interest of the Investors, must be delivered to Parent not less than 15 days prior to such appointment. Such appointment will be effective upon the later of the date indicated in the consent or the date such consent is received by Parent. In the event that the Designated Representative becomes unable or unwilling to continue in its capacity as Designated Representative, or if the Designated Representative resigns as the Designated Representative, a majority-in-interest of the Investors (determined as set forth above) may by written consent appoint a new representative as the Designated Representative.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Designated Representative in its capacity as such shall have no duties or responsibilities except those expressly set forth herein, and no implied covenants, functions, responsibilities, duties, obligations or liabilities on behalf of any Investor shall otherwise exist against the Designated Representative. No bond shall be required of the Designated Representative and the Designated Representative shall receive no compensation for its services. The Designated Representative shall not be liable to any Investor for any act done or omitted hereunder as the Designated Representative except for its willful misconduct or actual fraud with respect to any matter arising out of or in connection with the acceptance or administration of its duties hereunder (it being understood that any act done or omitted pursuant to the advice of counsel shall be conclusive evidence of the absence of willful misconduct or actual fraud). The Designated Representative shall be entitled to be indemnified by the Investors (among them pro rata in accordance with their relative entitlement to any consideration pursuant to the Merger Agreement as of the Closing) for any loss, liability or expense incurred without willful misconduct or actual fraud on the part of the Designated Representative with respect to any matter arising out of or in connection with the acceptance or administration of its duties hereunder (including the hiring of legal counsel and the incurring of legal fees and costs). The Designated Representative shall be entitled to recover from the Investors (among them pro rata in accordance with their relative entitlement to any consideration pursuant to the Merger Agreement as of the Closing) any out-of-pocket costs and expenses incurred by the Designated Representative in good faith and in connection with actions taken by the Designated Representative pursuant to this Agreement or the acceptance of administration of its duties hereunder (including the hiring of legal counsel and the incurring of legal fees and costs).

IN WITNESS WHEREOF, the parties hereto have executed this Shareholders Agreement as of the day and year first above written.

FORWARD AIR CORPORATION, as Parent,

by /s/ Thomas Schmitt
Name: Thomas Schmitt
Title: President and Chief Executive Officer

[*Signature Page to Major Shareholders Agreement – R Investors*]

R INVESTORS

REP OMNI HOLDINGS, L.P.

By: REP Omni Holdings GP, LLC, its general partner

By: Ridgemont Equity Management III, L.P., its member

By: /s/ Robert L. Edwards, Jr.
Name: Robert L. Edwards, Jr.
Title Authorized Signatory

REP III C FEEDER, L.P.

By: Ridgemont Equity Management III, LLC, its general partner

By: /s/ Edward Balogh
Name: Edward Balogh
Title Chief Operating Officer

REP III B FEEDER, L.P.

By: Ridgemont Equity Management III, LLC, its general partner

By: /s/ Edward Balogh
Name: Edward Balogh
Title Chief Operating Officer

REP COINVEST III-A OMNI, L.P.

By: REP Coinvest III Omni GP, LLC, its general partner

By: Ridgemont Equity Management III, LLC, its sole member

By: /s/ Edward Balogh
Name: Edward Balogh
Title Authorized Signatory

REP COINVEST III-B OMNI, L.P.

By: REP Coinvest III Omni GP, LLC, its general partner

By: Ridgemont Equity Management III, LLC, its sole member

By: /s/ Edward Balogh
Name: Edward Balogh
Title Authorized Signatory

EXHIBIT A

JOINDER AGREEMENT

This Joinder Agreement (this "Joinder Agreement") is made as of the date written below by the undersigned (the "Joining Party") in accordance with the Shareholders Agreement dated as of January 25, 2024 (as the same may be amended from time to time, the "Shareholders Agreement") among Forward Air Corporation, a Tennessee corporation, and the other parties thereto, as the same may be amended from time to time. Capitalized terms used, but not defined, herein shall have the meaning ascribed to such terms in the Shareholders Agreement.

The Joining Party hereby acknowledges, agrees and confirms that, by its execution of this Joinder Agreement, the Joining Party shall be deemed to be a party to and an "Investor" under the Shareholders Agreement as of the date hereof and, without limiting the generality of the foregoing, shall be subject to the Shareholders Agreement and shall have all of the rights and obligations of an Investor thereunder as if it had executed the Shareholders Agreement. The Joining Party hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Shareholders Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement as of the date written below.

Date: _____, ____

[NAME OF JOINING PARTY]

By: _____
Name:
Title:

Address for Notices:

AGREED ON THIS [_____] day of [_____], 20[__]:

FORWARD AIR CORPORATION

By: _____
Name:
Title:

ANNEX A

1. Organization, Standing and Power. Parent is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

2. Authority; Execution and Delivery; Enforceability. Parent has all requisite corporate power and authority to execute and deliver this Agreement and to comply with the terms hereof. The execution and delivery by Parent of this Agreement and the compliance by Parent with this Agreement have been, or prior to the date of this Agreement will have been, duly authorized by all necessary company action on the part of Parent. Parent has duly executed and delivered this Agreement, which, assuming due authorization, execution and delivery by the other parties hereto, constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (except insofar as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other Laws of general applicability relating to or affecting creditors' rights, or by principles governing the availability of equitable remedies, whether considered in a proceeding at law or in equity).

3. No Conflicts; Consents.

   (i) The execution and delivery by Parent of this Agreement do not, and compliance with the terms hereof will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancelation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any pledges, liens, charges, mortgages, encumbrances and security interests of any kind or nature whatsoever (collectively, "Liens") upon any of the properties or assets of Parent or any of its subsidiaries (the "Parent Subsidiaries") under, any provision of (A) the Charter, the Bylaws or the comparable organizational documents of any Parent Subsidiary, (B) any contract, lease, license, indenture, note, bond, agreement, concession, franchise or other binding instrument (a "Contract") to which Parent or any Parent Subsidiary is a party or by which any of their respective properties or assets is bound or (C) subject to the filings and other matters referred to in paragraph (3)(ii) below, any Law applicable to Parent or any Parent Subsidiary or their respective properties or assets, other than, in the case of clauses (B) and (C) above, any such items that would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of Parent to comply with the terms of this Agreement.

   (ii) No consent, approval, license, permit, order or authorization ("Consent") of, or registration, declaration or filing with, or permit from, any Governmental Entity, is required to be obtained or made by or with respect to Parent or any Parent Subsidiary in connection with the execution, delivery and performance of this Agreement or the compliance with the terms hereof, other than (X) the filing with the SEC of such reports under the Exchange Act as may be required in connection with this Agreement, (Y) such filings as may be required under the rules and regulations of the NASDAQ and (Z) such other items that the failure of which to obtain or make would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of Parent to comply with the terms of this Agreement.

ANNEX B

1. Organization, Standing and Power. Such Investor is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

2. Authority; Execution and Delivery; Enforceability. Such Investor has all requisite limited liability company or similar power and authority to execute and deliver this Agreement and to comply with the terms thereof. The execution and delivery by such Investor of this Agreement and its compliance with the terms hereof have been duly authorized by all necessary limited liability company or similar action on the part of such Investor. All required approvals, if any, from the limited partners, members or other stockholders of such Investor to enter into this Agreement and comply with its terms have been granted. Such Investor has duly executed and delivered this Agreement, which, assuming due authorization, execution and delivery by Parent, constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (except insofar as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other Laws of general applicability relating to or affecting creditors' rights, or by principles governing the availability of equitable remedies, whether considered in a proceeding at law or in equity).

3. No Conflicts; Consents.

   (i) The execution and delivery by such Investor of this Agreement do not, and compliance with the terms hereof will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancelation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any Lien upon any of the properties or assets of such Investor or any of its subsidiaries under, any provision of (A) the organizational documents of such Investor or any of such Investor's subsidiaries, (B) any Contract to which such Investor or any of its subsidiaries is a party or by which any of their respective properties or assets is bound or (C) subject to the filings and other matters referred to in paragraph (4)(i), any Law applicable to such Investor or any of its subsidiaries or their respective properties or assets, other than, in the case of clauses (B) and (C) above, any such items that would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of such Investor to comply with terms of this Agreement.

   (ii) No Consent of, or registration, declaration or filing with, or permit from, any Governmental Entity is required to be obtained or made by or with respect to such Investor or any of its subsidiaries in connection with the execution, delivery and performance of this Agreement or the compliance with the terms hereof, other than (X) filing with the SEC of such reports under the Exchange Act, as may be required in connection with this Agreement, (Y) such filings as may be required under the stock exchange rules and regulations and (Z) such other items that the failure of which to obtain or make would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of such Investor to comply with terms of this Agreement.

4. Relationship to Other Investors. Except with respect to other Investors, such Investor is not an Affiliate of any other Investor or Other Investor and has not entered into any agreement, understanding, arrangement or other Contract with any Investor or other Person to act as a 13D Group or otherwise act in concert with any other Investor or Other Investor with respect to Equity Securities of Parent.

5. Ownership of Equity Securities. Except as has been disclosed to Parent in writing prior to the date of this Agreement, neither such Investor nor any of its Affiliates (i) beneficially owns any Equity Securities of Parent or (ii) holds any rights to acquire any Equity Securities of Parent except pursuant to the Merger Agreement or other Transaction Agreements (as defined in the Merger Agreement).

6. Certain Business Relationships. Neither such Investor nor any of its Affiliates (for the avoidance of doubt, excluding Omni Newco, LLC, a Delaware limited liability company and its Subsidiaries) is a party to any Contract with any officer or employee of Parent or any Parent Subsidiary, other than for Contracts relating to the provision of services on customary terms in the ordinary course of business or as otherwise relating to the direct or indirect ownership in REP Omni Holdings, L.P.

ANNEX C

Competitors

1. RXO Inc.
2. GXO Logistics, Inc.
3. XPO, Inc.
4. United Parcel Service, Inc.
5. FedEx Corporation
6. Saia, Inc.
7. Old Dominion Freight Line, Inc.
8. Landstar System, Inc.
9. Southeastern Freight Lines, Inc.
10. Pitt-Ohio Express, LLC
11. Dayton Freight Lines, Inc.
12. Peninsula Freight Services Ltd.
13. R&L Carriers, Inc.
14. Knight-Swift Transportation Holdings Inc.
15. Kühne + Nagel International AG
16. DSV A/S
17. A.P. Møller – Mærsk A/S
18. AIT Worldwide Logistics, Inc.
19. SEKO Worldwide, LLC
20. ESTES EXPRESS LINES
21. Estes Forwarding Worldwide LLC

22 Pegasus Logistics Group, Inc.
23 Midwest Express, Inc.
24 Sterling Transportation, Inc.
25 Energy Transportation Group Holdings Inc.
26 Blue-Grace Logistics LLC
27 Transplace, Inc.
28 Kerry Logistics Network Limited
29 Expeditors International of Washington, Inc.
30 C.H. Robinson Worldwide, Inc.
31 Bacarella Transportation Services, Inc.
32 Echo Global Logistics, Inc.
33 Worldwide Express Operations, LLC

Exhibit 10.5

EXECUTION VERSION

SHAREHOLDERS AGREEMENT

by and among

FORWARD AIR CORPORATION,

EVE OMNI INVESTOR, LLC

and

OMNI INVESTOR HOLDINGS, LLC

Dated as of January 25, 2024

TABLE OF CONTENTS

SHAREHOLDERS AGREEMENT dated as of January 25, 2024 (this "Agreement"), among:

A. Forward Air Corporation, a Tennessee corporation (the "Parent");

B. EVE Omni Investor, LLC;

C. Omni Investor Holdings, LLC, a Delaware limited liability company ("OIH" and, together with OIH's Permitted Transferees, "E Investors");

and any Permitted Transferees (as defined below) that execute joinders to this Agreement pursuant to Section 4.02 after the date of this Agreement.

WHEREAS, upon the consummation of the transactions (the "Transactions") contemplated under that certain Agreement and Plan of Merger, dated as of August 10, 2023, among Parent, Omni Newco, LLC, a Delaware limited liability company, and the other parties thereto (as amended from time to time, the "Merger Agreement"), the Investors (as defined below) will become holders of Parent Common Stock (as defined below) and Parent Series B Preferred Units, Parent Series C Preferred Units and/or Opco Units (each as defined below);

WHEREAS, simultaneously with the execution of this Agreement, as of the date hereof, the E Investors and Parent, among others, have entered into the Investor Rights Agreement (as defined below); and

WHEREAS, the parties hereto desire to enter into this Agreement to establish certain rights, duties and obligations of the parties hereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby acknowledge, covenant and agree with each other as follows:

ARTICLE I

Definitions

SECTION 1.01. Definitions. (a) As used in this Agreement, the following terms will have the following meanings:

"13D Group" means any group of Persons formed for the purpose of acquiring, holding, voting or disposing of Voting Securities of Parent that would be required under Section 13(d) of the Exchange Act to file a statement on Schedule 13D with the SEC as a "person" within the meaning of Section 13(d)(3) of the Exchange Act.

"Action" means any litigation, suit, claim, action, proceeding or investigation.

An "Affiliate" of any Person means another Person that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person; provided, that (x) Parent and its Subsidiaries shall be deemed not to be Affiliates of any Investor for any reason under this Agreement, (y) portfolio companies in which any Investor or any of its Affiliates has an investment (whether as debt or equity) shall be deemed not to be an Affiliate of such Investor so long as such portfolio company or any of its directors, officers, employees or other Representatives (i) have not been directed or encouraged by such Investor or its Affiliates or Representatives to take any actions that would otherwise be prohibited by such Investor or its Affiliates or Representatives under this Agreement and (ii) has not been provided with any Confidential Information by the Investors or their respective Affiliates or Representatives, and (z) any co-investment vehicle or affiliated investment fund controlled by any Investor or any of its Affiliates shall be deemed to be an Affiliate of such Investor. As used in this Agreement, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or other interests, by contract or otherwise.

"beneficial owner" or "beneficially own" or "beneficial ownership" and words of similar import have the meaning assigned to such terms in Rule 13d-3 under the Exchange Act as in effect on the date of this Agreement and a Person's beneficial ownership of Equity Securities shall be calculated in accordance with the provisions of such Rule; provided, however, that for the avoidance of doubt, (i) ownership of Parent Series C Preferred Units or Series C-2 Preferred Units of Opco shall be deemed for purposes of this Agreement to represent, on an as converted or exchanged basis, without duplication, beneficial ownership of Parent Common Stock into which such shares or units are ultimately convertible or exchangeable (including, without duplication, in the case of the Series C-2 Preferred Units of Opco, following conversion into Class B Units pursuant to the Opco LLCA but for the determination of beneficial ownership not into any Parent Series B Preferred Units) (disregarding for this purpose any limitations or restrictions on conversion or exchange), and (ii) Opco Units and Surviving Management Holdings Units (other than Series C-2 Preferred Units of Opco), shall not be included in making any such calculation of beneficial ownership of Parent.

"Board" means the board of directors, or any successor governing body, of Parent.

"Business Day" means any day on which banks are not required or authorized to close in the City of New York.

"Bylaws" means the Bylaws of Parent, as in effect from time to time.

"Charter" means the Charter of Parent, as in effect from time to time.

"Competitor" means (a) any Person that is identified as a competitor of Parent in Parent's most recently filed Annual Report on Form 10-K, (b) any Person listed on Annex C hereto and (c) any publicly disclosed controlled Affiliate, or Person otherwise actually known to the Investor to be a controlled Affiliate, of any such Person specified in clause (a) or (b); provided that Parent may update (but is not required to) once each calendar quarter the Persons listed on Annex C hereto to reflect any Person that Parent identifies in good faith is engaged as a material portion of its business in any activity or business that is of a similar nature as, or substantively similar to, any current activity or business of Parent or any of its Affiliates (after giving effect to the consummation of the Transactions) or any successor to such business of Parent or any of its Affiliates (after giving effect to the consummation of the Transactions), by providing E Investors with an updated Annex C hereto; provided further that the list on Annex C shall not exceed 50 Competitors.

"Director" means a member of the Board.

"E Investor Group" means E Partners and its Permitted Transferees.

"E Investors Major Transferees" means the equity owners of OIH and their respective Permitted Transferees, other than E Partners and its Permitted Transferees. For the avoidance of doubt, OIH is not an E Investors Major Transferee.

"E Investors Major Transferees Termination Date" means, with respect to any E Investors Major Transferee, the later of (a) the first anniversary of the date of this Agreement and (b) the first date on which OIH ceases to have any equity interest in Opco; provided that all Transfers, directly or indirectly, of Equity Securities of Parent and its Subsidiaries to such E Investors Major Transferee shall have complied with Section 4.02(d).

"E Partners" means EVE Omni Investor, LLC, a Delaware limited liability company, and its Permitted Transferees; provided that an E Investors Major Transferee shall not be a Permitted Transferee of E Partners.

"Encumbrance" means any security interest, pledge, mortgage, lien, or other material encumbrance, except for any restrictions arising under any applicable securities Laws.

"Equity Security" of any Person means, without duplication (i) any common shares or other Voting Securities or such Person, (ii) any options, warrants, convertible or exchangeable securities, stock-based performance units or other rights to acquire common shares or other Voting Securities of such Person (including for the avoidance of doubt, with respect to Parent, the Parent Series B Preferred Units and the Parent Series C Preferred Units and any Opco Units ultimately convertible or exchangeable for or into equity securities of Parent (disregarding for this purpose any limitations or restrictions on conversion or exchange)) or (iii) any other rights that give the holder thereof any economic interest of a nature accruing to the holders of common shares or other Voting Securities.

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

"General Partner" means, with respect to a specified Person, the general partner or managing member, as applicable, of such Person.

"Governmental Entity" any transnational, national, federal, state, provincial, local or other government, domestic or foreign, or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign, or any national securities exchange or national quotation system on which securities issued by Parent or any of its Subsidiaries are listed or quoted.

"Holdco" means Central States Logistics, Inc., an Illinois corporation.

"Incumbent Directors" means (i) the Directors who are members of the Board as of the date of this Agreement and (ii) any Person who becomes a Director subsequent to the date of this Agreement whose election, nomination for election or appointment was approved (including by approval of the proxy statement of Parent in which such Person is named as a Director nominee) by a vote of at least a majority of the Directors who are Incumbent Directors as of such date of approval.

"Independent Director" shall mean a director who would qualify as an "Independent Director" pursuant to the listing standards of the NASDAQ, or, if the Equity Securities of Parent are not quoted or listed for trading on the NASDAQ, pursuant to the rules of the stock exchange on which the Equity Securities of Parent are then quoted or listed for trading. For the avoidance of doubt, each Initial Nominee (other than John J. Schickel, Jr.) and each Investor Director shall be deemed an "Independent Director" regardless of such Initial Nominee's or such Investor Director's affiliation with any Investor (so long as such Director qualifies as such pursuant to the foregoing sentence).

"Information Rights Period" means the period beginning on the date of this Agreement and ending on the date that the E Investor Group beneficially owns in aggregate Equity Securities of Parent representing less than 2.5% of the then aggregate outstanding Voting Securities of Parent (including for such purpose all Parent Series C Preferred Units and Series C-2 Preferred Units of Opco on anas-converted or as-exchanged basis, notwithstanding any limitations or restrictions on conversion or exchange).

"Investor" means the E Investors and any Permitted Transferee of any E Investor that executes a joinder to this Agreement pursuant to Section 4.02 after the date of this Agreement, and all of them, collectively, the "Investors"; provided that an E Investors Major Transferee shall cease to be an Investor on its applicable E Investors Major Transferees Termination Date.

"Investor Director" means each Qualified Nominee nominated and elected to the Board pursuant to Section 2.02(a) together with any replacements appointed to the Board pursuant to Section 2.02(c), which as of the consummation of the Transactions will be John J. Schickel, Jr.; provided for the avoidance of doubt, the E Investor Group shall have the right to nominate or designate in accordance with Section 2.02 and have serve as a Director at any time only one Investor Director.

"Investor Percentage Interest" means, as of any date of determination with respect to the E Investor Group, the percentage represented by the quotient of (i) the number of votes entitled to be cast as of such date by Voting Securities of Parent that are beneficially owned by the Investors in the E Investor Group, and (ii) the number of votes entitled to be cast on such date by all outstanding Voting Securities of Parent (including for each of clauses (i) and (ii), for such purpose all Series C Preferred Units and Series C-2 Preferred Units of Opco on anas-converted or as-exchanged basis notwithstanding any limitations or restrictions on conversion or exchange).

"Investor Rights Agreement" means the Investor Rights Agreement, dated as of the date of this Agreement, by and among, among others, the Investors and Parent, as the same may be amended, restated or otherwise modified from time to time.

"Law" and "law" means any law, treaty, statute, ordinance, code, rule, regulation, judgment, decree, order, writ, award, injunction, authorization or determination enacted, entered, promulgated, enforced or issued by any Governmental Entity.

"NASDAQ" means The Nasdaq Global Select Market.

"Opco" means Clue Opco LLC, a Delaware limited liability company.

"Opco LLCA" means the amended and restated limited liability company agreement of Opco, as in effect from time to time;provided, that for so long as the definitive agreement constituting the amended and restated limited liability company agreement of Opco contemplated by Section 7.22(a)(i) of the Merger Agreement is not in effect, "Opco LLCA" shall refer to the terms and conditions set forth on Exhibit C to the Merger Agreement.

"Opco Units" means, collectively, the units of Opco designated as Class A Units, the SeriesC-1 Preferred Units, the SeriesC-2 Preferred Units and Class B Units pursuant to the Opco LLCA.

"Other Investors" means the Investors (as defined in the Investor Rights Agreement or the Other Shareholders Agreement) other than the Investors (as defined herein).

"Other Shareholders Agreement" means the Shareholders Agreement dated as of the date hereof among, among others, Parent and the R Investors (as defined therein), as the same may be amended, restated or otherwise modified from time to time.

"Parent Common Stock" means the common stock, par value $0.01 per share, of Parent.

"Parent Series B Preferred Stock" means the shares of preferred stock of Parent designated as "Series B Preferred Stock" pursuant to the Charter Amendment and Resolutions as defined in the Merger Agreement.

"Parent Series B Preferred Unit" means a fractional unit of one one-thousandth (1/1000) of one share of Parent Series B Preferred Stock.

"Parent Series C Preferred Stock" means the shares of preferred stock of Parent designated as "Series C Preferred Stock" pursuant to the Charter Amendment and Resolutions as defined in the Merger Agreement.

"Parent Series C Preferred Unit" means a fractional unit of one one-thousandth (1/1000) of one share of Parent Series C Preferred Stock.

"Permitted Transferee" means (i) with respect to any Investor that is not a natural person, an Affiliate of such Investor or to (direct or indirect) partners, limited liability company members, stockholders or other equity holders of the Investor, and (ii) with respect to any Investor who is a natural person: (A) in the event of such Investor's death, such Investor's heirs, executors, administrators, testamentary trustees, legatees or beneficiaries, (B) a trust, the beneficiaries of which include only such Investor and the spouse, parents, siblings and descendants (whether natural or adopted) ("Family Members") of such Investor and (C) any partnerships or limited liability companies where the only partners or members are such Investor, such Investor's Family Members or any trust described in clause (B) above.

"Person" means any individual, firm, corporation, partnership, limited partnership, company, limited liability company, trust, joint venture, association, Governmental Entity, unincorporated organization, syndicate or other entity, foreign or domestic.

"Qualified Nominee" means an individual who (i) would be an Independent Director if he or she were a Director (except to the extent the individual is an employee of Parent or one of its Subsidiaries), (ii) meets all other generally applicable qualifications required for service as a Director set forth in the Charter and Bylaws and Parent's corporate governance guidelines applicable to Directors and (iii) has provided to Parent (A) all information reasonably requested by Parent that is required to be or is customarily disclosed for directors, candidates for directors and their respective Affiliates and Representatives in a proxy statement or other filings in accordance with Law or any stock exchange rules or listing standards, (B) all information reasonably requested by Parent in connection with assessing eligibility, independence and other criteria applicable to directors or satisfying compliance and legal or regulatory obligations that is of the same type Parent requests of all other nominees to the Board and (C) an undertaking in writing by such individual, to the extent the same is made by all the other non-employee members of the Board: (1) to be subject to, bound by and duly comply with the code of conduct and other policies of Parent, in each case, to the extent applicable to all other non-executive directors of Parent and (2) to provide such additional information reasonably necessary to comply with future legal or regulatory obligations of Parent;

provided, that (w) each of the individuals identified in Section 2.07 of the Merger Agreement or set forth on Section 2.07(f) of the Company Disclosure Letter (as defined in the Merger Agreement) (such individuals set forth therein, the "Initial Nominees") shall be deemed a Qualified Nominee for all purposes hereof so long as such Initial Nominee complies with the foregoing clause (iii) of this definition (subject to clauses (y) and (z) below, and other than such requirements that would not be required of an executive director, if such Qualified Nominee is to be an executive director), except to the extent an event, change in circumstance with respect to such Initial Nominees or change in applicable Law (or interpretation thereof by a court of competent jurisdiction) occurs following the date of the Merger Agreement which results in such Person no longer being a Qualified Nominee under the terms hereof (for the avoidance of doubt, only the impact of such new event or change in applicable Law (or interpretation thereof by a court of competent jurisdiction) shall be taken into account in such determination), (x) no board service or other activity or circumstance of any of Initial Nominees disclosed to Parent as of the date hereof shall be considered in any determination as to whether to disqualify any replacement or future Investor Directors as Qualified Nominees except to the extent of any change in applicable Law (or interpretation thereof by a court of competent jurisdiction) relating thereto, (y) no corporate governance guidelines or code of business conduct and ethics or other policies of Parent (whether existing as of the date hereof or later adopted or amended) shall apply to any Initial Nominees or Investor Directors to the extent such provisions conflict with the express provisions of Section 6.16 (for the avoidance of doubt, to the fullest extent permitted by applicable Law, any activity or omission expressly permitted by Section 6.16 shall not be prohibited) and (z) any share or unit ownership requirement for any Initial Nominee or Investor Director shall credit such Initial Nominee or Investor Director with the share and unit ownership of the E Investor Group.

"R Investors" means (i) REP Omni Holdings, L.P., a Delaware limited partnership, (ii) REP III B Feeder, L.P., a Delaware limited partnership, (iii) REP III C Feeder, L.P., a Delaware limited partnership, (iv) REP Coinvest III-A Omni, L.P., a Delaware limited partnership, and (v) REP Coinvest III-B Omni, L.P., a Delaware limited partnership.

"Representative" means, with respect to a specified Person, any officer, agent, advisor (including legal counsel, accountants and financial advisors) or employee of such Person or any partner, member or shareholder of such Person or any director, officer, employee, partner, affiliate, member, manager, shareholder, assignee or representative of any of the foregoing.

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Standstill Termination Date" means, with respect to any Investor, the earlier of (i) the first date on which the E Investor Group has not had an Ongoing Director Designation Right for 180 consecutive days or (ii) a Strategic Transaction is consummated; provided, however, that the Standstill Termination Date for an E Investors Major Transferee shall be its applicable E Investors Major Transferees Termination Date.

"Strategic Transaction" means (i) a transaction in which a Person, the E Investor Group or any 13D Group acquires, directly or indirectly, (A) 50% or more of the Voting Securities of Parent, other than a transaction pursuant to which holders of Voting Securities of Parent immediately prior to the transaction own, directly or indirectly, 50% or more of the Voting Securities of Parent or any successor, surviving entity or direct or indirect parent of Parent immediately following the transaction or (B) properties or assets constituting 50% or more of the consolidated assets of Parent and its Subsidiaries or (ii) in any case not covered by clause (i), a transaction in which (A) Parent issues Equity Securities representing 50% or more of its total voting power, including by way of merger or other business combination with Parent or any of its Subsidiaries or (B) Parent engages in a merger or other business combination such that the holders of Voting Securities of Parent immediately prior to the transaction do not own more than 50% of the Voting Securities of Parent or any successor, surviving entity or direct or indirect parent immediately following the transaction.

"Subsidiary" of any Person means another Person (i) in which such first Person's beneficial ownership of Voting Securities, other voting ownership or voting partnership interests, is in an amount sufficient to elect at least a majority of its board of directors or other governing body (or, if there are no such voting interests, 50% or more of the equity interests of which are beneficially owned directly or indirectly by such first Person) or (ii) which is required to be consolidated with such Person under U.S. generally accepted accounting principles.

"Surviving Management Holdings" means Omni Management Holdings, LLC, a Delaware limited liability company.

"Surviving Management Holdings LLCA" means the amended and restated limited liability company agreement of Surviving Management Holdings, as in effect from time to time.

"Surviving Management Holdings Units" means the units comprising the equity interests in Surviving Management Holdings pursuant to the Surviving Management Holdings LLCA.

"Suspension Event" means the occurrence of any of the following events: (i) Parent enters into any definitive agreement providing for a Strategic Transaction or Parent redeems any rights under, or modifies or agrees to modify, a shareholder rights plan to facilitate a Strategic Transaction, (ii) a tender or exchange offer which if consummated would constitute a Strategic Transaction is made for Equity Securities of Parent and the Board either recommends that stockholders of Parent accept such offer or fails to recommend that its stockholders reject such offer within ten Business Days from the date of commencement of such offer or (iii) the Incumbent Directors cease for any reason to constitute a majority of the Board.

"Third Party" means any Person other than Parent, the Investors, the Other Investors or any of their respective Affiliates.

"Transfer" means, with respect to any security, any sale, assignment, transfer, distribution or other disposition thereof, or other conveyance, creation, incurrence or assumption of a legal or beneficial interest therein, or a participation or Encumbrance therein, or creation of any short position in any such security or any other action or position otherwise reducing risk related to ownership through hedging or other derivative instrument, whether voluntarily or by operation of Law, whether in a single transaction or a series of related transactions and whether to a single Person or a 13D Group; provided that in no event a Transfer shall be deemed to include (i) any conversion or exchange of Opco Units pursuant to the Opco LLCA, (ii) the conversion or exchange of Surviving Management Holdings Units pursuant to the Surviving Management Holdings LLCA, (iii) any conversion of Parent Series C Preferred Units pursuant to the Charter, (iv) any transfer to a brokerage account where the Investor is the beneficial owner of the brokerage account and of the securities contained therein or (v) any disposition of Equity Securities to Parent in connection with equity awards of Parent; provided further that any Transfer of an Equity Security of a Subsidiary of Parent shall be deemed to be a Transfer of an Equity Security of Parent. The terms "Transferred", "Transferring" and "Transferee" have meanings correlative to the foregoing.

"Voting Securities" of any Person means securities having the right to vote generally in any election of directors or comparable governing Persons of such Person. The percentage of Voting Securities of any Person owned by any holder or holders shall equal the percentage represented by the quotient of (i) the aggregate voting power of all Voting Securities of such Person beneficially owned by such holder or holders and (ii) the aggregate voting power of all outstanding Voting Securities of such Person (including, for each of clause (i) and (ii), for such purpose all Parent Series C Preferred Units and Series C-2 Preferred Units of Opco on anas-converted or as-exchanged basis notwithstanding any limitations or restrictions on conversion or exchange).

(b) As used in this Agreement, the terms set forth below will have the meanings assigned in the corresponding Section listed below:

Term	**Section**
Agreement	Preamble
Confidential Information	Section 6.13(a)
Consent	ANNEX A
Contract	ANNEX A
Information	Section 5.01
Joinder Agreement	EXHIBIT A
Joining Party	EXHIBIT A
Liens	ANNEX A
Merger Agreement	Recitals
Parent	Preamble
Parent Subsidiaries	ANNEX A
Shareholders Agreement	EXHIBIT A
Transactions	Recitals

ARTICLE II

Corporate Governance; Voting Support

SECTION 2.01. Composition of the Board. As of the date of this Agreement, the Board shall be comprised of Directors that are consistent with the provisions of Section 2.07(f) of the Merger Agreement.

SECTION 2.02. Post-Closing Board Matters.

(a) Ongoing Director Designation Right. For so long as the members of the E Investor Group beneficially continue to own in the aggregate greater than 50% of the Voting Securities of Parent beneficially owned by the members of the E Investor Group as of the date hereof (or other Voting Securities received on account thereof), the E Investor Group shall be entitled to nominate for election to the Board at each meeting of stockholders at which directors are to be elected one Qualified Nominee designated by the E Investor Group; provided for the avoidance of doubt, the E Investor Group shall have the right to nominate or designate in accordance with this Section 2.02 and have serve as an Investor Director at any time only one Investor Director; provided further that so long as John J. Schickel, Jr. is serving on the Board in his capacity as an executive officer of Parent, the E Investor Group shall be deemed to nominate John J. Schickel, Jr. as its designee as Investor Director, John J. Schickel, Jr.'s service on the Board shall be deemed to satisfy the E Investor Group's Ongoing Director Designation Right and the E Investor Group shall have no right to nominate or designate any additional Person to serve as a Director (an "Ongoing Director Designation Right").

(b) Election Rights. For so long as the E Investor Group has an Ongoing Director Designation Right, Parent, the Board and each applicable committee or subcommittee thereof shall take all necessary action within their respective control, and shall use commercially reasonable efforts to cause, any nominee of the E Investor Group designated for election as an Investor Nominee pursuant to its Ongoing Director Designation Right in accordance with to Section 2.02(a) (each, an "Investor Nominee") to be nominated and elected at each annual general meeting of Parent and, if the E Investor Group does not then have one designee serving on the Board consistent with its Ongoing Director Designation Right, at any other meeting where Directors are to be elected including, without limitation and as applicable, calling special Board meetings, recommending to the Board and any applicable committee thereof and to the stockholders of Parent the election and re-election of the Investor Nominee, ensuring sufficient vacancies on the Board for the Investor Nominees, and including each Investor Nominee as a nominee for director in Parent's proxy materials and form of proxy and soliciting proxies from stockholders in favor of the election and re-election of such Investor Nominee in a manner no less rigorous and favorable than the manner in which Parent supports its other nominees. For the avoidance of doubt, failure of the stockholders of Parent to elect an Investor Nominee to the Board shall not affect the right of the E Investor Group to nominate Qualified Nominees for election pursuant to Section 2.02(a) in any future election of Directors.

(c) Replacement. For so long as the E Investor Group has an Ongoing Director Designation Right, in the event that a vacancy is created at any time by the death, disqualification, resignation or removal of an Investor Director, the E Investor Group shall have the right to designate a Qualified Nominee as a replacement to fill such vacancy for such Investor Director and if the E Investor Group exercises such right, Parent and the Board shall use commercially reasonable efforts to cause such designee to be promptly appointed to the Board to fill such vacancy, subject to applicable law. If the E Investor Group does not exercise such right by providing written notice to Parent within 60 days following the date on which a vacancy is created, without prejudice to terms of this Section 2.02, the Board shall be entitled to appoint or nominate another Person to fill the resulting vacancy on the Board.

(d) Removal and Resignation.

(i) For so long as the E Investor Group has an Ongoing Director Designation Right, Parent and the Board shall not remove an Investor Director without the prior written consent of the E Investor Group, except for removal for cause in accordance with the Bylaws.

(ii) The E Investor Group shall promptly take all appropriate action to cause to resign from the Board, and shall vote their Voting Securities in favor of removal of, the Investor Director if the Directors (other than the Investor Director) reasonably determine that such Director ceases to satisfy the requirements to be a Qualified Nominee set forth in the definition thereof. If an Investor Director is so removed, the E Investor Group will be entitled to designate an alternate Qualified Nominee to replace the removed Investor Director in accordance with Section 2.02(c).

(iii) If the E Investor Group ceases to have an Ongoing Director Designation Right, at the written request of the Board, the E Investor Group shall promptly take all appropriate action to cause to resign from the Board, and shall vote their Voting Securities in favor of removal of, the Investor Director.

(e) Information Sharing. Notwithstanding anything in this Agreement to the contrary, each Initial Nominee or Investor Director may share, and otherwise make available to, the E Investor Group any information it receives, in its capacity a Director, from or on behalf of Parent and its Subsidiaries; provided that any such information shall be subject to Section 6.13.

(f) Committees. The Board shall determine the composition and make-up of the Audit Committee, the Compensation Committee, the Nominating and Corporate Governance Committee, the Executive Committee and any other committee of the Board and make assignments of each Initial Nominee and Investor Director appropriate in its judgment in light of the expertise of potential committee members and the needs of the Board.

(g) Director Compensation and Expenses. Parent shall pay to each Initial Nominee and Investor Director that is not an employee of Parent, Holdco, Opco or one Parent's other Subsidiaries (i) such fees as may be determined by the Board and (ii) reimburse each Initial Nominee and Investor Director for all reasonable out-of-pocket expenses incurred in connection with such Director's attendance at meetings of the Board and any committee thereof, including reasonable travel, lodging and meal expenses, in each case of clauses (i) and (ii) on the same basis as the other non-employee Directors.

(h) Insurance, Etc. Each Initial Nominee and Investor Director shall be entitled to receive from Parent the same terms of indemnification (and the benefit of the same directors' and officers' liability insurance policy), exculpation and expense reimbursement right as the other Directors in connection with the Initial Nominee's or the Investor Director's role as a Director. Parent acknowledges and agrees that an Initial Nominee or Investor Director who is a partner, member, employee or consultant the E Investor Group may have certain rights to indemnification, advancement of expenses and/or insurance provided by the E Investor Group or their Affiliates (collectively, the "Investor Indemnitors"). Parent acknowledges and agrees that Parent shall be the indemnitor of first resort with respect to any indemnification, advancement of expenses and/or insurance provided in the Charter, Bylaws or any indemnification agreements to an Initial Nominee or Investor Director in his or her capacity as a director of Parent or any of its Subsidiaries (such that Parent's obligations to such indemnitees in their capacities as directors are primary and any obligation of the Investor Indemnitors to advance expenses or to provide indemnification or insurance for the same expenses or liabilities incurred by such indemnitees are secondary). No advancement or payment by the Investor Indemnitors on behalf of such indemnitees with respect to any claim for which such indemnitees have sought indemnification, advancement of expenses or insurance from Parent in their capacities as directors shall affect the foregoing and such Investor Indemnitor or insurer shall be subrogated to all of the claims or rights of such indemnitee under the indemnification agreements or any such other agreement or arrangement with Parent or its Subsidiaries with respect thereto, including to the payment of expenses in an action to collect. Parent irrevocably waives, relinquishes and releases the Investor Indemnitors and such insurers from any and all claims against the Investor Indemnitors or such insurers for contribution, by way of subrogation or any other recovery of any kind in respect thereof. Parent agrees that any Investor Indemnitor or its insurer not a party hereto shall be an express third party beneficiary of this Section 2.02(h), able to enforce this Section 2.02(h) according to its terms as if it were a party hereto. Nothing contained in the indemnification agreements and/or any such other agreement or arrangement is intended to limit the scope of this Section 2.02(h) or the other terms set forth in this Agreement or the rights of the Investor Indemnitors or their insurers hereunder.

SECTION 2.03. Voting Support.

(a) (x) For so long as the E Investor Group has an Ongoing Director Designation Right and Parent is not in breach of Section 2.02, each Investor agrees (i) to cause all Voting Securities beneficially owned by it and which entitles the holder thereof to vote on such matters to be present at any stockholders' meeting at which Directors are to be elected or removed (whether in an annual or special meeting or by written consent) either in person or by proxy, (ii) to vote such Voting Securities (A) with respect to the Investor Director as it may determine, (B) with respect to the Directors (other than the Investor Director), in favor of such Director nominees nominated by the Board and against any other nominees and (C) against the removal of any Director if the Board so recommends.

(b) (x) For so long as the E Investor Group has an Ongoing Director Designation Right and Parent is not in breach of Section 2.02, each Investor hereby irrevocably grants to, and appoints the Secretary of Parent as its proxy and attorney-in-fact (with full power of substitution), for and in the name, place and stead to vote its Voting Securities (the "Proxy Shares"), or grant a consent or approval in respect of such Proxy Shares, in a manner consistent with the terms of this Agreement; provided, however, that such proxy and voting and related rights are expressly limited to those matters set forth in Section 2.03(a). Each Investor hereby further affirms that its respective irrevocable proxy is coupled with an interest and may not be revoked.

(c) In any matter submitted to a vote of stockholders not subject to Section 2.02(d) or Section 2.03(a), each Investor may vote any or all of its Voting Securities in its sole discretion, subject to applicable Law.

ARTICLE III

Standstill, Acquisitions of Securities and Other Matters

SECTION 3.01. Acquisitions of Parent Common Stock. Until the Standstill Termination Date, without the prior written approval of Parent, no Investor shall, nor shall any Investor permit its Affiliates or General Partners, to, directly or indirectly acquire, offer to acquire, agree to acquire or make a proposal (public or otherwise) to acquire, by purchase or otherwise, (a) beneficial ownership of any Equity Securities, or any direct or indirect right to acquire any Equity Securities, of Parent or (b) any cash settled call options or other derivative securities or contracts or instruments in any way related to the price of Equity Securities of Parent.

SECTION 3.02. Other Restrictions. Until the applicable Standstill Termination Date, without the prior written approval of Parent, no Investor shall, nor shall any Investor permit any of its Affiliates or General Partners to:

(a) make, initiate, solicit or submit a proposal (public or otherwise) for, or offer of (with or without conditions), any merger, consolidation, business combination, tender or exchange offer, recapitalization, reorganization, purchase or license of (i) a material portion of the assets, properties or businesses of, or other similar extraordinary transaction involving, Parent or any of its Subsidiaries or (ii) any of their respective Equity Securities (provided, that, nothing in this clause (a) shall restrict any tender of shares in any such tender or exchange);

(b) make or in any way participate in any "solicitation" of "proxies" to vote or become a participant in any "election contest" (as such terms are used in the proxy rules of the Exchange Act), or agree or announce an intention to vote with any Person undertaking a "solicitation", or seek to advise or influence any Person or 13D Group (including, for the avoidance of doubt, the Other Investors) with respect to the voting of any Voting Securities of Parent or any Subsidiary thereof;

(c) propose any matter for submission to a vote of stockholders of Parent or call or seek to call a meeting of the stockholders of Parent (other than, for the avoidance of doubt, exercising its rights to designate the Investor Director pursuant to Section 2.02 of this Agreement);

(d) grant any proxies with respect to any Voting Securities of Parent to any Person or deposit any Voting Securities of Parent in a voting trust or enter into any other agreement or other arrangement with respect to the voting thereof other than (i) as recommended by the Board, including in a proxy solicitation distributed by Parent or (ii) a grant or deposit that is not in connection with an action or inaction otherwise prohibited by this Article III;

(e) form, join, encourage the formation of or in any way engage in discussions relating to the formation of, or in any way participate in, any 13D Group (including, for the avoidance of doubt, any agreement, understanding, arrangement or other contract with any Other Investor or other Person to act as a 13D Group or otherwise act in concert with any Other Investor or other Person) with respect to any Voting Securities of Parent or any Subsidiary thereof or otherwise in connection with any of the actions prohibited by Section 3.01 or this Section 3.02, including pursuant to any voting agreement or trust or with any Other Investor or other Person, in each case, other than a 13D Group or voting agreement or trust solely between and among the Investors for a purpose not otherwise prohibited by this Article III;

(f) take any action, alone or in concert with other Persons, to remove or oppose the election of any Directors or to seek to change the size or composition of the Board or otherwise seek to expand or otherwise modify the Investors' representation on the Board in a manner inconsistent with this Agreement;

(g) take any action, alone or in concert with others, to seek to control or influence the management, board of directors or policies of Parent or any of its Subsidiaries other than through participation of any of its Representatives on the Board and any committees thereof;

(h) enter into any discussions, negotiations, arrangements or understandings with, or advise, assist, finance or knowingly encourage any Person with respect to any of the actions prohibited by, Section 3.01 or this Section 3.02;

(i) make any disclosure inconsistent with the agreements contained in Section 3.01 or this Section 3.02;

(j) take any action that could reasonably be expected to require Parent or any Investor to make a public announcement regarding any of the matters described in Section 3.01 or this Section 3.02;

(k) request, propose or otherwise seek any amendment or waiver of the restrictions contained in Section 3.01 or this Section 3.02;

(l) except to the extent expressly permitted pursuant to Section 5.01 or the other Transaction Agreements (as defined in the Merger Agreement), request, propose or otherwise seek, whether pursuant to applicable Law or otherwise, to inspect the books and records of Parent or any of its Subsidiaries; or

(m) contest the validity or enforceability of the agreements contained in Section 3.01 or this Section 3.02 or seek a release of the restrictions contained in Section 3.01 or this Section 3.02 (whether by legal action or otherwise).

Notwithstanding the foregoing, and for the avoidance of doubt, none of the foregoing restrictions in this Section 3.02 shall limit or restrict (i) the voting or other activities of an Initial Nominee or Investor Director acting solely in his or her capacity as such or impose any restriction on an Initial Nominee or Investor Director in discharging his or her fiduciary duties as a Director acting for the benefit of Parent and all stockholders of Parent or in his or her capacity as a member of a Board Committee, (ii) the ability of the Investors to privately communicate with or attempt to influence the Directors or to designate for nomination the Investor Director in accordance with Section 2.02 or to vote any Voting Securities held by the Investors not in violation of Sections 2.02(d) or 2.03(a) or (iii) the ability of an Investor or its Affiliates or General Partners to privately respond to requests for assistance from, or privately provide advice or assistance to, Parent management from time to time.

SECTION 3.03. Exceptions to Standstill and Restrictions on Acquisitions. Notwithstanding anything to the contrary in this Agreement, the parties agree that:

(a) the restrictions set forth in Sections 3.01 and 3.02 shall not apply to:

(i) the acquisition by the Investors of Equity Securities of Parent, Opco or Surviving Management Holdings pursuant to the Merger Agreement;

(ii) the conversion or exchange of Opco Units by the Investors pursuant to the Opco LLCA, the conversion or exchange by the Investors of Surviving Management Holdings Units pursuant to the Surviving Management Holdings LLCA or conversion by the Investors of Parent Series C Preferred Units pursuant to the Charter;

(iii) the acquisition by the Investors of Equity Securities of Parent, Opco, Surviving Management Holdings or their respective Subsidiaries pursuant to stock dividends, stock splits, shareholder rights plans, mergers, reclassifications, recapitalizations or other similar distributions by or at the direction of Parent, Opco or Surviving Management Holdings to similarly situated holders of Equity Securities of Parent, Opco or Surviving Management Holdings;

(iv) any acquisition of Equity Securities of Parent, Opco or Surviving Management Holdings by a Permitted Transferee of an Investor from such Investor (subject to compliance by such Investor with this Agreement and the Investor Rights Agreement);

(v) the acquisition by an Investor of Equity Securities of Parent in public market transactions so long as immediately following such acquisition the Investor's Investor Percentage Interest does not exceed the Investor's Investor Percentage Interest as of the date 180 days prior to the date of such transaction or, if shorter, since the date of this Agreement; provided, that, in no event (except as set forth in the immediately subsequent proviso) shall the Investor's Investor Percentage Interest exceed its Investor Percentage Interest on the date of this Agreement; and provided, further, that the E Investor Group may acquire additional Equity Securities of Parent not otherwise permitted by this Section 3.03(a)(v) so long as such additional Equity Securities pursuant to this proviso do not (A) (when aggregated with all other Equity Securities of Parent so acquired by the E Investor Group during the preceding 12-month period) exceed 1% of the Voting Securities of Parent in the aggregate or (B) (when aggregated with all other Equity Securities of Parent so acquired by the E Investor Group under this Section 3.03(a)(v)) exceed 3% of the Voting Securities of Parent in the aggregate (such reference aggregate amount of Voting Securities of Parent determined as of the date of this Agreement); and

(vi) any issuance by Parent or any of its Subsidiaries of Voting Securities or options, warrants or other rights to acquire such Voting Securities (or the exercise thereof) to the Initial Nominees or the Investor Director or the Investors as compensation for the membership of the Initial Nominees or the Investor Director on the Board.

(b) if a Suspension Event occurs after the date of this Agreement, then:

(i) (A) the restrictions set forth in Section 3.02(a) and Section 3.02(b) and (B) solely to the extent necessary to permit the actions described in Section 3.02(a) and Section 3.02(b), the restrictions set forth in Section 3.02(c), Section 3.02(d), Section 3.02(e), Section 3.02(h), Section 3.02(i) and Section 3.02(j), in the case of each of clauses (A) and (B) shall be suspended;

(ii) notwithstanding the restrictions set forth in Section 3.01, the Investors shall be permitted to acquire beneficial ownership of Equity Securities pursuant to the consummation of such Strategic Transaction permitted as a result of the suspension of the restrictions set forth in Section 3.02(a) pursuant to Section 3.03(b)(i), and

(iii) notwithstanding the restrictions set forth in Section 3.02(f) and Section 3.02(g), the Investors shall be permitted to take such actions set forth in such restrictions until the consummation of a Strategic Transaction permitted as a result of the suspension of the restrictions set forth in Section 3.02(a) pursuant to Section 3.03(b)(i) so long as they would not have the effect (other than as a result of the consummation of such Strategic Transaction) of removing or opposing the election of any Director, changing the size or composition of the Board, or controlling or influencing the management, board of directors or policies of Parent or any of its Subsidiaries; provided, however, that, in the event that (x) the agreement contemplated by clause (a) of the definition of Suspension Event is terminated or (y) the tender or exchange offer contemplated by clause (b) of the definition of Suspension Event is terminated without the purchase of shares contemplated thereby being consummated, then, in each case, the Suspension Event shall end and the restrictions set forth in Section 3.01 and Section 3.02 shall be fully reinstated;

(c) the restrictions set forth in Sections 3.02(i) and 3.02(j) shall not apply solely to the extent necessary to allow any Investor to comply with its filing obligations under applicable securities law, rules and regulations solely to report a transaction permitted by this Agreement; and

(d) if the Board resolves after the date of this Agreement to engage in a formal process which is intended to result in a transaction which, if consummated, would constitute a Strategic Transaction, then the restrictions set forth in Section 3.02(a) shall be suspended solely to the extent necessary and only for such period as is necessary to allow the Investors to participate in such process on substantially the same basis generally applicable to other participants in such process; provided, however, that, following the termination of such formal process, the restrictions set forth in Section 3.02(a) shall be fully reinstated.

ARTICLE IV

Restrictions on Transferability of Securities

SECTION 4.01. Restrictions.

(a) An Investor shall not make or solicit any Transfer of or with respect to, and each Investor shall cause each of its Affiliates not to make or solicit any Transfer of or with respect to, any Equity Securities of Parent now owned or hereafter acquired by such Investor or its Affiliates to the extent prohibited by the terms of the Investor Rights Agreement.

(b) Without limitation of the foregoing, until the earlier of a Strategic Transaction, the date the Investor Percentage Interest for the E Investor Group is less than 2.5% or the date that the E Investor Group no longer has an Ongoing Director Designation Right, without the prior approval of a majority of the Board or as set forth in Section 4.02, no Investor shall make or solicit any Transfer of or with respect to, and each Investor shall cause each of its Affiliates not to make or solicit any Transfer of or with respect to, any Equity Securities of Parent now owned or hereafter acquired by the Investors or their Affiliates, in any single transaction or series of related transactions (including, for the avoidance, intermediate sales transactions), to or with any Person or 13D Group unless:

(i) such Equity Securities would not represent more than 5% of the Voting Securities of Parent;

(ii) to the knowledge of such Investor, such Person or 13D Group does not prior to such Transfer, and would not after giving effect to such Transfer, have beneficial ownership of more than 10% of the Voting Securities of Parent; and

(iii) to the knowledge of such Investor, such Person is not a Competitor of Parent or any of its Subsidiaries.

For purposes of the foregoing clauses (ii) and (iii) of this Section 4.01(b), (A) in a case where such Person or 13D Group is reasonably identifiable by such Investor in connection with such transaction or series of related transactions, "knowledge" means the reasonable knowledge of the relevant Investor after (1) review of beneficial ownership and other relevant public filings in respect of Parent and (2) other than with respect to any bona fide, broadly distributed public offering or open market sale effected through a broker, agent, or other intermediary, such Investor instructing in writing its broker, agent or other intermediary to Transfer such Equity Securities in a manner consistent with the restrictions in this Section 4.01 and (B) in a case where the such Person or 13D Group otherwise is not reasonably identifiable by such Investor (or by the personnel of its broker, agent or other intermediary who are directly involved in the applicable Transfer), "knowledge" means the "actual" knowledge of the relevant Investor in connection with such transaction or series of related transactions; provided that, notwithstanding anything to the contrary in this Section 4.01(b), any Investor may make or solicit a Transfer of any Equity Securities effected pursuant to a bona fide, broadly distributed public offering or open market sale effected through a broker, agent, or other intermediary where an Investor does not have actual knowledge of the transferee of such Equity Securities. An Investor shall not be deemed to have breached its obligation under Section 4.01 with respect to a Transfer of any Equity Securities of Parent to any Person so long as such Investor acted in good faith and did not know or have good reason to believe that such Transfer was in violation of this Section 4.01 and, in the case of an open market sale effected through a broker, agent, or other intermediary, such Investor instructed in writing such broker, agent or other intermediary to Transfer such Equity Securities in a manner consistent with the restrictions in this Section 4.01. For purposes of this paragraph, "open market sale" means ordinary course brokerage transactions effected based on prevailing market prices obtainable at the time of such transfer and effected on a national securities exchange where the broker does not receive more than the usual and customary broker's commission.

SECTION 4.02. Permitted Transfers.

(a) Notwithstanding anything to the contrary in Section 4.01, any Investor may make or solicit a Transfer of any Equity Securities of Parent to the extent permitted by Section 3.02 of the Investor Rights Agreement.

(b) No Transfer of Equity Securities of Parent to a Permitted Transferee pursuant to Section 4.02(a) above shall be effective until such time as such Permitted Transferee has executed and delivered to Parent, as a condition precedent to such Transfer, a joinder to this Agreement substantially in the form of Exhibit A hereto. No Investor shall permit a Transfer of control of such Investor other than to a Permitted Transferee and any such Transfer other than to a Permitted Transferee shall be a breach of this Agreement.

(c) Notwithstanding Section 4.01(b), the Investors may make or solicit a Transfer of any Equity Securities of Parent in connection with the grant and maintenance of a *bona fide* lien, security interest, pledge or other similar encumbrance to a nationally or internationally recognized financial institution with assets of not less than $10 billion in connection with a loan; provided further, however, that such Investor so making or soliciting such a Transfer shall, as a condition to such Transfer, provide Parent prior written notice with details (including the identity of the proposed transferee and nature of the lien, security interest, pledge or other similar encumbrance) regarding such transaction and a reasonable opportunity to comment (with such comments considered by such Investor in good faith) on any public filing, report or announcement made by or on behalf of such Investor with respect thereto.

(d) Notwithstanding anything to the contrary in this Agreement, OIH only may Transfer, directly or indirectly, Equity Securities of Parent to E Investors Major Transferees so long as the E Investor Group continues to beneficially own immediately following such Transfer, directly or indirectly, not less than 75% of the Equity Securities of Parent and its Subsidiaries received by E Partners in the Merger.

SECTION 4.03. Improper Transfer or Encumbrance. For so long as Section 4.01(b) is applicable to the Investors, to the extent any Investor proposes to Transfer or shall be deemed to Transfer any Equity Securities of Parent with a sale price of not less than $2,000,000 in a single transaction or series of related transactions, such Investor shall, unless such Transfer is (a) effected pursuant to a "10b5-1 Plan" or similar blinded, discretionary plan not controlled by such Investor (provided, in each such case, Investor has provided notice to Parent that it has entered into such plan and of the maximum amount of Equity Securities subject to such plan and instructed pursuant to such plan that such Equity Securities should be Transferred in a manner consistent with the restrictions in Section 4.01) or (b) permitted under Section 4.02, prior to the consummation of such Transfer or deemed Transfer, deliver notice thereof to Parent stating the maximum number of Equity Securities of Parent to be Transferred, the identity

of the transferee (if known) and the manner of Transfer. Any attempt not in compliance with this Agreement to make any Transfer of or with respect to any Equity Securities of Parent shall be null and void and of no force and effect, the purported Transferee shall have no rights or privileges in or with respect to Parent, and Parent shall not give any effect in Parent's stock records to such attempted Transfer.

ARTICLE V

Additional Agreements

SECTION 5.01. Information Rights. During the Information Rights Period, Parent shall, and shall cause its Subsidiaries to, permit the Investors and their respective designated Representatives, at reasonable times and upon reasonable prior notice to Parent to (i) have access to materials or information distributed to Directors in the ordinary course and (ii) review the books and records of Parent or any of its Subsidiaries to the extent that it would be obligated to provide access to them to stockholders consistent with Tennessee law (all such information so furnished pursuant to this Section 5.01, the "Information"). Subject to Section 6.13, any Investor (and any person receiving Information from an Investor) who shall receive Information shall maintain the confidentiality of such Information. Notwithstanding the foregoing, Parent shall not be required to disclose any privileged Information of Parent and its Subsidiaries.

SECTION 5.02. Charter; Bylaws. In the event that any provision of this Agreement is or becomes inconsistent or in conflict with the Charter or the Bylaws, Parent shall take all necessary action to amend the Charter or the Bylaws, as applicable, such that the Charter and the Bylaws, as applicable, are not inconsistent or in conflict with this Agreement.

ARTICLE VI

Miscellaneous

SECTION 6.01. Adjustments. References to shares, equity interests or other Equity Securities or to numbers or prices of shares and to sums of money, in each case, including percentages thereof, contained herein will be deemed adjusted to account for any reclassification, exchange, conversion, substitution, combination, consolidation, subdivision, stock or unit split or reverse stock or unit split, stock or unit dividend, share or unit distribution, rights offering or similar transaction (including to property received therein in connection with a merger, consolidation or business combination).

SECTION 6.02. Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) when delivered in person; (b) when transmitted (except if not a Business Day, then the next Business Day) via email (to such email address set out below) and sender shall bear the burden of proof of delivery, which shall be deemed satisfied if such notice is also delivered by hand, deposited in registered or certified mail (postage prepaid, return receipt requested), or delivered prepaid to a reputable national

overnight air courier service on or before the date that is one (1) Business Day after its transmission by email; and (c) on the next Business Day when sent by national overnight courier (providing proof of delivery), in each case to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 6.02):

If to the Investors (unless otherwise specified on any joinder to this Agreement with respect to any individual Investor) to:

Omni Investor Holdings, LLC
3652 Third Street S.,
Suite 150
Jacksonville Beach, FL 32250
Attention: Julie Robinson

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

King & Spalding LLP
1180 Peachtree Street, NE
Suite 1600
Atlanta, GA 30309
Attention: Rahul Patel; John Hyman
Email: rpatel@kslaw.com; jhyman@kslaw.com

If to Parent, to:

Forward Air Corporation
1915 Snapps Ferry Road
Building N
Greeneville TN 37745
Attention: Michael Hance
Email: MHance@forwardair.com

Email with a copy to:

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, New York 10019
Attention: Thomas E. Dunn; Matthew L. Ploszek
Email: tdunn@cravath.com; mploszek@cravath.com

SECTION 6.03. Expenses. Except as otherwise set forth herein, each party to this Agreement shall pay its own expenses incurred following the date of this Agreement in connection with this Agreement. Parent shall bear all documented out-of-pocket expenses of the Investors in connection with this Agreement incurred prior to the date of this Agreement.

SECTION 6.04. Amendments; Waivers; Consents.

(a) No provision of this Agreement may be amended or waived unless such amendment or waiver is in writing and signed, in the case of an amendment, by the E Investors and Parent; provided, however, that any amendment or waiver that materially adversely affects the rights or obligations of an individual Investor hereunder in a manner different than the other Investors shall also require the signature of such affected Investor or, in the case of a waiver, by the party against whom the waiver is to be effective.

(b) The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise will not constitute a waiver of such rights nor will any single or partial exercise by any party to this Agreement of any of its rights under this Agreement preclude any other or further exercise of such rights or any other rights under this Agreement. The rights and remedies herein provided will be cumulative and not exclusive of any rights or remedies provided by Law or otherwise.

SECTION 6.05. Interpretation. The headings contained in this Agreement and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The word "will" shall be construed to have the same meaning as the word "shall". The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The word "or" shall not be exclusive. The phrase "date hereof" or "date of this Agreement" shall be deemed to refer to January 25, 2024. Unless the context requires otherwise (a) any definition of or reference to any contract, instrument or other document or any Law herein shall be construed as referring to such contract, instrument or other document or Law as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof and (d) all references herein to Articles, Sections and Schedules shall be construed to refer to Articles and Sections of, and Schedules to, this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day. Ownership of Parent Series C Preferred Units or Series C-2 Preferred Units of Opco shall be deemed for purposes of this Agreement to represent, on an as converted or exchanged basis, without duplication, beneficial ownership of Parent Common Stock into which such shares or units are

ultimately convertible or exchangeable (including, without duplication, in the case of the Series C-2 Preferred Units of Opco, following conversion into Class B Units pursuant to the Opco LLCA but for the determination of beneficial ownership not into any Parent Series B Preferred Units) (disregarding for this purpose any limitations or restrictions on conversion or exchange).

SECTION 6.06. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law, or public policy, all other conditions and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the purpose of this Agreement is fulfilled to the fullest extent possible.

SECTION 6.07. Counterparts. This Agreement may be executed and delivered (including by electronic, facsimile transmission, DocuSign or ..pdf) in counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto or to any such agreement or instrument will raise the use of electronic delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of electronic delivery as a defense to the formation of a contract, and each such party forever waives any such defense, except to the extent such defense related to lack of authenticity.

SECTION 6.08. Entire Agreement; No Third-Party Beneficiaries. This Agreement, together with the other Transaction Agreements (as defined in the Merger Agreement), including the Opco LLCA, the Surviving Management Holdings LLCA, the Charter and the Bylaws, constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and is not intended to and does not confer upon any Person other than the parties hereto (and their respective Permitted Transferees) any rights or remedies, except as expressly provided in this Agreement (it being understood and agreed that the Persons referred to in any Section of this Agreement as having such rights and who or which are not parties hereto shall be entitled to the benefits of, and to enforce the provisions of, such Section).

SECTION 6.09. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice or conflict of law provisions or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. All Actions arising out of or relating to this Agreement or the Transactions shall be heard and determined exclusively in the Court of Chancery of the State of Delaware and any state appellate court therefrom within the

State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom). The parties hereto hereby (a) irrevocably submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware and any appellate court therefrom within the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom) for the purpose of any Action arising out of or relating to this Agreement or the Transactions brought by any party; (b) irrevocably waive, and agree not to assert by way of motion, defense or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the Transactions may not be enforced in or by the above-named courts; and (c) agree that such party will not bring any Action arising out of or relating to this Agreement or the Transactions in any court other than the Court of Chancery of the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom). Service of process, summons, notice or document to any party's address and in the manner set forth in Section 6.02 shall be effective service of process for any such action (without limiting other means).

SECTION 6.10. Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement will be assigned, in whole or in part, by any of the parties without the prior written consent of the other parties, except rights, interests and obligations in respect of Equity Securities may be assigned in conjunction with a Transfer of such Equity Securities to a Permitted Transferee who has executed and delivered a joinder to this Agreement in accordance with Section 4.02(b). Any purported assignment in violation of the preceding sentence will be void. Subject to the preceding sentences, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

SECTION 6.11. Enforcement. The parties agree that the parties would be irreparably damaged if any provision of this Agreement were not performed in accordance with its specific terms or was otherwise breached, and that monetary damages, even if available, would not be an adequate remedy therefor. Accordingly, the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the performance of the terms of this Agreement, in addition to any other remedy at law or in equity. The parties further agree that no party to this Agreement shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any such legal or equitable relief and each party waives any objection to the imposition of such relief or any right it might have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each of the parties acknowledges and agrees that the right of specific enforcement is an integral part of the transactions contemplated by this Agreement and without such right, none of the parties would have entered into this Agreement.

SECTION 6.12. Termination; Survival. Notwithstanding anything to the contrary contained in this Agreement, this Agreement will automatically terminate upon the Standstill Termination Date and this Agreement shall thereafter be null and void, except that this Article VI shall survive any such termination indefinitely; provided that with respect to an E Investors Major Transferee this Agreement shall automatically terminate upon its applicable E Investors Major Transferees Termination Date. Nothing in this Section 6.12 will be deemed to release any party from any liability for any willful and material breach of this Agreement occurring prior to such termination or impair the right of any party to compel specific performance by the other parties of their respective obligations under this Agreement occurring prior to such termination.

SECTION 6.13. Confidentiality. (a) The Investors and their respective Affiliates shall, and shall direct their respective Representatives to, (i) hold confidential and not disclose, without the prior written approval of Parent, all confidential or proprietary written, recorded or oral information or data (including research, developmental, technical, marketing, sales, financial, operating, performance, cost, business and process information or data, knowhow and computer programming and other software techniques) provided by or on behalf of Parent or any of its Subsidiaries to the Investors or their respective Affiliates or Representatives, whether such confidentiality or proprietary status is indicated orally or in writing or if such Investor should reasonably have understood that the information should be treated as confidential, whether or not the specific words "confidential" or "proprietary" are used ("Confidential Information"), and (ii) use such Confidential Information only for the purpose of performing its obligations hereunder, managing and monitoring such Investor's investment in Parent and its Subsidiaries and carrying on the business of Parent and its Subsidiaries; provided that the Investors and their respective Affiliates and Representatives may disclose or use such Confidential Information (x) in their capacity as directors, officers or employees of Parent or its Subsidiaries and (y) to each other, in their capacities as such and, with respective to Representatives that are attorneys, accountants, consultants and other professional advisors, to the extent necessary to their services in connection with monitoring its investment in Parent and its Subsidiaries, to any affiliate of such Investor and their respective directors, employees, consultants and representatives, in each case in the ordinary course of business (provided that the recipients of such Confidential Information are subject to customary confidentiality andnon-disclosure obligations) or (z) as may be necessary in connection with such Investor's enforcement of its rights in connection with this Agreement. Each Investor acknowledges and agrees that it shall be liable for any breach of the terms of this Section 6.13 applicable to Affiliates and Representatives by its Affiliates and Representatives (solely to the extent that such Representative received the applicable Confidential Information from such Investor), except with respect to an Affiliate or Representative who enters into or has entered into a confidentiality agreement with Parent with respect to the subject matter of this Section 6.13.

(b) Notwithstanding the foregoing, the confidentiality and non-use obligations of Section 6.13(a) will not apply to Confidential Information:

(i) which any Investor or any of its Representatives is required to disclose by judicial or administrative process, or by other requirements of applicable Law or regulation or any governmental authority (including any applicable rule, regulation or order of a self-governing authority, such as the NASDAQ); provided that, where and to the extent legally permitted and reasonably practicable, such Investor shall (A) give Parent reasonable notice of any such requirement and, to the extent protective measures consistent with such requirement are available, the opportunity to seek appropriate protective measures and (B) reasonably cooperate with Parent, at Parent's sole cost and expense, in attempting to obtain such protective measures;

(ii) which becomes available to the public other than as a result of a breach of Section 6.13(a);

(iii) which can be demonstrated has been independently developed by such Investor without use of or reliance upon Confidential Information; or

(iv) which has been provided to any Investor or any of its Representatives by a Third Party who is not known after reasonable inquiry to be subject to confidentiality obligations to Parent or any of its Affiliates.

SECTION 6.14. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE, EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (C) IT MAKES THIS WAIVER VOLUNTARILY; AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS IN THIS SECTION 6.14.

SECTION 6.15. Representations and Warranties. (a) Parent hereby makes the representations and warranties set forth in Annex A to the Investors, each of which is true and correct as of the date of this Agreement.

(b) Each Investor, severally and not jointly, hereby makes the representations and warranties set forth in Annex B to Parent solely as to itself, each of which is true and correct as of the date of this Agreement.

SECTION 6.16. Waiver of Corporate Opportunity. To the fullest extent permitted by the applicable law, Parent agrees that the Investor Director, any Initial Nominee, the E Investor Group and any Affiliate or portfolio company thereof (collectively, "Covered Persons") may, and shall have no duty not to, (a) invest in, carry on and conduct, whether directly, or as a partner in any partnership, or as a joint venturer in any joint venture, or as an officer, director, stockholder, equityholder or investor in any person, or as a participant in any syndicate, pool, trust or association, any business of any kind, nature or description, whether or not such business is competitive with or in the same or similar lines of business as Parent, Opco or any of their Subsidiaries; (b) do business with any client, customer, vendor or lessor of any of Parent, Opco or any of their Affiliates; and/or (c) make investments in any kind of property in which Parent, Opco or any of their Subsidiaries may make investments; provided that Covered Persons remain subject to all duties of confidentiality to Parent and its Subsidiaries and related restrictions on use of information applicable to them, including under Section 6.13. To the fullest extent permitted by applicable law, Parent renounces any interest or expectancy to participate in any business or investments of any Covered Person as currently conducted or as may be conducted in the future, and waives any claim of corporate opportunity against a Covered Person arising in connection with or relating to a such Covered Person's participation in any such business or investment. Parent agrees that, subject to any express agreement otherwise that may from time to time be in effect, in the event that a Covered Person acquires knowledge of a potential transaction or matter which may constitute a corporate opportunity for both (i) the Covered Person outside of his or her capacity as a Director and (ii) Parent or its Subsidiaries, the Covered Person shall not have any duty to offer or communicate information regarding such corporate opportunity to Parent, Opco or any of their Subsidiaries; provided, for the avoidance of doubt, if such corporate opportunity otherwise comes before the Board, a Covered Person that is a Director will continue to have an obligation, consistent with his or her fiduciary duties to Parent, to disclose his or her interest in such corporate opportunity. To the fullest extent permitted by applicable law, Parent hereby renounces any interest or expectancy in any potential transaction or matter of which the Covered Person acquires knowledge, except as subject to any express agreement otherwise that may from time to time be in effect or for any corporate opportunity which is expressly offered to a Covered Person in writing solely in his or her capacity as a Director, and waives any claim against each Covered Person arising in connection with or relating to the fact that such Covered Person (A) pursues or acquires any corporate opportunity for its own account or the account of any Affiliate or other person, (B) directs, recommends, sells, assigns or otherwise transfers such corporate opportunity to another person or (C) does not communicate information regarding such corporate opportunity to Parent (except as provided in the proviso to the immediately preceding sentence); provided, that, in each such case, that any corporate opportunity which is expressly agreed in writing by the E Investor Group to belong to Parent or is expressly offered to a Covered Person in writing solely in his or her capacity as a Director shall belong to Parent.

SECTION 6.17. Designated Representative. (a) John J. Schickel, Jr. (the "Designated Representative") is hereby irrevocably appointed as the representative, agent, proxy, and attorney-in-fact for all the Investors for all purposes under this Agreement, including the full power and authority on the Investors' behalf (i) to perform the rights and acts as described as being within its authority, discretion or power as set forth herein, including all such actions which are contemplated to be performed, reviewed or otherwise within its discretion herein, including the right to negotiate and settle disputes arising under, or relating to, this Agreement (except as otherwise expressly set forth herein or therein by reference to a different standard or requirement for approval) and (ii) to take all other actions to be taken by or on behalf of the Investors in connection with this Agreement and consistent with the foregoing authority. The Investors, by approving this Agreement (whether by written consent, vote or by execution of this Agreement or a Letter of Transmittal), further agree that such agency and proxy are coupled with an interest, are therefore irrevocable without the consent of the Designated Representative and shall survive the death, incapacity, bankruptcy, dissolution or liquidation of any Investor. All decisions and actions by the Designated Representative pursuant to the authority granted herein shall be binding upon all of the Investors and no Investor shall have the right to object, dissent, protest or otherwise contest the same. Parent may conclusively rely, without independent verification or investigation, upon any such decision or action of the Designated Representative as being the binding decision or action of every Investor. The Designated Representative shall have no duties or obligations to the Investors hereunder, except as expressly set forth herein. By its approval of, or consent to, the Transactions and the adoption of this Agreement, its acceptance of any consideration pursuant to the Merger Agreement or this Agreement or delivery of a Letter of Transmittal, each Investor hereby irrevocably approves and adopts the appointment of the Designated Representative as such Investor's representative, agent, proxy, and attorney-in-fact to act in accordance with the authority granted in this Section 6.17.

(b) Following the Closing Date, a majority-in-interest of the Investors (as determined by their relative entitlement to Merger Consideration as of the Closing) may, by written consent, appoint a new representative as the Designated Representative. Notice, together with a copy of the written consent appointing such new representative and bearing the signatures of such majority-in-interest of the Investors, must be delivered to Parent not less than 15 days prior to such appointment. Such appointment will be effective upon the later of the date indicated in the consent or the date such consent is received by Parent. In the event that the Designated Representative becomes unable or unwilling to continue in its capacity as Designated Representative, or if the Designated Representative resigns as the Designated Representative, a majority-in-interest of the Investors (determined as set forth above) may by written consent appoint a new representative as the Designated Representative.

(c) Notwithstanding anything to the contrary contained in this Agreement, the Designated Representative in its capacity as such shall have no duties or responsibilities except those expressly set forth herein, and no implied covenants, functions, responsibilities, duties, obligations or liabilities on behalf of any Investor shall otherwise exist against the Designated Representative. No bond shall be required of the Designated Representative and the Designated Representative shall receive no compensation for its services. The Designated Representative shall not be liable to any Investor for any act done or omitted hereunder as the Designated Representative except

for its willful misconduct or actual fraud with respect to any matter arising out of or in connection with the acceptance or administration of its duties hereunder (it being understood that any act done or omitted pursuant to the advice of counsel shall be conclusive evidence of the absence of willful misconduct or actual fraud). The Designated Representative shall be entitled to be indemnified by the Investors (among them pro rata in accordance with their relative entitlement to Merger Consideration as of the Closing) for any loss, liability or expense incurred without willful misconduct or actual fraud on the part of the Designated Representative with respect to any matter arising out of or in connection with the acceptance or administration of its duties hereunder (including the hiring of legal counsel and the incurring of legal fees and costs). The Designated Representative shall be entitled to recover from the Investors (among them pro rata in accordance with their relative entitlement to Merger Consideration as of the Closing) any out-of-pocket costs and expenses incurred by the Designated Representative in good faith and in connection with actions taken by the Designated Representative pursuant to this Agreement or the acceptance of administration of its duties hereunder (including the hiring of legal counsel and the incurring of legal fees and costs).

IN WITNESS WHEREOF, the parties hereto have executed this Shareholders Agreement as of the day and year first above written.

FORWARD AIR CORPORATION, as Parent,

by /s/ Thomas Schmitt
Name: Thomas Schmitt
Title: President and Chief Executive Officer

[*Signature Page to Major Shareholders Agreement – E Investors*]

IN WITNESS WHEREOF, the parties hereto have executed this Shareholders Agreement as of the day and year first above written.

E INVESTORS

EVE OMNI INVESTOR, LLC

By: /s/ Michael B. Hodge
Name: Michael B. Hodge
Title: Authorized Signatory

OMNI INVESTOR HOLDINGS, LLC

By: /s/ Michael B. Hodge
Name: Michael B. Hodge
Title: Authorized Signatory

EXHIBIT A

JOINDER AGREEMENT

This Joinder Agreement (this "Joinder Agreement") is made as of the date written below by the undersigned (the "Joining Party") in accordance with the Shareholders Agreement dated as of January 25, 2024 (as the same may be amended from time to time, the "Shareholders Agreement") among Forward Air Corporation, a Tennessee corporation, and the other parties thereto, as the same may be amended from time to time. Capitalized terms used, but not defined, herein shall have the meaning ascribed to such terms in the Shareholders Agreement.

The Joining Party hereby acknowledges, agrees and confirms that, by its execution of this Joinder Agreement, the Joining Party shall be deemed to be a party to and an "Investor" under the Shareholders Agreement as of the date hereof and, without limiting the generality of the foregoing, shall be subject to the Shareholders Agreement and shall have all of the rights and obligations of an Investor thereunder as if it had executed the Shareholders Agreement. The Joining Party hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Shareholders Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement as of the date written below.

Date: _____, ____

[NAME OF JOINING PARTY]

By: _____
Name:
Title:

Address for Notices:

AGREED ON THIS [_____] day of [_____], 20[_]:

FORWARD AIR CORPORATION

By: _____
Name:
Title:

ANNEX A

1. Organization, Standing and Power. Parent is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

2. Authority; Execution and Delivery; Enforceability. Parent has all requisite corporate power and authority to execute and deliver this Agreement and to comply with the terms hereof. The execution and delivery by Parent of this Agreement and the compliance by Parent with this Agreement have been, or prior to the date of this Agreement will have been, duly authorized by all necessary company action on the part of Parent. Parent has duly executed and delivered this Agreement, which, assuming due authorization, execution and delivery by the other parties hereto, constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (except insofar as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other Laws of general applicability relating to or affecting creditors' rights, or by principles governing the availability of equitable remedies, whether considered in a proceeding at law or in equity).

3. No Conflicts; Consents. (i) The execution and delivery by Parent of this Agreement do not, and compliance with the terms hereof will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancelation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any pledges, liens, charges, mortgages, encumbrances and security interests of any kind or nature whatsoever (collectively, "Liens") upon any of the properties or assets of Parent or any of its subsidiaries (the "Parent Subsidiaries") under, any provision of (A) the Charter, the Bylaws or the comparable organizational documents of any Parent Subsidiary, (B) any contract, lease, license, indenture, note, bond, agreement, concession, franchise or other binding instrument (a "Contract") to which Parent or any Parent Subsidiary is a party or by which any of their respective properties or assets is bound or (C) subject to the filings and other matters referred to in paragraph (3)(ii) below, any Law applicable to Parent or any Parent Subsidiary or their respective properties or assets, other than, in the case of clauses (B) and (C) above, any such items that would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of Parent to comply with the terms of this Agreement.

(ii) No consent, approval, license, permit, order or authorization ("Consent") of, or registration, declaration or filing with, or permit from, any Governmental Entity, is required to be obtained or made by or with respect to Parent or any Parent Subsidiary in connection with the execution, delivery and performance of this Agreement or the compliance with the terms hereof, other than (X) the filing with the SEC of such reports under the Exchange Act as may be required in connection with this Agreement, (Y) such filings as may be required under the rules and regulations of the NASDAQ and (Z) such other items that the failure of which to obtain or make would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of Parent to comply with the terms of this Agreement.

ANNEX B

1. Organization, Standing and Power. Such Investor is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

2. Authority; Execution and Delivery; Enforceability. Such Investor has all requisite limited liability company or similar power and authority to execute and deliver this Agreement and to comply with the terms thereof. The execution and delivery by such Investor of this Agreement and its compliance with the terms hereof have been duly authorized by all necessary limited liability company or similar action on the part of such Investor. All required approvals, if any, from the limited partners, members or other stockholders of such Investor to enter into this Agreement and comply with its terms have been granted. Such Investor has duly executed and delivered this Agreement, which, assuming due authorization, execution and delivery by Parent, constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (except insofar as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other Laws of general applicability relating to or affecting creditors' rights, or by principles governing the availability of equitable remedies, whether considered in a proceeding at law or in equity).

3. No Conflicts; Consents. (i) The execution and delivery by such Investor of this Agreement do not, and compliance with the terms hereof will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancelation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any Lien upon any of the properties or assets of such Investor or any of its subsidiaries under, any provision of (A) the organizational documents of such Investor or any of such Investor's subsidiaries, (B) any Contract to which such Investor or any of its subsidiaries is a party or by which any of their respective properties or assets is bound or (C) subject to the filings and other matters referred to in paragraph (4)(i), any Law applicable to such Investor or any of its subsidiaries or their respective properties or assets, other than, in the case of clauses (B) and (C) above, any such items that would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of such Investor to comply with terms of this Agreement.

(ii) No Consent of, or registration, declaration or filing with, or permit from, any Governmental Entity is required to be obtained or made by or with respect to such Investor or any of its subsidiaries in connection with the execution, delivery and performance of this Agreement or the compliance with the terms hereof, other than (X) filing with the SEC of such reports under the Exchange Act, as may be required in connection with this Agreement, (Y) such filings as may be required under the stock exchange rules and regulations and (Z) such other items that the failure of which to obtain or make would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of such Investor to comply with terms of this Agreement.

4. Relationship to Other Investors. Except with respect to other Investors, such Investor is not an Affiliate of any other Investor or Other Investor and has not entered into any agreement, understanding, arrangement or other Contract with any Investor or other Person to act as a 13D Group or otherwise act in concert with any other Investor or Other Investor with respect to Equity Securities of Parent.

5. Ownership of Equity Securities. Except as has been disclosed to Parent in writing prior to the date of this Agreement, neither such Investor nor any of its Affiliates (i) beneficially owns any Equity Securities of Parent or (ii) holds any rights to acquire any Equity Securities of Parent except pursuant to the Merger Agreement or other Transaction Agreements (as defined in the Merger Agreement).

6. Certain Business Relationships. Neither such Investor nor any of its Affiliates (for the avoidance of doubt, excluding Omni Newco, LLC, a Delaware limited liability company, and its Subsidiaries) is a party to any Contract with any officer or employee of Parent or any Parent Subsidiary, other than for Contracts relating to the provision of services on customary terms in the ordinary course of business or as otherwise disclosed on Section 4.21(a) of the Company Disclosure Letter (as defined in the Merger Agreement).

7. E Partners. Immediately following Closing, E Partners will beneficially own not less than 5% of the Equity Securities of Parent and its Subsidiaries.

ANNEX C

Competitors

1 RXO Inc.
2 GXO Logistics, Inc.
3 XPO, Inc.
4 United Parcel Service, Inc.
5 FedEx Corporation
6 Saia, Inc.
7 Old Dominion Freight Line, Inc.
8 Landstar System, Inc.
9 Southeastern Freight Lines, Inc.
10 Pitt-Ohio Express, LLC
11 Dayton Freight Lines, Inc.
12 Peninsula Freight Services Ltd.
13 R&L Carriers, Inc.
14 Knight-Swift Transportation Holdings Inc.
15 Kühne + Nagel International AG
16 DSV A/S
17 A.P. Møller – Mærsk A/S
18 AIT Worldwide Logistics, Inc.
19 SEKO Worldwide, LLC

20 Estes Express Lines
21 Estes Forwarding Worldwide LLC
22 Pegasus Logistics Group, Inc.
23 Midwest Express, Inc.
24 Sterling Transportation, Inc.
25 Energy Transportation Group Holdings Inc.
26 Blue-Grace Logistics LLC
27 Transplace, Inc.
28 Kerry Logistics Network Limited
29 Expeditors International of Washington, Inc.
30 C.H. Robinson Worldwide, Inc.
31 Bacarella Transportation Services, Inc.
32 Echo Global Logistics, Inc.
33 Worldwide Express Operations, LLC

Exhibit 10.6

EXECUTION VERSION

INVESTOR RIGHTS AGREEMENT

by and among

FORWARD AIR CORPORATION

and

R INVESTORS (as defined herein),

E INVESTORS (as defined herein), and

the other Investors set forth on Schedule 1 hereto,

as Investors,

and

REP OMNI HOLDINGS, L.P.,

as Investors' Representative

Dated as of January 25, 2024

Table of Contents

INVESTOR RIGHTS AGREEMENT dated as of January 25, 2024 (this "Agreement"), among:

A. Forward Air Corporation, a Tennessee corporation (the "Parent");

B. (i) REP Omni Holdings, L.P., a Delaware limited partnership, (ii) REP III B Feeder, L.P., a Delaware limited partnership, (iii) REP III C Feeder, L.P., a Delaware limited partnership, (iv) REP Coinvest III-A Omni, L.P., a Delaware limited partnership, and (v) REP Coinvest III-B Omni, L.P., a Delaware limited partnership (each, an "R Investor");

C. Omni Investor Holdings, LLC, a Delaware limited liability company ("E Investor");

D. The other Persons set forth on Schedule 1 hereto (subject to their delivery of an executed Letter of Transmittal (as defined in the Merger Agreement) pursuant to and in accordance with the Merger Agreement) (each, an "Other Investor"); and

E. REP Omni Holdings, L.P., a Delaware limited partnership, in its capacity as agent, proxy and attorney-in-fact for the Investors ("Investors' Representative") and any successor appointed in accordance with Section 4.16(b).

and any Permitted Transferees (as defined below) that execute joinders to this Agreement pursuant to Section 3.02 after the date of this Agreement.

WHEREAS, upon the consummation of the transactions (the "Transactions") contemplated under that certain Agreement and Plan of Merger, dated as of August 10, 2023, among Parent, Omni Newco, LLC, a Delaware limited liability company, and the other parties thereto (the "Merger Agreement"), the Investors (as defined below) will become holders of Parent Common Stock (as defined below), Parent Series B Preferred Units, Parent Series C Preferred Units, Opco Units and/or Management Holdings Units (each as defined below);

WHEREAS, simultaneously with the execution of this Agreement, as of the date hereof, each of the R Investor and the E Investor have entered into a Shareholders Agreement (as defined below) with Parent; and

WHEREAS, the parties hereto desire to enter into this Agreement to establish certain rights, duties and obligations of the parties hereto.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby acknowledge, covenant and agree with each other as follows:

ARTICLE I

Definitions

SECTION 1.01. Definitions. (a) As used in this Agreement, the following terms will have the following meanings:

"13D Group" means any group of Persons formed for the purpose of acquiring, holding, voting or disposing of Voting Securities of Parent that would be required under Section 13(d) of the Exchange Act to file a statement on Schedule 13D with the SEC as a "person" within the meaning of Section 13(d)(3) of the Exchange Act.

"Action" means any litigation, suit, claim, action, proceeding or investigation.

An "Affiliate" of any Person means another Person that directly, or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such first Person; provided, that (x) Parent and its Subsidiaries shall be deemed not to be Affiliates of any Investor for any reason under this Agreement, (y) portfolio companies in which any Investor or any of its Affiliates has an investment (whether as debt or equity) shall be deemed not to be an Affiliate of such Investor so long as such portfolio company or any of its directors, officers, employees or other Representatives (i) have not been directed or encouraged by such Investor or its Affiliates or Representatives to take any actions that would otherwise be prohibited by such Investor or its Affiliates or Representatives under this Agreement and (ii) has not been provided with any Confidential Information by the Investors or their respective Affiliates or Representatives, and (z) any co-investment vehicle or affiliated investment fund controlled by any Investor or any of its Affiliates shall be deemed to be an Affiliate of such Investor. As used in this Agreement, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting securities or other interests, by contract or otherwise.

"Automatic Shelf Registration Statement" means an "automatic shelf registration statement" as defined under Rule 405 under the Securities Act or any similar rule or regulation hereafter adopted by the SEC as a replacement thereto having substantially the same effect as such Rule.

"beneficial owner" or "beneficially own" or "beneficial ownership" and words of similar import have the meaning assigned to such terms in Rule 13d-3 under the Exchange Act as in effect on the date of this Agreement and a Person's beneficial ownership of Equity Securities shall be calculated in accordance with the provisions of such Rule; provided, however, that for the avoidance of doubt (i) ownership of Parent Series C Preferred Units or Opco Series C-2 Preferred Units shall be deemed for purposes of this Agreement to represent, on an as converted or exchanged basis, without duplication, beneficial ownership of Parent Common Stock into which such shares or units are ultimately convertible or exchangeable (including, without duplication, in the case of the Opco Series C-2 Preferred Units, following conversion into Class B Units pursuant to the Opco LLCA, but for the determination of beneficial ownership, not into any Parent Series B Preferred Units) (disregarding for this purpose any limitations or restrictions on conversion or exchange), (ii) for purposes of the foregoing clause (i), Opco Series C-2 Preferred Units that are held by Management Holdings shall be deemed held by the members of Management Holdings, among them in accordance with their respective entitlement to exchange their Management Holdings Units for such Opco Series C-2 Preferred Units, (iii) Parent Series B Preferred Units held by Management Holdings shall be deemed held by the members of Management Holdings, among them in accordance with their respective entitlement to exchange their Management Holdings Units for Opco Class B Units and (iv) Opco Units and Management Holdings Units (other than Opco Series C-2 Preferred Units) shall not be included in making any such calculation of beneficial ownership of Parent except as described in clauses (ii) – (iii).

"Block Trade" means an underwritten block sale or other Underwritten Offering of Registrable Securities in connection with which neither Parent nor any of its Representatives is requested to prepare for or participate in any road show or other marketing efforts on behalf of any Investor or any Underwriter; provided, that Parent shall make available such of its Representatives and information regarding Parent and its Subsidiaries as is customary for the conduct of due diligence in connection with an underwritten block sale (and such participation in due diligence shall not be deemed a marketing effort).

"Business Day" means any day on which banks are not required or authorized to close in the City of New York.

"Bylaws" means the Bylaws of Parent, as in effect from time to time.

"Charter" means the Charter of Parent, as in effect from time to time.

"E Investor Group" means the E Investor and its Permitted Transferees.

"EDGAR" means the SEC's Electronic Data Gathering, Analysis, and Retrieval system.

"Encumbrance" means any security interest, pledge, mortgage, lien, or other material encumbrance, except for any restrictions arising under any applicable securities Laws.

"Equity Security" of any Person means, without duplication, (i) any common shares or other Voting Securities of such Person, (ii) any options, warrants, convertible or exchangeable securities, stock-based performance units or other rights to acquire common shares or other Voting Securities of such Person (including for the avoidance of doubt, with respect to Parent, the Parent Series B Preferred Units and the Parent Series C Preferred Units and any Opco Units ultimately convertible or exchangeable for or into equity securities of Parent (disregarding for this purpose any limitations or restrictions on conversion or exchange)) or (iii) any other rights that give the holder thereof any economic interest of a nature accruing to the holders of common shares or other Voting Securities.

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

"Governmental Entity" any transnational, national, federal, state, provincial, local or other government, domestic or foreign, or any court of competent jurisdiction, administrative agency or commission or other governmental authority or instrumentality, domestic or foreign, or any national securities exchange or national quotation system on which securities issued by Parent or any of its Subsidiaries are listed or quoted.

"Holdco" means Central States Logistics, Inc., an Illinois corporation.

"Investor" means each of the R Investor, E Investor, the Other Investors and any Permitted Transferee of any Investor that executes a joinder to this Agreement pursuant to Section 3.02 after the date of this Agreement, and all of them, collectively, the "Investors".

"Investor Percentage Interest" means, as of any date of determination with respect to any Investor, the percentage represented by the quotient of (i) the number of votes entitled to be cast as of such date by Voting Securities of Parent that are beneficially owned by such Investor and (ii) the number of votes entitled to be cast on such date by all outstanding Voting Securities of Parent (including for each of clauses (i) and (ii), for such purpose all Parent Series C Preferred Units and Opco Series C-2 Preferred Units on an as-converted or as-exchanged basis notwithstanding any limitations or restrictions on conversion or exchange).

"Issuer FWP" has the meaning assigned to "issuer free writing prospectus" in Rule 433 under the Securities Act.

"Law" and "law" means any law, treaty, statute, ordinance, code, rule, regulation, judgment, decree, order, writ, award, injunction, authorization or determination enacted, entered, promulgated, enforced or issued by any Governmental Entity.

"Management Holdings" means Omni Management Holdings, LLC, a Delaware limited liability company.

"Management Holdings LLCA" means the amended and restated limited liability company agreement of Management Holdings, as in effect from time to time.

"Management Holdings Units" means the units comprising the equity interests in Management Holdings.

"NASDAQ" means The Nasdaq Global Select Market.

"Offering Expenses" means all reasonable fees and expenses incident to Parent's performance of or compliance with the obligations of Article II, including all fees and expenses of compliance with securities or blue sky laws (including reasonable fees and disbursements of counsel for any Underwriters in connection with qualification of Registrable Securities under applicable blue sky laws), printing expenses, messenger and delivery expenses of Parent, any registration or filing fees payable under any Federal or state securities or blue sky laws, the fees and expenses incurred in connection with any listing or quoting of the securities to be registered on any national securities exchange or automated quotation system, fees of the Financial Industry Regulatory Authority, fees and disbursements of counsel for Parent, its independent registered certified public accounting firm and any other public accountants who are required to deliver comfort letters (including the expenses required by or incident to such performance), transfer taxes, fees of transfer agents and registrars, costs of insurance, and the fees and expenses of other Persons retained by Parent in connection with complying with the obligations of Article III; provided that in no event shall Offering Expenses include (i) Parent's internal expenses (including all salaries and expenses of its officers and employees) or (ii) fees and expenses that would have otherwise been incurred absent any Demand Offering (including any and all fees and expenses to prepare and file any underlying Registration Statement pursuant to Section 2.01 or any amendment thereto necessary to maintain the effectiveness of such Registration Statement), which, for the avoidance of doubt, in each case shall be borne by Parent.

"Opco" means Clue Opco LLC, a Delaware limited liability company.

"Opco Class B Units" means the units of Opco designated as Class B Units pursuant to the Opco LLCA.

"Opco Series C-2 Preferred Units" means the units of Opco designated as Series C-2 Preferred Units pursuant to the Opco LLCA.

"Opco LLCA" means the amended and restated limited liability company agreement of Opco, as in effect from time to time; provided, that for so long as the definitive agreement constituting the amended and restated limited liability company agreement of Opco contemplated by Section 7.22(a)(i) of the Merger Agreement is not in effect, "Opco LLCA" shall refer to the terms and conditions set forth on Exhibit C to the Merger Agreement.

"Opco Units" means, collectively, the units of Opco designated as Class A Units, the Series C-1 Preferred Units, the Series C-2 Preferred Units and Class B Units pursuant to the Opco LLCA.

"Parent Common Stock" means the common stock, par value $0.01 per share, of Parent.

"Parent Securities" means, collectively, Parent Common Stock, Parent Series B Preferred Stock, Parent Series B Preferred Units, Parent Series C Preferred Stock and Parent Series C Preferred Units.

"Parent Series B Preferred Stock" means the shares of preferred stock of Parent designated as "Series B Preferred Stock" pursuant to the Charter Amendment and Resolutions as defined in the Merger Agreement.

"Parent Series B Preferred Unit" means a fractional unit of one one-thousandth (1/1000) of one share of Parent Series B Preferred Stock.

"Parent Series C Preferred Stock" means the shares of preferred stock of Parent designated as "Series C Preferred Stock" pursuant to the Charter Amendment and Resolutions as defined in the Merger Agreement.

"Parent Series C Preferred Unit" means a fractional unit of one one-thousandth (1/1000) of one share of Parent Series C Preferred Stock.

"Permitted Transferee" means (i) with respect to any Investor that is not a natural person, an Affiliate of such Investor or to (direct or indirect) partners, limited liability company members, stockholders or other equity holders of the Investor, and (ii) with respect to any Investor who is a natural person: (A) in the event of such Investor's death, such Investor's heirs, executors, administrators, testamentary trustees, legatees or beneficiaries, (B) a trust, the beneficiaries of which include only such Investor and the spouse, parents, siblings and

descendants (whether natural or adopted) ("Family Members") of such Investor and (C) any partnerships or limited liability companies where the only partners or members are such Investor, such Investor's Family Members or any trust described in clause (B) above. For the avoidance of doubt, Permitted Transferees will include the equity owners of EVE Omni Investor, LLC or any controlled Affiliate of any of them.

"Person" means any individual, firm, corporation, partnership, limited partnership, company, limited liability company, trust, joint venture, association, Governmental Entity, unincorporated organization, syndicate or other entity, foreign or domestic.

"R Investor Group" means each R Investor and its Permitted Transferees.

"Registrable Parent Common Securities" means, with respect to any Investor (including its Permitted Transferees), (i) shares of Parent Common Stock issued to such Investor pursuant to the Merger Agreement, (ii) Parent Common Stock issuable upon the conversion or exchange of Parent Series C Preferred Units and Opco Class B Units (with corresponding Parent Series B Preferred Units) issued to such Investor pursuant to the Merger Agreement (including Opco Class B Units (with corresponding Parent Series B Preferred Units) issuable in the conversion of Opco Series C-2 Preferred Units), and (iii) any Equity Securities that may be received by such Investor (or its Permitted Transferees) with respect to or on account of the shares or units covered in clause (i) and (ii), in each case until such shares or units may be sold by such Investor (or its Permitted Transferee) without limitation under Rule 144, after the expiration of 24 months from the date hereof, in a single transaction without restrictions, provided that current public information with respect to Parent as required by Rule 144(c)(1) is then available.

"Registrable Parent Preferred Securities" means, with respect to any Investor (including its Permitted Transferees), effective on or after the first anniversary of the closing of the Transactions, (i) Parent Series C Preferred Units (including Parent Series C Preferred Units issuable upon the conversion or exchange of Opco Series C-2 Preferred Units pursuant to the Opco LLCA) and (ii) any Equity Securities that may be received with respect to or on account of the Parent Series C Preferred Units, in each case until such shares or units may be sold by such Investor (or its Permitted Transferee) without limitation under Rule 144, after the expiration of 24 months from the date hereof, in a single transaction without restrictions, provided that current public information with respect to Parent as required by Rule 144(c)(1) is then available.

"Registrable Securities" means the Registrable Parent Common Securities and the Registrable Parent Preferred Securities. For all purposes of this Agreement, the Registrable Securities (including the Registrable Parent Common Securities and Registrable Parent Preferred Securities) shall be deemed to be in existence (and references to Registrable Parent Common Securities, Registrable Parent Preferred Securities and Registrable Securities shall be deemed to include all such shares or units deemed to be in existence), and a Person shall be deemed to be a holder of such Registrable Securities, whenever such Person has the right to acquire, directly or indirectly, such Registrable Securities (upon conversion or exchange in connection with a transfer of securities or otherwise, but disregarding any restrictions or limitations upon the exercise of such right and, in the case of members of Management Holdings, taking into the account the right to first exchange or convert Management Holdings Units for Opco Class B

Units or Opco Series C-2 Preferred Units as applicable), in each case, whether or not such acquisition has actually been effected, and such Person shall be entitled to exercise the rights of a holder of Registrable Securities hereunder with respect to such Registrable Securities; provided that, notwithstanding the foregoing, Opco Units and Management Holdings Units (other than Opco Series C-2 Preferred Units), shall not be included in making any calculation of beneficial ownership of Parent to the extent already included as Registrable Parent Common Securities or Registrable Parent Preferred Securities.

"Registration Statement" means any registration statement of Parent that covers Registrable Securities pursuant to the provisions of this Agreement, including the prospectus, amendments and supplements to such registration statement, including pre- and post-effective amendments, and all exhibits and all material incorporated by reference in such registration statement.

"Representative" means, with respect to a specified Person, any officer, agent, advisor (including legal counsel, accountants and financial advisors) or employee of such Person or any partner, member or shareholder of such Person or any director, officer, employee, partner, affiliate, member, manager, shareholder, assignee or representative of any of the foregoing.

"Roadshow Offering" means any Demand Offering that is not a Block Trade.

"Rule 144" means Rule 144 under the Securities Act or any similar rule or regulation hereafter adopted by the SEC as a replacement thereto having substantially the same effect as such Rule.

"Rule 415" means Rule 415 under the Securities Act or any similar rule or regulation hereafter adopted by the SEC as a replacement thereto having substantially the same effect as such Rule.

"SEC" means the U.S. Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Strategic Transaction" means (i) a transaction in which a Person, the Investors or any 13D Group acquires, directly or indirectly, (A) 50% or more of the Voting Securities of Parent, other than a transaction pursuant to which holders of Voting Securities of Parent immediately prior to the transaction own, directly or indirectly, 50% or more of the Voting Securities of Parent or any successor, surviving entity or direct or indirect parent of Parent immediately following the transaction or (B) properties or assets constituting 50% or more of the consolidated assets of Parent and its Subsidiaries or (ii) in any case not covered by clause (i), a transaction in which (A) Parent issues Equity Securities representing 50% or more of its total voting power, including by way of merger or other business combination with Parent or any of its Subsidiaries or (B) Parent engages in a merger or other business combination such that the holders of Voting Securities of Parent immediately prior to the transaction do not own more than 50% of the Voting Securities of Parent or any successor, surviving entity or direct or indirect parent immediately following the transaction.

"Subsidiary" of any Person means another Person (i) in which such first Person's beneficial ownership of Voting Securities, other voting ownership or voting partnership interests, is in an amount sufficient to elect at least a majority of its board of directors or other governing body (or, if there are no such voting interests, 50% or more of the equity interests of which are beneficially owned directly or indirectly by such first Person) or (ii) which is required to be consolidated with such Person under U.S. generally accepted accounting principles.

"Third Party" means any Person other than Parent, the Investors or any of their respective Affiliates.

"Transaction" has the meaning set forth in the Preamble hereto.

"Transfer" means, with respect to any security, any sale, assignment, transfer, distribution or other disposition thereof, or other conveyance, creation, incurrence or assumption of a legal or beneficial interest therein, or a participation or Encumbrance therein, or creation of any short position in any such security or any other action or position otherwise reducing risk related to ownership through hedging or other derivative instrument, whether voluntarily or by operation of Law, whether in a single transaction or a series of related transactions and whether to a single Person or a 13D Group; provided that in no event a Transfer shall be deemed to include (i) any conversion or exchange of Opco Units pursuant to the Opco LLCA, (ii) the conversion or exchange of Management Holdings Units pursuant to the Management Holdings LLCA, (iii) any conversion of Parent Series C Preferred Units pursuant to the Charter, (iv) any transfer to a brokerage account where the Investor is the beneficial owner of the brokerage account and of the securities contained therein or (v) any disposition of Equity Securities to Parent in connection with equity awards of Parent; provided further that any Transfer of an Equity Security of a Subsidiary of Parent shall be deemed to be a Transfer of an Equity Security of Parent. The terms "Transferred", "Transferring" and "Transferee" have meanings correlative to the foregoing.

"Underwriter" means, with respect to any Underwritten Offering, a securities dealer who purchases any Registrable Securities as a principal in connection with a distribution of such Registrable Securities and not as part of such dealer's market-making activities.

"Underwritten Offering" means a public offering of securities registered under the Securities Act in which an Underwriter, placement agent or other intermediary participates in the distribution of such securities.

"Voting Securities" of any Person means securities having the right to vote generally in any election of directors or comparable governing Persons of such Person. The percentage of Voting Securities of any Person owned by any holder or holders shall equal the percentage represented by the quotient of (i) the aggregate voting power of all Voting Securities of such Person beneficially owned by such holder or holders and (ii) the aggregate voting power of all outstanding Voting Securities of such Person (including, for each of clause (i) and (ii), for such purpose all Parent Series C Preferred Units and Opco Series C-2 Preferred Units on an as-converted or as-exchanged basis notwithstanding any limitations or restrictions on conversion or exchange).

"WKSI" means a "well known seasoned issuer" as defined under Rule 405 under the Securities Act.

(b) As used in this Agreement, the terms set forth below will have the meanings assigned in the corresponding Section listed below:

Term	Section
Agreement	Preamble
Confidential Information	Section 4.13(a)
Consent	ANNEX A
Contract	ANNEX A
Deferral Period	Section 2.06(a)
Demand Notice	Section 2.01(b)
Demand Offering	Section 2.01(b)
E Investor	Preamble
Family Members	Section 1.01
Filing Date	Section 2.01(a)
indemnified party	Section 2.08(c)
Indemnified Persons	Section 2.08(a)
indemnifying party	Section 2.08(c)
Inspectors	Section 2.04(a)(ix)
Investor	EXHIBIT A
Investor Rights Agreement	EXHIBIT A
Investors' Representative	Preamble
Joinder Agreement	EXHIBIT A
Joining Party	EXHIBIT A
Liens	ANNEX A
Lock-up	Section 2.09
Losses	Section 2.08(a)
Merger Agreement	Recitals
Other Investor	Preamble
Parent	Preamble
Parent Subsidiaries	ANNEX A
Piggyback Offering	Section 2.02
R Investor	Preamble
Records	Section 2.04(a)(ix)
Required Financial Statements	Section 2.06(b)
Transactions	Recitals
Transferee	Section 1.01
Transferred	Section 1.01
Transferring	Section 1.01

ARTICLE II

Registration Rights

SECTION 2.01. Registration and Underwritten Offerings.

(a)

(i) Parent shall as soon as reasonably practicable after the date hereof, and in any event not later than the 90th day hereof (any such date of filing, the "Filing Date"), use its commercially reasonable efforts to prepare and file with the SEC a Registration Statement providing for the offer and sale for cash by the Investors of all of the Registrable Parent Common Securities for an offering to be made on a delayed or continuous basis pursuant to Rule 415. Thereafter, Parent shall use its commercially reasonable efforts to cause such Registration Statement to be declared effective or otherwise to become effective under the Securities Act as soon as reasonably practicable following the Filing Date, but, in any event, no later than the 180th day after the date of this Agreement, and shall use its commercially reasonable efforts to keep such Registration Statement continuously effective and available for use under the Securities Act until such a time that the Investors no longer own any Registrable Securities (the "Effectiveness Period"). The Registration Statement shall permit the resale of the Registrable Securities included therein pursuant to any method or combination of methods legally available to, and requested by, any Investor named therein, including a distribution to, and resale by, the (direct or indirect) members, partners, stockholders or other equity holders of any Investor. The Registration Statement shall be on Form S-3 (except if Parent is not then eligible to register for resale the Registrable Securities on Form S-3, in which case such registration shall be, at the election of the Investors' Representative on behalf of the Investors, on Form S-1 or another appropriate form for such purpose) and, if Parent is a WKSI as of the Filing Date, shall be an Automatic Shelf Registration Statement. From and after the date hereof, Parent shall use its commercially reasonable efforts to remain eligible to use Form S-3 (including, if applicable, an Automatic Shelf Registration Statement).

(ii) Parent shall use its commercially reasonable efforts either (A) to cause a Registration Statement with respect to Registrable Parent Common Securities to be amended, effective on the first Business Day following the first anniversary of the date of this Agreement, to provide for the offer and sale for cash by the Investors of all of the Registrable Parent Preferred Securities for an offering to be made on a delayed or continuous basis pursuant to Rule 415 or (B) to prepare and file with the SEC a separate Registration Statement to become effective on the first Business Day following the first anniversary of the date of this Agreement, providing for the offer and sale for cash by the Investors of all of the Registrable Parent Preferred Securities not already covered by an existing and effective Registration Statement (giving effect to any amendments thereto) for an offering to be made on a delayed or continuous basis pursuant to Rule 415. Such Registration Statement otherwise shall be prepared and filed (and become and remain effective) on a basis consistent with the requirements of Section 2.01(a)(i) with respect to Registrable Parent Common Securities.

(b) At any time and from time to time during the Effectiveness Period, upon the written request (a "Demand Notice") of the R Investor Group requesting that Parent effect an Underwritten Offering of Registrable Securities of the R Investor Group (a "Demand Offering"), Parent shall use its commercially reasonable efforts to effect, as promptly as reasonably practicable after the receipt by Parent of such Demand Notice, such Underwritten Offering of such Registrable Securities in accordance with such Demand Notice (including, to the extent requested in such Demand Notice, effecting such offering as a Roadshow Offering and pursuant to the method of distribution thereof as indicated by the R Investor Group in such Demand Notice); provided, however, (i) at the time of the Demand Offering, there shall be an existing and effective Registration Statement pursuant to Section 2.01(a) that covers the Registrable Securities for which a Demand Offering has been requested or Parent shall then be WKSI eligible (in which case Parent shall file an automatically effective registration statement on Form S-3 covering resales of the Registrable Securities by the R Investor Group), (ii) with respect to any Registrable Securities, Parent shall be obligated to effect no more than two Demand Offerings that are Roadshow Offerings in any 12-month period (for the avoidance of doubt, the R Investor Group shall be entitled to an unlimited number of Demand Offerings that are not Roadshow Offerings, even if they are Underwritten Offerings), and (iii) the Registrable Securities for which a Demand Offering has been requested will have a value (based on the average closing price per share of Parent Common Stock for the ten trading days preceding the delivery of such Demand Notice) of not less than $30,000,000. Each such Demand Notice will specify the number of Registrable Securities owned by the R Investor Group and the number of Registrable Securities proposed to be offered for sale and will also specify the intended method of distribution thereof. Parent will not include in any Demand Offering pursuant to this Section 2.01(b) any securities that are not Registrable Securities without the prior written consent of the R Investor Group.

(c) In the event of a Demand Offering, the Underwriters (including the lead Underwriter) for such Demand Offering will be a nationally recognized investment bank selected by the R Investor Group with the approval of Parent (which approval shall not be unreasonably withheld).

(d) Notwithstanding anything to the contrary in this Agreement, the R Investor Group may not request a Demand Offering during a period commencing upon the date of the public announcement of (or such earlier date that is not more than 30 days prior to such public announcement if Parent has given notice to the Investors' Representative that it so intends to publicly announce) an Underwritten Offering of Parent Common Stock by Parent (for its own account or for any other security holder in each case provided the Investors are entitled to participate in such offering pursuant to Section 2.02) and ending on the earliest of (i) 90 days after the consummation of such Underwritten Offering, (ii) 30 days after Parent has given notice to the Investors' Representative that it intends to publicly announce an Underwritten Offering if no such Underwritten Offering has been publicly announced within such 30-day period, (iii) upon withdrawal of such Underwritten Offering if it has been publicly announced but not commenced or (iv) upon written notice to the Investors' Representative that Parent no longer intends to conduct an Underwritten Offering.

(e) The R Investor Group shall be permitted to rescind a Demand Notice or request the removal of any Registrable Securities held by them from any Demand Offering at any time (in the event the R Investor Group determines in good faith to withdraw (prior to the effective date of the Registration Statement relating to such request) a Demand Notice due to marketing conditions or regulatory reasons prior to the execution of an underwriting agreement or purchase agreement relating to such request, it would not constitute a Demand Offering); provided, however, that, if the R Investor Group rescinds a Roadshow Offering after commencement of marketing efforts, such Roadshow Offering will nonetheless count as a Roadshow Offering for purposes of determining when future Roadshow Offerings can be requested by the R Investor Group pursuant to this Section 2.01, unless the R Investor Group reimburses Parent for all Offering Expenses incurred by Parent in connection with such Roadshow Offering. Further, any Demand Offering in which the R Investor Group is subject to cutback in accordance with Section 2.03 in excess of 25% of the Registrable Securities it requested to register shall not be considered as exercised for purposes of Section 2.01(b).

SECTION 2.02. Piggyback Offering. If, during the Effectiveness Period, Parent proposes or is required to effect (a) an Underwritten Offering of Equity Securities of Parent for Parent's own account (other than (i) pursuant to an offering on Form S-4 or S-8 (or any substitute or similar form that may be adopted by the SEC) or (ii) an offering of securities solely to Parent's existing security holders) or (b) a Roadshow Offering of Equity Securities of Parent for the account of any holder of Equity Securities of Parent (including pursuant to an offering requested by such holder (including the R Investor Group pursuant to Section 2.01(b), then Parent will give written notice of such proposed filing to each Investor holding Equity Securities of the same type to be registered therein (or, for the avoidance of doubt, that are convertible thereinto) not less than ten Business Days prior to filing with the SEC for the applicable offering, and upon the written request, given within ten Business Days after delivery of any such notice by Parent, of the Investors to include Registrable Securities in such Underwritten Offering (which request shall specify the number of Registrable Securities proposed to be included in such Underwritten Offering thereby), then Parent shall, subject to Section 2.03, include all such Registrable Securities of the same type as those being registered therein (or, for the avoidance of doubt, that are convertible thereinto) in such Underwritten Offering, on the same terms and conditions as Parent's or such other holder's Parent Equity Securities (a "Piggyback Offering"); provided, however, any Investor that has made such a written request may withdraw its Registrable Securities from such Underwritten Offering by giving written notice to Parent and the managing underwriter; provided, further, that if, at any time after giving written notice of such proposed Underwritten Offering and prior to the effecting of such Underwritten Offering, Parent or such other holder shall determine for any reason not to proceed with the proposed Underwritten Offering of Parent Equity Securities or delay the Underwritten Offering of Parent Equity Securities, then Parent will give written notice of such determination to the Investors' Representative and (i) in the case of a determination not to proceed with the proposed Underwritten Offering of Parent Equity Securities, shall be relieved of its obligation to offer any Registrable Securities in connection with such abandoned Underwritten Offering and (ii) in the case of a determination to delay the Underwritten Offering of its Parent Equity Securities, shall be permitted to delay the offer of Registrable Securities for the same period as the delay in the

offering of such Parent Equity Securities. Parent or such other holder (in the case of a Demand Offering) will select the lead Underwriter in connection with any offering contemplated by this Section 2.02 and the Investors' right to participate shall be conditioned on each participating Investor entering into an underwriting agreement in customary form and acting in accordance with the provisions thereof.

SECTION 2.03. Reduction of Underwritten Offering. Notwithstanding anything to the contrary in this Agreement, if the lead Underwriter of an Underwritten Offering described in Section 2.01 or Section 2.02 advises Parent in writing that in its reasonable opinion, the number of Equity Securities of Parent (including any Registrable Securities) that Parent, the Investors and any other Persons intend to include in any Underwritten Offering is such that the success of any such offering would be materially and adversely affected, including the price at which the securities can be sold or the number of Equity Securities of Parent that any participant may sell, then the number of Equity Securities of Parent to be included in the Underwritten Offering for the account of Parent, the Investors and any other Persons will be reduced pro rata by proposed participation (unless otherwise provided below) in the Underwritten Offering to the extent necessary to reduce the total number of securities to be included in any such Underwritten Offering to the number recommended by such lead Underwriter; provided, however, that (a) priority for inclusion of Equity Securities of Parent in a Demand Offering pursuant to Section 2.01 will be (i) first to be included, the Registrable Securities requested to be included in the Demand Offering for the account of the R Investor Group and Registrable Securities of Parent requested to be included for the account of Investors pursuant to Section 2.02 (pro rata for the R Investor Group and such other Investors based on then ownership of Voting Securities of Parent), and (ii) second to be included, securities of Parent (pro rata based on then ownership of Voting Securities of Parent) requested to be included for the account of other holders having contractual piggyback registrations rights (other than the Investors), so that the total number of securities to be included in any such Demand Offering for the account of all such Persons (including the Investors) will not exceed the number recommended by such lead Underwriter; (b) priority in the case of an Underwritten Offering initiated by Parent for its own account which gives rise to a Piggyback Offering pursuant to Section 2.02 will be (i) first to be included, securities initially proposed to be offered by Parent for its own account, (ii) second to be included, the Registrable Securities requested to be included in the Piggyback Offering for the account of the Investors (pro rata based on then ownership of Voting Securities of Parent), and (iii) third to be included, securities of Parent requested to be included in the Piggyback Offering for the account of other holders having contractual piggyback registrations rights (other than the Investors), so that the total number of securities to be included in any such offering for the account of all such Persons (including the Investors) will not exceed the number recommended by such lead Underwriter; and (c) priority with respect to inclusion of securities in an Underwritten Offering initiated by Parent for the account of holders other than the Investors pursuant to contractual rights afforded such holders will be (i) first to be included, securities (including Registrable Securities) of Parent (pro rata by proposed participation) requested to be included in the Underwritten Offering for the account of such initiating holders, (ii) second to be included, securities of Parent requested to be included in such Underwritten Offering for the account of other holders having contractual piggyback registrations rights (in the case of R Investor and the other Investors, including the Investors pursuant to Section 2.02) (pro rata based on then ownership of Voting Securities of Parent), and (iii) third to be included, securities requested to be included in such Underwritten Offering by Parent for its own account, so that the total number of securities to be included in any such offering for the account of all such Persons (including the Investors) will not exceed the number recommended by such lead Underwriter.

SECTION 2.04. Registration Procedures. (a) Subject to the provisions of Section 2.01 and Section 2.02 hereof, in connection with the registration of the sale of Registrable Securities hereunder, Parent will as promptly as reasonably practicable:

(i) furnish to the Investors' Representative and R Investor (in the case of Demand Offerings) without charge, if requested, prior to the filing of a Registration Statement or any related prospectus or any amendment or supplement thereto, (A) copies of all such documents proposed to be filed (in each case including all exhibits thereto and documents incorporated by reference therein, except to the extent such exhibits or documents are incorporated by reference and currently available electronically on EDGAR or any successor system of the SEC), which documents (other than those incorporated by reference) will be subject to the review and good faith objection and comment of the Investors' Representative, R Investor (in the case of Demand Offerings) and their counsel prior to filing, (B) copies of any and all transmittal letters or other correspondence with the SEC relating to such documents (except to the extent such letters or correspondence is currently available electronically via EDGAR or any successor system of the SEC) and (C) such other documents as the Investors' Representative or R Investor (in the case of Demand Offerings) may reasonably request, in each case in such quantities as the Investors' Representative or R Investor may reasonably request;

(ii) use its commercially reasonable efforts to (A) prepare and file with the SEC such amendments, including post-effective amendments, and supplements to each Registration Statement and the prospectus used in connection with the offer and sale of the Registrable Securities as may be necessary under applicable law with respect to the disposition of all Registrable Securities covered by such Registration Statement to keep such Registration Statement continuously effective as to the applicable Registrable Securities for the Effectiveness Period in accordance with the Investor's intended method of distribution set forth in such Registration Statement for such period, (B) cause the related prospectus to be amended or supplemented by any required prospectus supplement, and as so supplemented or amended to be filed pursuant to Rule 424 under the Securities Act and (C) respond as promptly as reasonably practicable to any comments received from the SEC with respect to each Registration Statement or any amendment thereto;

(iii) use its commercially reasonable efforts to register or qualify such Registrable Securities under such other securities or blue sky laws of such jurisdictions as the Investors' Representative or R Investor (in the case of Demand Offerings) reasonably requests or as may be necessary by virtue of the business and operations of Parent and its Subsidiaries and do any and all other acts and things as may be reasonably necessary or advisable to enable the Investors to consummate the disposition of such Registrable Securities in such jurisdictions;

provided, however, that neither Parent nor any of its Subsidiaries will be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this Section 2.04(a)(iii), (B) subject itself to taxation in any such jurisdiction or (C) consent to general service of process in any such jurisdiction;

(iv) notify the Investors' Representative and R Investor (in the case of Demand Offerings) at any time when a prospectus relating to Registrable Securities is required to be delivered under the Securities Act, of the happening of any event as a result of which the prospectus included in a Registration Statement or the Registration Statement or amendment or supplement relating to such Registrable Securities contains an untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and Parent will promptly prepare and file with the SEC a supplement or amendment to such prospectus and Registration Statement (and comply fully with the applicable provisions of Rules 424, 430A and 430B under the Securities Act in a timely manner) so that, as thereafter delivered to the purchasers of the Registrable Securities, such prospectus and Registration Statement will not contain an untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(v) advise the Underwriters, if any, and the Investors' Representative and R Investor (in the case of Demand Offerings) promptly and, if requested by such Persons, confirm such advice in writing, of the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement under the Securities Act or of the suspension by any state securities commission of the qualification of the Registrable Securities for offering or sale in any jurisdiction, or the initiation or threatening in writing of any proceeding for any of the preceding purposes;

(vi) use its commercially reasonable efforts to avoid the issuance of, or, if issued, obtain the withdrawal of (A) any order suspending the effectiveness of a Registration Statement, or (B) any suspension of the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, as promptly as reasonably practicable;

(vii) in connection with a Demand Offering, enter into customary agreements and use commercially reasonable efforts to take such other actions as are reasonably requested by the R Investor Group in order to expedite or facilitate the disposition of such Registrable Securities in such Demand Offering, including subject to 2.01(b), preparing for and participating in road shows and all such other customary selling and marketing efforts as the R Investor Group (in the case of Demand Offerings) or Underwriters, if any, reasonably request in order to expedite or facilitate such disposition (including, subject to 2.01(b), effecting any such Demand Offering as a Roadshow Offering to the extent requested by such R Investor Group, providing the related Demand Notice therefor and providing such customary cooperation in connection therewith);

(viii) if a Registration Statement filed pursuant to Section 2.01 ceases to be effective under the Securities Act for any reason at any time during the Effectiveness Period, Parent shall use its commercially reasonable efforts to as promptly as is reasonably practicable cause such Registration Statement to again become effective under the Securities Act (including obtaining the prompt withdrawal of any order suspending the effectiveness of such Registration Statement), and shall use its commercially reasonable efforts to as promptly as is reasonably practicable amend such Registration Statement in a manner reasonably expected to result in the withdrawal of any order suspending the effectiveness of such Registration Statement or file an additional registration statement for an offering to be made on a delayed or continuous basis pursuant to Rule 415 of the Securities Act registering the resale from time to time by Investors thereof of all securities that are Registrable Securities as of the time of such filing and, if such subsequent Registration Statement is filed, Parent shall use its commercially reasonable efforts to (A) cause such Registration Statement to become effective under the Securities Act as promptly as is reasonably practicable after the filing thereof (it being agreed that the subsequent Registration Statement shall be an automatic shelf registration statement that shall become effective upon filing with the SEC pursuant to Rule 462(e) if Rule 462(e) is available to Parent) and (B) keep such Registration Statement continuously effective and usable until the end of the Effectiveness Period. Any such subsequent Registration Statement shall also be a registration statement on Form S-3 to the extent that Parent is eligible to use such form. Otherwise, such subsequent Registration Statement shall be on another appropriate form and shall provide for the registration of such Registrable Securities for resale by Investors in accordance with any reasonable method of distribution elected by the R Investor Group and such other reasonable methods of distribution customary for the resale of the other Investors' Registrable Securities;

(ix) if requested by the Investors' Representative, the R Investor Group (in the case of Demand Offerings) or the Underwriters, if any, promptly include in any Registration Statement or prospectus, pursuant to a supplement or post-effective amendment if necessary, such information as the Investors' Representative and the R Investor Group or Underwriters, if any, may reasonably request to have included therein, including information relating to the "Plan of Distribution" of the Registrable Securities, information with respect to the number of Registrable Securities being sold to such Underwriters, the purchase price being paid therefor and any other terms of the offering of the Registrable Securities to be sold in such offering, and make all required filings of such prospectus supplement or post-effective amendment as soon as practicable after Parent is notified of the matters to be included in such prospectus supplement or post-effective amendment;

(x) make available for inspection by the Investors' Representative, the R Investor Group (in the case of Demand Offerings) and its counsel, any Underwriter participating in any disposition of such Registrable Securities, and any attorney for any of the Investors or such Underwriter and any accountant or other agent retained by the Investors or such Underwriter (collectively, the "Inspectors"), all financial and other records, pertinent corporate documents and properties of Parent and its Subsidiaries (collectively, the "Records") as will be reasonably necessary to enable them to conduct customary due diligence with respect to Parent and its Subsidiaries and the related Registration Statement and prospectus, and cause the Representatives of Parent and its Subsidiaries to be made available to the Inspectors for such diligence and supply all information reasonably requested by any such Inspector; provided, however, that (A) Records and information obtained hereunder will be used by such Inspector only to conduct such due diligence and (B) Records or information that Parent determines, in good faith, to be confidential will not be disclosed by such Inspector unless (I) the disclosure of such Records or information is necessary to avoid or correct a material misstatement or omission in a Registration Statement or related prospectus, (II) the release of such Records or information is ordered pursuant to a subpoena or other order from a court or governmental authority of competent jurisdiction (III) necessary for defense in a legal action or (IV) such Inspector enter into a confidentiality agreement (x) in form and substance reasonably satisfactory to Parent and (y) of which Parent is a third-party beneficiary;

(xi) (A) cause the Representatives of Parent and its Subsidiaries to supply all information reasonably requested by the Investors' Representative, the R Investor Group (in the case of Demand Offerings), the E Investor Group (in the case of a Piggyback Offering which the E Investor Group participates in), or any Underwriter, attorney, accountant or agent in connection with the Registration Statement and (B) provide the Investors' Representative, the R Investor Group (in the case of Demand Offerings) or the E Investor Group (in the case of a Piggyback Offering which the E Investor Group participates in) and their counsel with the opportunity to participate in the preparation of such Registration Statement and the related prospectus;

(xii) in connection with a Demand Offering, use its commercially reasonable efforts to obtain and deliver to each Underwriter, the R Investor Group (in the case of Demand Offerings) and the Investors' Representative a comfort letter from the independent registered public accounting firm for Parent (and additional comfort letters from the independent registered public accounting firm for any company acquired by Parent whose financial statements are included or incorporated by reference in the Registration Statement) in customary form and covering such matters as are customarily covered by comfort letters or as such Underwriter, the R Investor Group (in the case of Demand Offerings) and the Investors' Representative may reasonably request, including (A) that the financial statements included or incorporated by reference in the Registration Statement or the prospectus, or any amendment or supplement thereof, comply as to form in all material respects with the applicable accounting requirements of the Securities Act and (B) as to certain other financial information for the period ending no more than five Business Days prior to the date of such letter;

(xiii) in connection with a Demand Offering, use its commercially reasonable efforts to obtain and deliver to each Underwriter, the R Investor Group (in the case of Demand Offerings) and the Investors' Representative a 10b-5 statement and legal opinion from Parent's counsel in customary form and covering such matters as are customarily covered by 10b-5 statements and legal opinions as such Underwriter, the R Investor Group (in the case of Demand Offerings) and the Investors' Representative may reasonably request;

(xiv) otherwise use its commercially reasonable efforts to comply with all applicable rules and regulations of the SEC, and make generally available to its security holders, within the required time period, an earnings statement (which need not be audited) covering a period of 12 months beginning with the first fiscal quarter after the effective date of the Registration Statement relating to such Registrable Securities (as the term "effective date" is defined in Rule 158(c) under the Securities Act), which earnings statement will satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder or any successor provisions thereto;

(xv) use its commercially reasonable efforts to cause such Registrable Securities to be listed or quoted on the NASDAQ or, if Parent Common Stock are not then listed on the NASDAQ, then on any other securities exchange or national quotation system on which similar securities issued by Parent are listed or quoted (or if similar securities are not so listed, use its commercially reasonable efforts to cause all such Registrable Securities to be listed on the NASDAQ or on any other national securities exchange or national quotation system as determined by Parent in its sole discretion); and

(xvi) use its commercially reasonable efforts to take or cause to be taken all other actions and do and cause to be done all other things, necessary or reasonably advisable to effect the registration of such Registrable Securities contemplated hereby.

(b) In connection with a Demand Offering, (i) Parent and the participating Investors agree to enter into a written agreement with each Underwriter selected in the manner herein provided in such form and containing such provisions as are customary in the securities business for such an arrangement between such Underwriter and companies of Parent's size and investment stature and, to the extent practicable, on terms consistent with underwriting agreements entered into by Parent (it being understood that, unless required otherwise by the Securities Act or any other Law, Parent will not require any Investor to make any representation, warranty or agreement in such agreement other than with respect to such Investor, the ownership of such Investor's securities being registered and such Investor's intended method of disposition) and (ii) the Investors agree to complete and execute all such other documents customary in similar offerings, including any reasonable questionnaires, holdback agreements, letters or other

documents customarily required under the terms of such underwriting arrangements (but specifically excluding custody agreements and powers of attorney). In the event a Demand Offering is not consummated because any condition to the obligations under any related written agreement with such Underwriter is not met or waived in connection with a Demand Offering, and such failure to be met or waived is not primarily attributable to the fault of the Investors, such Demand Offering will not be deemed exercised.

SECTION 2.05. Conditions to Offerings.

(a) Parent shall be entitled to (x) defer any registration of Registrable Securities and shall have the right not to file and not to cause the effectiveness of any registration covering any Registrable Securities, (y) suspend the use of any prospectus and registration statement covering any Registrable Securities and (z) require the Investor of Registrable Securities to suspend any offerings or sales of Registrable Securities pursuant to a registration statement with respect to an offering of Registrable Securities for so long as either of the following conditions are not satisfied; provided, that, in the case of clauses (ii) and (iii) any such suspension or deferral shall only be permitted with respect to such non-complying Investor:

(i) Parent shall be subject to the requirements of Sections 13, 14 or 15(d) of the Exchange Act;

(ii) Parent may require the participating Investors to furnish to Parent such information regarding the participating Investors or the distribution of such Registrable Securities as Parent may from time-to-time reasonably request in writing, in each case only as required by the Securities Act or under state securities or blue sky laws; and

(iii) in any Demand Offering, the participating Investors, together with Parent (for the avoidance of doubt, not a condition to its obligations hereunder), will enter into an underwriting agreement in accordance with Section 2.04(b) above with the Underwriter or Underwriters selected for such underwriting, as well as such other documents customary in similar offerings.

(b) The Investors agree that, upon receipt of any notice from Parent to such Investor of the happening of any event of the kind described in Section 2.04(a)(iv) or Section 2.04(a)(v) hereof or a condition described in Section 2.06 hereof, such Investors will forthwith discontinue disposition of such Registrable Securities pursuant to the Registration Statement covering the sale of such Registrable Securities until the Investors' receipt of the copies of the supplemented or amended prospectus contemplated by Section 2.04(a)(iv) hereof or notice from Parent of the termination of the stop order or Deferral Period, the requesting Investor shall be entitled to withdraw such request and, if such request is withdrawn, such Registration Statement shall not count for the purposes of the limitations set forth in Section 2.01.

SECTION 2.06. Blackout Period. Parent shall be entitled to (x) defer any registration of Registrable Securities and shall have the right not to file and not to cause the effectiveness of any registration covering any Registrable Securities, (y) suspend the use of any prospectus and registration statement covering any Registrable Securities and (z) require the

Investor of Registrable Securities to suspend any offerings or sales of Registrable Securities pursuant to a registration statement, (i) upon the receipt of comments from the SEC on any document incorporated by reference in the Registration Statement, if the effect of such comments were to indicate that such document was materially misleading, until it has received copies of a corrective supplemented or amended prospectus (it being understood that Parent hereby covenants to prepare and file such supplement or amendment as soon as practicable after the time of such notice) or (ii) if compliance with such obligations would (A) violate applicable Law or otherwise prevent Parent from complying with applicable Law, (B) require Parent to disclose a *bona fide* and material financing, acquisition, disposition or other transaction or corporate development (other than the contemplated offering), and the chief executive officer of Parent has determined, in the good faith exercise of his reasonable business judgment, that such disclosure is not in the best interest of Parent, or (C) upon advice of counsel, otherwise require premature disclosure of information the disclosure of which, the chief executive officer of Parent has determined, in the good faith exercise of his reasonable business judgment, is not in the best interests of Parent; provided, however, that such suspensions pursuant to this Section 2.06 will occur on no more than one occasion during every 180-day period and any and all such suspensions will not exceed a total of 90 days in the aggregate in any 12-month period (any period during which such obligations are suspended, a "Deferral Period"). Parent will promptly give the Investors written notice of any such suspension containing the approximate length of the anticipated delay, and Parent will notify the Investors' Representative upon the termination of any Deferral Period. Upon receipt of any notice from Parent of any Deferral Period, each of the Investors shall forthwith discontinue disposition of the Registrable Securities pursuant to the Registration Statement relating thereto until the Investors' Representative receives copies of the supplemented or amended prospectus contemplated hereby or until they are advised in writing by Parent that the use of the prospectus may be resumed and have received copies of any additional or supplemented filings that are incorporated by reference in the prospectus, and, if so directed by Parent, the Investors will, and will request the lead Underwriter or Underwriters, if any, to, deliver to Parent all copies, other than permanent file copies, then in the Investors' or such Underwriter's or Underwriters' possession of the current prospectus covering such Registrable Securities. If Parent so postpones its obligations, the requesting Investor shall be entitled to withdraw such request in writing and, if such request is so withdrawn, such registration request shall not count for the purposes of the limitations set forth in Section 2.01. Parent shall pay all expenses incurred in connection with any such aborted registration or prospectus and such expenses shall be disregarded for purposes of calculating the Cap.

(a) The parties hereto further agree and acknowledge that any suspension ornon-use of the Registration Statement due to the updating of the Registration Statement to include any financial statement the Registration Statement is required to contain (the "Required Financial Statements") shall not be deemed to be a suspension for purposes of Section 2.06(a), unless and until the seven business day period referenced in Section 2.06(c) shall have passed without the updating of financial statements required by Section 2.06(c).

(b) Parent shall use its commercially reasonable efforts to update the Registration Statement on each date on which it shall be necessary to do so to cause the Registration Statement to contain the Required Financial Statements; provided, however, that, with respect to any financial period ending after the date of this Agreement, Parent shall not be obligated to update the Required Financial Statements pursuant to Section 2.06(b) and shall not be deemed to be in default under this sentence until seven business days after (or such earlier date as may be reasonably practicable) the date upon which such updated financial statements are required to be filed with the SEC.

(c) The R Investor Group may not, without Parent's prior written consent, submit any Demand Notice requesting to launch an Underwritten Offering within the period commencing 14 days prior to and ending two days following Parent's scheduled earnings release date for any fiscal quarter or year.

SECTION 2.07. Offering Expenses. Except as set forth in the next sentence, all Offering Expenses will be borne by Parent upon the request of Investors' Representative. Parent shall not be obligated to pay the Offering Expenses in respect of any Demand Offering to the extent Offering Expenses accrued and payable by Parent in respect of such Demand Offering and any other prior Demand Offerings exceed $500,000 (the "Cap") during the 12-month period immediately prior to such Demand Offering, in which case such Offering Expenses of Parent shall instead be borne by the participating Investors in such Demand Offering pro rata based on securities sold (or, if other holders of Parent Securities participate in such offering, pro rata among the participating Investors and such other holders based on securities sold), and Parent shall be promptly reimbursed (by wire transfer) by the Investors for their portion of such out-of-pocket Offering Expenses incurred by Parent upon the submission of invoices for such expenses by Parent to the Investors. Notwithstanding anything to the contrary in this Agreement, the Investors will bear and pay any underwriting discounts and commissions applicable to Registrable Securities offered for their accounts, transfer taxes and fees and expenses of the Investors' counsel.

SECTION 2.08. Indemnification; Contribution. (a) In connection with any registration of Registrable Securities pursuant to this Article III, Parent agrees to indemnify and hold harmless, to the fullest extent permitted by Law, each of the Investors and their respective Affiliates, the Investors' Representative and each of its Affiliates, and each Person who controls an Investor or the Investors' Representative within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act and the directors, officers, employees, partners, affiliates, members, managers, trustees, shareholders, assignees and representatives of each of the foregoing (collectively, the "Indemnified Persons") from and against any and all losses, claims, damages, liabilities, judgments, actions and expenses (including reasonable attorneys' fees and other expenses actually incurred by them in connection with investigating, defending or settling any such losses, claims, damages, liabilities, actions or proceedings) ("Losses") joint or several arising out of or based upon (i) any untrue or alleged untrue statement of material fact contained in any part of any Registration Statement, any preliminary or final prospectus or other disclosure document used in connection with the Registrable Securities, any Issuer FWP or any amendment or supplement to any of the foregoing, or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading or (ii) any violation or alleged violation by Parent or any of its Subsidiaries of any federal, state, foreign or common law rule or regulation applicable to Parent or any of its Subsidiaries and relating to action or inaction in connection with any such registration, Registration Statement, other disclosure document or Issuer FWP; provided, however, that Parent will not be required to indemnify any Indemnified Person for any losses, claims, damages, liabilities, judgments, actions or expenses resulting from any such untrue statement or omission if such untrue statement or omission was made in conformity with information with respect to such Indemnified Person or related Investors furnished to Parent in writing by or on behalf of such related Investors expressly for use therein.

(b) In connection with any Registration Statement, preliminary or final prospectus, or Issuer FWP, in which an Investor is participating, each such Investor agrees to indemnify, severally and not jointly, Parent, its Directors, its officers who sign such Registration Statement and each Person, if any, who controls Parent (within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act) to the same extent as the foregoing indemnity from Parent to the Investors, but only with respect to information with respect to such Investor furnished to Parent in writing by such Investor expressly for use in such Registration Statement, preliminary or final prospectus, or Issuer FWP to the extent such information is included therein in reliance upon and in conformity with the information furnished to Parent by such Investor expressly for use therein; provided, however, that in no event shall any Investor's liability pursuant to this Section 2.08 in respect of the offering to which such loss, claim, damages, liabilities, judgments, actions or expenses relate exceed an amount equal to the proceeds to such Investor (after deduction of all Underwriters' discounts and commissions) from such offering less the amount of any damages which such Investor has otherwise been required to pay by reason of such information.

(c) In case any claim, action or proceeding (including any governmental investigation) is instituted involving any Person in respect of which indemnity may be sought pursuant to Section 2.08(a) or Section 2.08(b), such Person (hereinafter called the "indemnified party") will (i) promptly notify the Person against whom such indemnity may be sought (hereinafter called the "indemnifying party") in writing; provided, however, that the failure to give such notice shall not relieve the indemnifying party of its obligations pursuant to this Agreement except to the extent such indemnifying party has been prejudiced in any material respect by such failure and (ii) permit the indemnifying party to assume the defense of such claim, action or proceeding with counsel reasonably satisfactory to the indemnified party to represent the indemnified party (in which case, indemnifying party shall pay the fees and disbursements of such counsel related to such claim, action or proceeding). In any such claim, action or proceeding, any indemnified party will have the right to retain its own counsel, but the fees and expenses of such counsel will be at the expense of such indemnified party (without prejudice to such indemnified party's indemnity and other rights under the Charter, Bylaws and applicable Law, if any) unless (A) the indemnifying party and the indemnified party have mutually agreed to the retention of such counsel, (B) the named parties to any such claim, action or proceeding (including any impleaded parties) include both the indemnifying party and the indemnified party and the indemnified party has been advised in writing by counsel, with a copy provided to Parent, that representation of both parties by the same counsel would be inappropriate due to actual or potential conflicting interests between them, (C) the indemnifying party has failed to assume the defense of such claim and employ counsel reasonably satisfactory to the indemnified party, or (D) any such, claim, action or proceeding is a criminal or regulatory enforcement action. It is understood that the indemnifying party will not, in connection with any claim, action or proceeding or related claims, actions or proceedings in the same jurisdiction, be liable for the reasonable fees and expenses of more than one separate firm of attorneys for the indemnified parties (in addition to any local counsel at any time for all such indemnified parties) and that all such reasonable fees and expenses will be reimbursed reasonably promptly following

a written request by an indemnified party stating under which clause of (A) through (D) above reimbursement is sought and delivery of documentation of such fees and expenses. In the case of the retention of any such separate firm for the indemnified parties, such firm will be designated in writing by the indemnified parties. The indemnifying party will not be liable for any settlement of any claim, action or proceeding effected without its written consent (which consent shall not be unreasonably withheld, conditioned or delayed), but if such claim, action or proceeding is settled with such consent or if there has been a final non-appealable judgment for the plaintiff, the indemnifying party agrees to indemnify the indemnified party from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an indemnified party will have requested an indemnifying party to reimburse the indemnified party for reasonable fees and expenses of counsel as contemplated by the third sentence of this Section 2.08(c), the indemnifying party agrees that it will be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 45 days after receipt by such indemnifying party of the aforesaid request and (ii) such indemnifying party has not reimbursed the indemnified party in accordance with such request or reasonably objected in writing, on the basis of the standards set forth herein, to the propriety of such reimbursement prior to the date of such settlement. No indemnifying party will, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened proceeding (i) in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such proceeding or (ii) which involves the imposition of equitable remedies on the indemnified party or the imposition of any obligation on the indemnified party, other than as a result of the imposition of financial obligations for which the indemnified person will be indemnified hereunder and provides for no admission of wrongdoing on the part thereof.

(d) If the indemnification provided for in this Section 2.08 from the indemnifying party is unavailable to an indemnified party hereunder in respect of any losses, claims, damages, liabilities, judgments, actions or expenses referred to in this Section 2.08, then the indemnifying party, in lieu of indemnifying such indemnified party, will contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities, judgments, actions or expenses (i) in such proportion as is appropriate to reflect the relative fault of the indemnifying party and indemnified party in connection with the actions that resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations, or (ii) if the allocation provided by clause (i) is not permitted by applicable Law, in such proportion as is appropriate to reflect not only the relative fault referred to in clause (i) but also the relative benefit of Parent, on the one hand, and the Investors, on the other, in connection with the statements or omissions that resulted in such losses, claims, damages, liabilities, judgments, actions or expenses, as well as any other relevant equitable considerations. The relative fault of such indemnifying party and indemnified party will be determined by reference to, among other things, whether any action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, has been taken by, or relates to information supplied by, such indemnifying party or indemnified party, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action. The amount paid or payable by a party as a result of the losses, claims, damages, liabilities and expenses referred to above will be deemed to include, subject to the limitations set forth in Section 2.08(c), any legal or other fees or expenses reasonably incurred by such party in connection with any investigation or proceeding.

(e) The parties agree that it would not be just and equitable if contribution pursuant to Section 2.08(d) were determined by pro rata allocation or by any other method of allocation that does not take into account the equitable considerations referred to in Section 2.08(d). No Person guilty of "fraudulent misrepresentation" (within the meaning of Section 11(f) of the Securities Act) will be entitled to contribution from any Person who was not guilty of such fraudulent misrepresentation. Notwithstanding the provisions of Section 2.08(d) and this Section 2.08(e), each Investor's liability pursuant to Section 2.08(d) in respect of the offering to which such loss, claim, damages, liabilities, judgments, actions or expenses relate shall not exceed an amount equal to the proceeds to such Investor (after deduction of all Underwriters' discounts and commissions) from such offering less the amount of any damages which such Investor has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. Each Investor's obligation to contribute pursuant to this Section 2.08 is several in proportion to the respective number of Registrable Securities held by such Investor hereunder and not joint.

(f) For purposes of this Section 2.08, each Indemnified Person shall have the same rights to contribution as such Investor, and each officer, Director and Person, if any, who controls Parent within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act shall have the same rights to contribution as Parent, subject in each case to the limitations set forth in the immediately preceding paragraph. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action, suit or proceeding against such party in respect of which a claim for contribution may be made against another party or parties under this Section 2.08, notify such party or parties from whom contribution may be sought, but the omission to so notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any obligation it or they may have under this Section 2.08 or otherwise except to the extent that it has been prejudiced in any material respect by such failure. No party shall be liable for contribution with respect to any action or claim settled without its written consent; provided, however, that such written consent was not unreasonably withheld.

(g) If indemnification is available under this Section 2.08, the indemnifying party will indemnify each indemnified party to the full extent provided in Section 2.08(a) and Section 2.08(b) without regard to the relative fault of said indemnifying party or indemnified party or any other equitable consideration provided for in Section 2.08(d) or Section 2.08(e).

SECTION 2.09. Lock-up. If and to the extent reasonably requested by the lead Underwriter of an Underwritten Offering that is a Roadshow Offering of Equity Securities of Parent, Parent and each Investor who has a right to participate in such Underwritten Offering agrees to enter into an agreement, at the time of execution of the applicable underwriting agreement, not to effect, and to cause their respective Affiliates not to effect, except as part of such registration and subject to such other carve-outs sufficient to permit charitable gifting and transfers to Permitted Transferees, any offer, sale, pledge, transfer or other distribution or disposition or any agreement with respect to the foregoing of the issue being registered or offered, as applicable, or of a similar security of Parent, or any securities into which such Equity

Securities are convertible, or any securities convertible into, or exchangeable or exercisable for, such Equity Securities, including a sale pursuant to Rule 144, during a period of up to seven days prior to, and during a period of up to 45 days after, the effective date of such registration (the "Lock-up"); provided, however, that no Investor shall be obligated to enter into aLock-up more than one time in any 12-month period. The lead Underwriter shall give Parent and each Investor prior notice of any such request.

SECTION 2.10. Termination of Registration Rights. This Article II (other than Sections 2.08, 2.10 and 2.11) will terminate on the date on which all Equity Securities of Parent subject to this Article II cease to be Registrable Securities; provided, however, that if a Lock-up is in effect at the time of such termination then such Lock-up shall expire in accordance with its terms.

SECTION 2.11. Rule 144. For so long as Parent is subject to the requirements of Section 13, 14 or 15(d) of the Exchange Act, Parent agrees that it will file the reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder and it will take such further action as the Investors' Representative (on behalf of the Investors) or any Investor reasonably may request, all to the extent required from time to time to enable the Investors to sell Registrable Securities within the limitation of exemptions provided by (a) Rule 144, as such Rule may be amended from time to time, or (b) any similar rule or regulation hereafter adopted by the SEC. Upon the request of the Investors' Representative (on behalf of the Investors) or any Investor, Parent will deliver to the Investors a written statement as to whether it has complied with such requirements.

ARTICLE III

Restrictions on Transferability of Securities

SECTION 3.01. Restrictions. An Investor shall not make or solicit any Transfer of or with respect to, and each Investor shall cause each of its Affiliates not to make or solicit any Transfer of or with respect to, any Equity Securities of Parent issued pursuant to the Merger Agreement (including any Equity Securities of Parent received upon exchange or conversion of Equity Securities issued pursuant to the Merger Agreement) such Investor or its Affiliates until the earlier of (a) the consummation of a Strategic Transaction and (b)(i) the date that is 180 days after the date of this Agreement, when an Investor may Transfer up to 25% in aggregate of the Equity Securities of Parent issued to such Investor pursuant to the Merger Agreement, (ii) the date that is 240 days after the date of this Agreement, when an Investor may Transfer up to 50% in aggregate of the Equity Securities of Parent, including Equity Securities permitted to be Transferred by the preceding clause (i), issued to such Investor pursuant to the Merger Agreement, (iii) the date that is 300 days after the date of this Agreement, when an Investor may Transfer up to 75% in aggregate of the Equity Securities of Parent, including Equity Securities permitted to be Transferred by the preceding clauses (i) and (ii), issued to such Investor pursuant to the Merger Agreement and (iv) the date that is 360 days after the date of this Agreement, when this Section 3.01 shall cease to restrict Transfers of Equity Securities of Parent by Investors after such date. In determining the percentage of Equity Securities of Parent that are Transferable under this Section 3.01, such percentage shall be determined on an as-converted and as-exchanged basis into Voting Securities of Parent and shall give appropriate effect to any

adjustment provided for by Section 4.01. For avoidance of doubt, the restrictions on transfer by an Investor of Equity Securities of Parent issued pursuant to the Merger Agreement (including any Equity Securities of Parent received upon exchange or conversion of Equity Securities issued pursuant to the Merger Agreement) set forth in this Section 3.01 shall apply to any Investor that is, directly or indirectly, a Permitted Transferee of such Equity Securities. In the event Parent permits any discretionary waiver or termination set forth in this Section 3.01 with respect to any Investor, the other Investors shall be released from the restrictions set forth in this Section 3.01 with respect to such other Investors to the same extent as such Investor.

SECTION 3.02. Permitted Transfers. (a) Notwithstanding anything to the contrary in Section 3.01, any Investor may make or solicit a Transfer of any Equity Securities of Parent to the extent permitted by this Section 3.02:

(i) to a Permitted Transferee (subject to Section 3.02(b));

(ii) to Parent, Opco, Management Holdings or any of their Subsidiaries;

(iii) pursuant to a bona fide third-party tender offer that is approved by the board of directors of Parent and made to all holders of outstanding Voting Securities of Parent that would result in the Transfer, in one transaction or a series of related transactions, to a Person or a group of affiliated Persons, of Equity Securities of Parent if, after such Transfer, such Person or group of affiliated Persons would hold at least a majority of the outstanding Voting Securities of Parent (or the surviving entity)); provided that in the event that such tender offer is not completed, the tendering of Investor's Equity Securities shall remain subject to the restrictions set forth in Section 3.01; and

(iv) Transfers after commencement by Parent, Holdco or Opco of bankruptcy, insolvency or other similar proceedings.

(b) No Transfer of Equity Securities of Parent to a Permitted Transferee pursuant to Section 3.02(a) shall be effective until such time as such Permitted Transferee has executed and delivered to Parent, as a condition precedent to such Transfer, a joinder to this Agreement substantially in the form of Exhibit A hereto. No Investor, if the primary asset of such Investor is Registrable Securities, shall permit a Transfer of control of such Investor other than to a Permitted Transferee and any such Transfer other than to a Permitted Transferee shall be a breach of this Agreement.

SECTION 3.03. Legends and Compliance with Securities Laws.

(a) Parent may place appropriate legends on the certificates (and appropriate stop transfer orders on any book-entry shares) representing Parent Equity Securities that are held by the Investors, which legends (and stop transfer orders) may set forth the restrictions referred to above and any restrictions appropriate for compliance with applicable Law. Parent will promptly issue replacement certificates to the Investors, upon request, in order to permit the Investors to engage in sales, transfers and other dispositions that are not restricted hereunder or under applicable Law. Notwithstanding the foregoing, if a holder of Registrable Securities that

are eligible to be sold without restriction under Rule 144 under the Securities Act (other than the restriction set forth under Rule 144(i)) requests, Parent shall cause any restrictive legend set forth on the Registrable Securities held by such holder to be removed and to otherwise cooperate in connection with any legend removal in connection with a sale permitted by Rule 144 and not otherwise prohibited hereby.

(b) Notwithstanding anything to the contrary in this Agreement, it shall be a condition to any Transfer of Equity Securities of Parent that (i) such Transfer comply with the provisions of the Securities Act and applicable state securities laws and, if reasonably requested by Parent, the Transferring Investor shall have provided Parent with an opinion of outside legal counsel, reasonably acceptable to Parent, to such effect (it being understood that no such legal opinion of outside legal counsel to the Transferring Investor shall be required in connection with any Transfer pursuant to Article II), and (ii) no applicable law or judgment issued by any Governmental Entity which would prohibit such Transfer shall be in effect, and all consents of, or declarations or filings with, or expirations of waiting periods imposed by, any Governmental Entity necessary for the consummation of such Transfer shall have been obtained or filed or shall have occurred.

SECTION 3.04. Improper Transfer or Encumbrance. For so long as Section 3.01(b) is applicable to the Investors, to the extent any Investor proposes to Transfer or shall be deemed to Transfer any Equity Securities of Parent that would represent more than $2,000,000 in a single transaction or series of related transactions, such Investor shall, unless such Transfer is (A) effected pursuant to a "10b5-1 Plan" or similar blinded, discretionary plan not controlled by such Investor (provided, in each such case, Investor has provided notice to Parent that it has entered into such plan and of the maximum amount of Equity Securities subject to such plan and instructed pursuant to such plan that such Equity Securities should be Transferred in a manner consistent with the restrictions in Section 3.01) or (B) permitted under Section 3.02, prior to the consummation of such Transfer or deemed Transfer, deliver notice thereof to Parent stating the maximum number of Equity Securities of Parent to be Transferred, the identity of the transferee (if known) and the manner of Transfer. Any attempt not in compliance with this Agreement to make any Transfer of or with respect to any Equity Securities of Parent shall be null and void and of no force and effect, the purported Transferee shall have no rights or privileges in or with respect to Parent, and Parent shall not give any effect in Parent's stock records to such attempted Transfer.

SECTION 3.05. Restrictions under Lock-Up Agreements. Parent agrees that, without the prior written consent of the Investors' Representative, it will not amend, waive or modify, or consent to any action otherwise restricted by, the Lock-up Agreements (as defined in the Merger Agreement) (including granting its consent to any transfer not expressly permitted thereunder without its consent), and Parent will use commercially reasonable efforts to enforce compliance with the Lock-up Agreements in accordance with their terms.

ARTICLE IV

Miscellaneous

SECTION 4.01. Adjustments. References to shares, equity interests or other Equity Securities or to numbers or prices of shares and to sums of money, in each case, including percentages thereof, contained herein will be deemed adjusted to account for any reclassification, exchange, conversion, substitution, combination, consolidation, subdivision, stock or unit split or reverse stock or unit split, stock or unit dividend, share or unit distribution, rights offering or similar transaction (including to property received therein in connection with a merger, consolidation or business combination).

SECTION 4.02. Notices. All notices, requests, claims, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) when delivered in person; (b) when transmitted (except if not a Business Day, then the next Business Day) via email (to such email address set out below) and sender shall bear the burden of proof of delivery, which shall be deemed satisfied if such notice is also delivered by hand, deposited in registered or certified mail (postage prepaid, return receipt requested), or delivered prepaid to a reputable national overnight air courier service on or before the date that is one (1) Business Day after its transmission by email; and (c) on the next Business Day when sent by national overnight courier (providing proof of delivery), in each case to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 4.02):

If to the R Investor Group or the Investors' Representative, to:

Ridgemont Equity Partners
101 S. Tryon Street, Suite 3400
Charlotte, NC 28280
Attention: Chief Operating Officer
Email: investorrelations@ridgemontep.com

with a copy (which shall not constitute notice to the Investors' Representative) to:

Alston & Bird LLP
1120 South Tryon Street, Suite 300
Charlotte, NC 28203
Attention: C. Mark Kelly; Daniel C. Rowe
Email: mark.kelly@alston.com; daniel.rowe@alston.com

If to the E Investor Group, to:

Omni Investor Holdings, LLC
3652 Third Street S., Suite 150
Jacksonville Beach, FL 32250
Attention: Julie Robinson

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

King & Spalding LLP
1180 Peachtree Street, NE
Suite 1600
Atlanta, GA 30309
Attention: Rahul Patel; John Hyman
Email: rpatel@kslaw.com; jhyman@kslaw.com

If to the other Investors, at the address most recently provided in writing to Parent for the purposes of notice.

If to Parent, to:

Forward Air Corporation
1915 Snapps Ferry Road
Building N
Greeneville TN 37745
Attention: Michael Hance
Email: MHance@forwardair.com

Email with a copy to:

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, New York 10019
Attention: Thomas E. Dunn; Matthew L. Ploszek
Email: tdunn@cravath.com; mploszek@cravath.com

SECTION 4.03. Expenses. Except as otherwise set forth herein, each party to this Agreement shall pay its own expenses incurred following the date of this Agreement in connection with this Agreement. Parent shall bear all documented out-of-pocket expenses of the Investors in connection with this Agreement incurred prior to the date of this Agreement.

SECTION 4.04. Amendments; Waivers; Consents.

(a) No provision of this Agreement may be amended or waived unless such amendment or waiver is in writing and signed, in the case of an amendment, by the Investors' Representatives, each of E Investor Group and R Investor Group and Parent; provided, however, that any amendment or waiver that materially adversely affects the rights or obligations of an individual Investor hereunder in a manner different than the other Investors shall also require the signature of such affected Investor or, in the case of a waiver, by the party against whom the waiver is to be effective.

(b) The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise will not constitute a waiver of such rights nor will any single or partial exercise by any party to this Agreement of any of its rights under this Agreement preclude any other or further exercise of such rights or any other rights under this Agreement. The rights and remedies herein provided will be cumulative and not exclusive of any rights or remedies provided by Law or otherwise.

SECTION 4.05. Interpretation. The headings contained in this Agreement and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The word "will" shall be construed to have the same meaning as the word "shall". The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "extent" in the phrase "to the extent" shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The word "or" shall not be exclusive. The phrase "date hereof" or "date of this Agreement" shall be deemed to refer to January 25, 2024. Unless the context requires otherwise (a) any definition of or reference to any contract, instrument or other document or any Law herein shall be construed as referring to such contract, instrument or other document or Law as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof and (d) all references herein to Articles, Sections and Schedules shall be construed to refer to Articles and Sections of, and Schedules to, this Agreement. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted. When calculating the period of time before which, within which or following which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day. Ownership of Parent Series C Preferred Units or Series C-2 Preferred Units of Opco shall be deemed for purposes of this Agreement to represent, on an as converted or exchanged basis, without duplication, beneficial ownership of Parent Common Stock into which such shares or units are ultimately convertible or exchangeable (including, without duplication, in the case of the Series C-2 Preferred Units of Opco, following conversion into Class B Units pursuant to the Opco LLCA, but for the determination of beneficial ownership, not into any Parent Series B Preferred Units) (disregarding for this purpose any limitations or restrictions on conversion or exchange).

SECTION 4.06. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law, or public policy, all other conditions and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the purpose of this Agreement is fulfilled to the fullest extent possible.

SECTION 4.07. Counterparts. This Agreement may be executed and delivered (including by electronic, facsimile transmission, DocuSign or .pdf) in counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto or to any such agreement or instrument will raise the use of electronic delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of electronic delivery as a defense to the formation of a contract, and each such party forever waives any such defense, except to the extent such defense related to lack of authenticity.

SECTION 4.08. Entire Agreement; No Third-Party Beneficiaries. This Agreement, together with the other Transaction Agreements (as defined in the Merger Agreement), including the Opco LLCA, the Management Holdings LLCA, the charter and the bylaws, constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and is not intended to and does not confer upon any Person other than the parties hereto (and their respective Permitted Transferees) any rights or remedies, except as expressly provided in this Agreement (it being understood and agreed that the Persons referred to in any Section of this Agreement as having such rights and who or which are not parties hereto shall be entitled to the benefits of, and to enforce the provisions of, such Section).

SECTION 4.09. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice or conflict of law provisions or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. All Actions arising out of or relating to this Agreement or the Transactions shall be heard and determined exclusively in the Court of Chancery of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom). The parties hereto hereby (a) irrevocably submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware and any appellate court therefrom within the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom) for the purpose of any Action arising out of or relating to this Agreement or the Transactions brought by any party; (b) irrevocably waive, and agree not to assert by way of motion, defense or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the Transactions may not be enforced in or by the above-named courts; and (c) agree that such party will not bring any Action arising out of or relating to this Agreement or the Transactions in any court other than the Court of Chancery of the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom). Service of process, summons, notice or document to any party's address and in the manner set forth in Section 4.02 shall be effective service of process for any such action (without limiting other means).

SECTION 4.10. Assignment. Neither this Agreement nor any of the rights, interests or obligations under this Agreement will be assigned, in whole or in part, by any of the parties without the prior written consent of the other parties, except rights, interests and obligations in respect of Equity Securities may be assigned in conjunction with a Transfer of such Equity Securities to a Permitted Transferee who has executed and delivered a joinder to this Agreement in accordance with Section 3.02(b). Any purported assignment in violation of the preceding sentence will be void. Subject to the preceding sentences, this Agreement will be binding upon, inure to the benefit of, and be enforceable by, the parties and their respective successors and assigns.

SECTION 4.11. Enforcement. The parties agree that the parties would be irreparably damaged if any provision of this Agreement were not performed in accordance with its specific terms or was otherwise breached, and that monetary damages, even if available, would not be an adequate remedy therefor. Accordingly, the parties shall be entitled to an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the performance of the terms of this Agreement, in addition to any other remedy at law or in equity. The parties further agree that no party to this Agreement shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any such legal or equitable relief and each party waives any objection to the imposition of such relief or any right it might have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each of the parties acknowledges and agrees that the right of specific enforcement is an integral part of the transactions contemplated by this Agreement and without such right, none of the parties would have entered into this Agreement.

SECTION 4.12. Effectiveness; Termination; Survival. This Agreement shall become effective upon its execution and delivery by Parent, R Investor and E Investor. Notwithstanding anything to the contrary contained in this Agreement, this Agreement will automatically terminate upon the date on which Article II terminates pursuant to Section 2.10, and this Agreement shall thereafter be null and void, except that this Article IV and Section 2.08 and Section 2.11 shall survive any such termination indefinitely. Nothing in this Section 4.12 will be deemed to release any party from any liability for any willful and material breach of this Agreement occurring prior to such termination or impair the right of any party to compel specific performance by the other parties of their respective obligations under this Agreement occurring prior to such termination.

SECTION 4.13. Confidentiality.

(a) The Investors and their respective Affiliates shall, and shall direct their respective Representatives to, (i) hold confidential and not disclose, without the prior written approval of Parent, all confidential or proprietary written, recorded or oral information or data (including research, developmental, technical, marketing, sales, financial, operating, performance, cost, business and process information or data, knowhow and computer programming and other software techniques) provided by or on behalf of Parent or any of its Subsidiaries to the Investors or their respective Affiliates or Representatives, whether such confidentiality or proprietary status is indicated orally or in writing or if such Investor should reasonably have understood that the information should be treated as confidential, whether or not the specific words “confidential” or “proprietary” are used (“Confidential Information”), and

(ii) use such Confidential Information only for the purpose of performing its obligations hereunder, managing and monitoring such Investor's investment in Parent and its Subsidiaries and carrying on the business of Parent and its Subsidiaries; provided that the Investors and their respective Affiliates and Representatives may disclose or use such Confidential Information (x) in their capacity as directors, officers or employees of Parent or its Subsidiaries, (y) to each other, in their capacities as such and, with respective to Representatives that are attorneys, accountants, consultants and other professional advisors, to the extent necessary to their services in connection with monitoring its investment in Parent and its Subsidiaries, to any affiliate of such Investor and their respective directors, employees, consultants and representatives, in each case in the ordinary course of business (provided that the recipients of such Confidential Information are subject to customary confidentiality and non-disclosure obligations) or (z) as may be necessary in connection with such Investor's enforcement of its rights in connection with this Agreement. Each Investor acknowledges and agrees that it shall be liable for any breach of the terms of this Section 4.13 applicable to Affiliates and Representatives by its Affiliates and Representatives (solely to the extent that such Representative received the applicable Confidential Information from such Investor), except with respect to an Affiliate or Representative who enters into or has entered into a confidentiality agreement with Parent with respect to the subject matter of this Section 4.13.

(b) Notwithstanding the foregoing, the confidentiality and non-use obligations of Section 4.13(a) will not apply to Confidential Information:

(i) which any Investor or any of its Representatives is required to disclose by judicial or administrative process, or by other requirements of applicable Law or regulation or any governmental authority (including any applicable rule, regulation or order of a self-governing authority, such as the NASDAQ); provided that, where and to the extent legally permitted and reasonably practicable, such Investor shall (A) give Parent reasonable notice of any such requirement and, to the extent protective measures consistent with such requirement are available, the opportunity to seek appropriate protective measures and (B) reasonably cooperate with Parent, at Parent's sole cost and expense, in attempting to obtain such protective measures;

(ii) which becomes available to the public other than as a result of a breach of Section 4.13;

(iii) which can be demonstrated has been independently developed by such Investor without use of or reliance upon Confidential Information; or

(iv) which has been provided to any Investor or any of its Representatives by a Third Party who is not known after reasonable inquiry to be subject to confidentiality obligations to Parent or any of its Affiliates.

SECTION 4.14. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE, EACH PARTY HEREBY IRREVOCABLY AND

UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (C) IT MAKES THIS WAIVER VOLUNTARILY; AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS IN THIS SECTION 4.14.

SECTION 4.15. Representations and Warranties.

(a) Parent hereby makes the representations and warranties set forth inAnnex A to the Investors, each of which is true and correct as of the date of this Agreement.

(b) Each Investor, severally and not jointly, hereby makes the representations and warranties set forth inAnnex B to Parent solely as to itself, each of which is true and correct as of the date of this Agreement.

SECTION 4.16. Investors' Representative. The parties acknowledge and agree that the provisions granting REP Omni Holdings, L.P., a Delaware limited partnership the authority to act as the Designated Representative in Section 7.21 of that certain Tax Receivables Agreement, dated as of the date hereof, by and among Parent, Holdco, Opco and the Members (as defined therein) from time to time party thereto, shall apply to this Agreement, *mutatis mutandis*, and hereby grant the Designated Representative authority to act as the Investors' Representative for purposes of this Agreement. For the avoidance of doubt, the limitations on liability and obligations with respect to indemnity and expense reimbursement in the Tax Receivables Agreement shall apply mutatis mutandis with respect to the Designated Representative's activities under the authority granted herein.

IN WITNESS WHEREOF, the parties hereto have executed this Investor Rights Agreement as of the day and year first above written.

FORWARD AIR CORPORATION, as Parent,

by /s/ Thomas Schmitt
Name: Thomas Schmitt
Title: President and Chief Executive Officer

[*Signature Page to Investor Rights Agreement*]

R INVESTORS:

REP OMNI HOLDINGS, L.P.

By: REP Omni Holdings GP, LLC, its general partner

By: Ridgemont Equity Management III, L.P., its member

By: /s/ Robert L. Edwards, Jr.
Name: Robert L. Edwards, Jr.
Title: Authorized Signatory

REP III C FEEDER, L.P.

By: Ridgemont Equity Management III, LLC, its general partner

By: /s/ Edward Balogh
Name: Edward Balogh
Title: Chief Operating Officer

REP III B FEEDER, L.P.

By: Ridgemont Equity Management III, LLC, its general partner

By: /s/ Edward Balogh
Name: Edward Balogh
Title: Chief Operating Officer

REP COINVEST III-A OMNI, L.P.

By: REP Coinvest III Omni GP, LLC, its general partner

By: Ridgemont Equity Management III, LLC, its sole member

By: /s/ Edward Balogh
Name: Edward Balogh
Title: Authorized Signatory

REP COINVEST III-B OMNI, L.P.

By: REP Coinvest III Omni GP, LLC, its general partner

By: Ridgemont Equity Management III, LLC, its sole member

By: /s/ Edward Balogh
Name: Edward Balogh
Title: Authorized Signatory

INVESTORS REPRESENTATIVE:

REP OMNI HOLDINGS, L.P.

By: REP Omni Holdings GP, LLC, its general partner

By: Ridgemont Equity Management III, L.P., its member

By: /s/ Robert L. Edwards, Jr.
Name: Robert L. Edwards, Jr.
Title: Authorized Signatory

IN WITNESS WHEREOF, the parties hereto have executed this Investor Rights Agreement as of the day and year first above written.

E INVESTOR

OMNI INVESTOR HOLDINGS, LLC

By: /s/ Michael B. Hodge
Name: Michael B. Hodge
Title: Authorized Signatory

EXHIBIT A

JOINDER AGREEMENT

This Joinder Agreement (this "Joinder Agreement") is made as of the date written below by the undersigned (the "Joining Party") in accordance with the Investor Rights Agreement dated as of January 25, 2024 (as the same may be amended from time to time, the "Investor Rights Agreement") among Forward Air Corporation, a Tennessee corporation, and the other parties thereto, as the same may be amended from time to time. Capitalized terms used, but not defined, herein shall have the meaning ascribed to such terms in the Investor Rights Agreement.

The Joining Party hereby acknowledges, agrees and confirms that, by its execution of this Joinder Agreement, the Joining Party shall be deemed to be a party to and an "Investor" under the Investor Rights Agreement as of the date hereof and, without limiting the generality of the foregoing, shall be subject to the Investor Rights Agreement and shall have all of the rights and obligations of an Investor thereunder as if it had executed the Investor Rights Agreement. The Joining Party hereby ratifies, as of the date hereof, and agrees to be bound by, all of the terms, provisions and conditions contained in the Investor Rights Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Joinder Agreement as of the date written below.

Date: _____, ____

[NAME OF JOINING PARTY]

By: _____
Name:
Title:

Address for Notices:

AGREED ON THIS [_____] day of [_____], 20[__]:

FORWARD AIR CORPORATION

By: _____
Name:
Title:

ANNEX A

1. Organization, Standing and Power. Parent is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

2. Authority; Execution and Delivery; Enforceability. Parent has all requisite corporate power and authority to execute and deliver this Agreement and to comply with the terms hereof. The execution and delivery by Parent of this Agreement and the compliance by Parent with this Agreement have been, or prior to the date of this Agreement will have been, duly authorized by all necessary company action on the part of Parent. Parent has duly executed and delivered this Agreement, which, assuming due authorization, execution and delivery by the other parties hereto, constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (except insofar as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other Laws of general applicability relating to or affecting creditors' rights, or by principles governing the availability of equitable remedies, whether considered in a proceeding at law or in equity).

3. No Conflicts; Consents. (i) The execution and delivery by Parent of this Agreement do not, and compliance with the terms hereof will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancelation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any pledges, liens, charges, mortgages, encumbrances and security interests of any kind or nature whatsoever (collectively, "Liens") upon any of the properties or assets of Parent or any of its subsidiaries (the "Parent Subsidiaries") under, any provision of (A) the Charter, the Bylaws or the comparable organizational documents of any Parent Subsidiary, (B) any contract, lease, license, indenture, note, bond, agreement, concession, franchise or other binding instrument (a "Contract") to which Parent or any Parent Subsidiary is a party or by which any of their respective properties or assets is bound or (C) subject to the filings and other matters referred to in paragraph (3)(ii) below, any Law applicable to Parent or any Parent Subsidiary or their respective properties or assets, other than, in the case of clauses (B) and (C) above, any such items that would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of Parent to comply with the terms of this Agreement.

(i) No consent, approval, license, permit, order or authorization ("Consent") of, or registration, declaration or filing with, or permit from, any Governmental Entity, is required to be obtained or made by or with respect to Parent or any Parent Subsidiary in connection with the execution, delivery and performance of this Agreement or the compliance with the terms hereof, other than (X) the filing with the SEC of such reports under the Exchange Act as may be required in connection with this Agreement, (Y) such filings as may be required under the rules and regulations of the NASDAQ and (Z) such other items that the failure of which to obtain or make would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of Parent to comply with the terms of this Agreement.

ANNEX B

1. Organization, Standing and Power. Such Investor is duly organized, validly existing and in good standing under the laws of the jurisdiction in which it is organized.

2. Authority; Execution and Delivery; Enforceability. Such Investor has all requisite limited liability company or similar power and authority to execute and deliver this Agreement and to comply with the terms thereof. The execution and delivery by such Investor of this Agreement and its compliance with the terms hereof have been duly authorized by all necessary limited liability company or similar action on the part of such Investor. All required approvals, if any, from the limited partners, members or other stockholders of such Investor to enter into this Agreement and comply with its terms have been granted. Such Investor has duly executed and delivered this Agreement, which, assuming due authorization, execution and delivery by Parent, constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms (except insofar as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other Laws of general applicability relating to or affecting creditors' rights, or by principles governing the availability of equitable remedies, whether considered in a proceeding at law or in equity).

3. No Conflicts; Consents. (i) The execution and delivery by such Investor of this Agreement do not, and compliance with the terms hereof will not, conflict with, or result in any violation of, or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancelation or acceleration of any obligation or to loss of a material benefit under, or result in the creation of any Lien upon any of the properties or assets of such Investor or any of its subsidiaries under, any provision of (A) the organizational documents of such Investor or any of such Investor's subsidiaries, (B) any Contract to which such Investor or any of its subsidiaries is a party or by which any of their respective properties or assets is bound or (C) subject to the filings and other matters referred to in paragraph (4)(i), any Law applicable to such Investor or any of its subsidiaries or their respective properties or assets, other than, in the case of clauses (B) and (C) above, any such items that would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of such Investor to comply with terms of this Agreement.

(ii) No Consent of, or registration, declaration or filing with, or permit from, any Governmental Entity is required to be obtained or made by or with respect to such Investor or any of its subsidiaries in connection with the execution, delivery and performance of this Agreement or the compliance with the terms hereof, other than (X) filing with the SEC of such reports under the Exchange Act, as may be required in connection with this Agreement, (Y) such filings as may be required under the stock exchange rules and regulations and (Z) such other items that the failure of which to obtain or make would not reasonably be expected to, individually or in the aggregate, have a material adverse effect on the ability of such Investor to comply with terms of this Agreement.

4. Ownership of Equity Securities. Except as has been disclosed to Parent in writing prior to the date of this Agreement, neither such Investor nor any of its Affiliates (i) beneficially owns any Equity Securities of Parent or (ii) holds any rights to acquire any Equity Securities of Parent except pursuant to the Merger Agreement or other Transaction Agreements (as defined in the Merger Agreement).

5. Relationship to Other Investors. Except (i) with respect to any member of the R Investor Group, other members of the R Investor Group, and (ii) with respect to any member of the E Investor Group, other members of the E Investor Group and CAM Omni SPV, LLC, in each case, with respect to which the applicable Investor makes no representation hereby, such Investor is not an Affiliate of any other Investor and has not entered into any agreement, understanding, arrangement or other Contract with any Investor or other Person to act as a 13D Group or otherwise act in concert with any other Investor with respect to Equity Securities of the Parent.

Schedule 1

1. EVE Omni Investor, LLC
2. Adam-Omni, LLC
3. CAM Omni SPV, LLC
4. Omni Rollover, Inc.
5. J.S. International Shipping Corp.
6. MKJ Holdco, LLC
7. DCTD, Inc.
8. Shirley Yeung
9. LiVe Logistics Corp
10. Custom Expediting & Logistics Inc.
11. Edwin Chow
12. Jim McGinnis
13. Lucinda Rowe
14. Daniel Rowe
15. Chris Moschini
16. Geir Gaseidnes
17. Owen Schnapper
18. Zul Baharudin
19. Henry Gerkens
20. Claudia Amlie
21. Harold Hurwitz
22. John Moran
23. Robert Reis
24. John Cottom

25. Bobby Solis
26. Brad Stogner
27. Berner Tribble
28. Christiane Liebe
29. Wendy Curtis
30. Yohanse Manzanarez
31. Nelson Lau
32. Yip Kum Yew
33. Scott Drennan
34. Tod Breitenwischer
35. Shaun Wyatt
36. Bridgett Pelton
37. Jason Murphy
38. Kraig Russell
39. Victoria Rogers
40. Jennifer Dooley
41. Alan Hurwitz
42. James Reimer
43. James Vincent
44. Mark Meyer
45. William Manahan, Jr.
46. Norida Benisano
47. Roderick Obligacion
48. William Heathcock
49. Norman Chang

50. Scott Berlin
51. Jeff Sperry
52. Janet Wong
53. Adam Novick
54. Jerome Tang
55. Clifton West Jr.
56. James Blaeser
57. Zhuo Chen
58. The Zhuo Chen Revocable Living Trust
59. Frank Homan
60. Megan Sledge
61. Chris Beaudoin
62. Keith Moran
63. Lan (Maggie) Chen
64. Lyla Kolar
65. Rob Lively

Exhibit 10.7

EXECUTION VERSION

TAX RECEIVABLE AGREEMENT

by and among

FORWARD AIR CORPORATION,

CENTRAL STATES LOGISTICS, INC.,

CLUE OPCO LLC

and

THE MEMBERS
FROM TIME TO TIME PARTY HERETO

Dated as of January 25, 2024

TABLE OF CONTENTS

TAX RECEIVABLE AGREEMENT

This TAX RECEIVABLE AGREEMENT (this "Agreement"), dated as of January 25, 2024, is hereby entered into by and among Forward Air Corporation, a Tennessee corporation ("Parent"), Central States Logistics, Inc., an Illinois corporation and wholly owned subsidiary of Parent ("Holdco"), Clue Opco LLC, a Delaware limited liability company ("Opco"), Omni Management Holdings, LLC, a Delaware limited liability company ("Management Holdings"), the Rollover Members (as defined herein), the Management Holdings Members (as defined herein), the Blocker Members (as defined herein), and each of the other Members (as defined herein) from time to time party hereto; provided that the Rollover Members, Management Holdings Members and Blocker Members shall only be a party hereto following delivery of a Letter of Transmittal (as defined in and pursuant to the Merger Agreement (as defined below)).

RECITALS

WHEREAS, Opco is treated as a continuation of Omni Newco, LLC, a Delaware limited liability company (the "Company"), as a partnership for U.S. federal income tax purposes;

WHEREAS, concurrently herewith, pursuant to the Agreement and Plan of Merger (as amended from time to time, the "Merger Agreement") (capitalized terms used but not otherwise defined herein shall have the meaning assigned to such terms in the Merger Agreement), by and among Parent, Opco, the Company and the other parties thereto, dated as of August 10, 2023, (i), Clue Opco Merger Sub LLC, a Delaware limited liability company ("Opco Merger Sub"), will be merged with and into the Company, with the Company being the surviving entity and a wholly owned subsidiary of Opco (the "Company Merger"), (ii) the Blocker Merger Subs will merge with and into the Blockers, with the Blockers surviving as specified in the Merger Agreement (the "Blocker Mergers"), (iii) following the consummation of the Blocker Mergers, the Blockers will merge with and into Clue Parent Merger Sub LLC, a Delaware limited liability company and wholly owned subsidiary of Parent ("Parent Merger Sub"), with Parent Merger Sub continuing as the surviving limited liability company in such merger (the "Parent Merger Sub Merger", which together with each Blocker Merger is intended to be treated as a single integrated transaction that qualifies as a "reorganization" within the meaning of Section 368(a) of the Code and the Treasury Regulations thereunder (the "Reorganizations")) and (iv) Clue Management Merger Sub LLC, a Delaware limited liability company and wholly owned subsidiary of Parent will merge with and into Management Holdings, with Management Holdings continuing as the surviving limited liability company in such merger (the "Management Holdings Merger" and, together with the Company Merger, the Blocker Mergers, and the Parent Merger Sub Merger, the "Mergers");

WHEREAS, as a result of the Company Merger, the members of the Company as of immediately prior to the Company Merger (including Management Holdings but excluding the Blockers) will receive (i) membership interests in Opco in the form of Class B Units (as defined herein) and Series C-2 Preferred Units (as defined herein) (together, the "Opco Units") and (ii) stock of Parent in the form of Series B Preferred Stock (as defined herein) in exchange for their interests in the Company (such members of Opco, the "Rollover Members");

WHEREAS, as a result of the Management Holdings Merger, the members of Management Holdings as of immediately prior to the Management Holdings Merger will receive Management Class B Units (as defined herein) and Management Series C-2 Preferred Units (as defined herein) of Management Holdings (together, the "Management Holdings Units" and, together with the Opco Units, the "Units") (the "Management Holdings Members");

WHEREAS, as a result of the Blocker Mergers, the Blocker Securityholders as of immediately prior to the Blocker Mergers will receive (i) shares of Common Stock of Parent and (ii) shares of Series C Preferred Stock of Parent (such former Blocker Securityholders are referred to herein as the "Blocker Members" and, together with the Rollover Members, the Management Holdings Members, and each other Person who becomes a Party pursuant to Section 7.6, the "Members");

WHEREAS, (i) following the Company Merger, the Rollover Members (including Management Holdings) will receive a distribution of cash from Opco (the "Opco Cash Distribution"), (ii) following the Management Holdings Merger, the Management Holdings Members will receive a distribution of cash from Management Holdings (the "Management Holdings Cash Distribution" and together with the Opco Cash Distribution, the "Cash Distributions") and (iii) the Blocker Securityholders will indirectly receive a cash distribution from Opco in connection with the Reorganizations;

WHEREAS, immediately prior to the consummation of the Reorganizations, each Blocker was taxable as a corporation for U.S. federal income tax purposes;

WHEREAS, the Operating Agreement (as defined herein) provides each Rollover Member (other than Management Holdings) an exchange right pursuant to which each Rollover Member (other than Management Holdings) may cause Holdco to exchange all or a portion of its Opco Units from time to time for the Share Settlement (as defined herein) or, at Holdco's option, cash (each, a "Rollover Member Exchange");

WHEREAS, the Operating Agreement of Surviving Management Holdings (as defined herein) provides each Management Holdings Member an exchange right pursuant to which it may cause Management Holdings to exchange all or a portion of its Management Holdings Units in exchange for corresponding Class B Units (and corresponding Series B Preferred Stock of Parent) or Series C-2 Preferred Units of Opco, as applicable (a "Management Holdings Member First Step Exchange"), and immediately thereafter, pursuant to the Operating Agreement, Holdco shall exchange such Opco Units for the Share Settlement or, at Holdco's option, cash (each, a "Management Holdings Member Opco Unit Exchange");

WHEREAS, Opco and each of its Subsidiaries (as defined herein) that is treated as a partnership for U.S. federal income tax purposes and Management Holdings will have in effect an election under Section 754 of the Code (as defined herein) for the Taxable Year (as defined herein) in which any Exchange (as defined herein) occurs, which election

will cause any such Exchange to result in an adjustment to Parent's (direct or indirect through Holdco) proportionate share of the tax basis of the assets owned by Opco or certain of Opco's Subsidiaries; and

WHEREAS, the Parties desire to provide for certain payments and make certain arrangements with respect to any tax benefits to be derived by Parent (including indirectly through Holdco) (i) as the result of Exchanges, (ii) from the Reorganizations, (iii) from Remedial Allocations and (iv) from the making of payments under this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the respective covenants and agreements set forth herein, the Parties agree as follows:

ARTICLE I

Definitions

SECTION 1.1. Definitions. As used in this Agreement, the terms set forth in thisArticle I shall have the following meanings.

"Action" means any litigation, suit, claim, action, proceeding or investigation.

"Actual Tax Liability" means, with respect to any Taxable Year, the liability for Covered Taxes, which shall not be less than zero, (i) of Parent (including, for the avoidance of doubt, and without duplication, any such liabilities of a current or former consolidated group member pursuant to Treasury Regulations Section 1.1502-6 (and any corresponding or similar provisions of state or local tax Law)) and (ii) without duplication, of Opco and its Subsidiaries, but only with respect to Covered Taxes imposed on Opco and its Subsidiaries and allocable to Parent or to the other members of the consolidated group of which Parent is the parent, in each case, (a) appearing on U.S. federal income Tax Returns (including, for the avoidance of doubt, IRS Forms 1120 and 1065) of the applicable Person for such Taxable Year or (b) if applicable, determined in accordance with a Determination; provided that the liability for taxes described in clauses (i) and (ii) shall be calculated using (x) the Blended Rate for purposes of calculating the U.S. state and local Actual Tax Liability and (y) in the case of a Determination, the highest U.S. federal income tax rate in effect for Parent for purposes of calculating the U.S. federal Actual Tax Liability.

"Advisory Firm" means an accounting firm that is nationally recognized as being expert in Covered Tax matters, selected by Parent.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, such first Person.

"Agreed Rate" means lesser of (i) 6.5% and (ii) SOFR plus 150 basis points, compounded annually.

"Agreement" is defined in the preamble.

"Amended Schedule" is defined in Section 2.4(b).

"Attributable" means:

(i) with respect to any Rollover Member or Management Holdings Member, a Net Tax Benefit that is derived from any Basis Adjustment, Imputed Interest or Remedial Allocations that is attributable to such Member under the following principles:

(a) any Basis Adjustments shall be determined separately with respect to each such Member, using reasonable methods for tracking such Basis Adjustments, and are Attributable to each such Member in an amount equal to the total Basis Adjustments relating to such Opco Units Exchanged by such Member (determined without regard to any dilutive or antidilutive effect of any contribution to or distribution from Opco after the date of an applicable Exchange, and taking into account (i) Section 704(c) of the Code and (ii) in the case of a Basis Adjustment resulting from or attributable to Section 734(b) of the Code, any adjustment under Section 743(b) of the Code); and

(b) any deduction to Parent with respect to a Taxable Year in respect of Imputed Interest is Attributable to the Person that is required to include the Imputed Interest in income (without regard to whether such Person is actually subject to tax thereon); and

(c) any items of expense, deduction or loss to Parent with respect to a Taxable Year in respect of Remedial Allocations that are Attributable to the Person that is required to recognize corresponding items of income or gain (without regard to whether such Person is actually subject to tax thereon);

(ii) with respect to any Blocker Member, a Net Tax Benefit that is derived from any Basis Adjustment or Imputed Interest that is attributable to the Reorganizations allocable to such Member under the following principles:

(a) any Basis Adjustment or Imputed Interest that is attributable to the tax basis of the Reference Assets under Section 743(b) (or any similar provisions of state or local tax Law) and acquired by Parent (directly or indirectly) as a result of the Reorganizations shall be determined separately with respect to each Blocker Member, using reasonable methods for tracking such Basis Adjustments or Imputed Interest, and are Attributable to the Blocker Members of each Blocker whose Basis Adjustments carried over to Parent (determined without regard to any dilutive or antidilutive effect of any contribution to or distribution from Opco after the effective date of the transactions set forth in the Merger Agreement (including without regard to any contribution by Parent to Opco under Section 721 of the Code in conjunction with the transactions set forth in the Merger Agreement);

(b) any Basis Adjustment or Imputed Interest Attributable to the Blocker Members as described above inclause (a) shall be Attributable to each Blocker Member in proportion to such Blocker Member's interest in such Blocker as of immediately prior to the Reorganizations; and

(c) any deduction to Parent with respect to a Taxable Year in respect of Imputed Interest is Attributable to the Person that is required to include the Imputed Interest in income (without regard to whether such Person is actually subject to tax thereon);

provided, that, for purposes of calculating any Payment hereunder to any Member (or its successors or assigns) set forth on Schedule I (such Members, the "Reallocation Members" and such schedule, as amended from time to time, in the sole discretion of the Reallocation Members acting unanimously, the "Reallocation Schedule") or other payment derived from any Basis Adjustment, Imputed Interest or Remedial Allocations with respect to such Reallocation Member, the amount of Net Tax Benefit, or any Basis Adjustment, Imputed Interest or Remedial Allocation, Attributable to such Reallocation Member shall be determined by taking the amounts thereof as initially determined with respect to such Reallocation Member under the preceding clauses (i) and (ii) and reallocating such amounts among all Reallocation Members in accordance with the proportions and methodologies set forth on the Reallocation Schedule.

"Audit Committee" means the audit committee of the Board.

"Basis Adjustment" means the increase or decrease to, or Parent's proportionate share of, the tax basis of the Reference Assets (i) under Section 732, 734(b), 743(b), 754, 755 or 1012 of the Code (or any similar provisions of state or local tax Law) as a result of any Exchange and any payment made under this Agreement and (ii) under Section 743(b) (or any similar provisions of state or local tax Law) as a result of the Reorganizations. Basis Adjustments are to be calculated in accordance with Treasury Regulations Section 1.743-1, as applicable. Notwithstanding any other provision of this Agreement, the amount of any Basis Adjustment resulting from an Exchange of one or more Opco Units is to be determined as if any Pre-Exchange Transfer (without duplication of a Section 734(b) Distribution associated with the applicable Pre-Exchange Transfer) of such Opco Units had not occurred. For the avoidance of doubt, Basis Adjustments shall include adjustments under the foregoing provisions stemming from situations where, as a result of one or more Exchanges or other payments under this Agreement, Opco remains in existence as an entity treated as a partnership or becomes an entity that is disregarded as separate from its owner for U.S. federal income tax purposes, and payments made under this Agreement shall not be treated as resulting in a Basis Adjustment to the extent such payments are treated as Imputed Interest.

"Basis Schedule" is defined in Section 2.2.

"Benchmark Taxable Income" means, for any Taxable Year, taxable income sufficient to fully utilize the deductions arising from Basis Adjustments, Imputed Interest and Remedial Allocations for such Taxable Year, on a "with or without" basis in accordance with Section 2.3(b).

"Blended Rate" means, with respect to any Taxable Year, the sum of the effective rates of tax (for the avoidance of doubt, taking into account any U.S. federal benefit of the state or local tax deduction) imposed on the aggregate net income of Parent or Opco, as

applicable, in each state or local jurisdiction in which Parent or Opco, as applicable, files Tax Returns for such Taxable Year, with the effective rate in any state or local jurisdiction being equal to the product of (i) the apportionment factor on the income or franchise Tax Returns of Parent in such jurisdiction for such Taxable Year and (ii) the maximum applicable corporate income tax rate in effect in such jurisdiction in such Taxable Year. As an illustration of the calculation of the Blended Rate for a Taxable Year, if Parent solely files Tax Returns in State 1 and State 2 in a Taxable Year, the maximum applicable corporate income tax rates in effect in such states in such Taxable Year are 6.5% and 5.5%, respectively, and the apportionment factors for such states in such Taxable Year are 55% and 45% respectively, then the Blended Rate for such Taxable Year is equal to 6.05% (*i.e.*, 6.5% multiplied by 55% plus 5.5% multiplied by 45%).

"Blockers" shall have the meaning set forth in the Merger Agreement.

"Board" means the Board of Directors of Parent.

"Bullet Rate" means the Early Termination Rate determined as of the Early Termination Reference Date, plus 50 basis points, compounded annually.

"Business Day" means any day other than a Saturday or a Sunday or a day on which banks located in New York City, New York generally are authorized or required by Law to close.

"Change of Control" means a "Strategic Transaction" (as defined in the Investor Rights Agreement).

"Class B Units" has the meaning ascribed to it in the Operating Agreement.

"Code" means the U.S. Internal Revenue Code of 1986, as amended. Unless the context requires otherwise, any reference herein to a specific section of the Code shall be deemed to include any corresponding provisions of future Law as in effect for the relevant taxable period.

"Common Stock" means the common stock, par value $0.01 per share, of Parent.

"Control" means the direct or indirect possession of the power to direct or cause the direction of the management or policies of a Person, whether through ownership of voting securities, by contract or otherwise.

"Covered Taxes" means any U.S. federal, state and local, taxes, assessments or similar charges that are based on or measured with respect to net income or profits whether as an exclusive or an alternative basis (including, for the avoidance of doubt, franchise taxes that are based on or measured with respect to net income or profits) and any interest, penalties or additions imposed in respect thereof under applicable Law.

"Cumulative Net Realized Tax Benefit" is defined in Section 3.1(b)(ii).

"Default Rate" means SOFR plus 525 basis points, compounded annually.

"Default Rate Interest" is defined in Section 5.2.

"Designated Representative" means, initially, REP Omni Holdings, L.P.

"Determination" shall have the meaning ascribed to such term in Section 1313(a) of the Code or any similar provisions of state or local tax Law, as applicable, or any other event (including the execution of IRS Form 870-AD) that finally and conclusively establishes the amount of any liability for tax.

"Early Termination Effective Date" means (i) with respect to an early termination pursuant to Section 4.1(a), the date an Early Termination Notice is delivered, (ii) with respect to an early termination pursuant to Section 4.1(b), the date of the applicable Change of Control and (iii) with respect to an early termination pursuant to Section 4.1(c), the date of the applicable Material Breach or Insolvency Event.

"Early Termination Notice" is defined in Section 4.2(a).

"Early Termination Payment" is defined in Section 4.3(b).

"Early Termination Rate" means the lesser of (i) 6.5% and (ii) SOFR plus 125 basis points, compounded annually.

"Early Termination Reference Date" is defined in Section 4.2(b).

"Early Termination Schedule" is defined in Section 4.2(b).

"Exchange" or "Exchanged" means any (i) Rollover Member Exchange or Management Holdings Member Opco Unit Exchange, (ii) Section 734(b) Distributions or (iii) the receipt of the Cash Distributions by the Rollover Members or the Management Holdings Members as described in the Merger Agreement.

"Exchange Act" means the Securities and Exchange Act of 1934, as amended, and applicable rules and regulations thereunder, and any successor to such statute, rules or regulations.

"Exchange Date" means the date of any Exchange.

"Expert" is defined in Section 7.12(a).

"Final Payment Date" means any date on which a Payment is required to be made pursuant to this Agreement. The Final Payment Date in respect of (i) a Tax Benefit Payment is determined pursuant to Section 3.1(a) and (ii) an Early Termination Payment is determined pursuant to Section 4.3(a).

"Hypothetical Tax Liability" means, with respect to any Taxable Year, the hypothetical liability of Parent that would arise in respect of Covered Taxes and, without duplication, of Opco and its Subsidiaries but only with respect to Covered Taxes imposed on Opco and its Subsidiaries (including under Sections 704 and 6225 of the Code (or any similar corresponding provisions of state or local tax Law)) and allocable to Parent using the same methods, elections, conventions and similar practices in calculating the Actual Tax Liability but (i) calculating depreciation, amortization or other similar deductions, or otherwise calculating any items of income, gain or loss, using Parent's proportionate share of the Non-Adjusted Tax Basis as reflected on the Basis Schedule, including amendments thereto, for such Taxable Year and (ii) excluding any expense, deduction or loss attributable to Imputed Interest or Remedial Allocations for such Taxable Year, using (x) the Blended Rate for purposes of calculating the U.S. state and local Hypothetical Tax Liability and (y) in the case of a Determination, the highest U.S. federal income tax rate in effect for Parent for purposes of calculating the U.S. federal Hypothetical Tax Liability. For the avoidance of doubt, the Hypothetical Tax Liability shall be determined without taking into account the carryover or carryback of any tax item (or portions thereof) that is attributable to any of the items described in clauses (i) or (ii) of the previous sentence and shall not be less than zero.

"Imputed Interest" means any interest imputed under Section 483, 1272 or 1274 or any other provision of the Code or any similar provisions of state or local tax Law with respect to Parent's or Holdco's payment obligations under this Agreement.

"Independent Directors" means a director who would qualify as an "Independent Director" pursuant to the listing standards of the NASDAQ, or, if the Equity Securities of Parent are not quoted or listed for trading on the NASDAQ, pursuant to the rules of the stock exchange on which the Equity Securities of Parent are then quoted or listed for trading. For the avoidance of doubt, each Initial Nominee (other than John J. Schickel, Jr.) and each Investor Director shall be deemed an "Independent Director" regardless of such Initial Nominee's or such Investor Director's affiliation with any Investor (so long as such Director qualifies as such pursuant to the foregoing sentence).

"Insolvency Event" means (i) the commencement by Parent or Holdco of any case, proceeding or other action (A) under any existing or future Law of any jurisdiction, domestic or foreign, relating to bankruptcy, insolvency, reorganization or relief of debtors, seeking to have an order for relief entered with respect to it, or seeking to adjudicate a bankruptcy or insolvency, or seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts or (B) seeking an appointment of a receiver, trustee, custodian, conservator or other similar official for it or for all or any substantial part of its assets, or making a general assignment for the benefit of creditors or (ii) the commencement against Parent or Holdco of any case, proceeding or other action of the nature referred to in clause (i) above that remains undismissed or undischarged for a period of 60 calendar days.

"Investor Rights Agreement" means the Investor Rights Agreement in the form attached to the Merger Agreement as Exhibit F, by and among Parent, the Major Shareholders (as defined in the Merger Agreement) and the other investors and parties party thereto to be entered into at or following the Closing pursuant to the Merger Agreement.

"IRS" means the U.S. Internal Revenue Service.

"Joinder" means a joinder to this Agreement, in form and substance substantially similar to Exhibit A to this Agreement.

"Joinder Requirement" is defined in Section 7.6.

"Law" means all laws, statutes, ordinances, rules and regulations of the U.S., any foreign country and each state, commonwealth, city, county, municipality, regulatory or self-regulatory body, agency or other political subdivision thereof.

"Management Class B Units" has the meaning ascribed to it in the Operating Agreement of Surviving Management Holdings.

"Management Holdings Member First Step Exchange" is defined in the recitals to this Agreement.

"Management Holdings Member Opco Unit Exchange" is defined in the recitals to this Agreement.

"Management Series C-2 Units" has the meaning ascribed to it in the Operating Agreement of Surviving Management Holdings.

"Market Value" means, on any date, (a) if the Common Stock trades on a national securities exchange or automated or electronic quotation system, the Common Stock Trading Price (as defined in the Operating Agreement) or (b) if the Common Stock is not then traded on a national securities exchange or automated or electronic quotation system, as applicable, the Fair Market Value (as defined in the Operating Agreement) on such date of one (1) share of Common Stock that would be obtained in an arm's length transaction between an informed and willing buyer and an informed and willing seller, neither of whom is under any compulsion to buy or sell, respectively, and without regard to the particular circumstances of the buyer or seller.

"Material Breach" means the (i) material breach by Parent or Holdco of a material obligation under this Agreement or (ii) the rejection of this Agreement by operation of Law in a case commenced in bankruptcy or otherwise.

"Member Approval" means written approval by Members who are (or would be, upon a Voluntary Early Termination) entitled to a majority of the total amount of the Early Termination Payments as of the time of a determination of Member Approval.

"Members" is defined in the recitals to this Agreement.

"Net Tax Benefit" is defined in Section 3.1(b)(i).

"Non-Adjusted Tax Basis" means, with respect to any Reference Asset at any time, the tax basis that such asset would have had at such time if no Basis Adjustments had been made.

"Objection Notice" is defined in Section 2.4(a)(ii).

"Opco" is defined in the preamble to this Agreement.

"Opco Group" means Opco and each of its direct or indirect Subsidiaries that is treated as a partnership or disregarded entity for applicable tax purposes (but excluding the portion of any such Subsidiary that is directly or indirectly held by a Subsidiary of Opco that is an entity treated as a corporation for applicable tax purposes).

"Operating Agreement" means that certain Second Amended and Restated Operating Agreement of Opco, dated as of the date hereof, as such agreement may be further amended, restated, supplemented or otherwise modified from time to time; provided, that for so long as the definitive agreement constituting the amended and restated limited liability company agreement of Opco contemplated by Section 7.22(a)(i) of the Merger Agreement is not in effect, "Operating Agreement" shall refer to the terms and conditions set forth on Exhibit C to the Merger Agreement.

"Operating Agreement of Surviving Management Holdings" means that certain Amended and Restated Operating Agreement of Surviving Management Holdings, dated as of the date hereof, as such agreement may be further amended, restated, supplemented or otherwise modified from time to time; provided, that for so long as the definitive agreement constituting the limited liability company agreement of Surviving Management Holdings contemplated by Section 7.22(a)(ii) of the Merger Agreement is not in effect, "Operating Agreement of Surviving Management Holdings" shall refer to the terms and conditions set forth on Exhibit K of the Merger Agreement.

"Parent" is defined in the preamble to this Agreement.

"Parties" means the parties named on the signature pages to this agreement, each of the Members who have delivered a Letter of Transmittal pursuant to the Merger Agreement and each additional party that satisfies the Joinder Requirement, in each case with their respective successors and assigns; provided that the Rollover Members, the Management Holdings Members and Blocker Members shall only be a Party hereto following delivery by him, her or it of a Letter of Transmittal (as defined in and pursuant to the Merger Agreement).

"Payment" means any Tax Benefit Payment or Early Termination Payment and in each case, unless otherwise specified, refers to the entire amount of such Payment or any portion thereof.

"Person" means any individual, corporation, firm, partnership, joint venture, limited liability company, estate, trust, business association, organization, governmental entity or other entity.

"Pre-Exchange Transfer" means any transfer (including upon the death of a holder of Opco Units or Management Holdings Units or upon a Management Holdings Member First Step Exchange) or distribution in respect of one or more Opco Units or Management Holdings Units, in each case (i) that occurs after the Closing (as defined in the Merger Agreement) but prior to an Exchange of such Opco Units (or in the case of a Management Holdings Member, prior to a Management Holdings Member Opco Unit Exchange with respect to Opco Units it is eligible to receive via a Management Holdings Member First Step Exchange with respect to such Management Holdings Units) and (ii) to which Sections 734(b), 743(b), 707, 737 or 704(c)(1)(B) of the Code applies.

"R Shareholder Agreement" means that certain Major Shareholders Agreement substantially in the form attached to the Merger Agreement as Exhibit E-2, by and among Parent and the R Investors.

"Realized Tax Benefit" is defined in Section 3.1(b)(iii).

"Realized Tax Detriment" is defined in Section 3.1(b)(iv).

"Reallocation Members" is defined within the definition of "Attributable" in Section 1.1.

"Reallocation Schedule" is defined within the definition of "Attributable" in Section 1.1.

"Reconciliation Dispute" means a disagreement with respect to a Schedule prepared in accordance with the procedures set forth in Section 2.4 or Section 4.2, as applicable, within the relevant time period designated in this Agreement.

"Reconciliation Procedures" is defined in Section 7.12(a).

"Reference Asset" means any asset of any member of the Opco Group at the time of, in the case of an Exchange, such Exchange or, in the case of the Reorganizations, the Reorganizations. A Reference Asset also includes any asset the tax basis of which is determined, in whole or in part, by reference to the tax basis of an asset that is described in the preceding sentence, including "substituted basis property" within the meaning of Section 7701(a)(42) of the Code. For the avoidance of doubt, references to depreciable or amortizable Reference Assets shall include assets that would become depreciable or amortizable when placed in service.

"Remedial Allocations" means, for each Taxable Year, net amounts of expense, deduction or loss allocated to Parent and its Subsidiaries under Section 704(c) of the Code (including "remedial items" and "offsetting remedial items") in respect of the interests in Opco using the "remedial allocation method" of Treasury Regulations Section 1.704-3(d) with respect to differences between book basis and tax basis of the Company's assets as of immediately prior to the Company Merger.

"Reorganizations" is defined in the recitals to this Agreement.

"Representative" means, with respect to a specified Person, any officer, agent, advisor (including legal counsel, accountants and financial advisors) or employee of such Person or any partner, member or shareholder of such Person or any director, officer, employee, partner, affiliate, member, manager, shareholder, assignee or representative of any of the foregoing.

"Rollover Member Exchange" is defined in the recitals to this Agreement.

"Schedule" means any of the following: (i) a Basis Schedule, (ii) a Tax Benefit Schedule, (iii) an Early Termination Schedule and (iv) any Amended Schedule.

"Section 734(b) Distribution" means any actual or deemed distribution by Opco to the Members (other than (i) Parent or (ii) its Subsidiaries (but including Management Holdings)) to which Section 734(b)(1) of the Code (or any similar provision of tax Law) applies, including as a result of the repayment of any indebtedness.

"Senior Obligations" is defined in Section 5.1.

"Series B Preferred Stock" means the preferred stock of Parent designated as "Series B Preferred Stock" pursuant to the Charter Amendment and Resolutions.

"Series C Preferred Stock" means the preferred stock of Parent designated as "Series C Preferred Stock" pursuant to the Charter Amendment and Resolutions.

"Series C-2 Preferred Units" has the meaning ascribed to it in the Operating Agreement.

"Share Settlement" has the meaning ascribed to it in the Operating Agreement.

"Shareholders Agreements" means, together, (i) the Major Shareholders Agreement substantially in the form attached to the Merger Agreement as Exhibit E-1 by and among Parent and the E Investors and (ii) the R Shareholder Agreement, in each case, to be entered into at or following the Closing pursuant to the Merger Agreement.

"SOFR" means, for the relevant period, the rate per annum equal to the forward-looking term rate based on the secured overnight financing rate as administered by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) for deposits in dollars for a period of one month as published by Federal Reserve Bank of New York on its website two Business Days before the first day of such period. If as of 5:00 p.m. (New York time) on such determination date the applicable rate has not been published, then the rate used will be the rate published on the business day most recently preceding such determination date.

"Subsidiary" means, with respect to any Person and as of any determination date, any other Person as to which such first Person (i) owns, directly or indirectly, or otherwise controls, more than 50% of the voting power or other similar interests of such other Person or (ii) is the sole general partner interest, or managing member or similar interest, of such other Person.

"Tax Benefit Payment" is defined in Section 3.1(b).

"Tax Benefit Schedule" is defined in Section 2.3(a).

"Tax Return" means any return, declaration, report or similar statement filed or required to be filed with respect to taxes (including any attached schedules), including any information return, claim for refund, amended return and declaration of estimated tax.

"Taxable Year" means a taxable year of Parent as defined in Section 441(b) of the Code or any similar provisions of U.S. state or local tax Law, as applicable (and, therefore, for the avoidance of doubt, may include a period of less than 12 months for which a Tax Return is filed), ending on or after the closing date of the Mergers.

"Taxing Authority" means any national, federal, state, county, municipal or local government, or any subdivision, agency, commission or authority thereof, or any quasi-governmental body, or any other authority of any kind, exercising regulatory or other authority in relation to tax matters.

"Treasury Regulations" means the final, temporary and (to the extent they can be relied upon) proposed regulations under the Code, as promulgated from time to time (including corresponding provisions and succeeding provisions) and as in effect for the relevant taxable period.

"U.S." means the United States of America.

"Units" is defined in the preamble to this Agreement.

"Valuation Assumptions" means, as of an Early Termination Effective Date and in each Taxable Year ending on or after such Early Termination Effective Date, the assumptions that,

(i) Parent will have taxable income sufficient to fully use the deductions arising from the Basis Adjustments, the Imputed Interest and the Remedial Allocations during such Taxable Year or future Taxable Years (including, for the avoidance of doubt, Basis Adjustments, Imputed Interest and Remedial Allocations that would result from future Tax Benefit Payments that would be paid in accordance with the Valuation Assumptions) in which such deductions would become available;

(ii) the income tax rates that will be in effect for each such Taxable Year will be (x) the Blended Rate for U.S. state and local taxes and (y) the highest U.S. federal income tax rate in effect for Parent for U.S. federal taxes, in each case, except to the extent any increase to such tax rates for such Taxable Year has already been enacted into law as of the Early Termination Effective Date ;

(iii) all taxable income of Parent will be subject to the maximum applicable tax rates for each Covered Tax throughout the relevant period; provided, however, that the combined tax rate for U.S. state and local income taxes shall be the Blended Rate;

(iv) any loss carryovers or carrybacks generated by any Basis Adjustment, Imputed Interest or Remedial Allocations in each case, including any such Basis Adjustment, Imputed Interest or Remedial Allocations generated as a result of payments made or deemed to be made under this Agreement and available (taking into account any known and applicable limitations, except as expressly provided in this Agreement) as of the date of the Early Termination Schedule will be used by Parent ratably over the earlier of (i) the scheduled expiration date of such loss

carryover or carryback following the date of the Early Termination Schedule and (ii) if there is no such scheduled expiration, 15 years following the Taxable Year that includes the date of the Early Termination Schedule;

(v) (A) any equity interests in any of Opco's Subsidiaries treated as a corporation for U.S. federal income tax purposes will not be disposed of, (B) any short-term investments (as defined by GAAP) will be disposed of 12 months following the Early Termination Effective Date and (C) any non-amortizable, non-depreciable Reference Assets (other than those described in clauses (A) and (B)) will be disposed of to an unrelated party 15 years after the Exchange that gave rise to the Basis Adjustment; provided that, to the extent a Change of Control results in a taxable disposition of such non-amortizable, non-depreciable assets, such assets shall be deemed disposed of at the time of such disposition;

(vi) if, on the Early Termination Effective Date, any Rollover Member has Opco Units that have not been Exchanged (including, in the case of a Management Holdings Member, Opco Units it is eligible to receive via Management Holdings Member First Step Exchange and then subject to a Management Holdings Member Opco Unit Exchange, in which case, such a Management Member First Step Exchange shall be deemed to have occurred), then such Opco Units shall be deemed to be Exchanged for the Market Value of the shares of Common Stock or Series C Preferred Stock of Parent (as applicable) or the amount of cash that would be received by such Rollover Member or Management Holdings Member had such Opco Units actually been so Exchanged on the Early Termination Effective Date in a fully taxable transaction governed by Sections 741 and 743 of the Code;

(vii) any future payment obligations pursuant to this Agreement that are used to calculate the Early Termination Payment will be satisfied on the date that any Tax Return to which any such payment obligation relates is required to be filed excluding any extensions; and

(viii) with respect to Taxable Years ending prior to the Early Termination Effective Date, any unpaid Tax Benefit Payments and any applicable Default Rate Interest will be paid on the Early Termination Effective Date.

"Voluntary Early Termination" is defined in Section 4.2(a)(i).

SECTION 1.2. Rules of Construction. Unless otherwise specified herein:

(a) The headings contained in this Agreement and in the table of contents to this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All Schedules annexed hereto or referred to herein are hereby incorporated in and made a part of this Agreement as if set forth in full herein. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The word "will" shall be construed to have the same meaning as the word "shall". The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "extent" in the phrase "to the extent"

shall mean the degree to which a subject or other thing extends, and such phrase shall not mean simply "if". The word "or" when used in a list of two or more items, means "and/or" and may indicate any combination of the items. Unless the context (or Section 1.2(b)) requires otherwise (a) any definition of or reference to any contract, instrument or other document or any Law herein shall be construed as referring to such contract, instrument or other document or Law as from time to time amended, supplemented or otherwise modified, (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections and Schedules shall be construed to refer to Articles and Sections of, and Schedules to, this Agreement, (e) references to dollars or "$" refer to the lawful currency of the United States, (f) 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 and (g) all definitions are equally applicable to (i) the singular and plural, (ii) the active and passive and (iii) for defined terms that are nouns, the verbified forms of the terms defined. This Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted. In the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including", the words "to" and "until" each mean "to but excluding" and the word "through" means "to and including". If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(b) Unless otherwise expressly provided herein, (i) references to organizational documents (including the Operating Agreement), agreements (including this Agreement) 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 hereby, and (ii) references to any Law (including the Code and the Treasury Regulations) include all statutory and regulatory provisions consolidating, amending, replacing, supplementing or interpreting such Law.

ARTICLE II

Determination of Realized Tax Benefit

SECTION 2.1. Basis Adjustments; 754 Election.

(a) Basis Adjustments. The Parties acknowledge and agree that (i) each Rollover Member Exchange and Management Holdings Member Opco Unit Exchange shall be treated as a direct purchase of Opco Units by Holdco from the applicable Rollover Member or Management Holdings Member pursuant to Section 707(a)(2)(B) of the Code (or any similar provisions of applicable state or local tax Law) and (ii) each Exchange may, and the Reorganizations will, give rise to Basis Adjustments.

(b) Section 754 Election. Parent shall cause Opco and each of its Subsidiaries that is treated as a partnership for U.S. federal income tax purposes and Management Holdings to have in effect an election under Section 754 of the Code (or any similar provisions of applicable state or local tax Law) for each Taxable Year. Parent shall take commercially reasonable efforts to cause each Person in which Opco owns a direct or indirect equity interest (other than a Subsidiary) that is so treated as a partnership to have in effect any such election for each Taxable Year.

SECTION 2.2. Basis Schedules. Within 120 calendar days after the filing of the U.S. federal income Tax Return of Parent for each relevant Taxable Year, Parent shall deliver to the Members a schedule showing, in reasonable detail, (a) the actual tax basis and Non-Adjusted Tax Basis of the Reference Assets as of each applicable Exchange Date, (b) the Basis Adjustments to the Reference Assets for such Taxable Year and prior Taxable Years, calculated (i) in the aggregate and (ii) solely with respect to each applicable Member, (c) the periods over which the Reference Assets are amortizable or depreciable, (d) the period over which each Basis Adjustment is amortizable or depreciable and (e) the impact of the Remedial Allocations (such schedule, a "Basis Schedule"). A Basis Schedule will become final and binding on the Parties pursuant to the procedures set forth in Section 2.4(a) and may be amended by the Parties pursuant to the procedures set forth in Section 2.4(b).

SECTION 2.3. Tax Benefit Schedules.

(a) Tax Benefit Schedule. Within 120 calendar days after the filing of the U.S. federal income Tax Return of Parent for any Taxable Year in which there is a Realized Tax Benefit or Realized Tax Detriment, Parent shall provide to the Members a schedule showing, in reasonable detail, the calculation of the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year and any Tax Benefit Payment or other payment under this Agreement Attributable to such Member for such Taxable Year and prior Taxable Years (a "Tax Benefit Schedule"). A Tax Benefit Schedule will become final and binding on the Parties pursuant to the procedures set forth in Section 2.4(a) and may be amended by the Parties pursuant to the procedures set forth in Section 2.4(b).

(b) Applicable Principles. Subject to the provisions hereunder, the Realized Tax Benefit or Realized Tax Detriment for each Taxable Year is intended to measure the decrease or increase in the Actual Tax Liability of Parent for such Taxable Year attributable to the Basis Adjustments, Imputed Interest and Remedial Allocations (in each case, taking into account Section 704(c) of the Code) and including any such Basis Adjustments, Imputed Interest or Remedial Allocations generated as a result of payments made or deemed to be made under this Agreement, as determined using a "with and without" methodology described in Section 2.4(a). Except as expressly set forth herein, carryovers or carrybacks of any tax item attributable to any Basis Adjustment, Imputed Interest or Remedial Allocations shall be considered to be subject to the rules of the Code and the Treasury Regulations, and the appropriate provisions of state and local tax Law, governing the use, limitation or expiration of carryovers or carrybacks of the relevant type. If a carryover or carryback of any tax item includes a portion that is attributable to a Basis Adjustment, Imputed Interest or Remedial Allocations (a "TRA Portion") and another portion that is not attributable to a Basis Adjustment, Imputed Interest or Remedial Allocations (a "Non-TRA Portion"), such portions shall be considered to be used in accordance with the "with and without" methodology so that the amount of any Non-TRA Portion is deemed utilized first, to

the extent available, followed by the amount of any TRA Portion (with the TRA Portion being applied on a proportionate basis consistent with the principles of Section 3.3(a)). Except with respect to the portion of any payment attributable to Imputed Interest and the portion of any payment to the Blocker Members, all Tax Benefit Payments and payments of Default Rate Interest will be treated as subsequent upward purchase price adjustments that give rise to further Basis Adjustments and Remedial Allocations for Parent beginning in the Taxable Year of payment, and as a result, such additional Basis Adjustments and Remedial Allocations will be incorporated into such Taxable Year and into future Taxable Years, as appropriate.

SECTION 2.4. Procedures; Amendments.

(a) Procedures. Each time Parent delivers a Schedule to the Members under this Agreement, Parent shall, with respect to such Schedule, also (i) deliver to the Members supporting schedules and work papers, as determined by Parent or as reasonably requested by any Member, that provide a reasonable level of detail regarding relevant data and calculations and (ii) allow the Members and their advisors to have reasonable access to the appropriate representatives, as determined by Parent or as reasonably requested by the Members, at Parent or the Advisory Firm or other relevant accounting or law firm in connection with a review of relevant information. Without limiting the generality of the preceding sentence, Parent shall ensure that any Tax Benefit Schedule that is delivered to the Members, along with any supporting schedules and work papers, provides a reasonably detailed presentation of the calculations of the Actual Tax Liability for the relevant Taxable Year and the Hypothetical Tax Liability for such Taxable Year, and identifies any material assumptions or operating procedures or principles that were used for purposes of such calculations. A Schedule shall become final and binding on the Parties 30 calendar days from the date on which the Members first received the applicable Schedule unless a Member, within such period, provides Parent with written notice of an objection (made in good faith) to such Schedule and sets forth in reasonable detail such Member's objection (an "Objection Notice"); provided that any matters not objected to shall be deemed accepted and become final and binding. If the Parties, for any reason, are unable to resolve the issues raised in such Objection Notice within 30 calendar days after receipt by Parent of the Objection Notice, Parent and the Member shall employ the Reconciliation Procedures described in Section 7.12 and the finalization of the Schedule will be conducted in accordance therewith.

(b) Amended Schedule. A Schedule (other than an Early Termination Schedule) for any Taxable Year may only and shall be amended from time to time by Parent (i) in connection with a Determination affecting such Schedule, (ii) to correct inaccuracies in such Schedule identified as a result of the receipt of additional factual information relating to a Taxable Year after the date such Schedule was originally provided to the Members, (iii) to comply with an Expert's determination under the Reconciliation Procedures, (iv) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to a carryover or carryback of a loss or other tax item to such Taxable Year or (v) to reflect a change in the Realized Tax Benefit or Realized Tax Detriment for such Taxable Year attributable to an amended Tax Return filed for such Taxable Year (any such Schedule in its amended form, an "Amended Schedule"). Parent shall provide any Amended Schedule to the applicable Members within 30 calendar days of the occurrence of an event referred to in any of clauses (i) through (v) of the preceding sentence, and the delivery and

finalization of any such Amended Schedule shall, for the avoidance of doubt, be subject to the procedures described in Section 2.4(a). In the event a Schedule is amended after such Schedule becomes final pursuant to Section 2.4(a) or, if applicable, Section 7.12, (A) the Amended Schedule shall not be taken into account in calculating any Tax Benefit Payment in the Taxable Year to which the amendment relates but instead shall be taken into account in calculating the Cumulative Net Realized Tax Benefit for the Taxable Year in which the amendment actually occurs and (B) as a result of the foregoing, any Tax Benefit Payment resulting from the increase in the Net Tax Benefit attributable to an Amended Schedule shall accrue interest at the Agreed Rate from the due date (without extensions) for filing the U.S. federal income Tax Return of Parent for the Taxable Year in which the amendment actually occurs for the amended Taxable Year until the Final Payment Date under Section 3.1(a) and such interest shall be treated as additional "Interest Amount" hereunder.

ARTICLE III

Tax Benefit Payments

SECTION 3.1. Timing and Amount of Tax Benefit Payments.

(a) Timing of Payments. Subject to Sections 3.2 and 3.3, by the date that is 10 Business Days following the date on which each Tax Benefit Schedule becomes final in accordance with Section 2.4(a) (such date, the "Final Payment Date" in respect of any Tax Benefit Payment), Parent or Holdco, as applicable, shall pay in full to each relevant Member the Tax Benefit Payment as determined pursuant to Section 3.1(b). Each such Tax Benefit Payment shall be made by wire transfer of immediately available funds to a bank account or accounts designated by such Member. For the avoidance of doubt, no Member shall be required under any circumstances to return any portion of any Payment or any Default Rate Interest paid by Parent or Holdco to such Member (including any portion of any Early Termination Payment).

(b) Amount of Payments. For purposes of this Agreement, a "Tax Benefit Payment" with respect to any Member for a Taxable Year means an amount, not less than zero, equal to the sum of the Net Tax Benefit plus the Interest Amount that is Attributable to such Member for such Taxable Year. No Tax Benefit Payment shall be calculated or made in respect of any estimated tax payments, including any estimated U.S. federal income tax payments. The "Interest Amount" shall equal the interest on the Net Tax Benefit calculated at the Agreed Rate from the due date (without extensions) for filing Parent's Tax Return with respect to Taxes for such Taxable Year until the Final Payment Date under Section 3.1(a). The Net Tax Benefit and the Interest Amount shall be determined separately with respect to each Exchange. The Net Tax Benefit and the Interest Amount with respect to each Exchange shall be reported on a unit-by-unit basis by reference to the resulting Basis Adjustment to Parent.

(i) Net Tax Benefit. The "Net Tax Benefit" with respect to a Member for a Taxable Year equals the amount of the excess, if any, of (A) 83.5% of the Cumulative Net Realized Tax Benefit Attributable to such Member as of the end of such Taxable Year over (B) the aggregate amount of all Tax Benefit Payments

previously made to such Member under this Section 3.1 (excluding any Interest Amount); provided that if there is no such excess (or a deficit exists) no Member shall be required to make a payment (or return a payment) to Parent or Holdco in respect of any portion of any Tax Benefit Payment previously paid by Parent or Holdco to such Member.

(ii) Cumulative Net Realized Tax Benefit. The "Cumulative Net Realized Tax Benefit" for a Taxable Year equals the cumulative amount of Realized Tax Benefits for all Taxable Years of Parent, up to and including such Taxable Year, net of the cumulative amount of Realized Tax Detriments for the same period. The Realized Tax Benefit and Realized Tax Detriment for each Taxable Year shall be determined based on the most recent Tax Benefit Schedule or Amended Schedule, if any, in existence at the time of such determination.

(iii) Realized Tax Benefit. The "Realized Tax Benefit" for a Taxable Year equals the excess, if any, of the Hypothetical Tax Liability over the Actual Tax Liability for such Taxable Year. If all or a portion of the Actual Tax Liability for such Taxable Year arises as a result of an audit or similar proceeding by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Benefit unless and until there has been a Determination.

(iv) Realized Tax Detriment. The "Realized Tax Detriment" for a Taxable Year equals the excess, if any, of the Actual Tax Liability over the Hypothetical Tax Liability for such Taxable Year. If all or a portion of the Actual Tax Liability for such Taxable Year arises as a result of an audit or similar proceeding by a Taxing Authority of any Taxable Year, such liability shall not be included in determining the Realized Tax Detriment unless and until there has been a Determination.

(v) The Parties acknowledge and agree that, as of the date of this Agreement and as of the date of any future Exchange that may be subject to this Agreement, the aggregate value of the Tax Benefit Payments cannot be reasonably ascertained for U.S. federal income or other applicable tax purposes. Notwithstanding anything to the contrary in this Agreement, unless the applicable Member notifies Parent otherwise, the stated maximum selling price (within the meaning of Treasury Regulations Section 15A.453-1(c)(2)) (A) with respect to the Reorganizations (including amounts payable to the Blocker Members pursuant to this Agreement) shall not exceed the sum of (I) the Market Value of the stock delivered to the Blocker Members in the Reorganizations on the closing date of the Reorganizations, (II) the amount of cash, if any, delivered to the Blocker Members in the Reorganizations and (III) 88% of the Basis Adjustments and Remedial Allocations, and the aggregate payments under this Agreement to such Blocker Members (other than amounts accounted for as interest under the Code) shall not exceed the amount described in this clause (III) and (B) with respect to any transfer (or deemed transfer) of Opco Units by a Member (other than a Blocker Member) pursuant to an Exchange shall not exceed the sum of (I) the value of the Opco Units (based on the Market Value of the Common Stock or Series C Preferred Stock, as applicable) and the amount of cash delivered to

the applicable Member and (II) 88% of all Basis Adjustments and Remedial Allocations, and the aggregate payments under this Agreement to such Member (other than amounts accounted for as interest under the Code) shall not exceed the amount described in this clause (II).

(vi) Notwithstanding anything to the contrary herein, any and all Payments that would otherwise be made pursuant to this Agreement to a Member (including amounts reallocated to any Reallocation Member) with respect to (A) any Exchange under clause (ii) or (iii) of the definition thereof, (B) any Basis Adjustment under clause (ii) of the definition thereof or (C) Remedial Allocations, in each case, shall be held for the benefit of the applicable Member (without any interest thereon) until such time as (I) in the case of a Member other than a Blocker Member, such Member has exchanged Opco Units in one or more Exchanges under clause (i) of the definition thereof equal to 5% of the Opco Units issued to such Member pursuant to the Merger Agreement (or in the case of a Management Holdings Member, 5% of the Opco Units it is eligible to receive via a Management Holdings Member First Step Exchange, based on the Management Holdings Units issued to it pursuant to the Merger Agreement) and (II) in the case of a Blocker Member, any Reallocation Member other than the Blocker Member has exchanged Opco Units in one or more Exchanges under clause (i) of the definition thereof equal to 5% of the Opco Units issued to such Member pursuant to the Merger Agreement (any Member who has satisfied the requirement of clause (I) or (II), as applicable, an "Eligible Member"). All amounts previously withheld from any Eligible Member pursuant to the preceding sentence shall be paid to such Member (or Reallocation Member, as applicable) by Parent or Holdco, as applicable, by the next Final Payment Date following the date that any such Member becomes an Eligible Member, as determined pursuant to Section 3.1(a). Such withheld amounts shall accrue interest at the Agreed Rate calculated from the date a Member (or Reallocation Member, as applicable) becomes an Eligible Member until the applicable Final Payment Date with respect to such withheld amount, and such accrued interest shall be payable upon such applicable Final Payment Date and treated as additional "Interest Amount" hereunder.

SECTION 3.2. No Duplicative Payments. It is intended that the provisions hereunder will not result in the duplicative payment of any amount that may be required under this Agreement, and the provisions hereunder shall be consistently interpreted and applied in accordance with that intent.

SECTION 3.3. Pro-Ration of Payments as Between the Members.

(a) Insufficient Taxable Income. Notwithstanding anything in Section 3.1(b) to the contrary, in a particular Taxable Year, to the extent that the actual Realized Tax Benefit of Parent is lower than what the Realized Tax Benefit would be if Parent had taxable income equal to the Benchmark Taxable Income in such Taxable Year, then the actual Realized Tax Benefit shall be allocated to each Member *pro rata* in accordance with the respective Tax Benefit Payment that would have been payable to such Member if Parent had taxable income equal to the Benchmark Taxable Income. For example, if Parent would have had $200 of aggregate Realized Tax Benefit if Parent had taxable

income equal to the Benchmark Taxable Income (with $50 of such Realized Tax Benefits Attributable to Member A and $150 Attributable to Member B), such that Member A would have been entitled to a Tax Benefit Payment of $41.75 and Member B would have been entitled to a Tax Benefit Payment of $125.25, and if Parent instead had taxable income less than the Benchmark Taxable Income in such Taxable Year such that the Realized Tax Benefit was limited to $100, then $25 of the aggregate $100 actual Realized Tax Benefit for Parent for such Taxable Year would be allocated to Member A and $75 would be allocated to Member B, such that Member A would receive a Tax Benefit Payment of $20.875 and Member B would receive a Tax Benefit Payment of $62.625.

(b) Late Payments. If for any reason Parent or Holdco are not able to fully satisfy their payment obligations to make all Tax Benefit Payments due in respect of a particular Taxable Year, then, without limiting the other remedies in this Agreement in respect thereof, (i) Default Rate Interest will accrue pursuant to Section 5.2 with respect to any unpaid portion thereof from and after the Final Payment Date with respect thereto until the payment thereof (including all such Default Rate Interest) in full, (ii) Parent or Holdco, as applicable, shall pay the available amount of such Tax Benefit Payments (and any applicable Default Rate Interest) in respect of such Taxable Year to each applicable Member *pro rata* in accordance with the principles of Section 3.3(a) and (iii) no Tax Benefit Payment shall be made in respect of any Taxable Year until all Tax Benefit Payments (and any applicable Default Rate Interest) to all Members in respect of all prior Taxable Years have been made in full.

ARTICLE IV

Termination

SECTION 4.1. Early Termination of Agreement; Acceleration Events.

(a) Parent's Early Termination Right. Parent may terminate this Agreement, as and to the extent provided herein, by paying and causing Holdco to pay, as applicable, in full each and every Member the Early Termination Payment (along with any applicable Default Rate Interest) due to such Member; provided that Early Termination Payments may be made pursuant to thisSection 4.1(a) only if made in full and simultaneously to all Members that are entitled to such a payment.

(b) Acceleration upon Change of Control. In the event of a Change of Control, the Early Termination Payment (calculated as if an Early Termination Notice had been delivered on the date of the Change of Control) shall become due and payable in accordance with Section 4.3.

(c) Acceleration upon Breach of Agreement or Insolvency Event. In the event of a Material Breach or Insolvency Event, the Early Termination Payment (calculated as if an Early Termination Notice had been delivered on the date of the Material Breach or Insolvency Event) shall become due and payable in accordance with Section 4.3 and the Agreement shall terminate, as and to the extent provided herein. Subject to the next sentence, Parent's or Holdco's failure to make a Payment (along with any applicable Default Rate

Interest) within 90 calendar days of the applicable Final Payment Date shall be deemed to constitute a Material Breach. To the extent that any Tax Benefit Payment is not made by the date that is 90 calendar days after the relevant Final Payment Date because Parent or Holdco, as applicable, (i) is prohibited from making such payment under Section 5.1 or the terms of any agreement governing any Senior Obligations or (ii) does not have, and cannot take commercially reasonable actions to obtain, sufficient funds to make such payment, such failure will not constitute a Material Breach; provided that (A) such payment obligation nevertheless will accrue for the benefit of the Members and continue to accrue Default Rate Interest until paid (together with all such Default Rate Interest) in full and (B) Parent or Holdco, as applicable, shall promptly (and in any event, within 10 Business Days) pay the entirety of the unpaid amount (along with any applicable Default Rate Interest) once Parent or Holdco, as applicable, is not prohibited from making such payment under Section 5.1 or the terms of the agreements governing the Senior Obligations and Parent or Holdco, as applicable, has sufficient funds to make such payment (and the failure of Parent or Holdco to do so will constitute a Material Breach); provided, further, that it shall be a Material Breach if Parent or Holdco makes any distribution of cash or other property (other than shares of Common Stock or in the case of Holdco, distributions of cash or other property to Parent) to its stockholders or uses cash or other property to repurchase any capital stock of Parent (including Common Stock), in each case while any Tax Benefit Payments (along with any applicable Default Rate Interest) are due and payable and remain unpaid. Parent and Holdco shall use commercially reasonable efforts to (1) obtain sufficient available funds for the purpose of making Tax Benefit Payments under this Agreement and (2) avoid entering into any agreements that could be reasonably anticipated to materially delay the timing of the making of any Tax Benefit Payments under this Agreement.

(d) In the case of a termination pursuant to any of the foregoing paragraphs (a) or (c), upon Parent's and Holdco's, as applicable, payment in full of the Early Termination Payment (along with any applicable Default Rate Interest) to each Member, Parent and Holdco shall have no further payment obligations under this Agreement other than with respect to any (i) Tax Benefit Payment (along with any applicable Default Rate Interest) due and payable that remains unpaid as of the Early Termination Effective Date and as of the date of payment of the Early Termination Payment and (ii) any Tax Benefit Payment (along with any applicable Default Rate Interest) due for the Taxable Year ending immediately prior to, ending with or including the date of the Early Termination Notice (except to the extent that the amount described in clause (i) or this clause (ii) are included in the Early Termination Payment). If an Exchange subsequently occurs with respect to Opco Units for which Parent or Holdco, as applicable, has paid the Early Termination Payment in full, Parent and Holdco, as applicable, shall have no obligations under this Agreement with respect to such Exchange.

SECTION 4.2. Early Termination Notice.

(a) If (i) Parent chooses to exercise its termination right under Section 4.1(a) ("Voluntary Early Termination"), (ii) a Change of Control occurs or (iii) a Material Breach or Insolvency Event occurs, Parent shall, in each case, deliver to the Members a reasonably detailed notice of Parent's decision to exercise such right or the occurrence of such event, as applicable (an "Early Termination Notice"). In the case of an Early Termination Notice delivered with respect to a Voluntary Early Termination, Parent may withdraw such Early Termination Notice and rescind its Voluntary Early Termination at any time prior to the time at which any Early Termination Payment is paid.

(b) Parent shall deliver a schedule showing in reasonable detail the calculation of the Early Termination Payment (an "Early Termination Schedule") (i) simultaneously with the delivery of an Early Termination Notice or (ii) in the case of a termination pursuant to Section 4.1(b) or Section 4.1(c), as soon as reasonably practicable following the occurrence of the Change of Control, Material Breach or Insolvency Event giving rise to such termination. The date on which such Early Termination Schedule becomes final in accordance with Section 2.4(a) shall be the "Early Termination Reference Date".

SECTION 4.3. Payment upon Early Termination.

(a) Timing of Payment. By the date that is 3 Business Days after the Early Termination Reference Date (such date, the "Final Payment Date" in respect of the Early Termination Payment), Parent and Holdco, as applicable, shall pay in full to each Member an amount equal to the Early Termination Payment applicable to such Member. Such Early Termination Payment shall be made by Parent and Holdco, as applicable, by wire transfer of immediately available funds to a bank account or accounts designated by the applicable Member. Notwithstanding the foregoing, unless the R Investor or its Permitted Transferees (each as defined in the R Shareholder Agreement) (i) has the Ongoing Director Designation Right (as defined in the R Shareholder Agreement) and (ii) has not assigned any of its rights under this Agreement (disregarding assignments to Permitted Transferees (as defined in the R Shareholder Agreement), whether or not in connection with a related transfer of Opco Units thereto), the obligation of Parent and Holdco, as applicable, to make the Early Termination Payment in connection with a Change of Control may be deferred, in part, by paying such amount in fifteen (15) equal annual installments, commencing on the Final Payment Date of the Early Termination Payment (the balance, the "Deferred Early Termination Payment") with each subsequent payment paid on the anniversary of the Final Payment Date, and such deferred amounts shall accrue interest based on the Bullet Rate from the Final Payment Date until paid to reflect the time value of money (with the amount of interest attributable to any deferred payment due and payable in cash at the same time as the applicable annual installment to which it relates as if each such installment were a separate obligation) ; provided that, Parent may, in its sole discretion, elect to prepay any portion of Deferred Early Termination Payment prior to the due date thereof. If Parent or Holdco elects to defer any of the Early Termination Payment or prepay any previously Deferred Early Termination Payment, such deferral (and any prepayment thereof) shall be effected for all Members and allocated among them *pro rata* in accordance with the respective aggregate entitlements to such Early Termination Payments so triggered.

(b) Amount of Payment. The "Early Termination Payment" payable to a Member pursuant to Section 4.3(a) shall equal the present value, discounted at the Early Termination Rate and determined as of the Early Termination Reference Date, of all Tax Benefit Payments that would be required to be paid by Parent or Holdco, as applicable, to such Member, beginning from the Early Termination Effective Date and using the Valuation Assumptions. For the avoidance of doubt, an Early Termination Payment shall be made to each Member in accordance with this Agreement, regardless of whether such Member has

Exchanged all of its Opco Units (including, in the case of a Management Holdings Member, Opco Units it is eligible to receive via Management Holdings Member First Step Exchange and then subject to a Management Holdings Member Opco Unit Exchange) as of the Early Termination Effective Date.

ARTICLE V

Subordination and Late Payments; Payments Generally

SECTION 5.1. Subordination. Notwithstanding any other provision of this Agreement to the contrary, any Tax Benefit Payment or Early Termination Payment required to be made by Parent or Holdco, as applicable, to the Members under this Agreement shall rank subordinate and junior in right of payment to any principal, interest or other amounts due and payable in respect of any obligations owed in respect of secured indebtedness for borrowed money of Parent and Holdco ("Senior Obligations") and shall rank *pari passu* in right of payment with all current or future obligations of Parent and Holdco that are not Senior Obligations; provided, however, that to the extent that Parent, Holdco or any of their controlled Affiliates enters into future tax receivable or other similar agreements ("Future TRAs"), Parent and Holdco shall ensure that the terms of any such Future TRA shall provide that any payment required to be made by Parent or Holdco, as applicable, to the Members under this Agreement shall rank senior in priority to any payment required to be made by Parent or Holdco, as applicable, under such Future TRA. Further, the effect of any Future TRAs (or the benefits on which such Future TRAs are based) shall not be taken into account in respect of any calculations made hereunder. To the extent that any payment under this Agreement is not permitted to be made at the time payment is due as a result of this Section 5.1 and the terms of the agreements governing Senior Obligations, such payment obligation (together with Default Rate Interest thereon) nevertheless shall accrue for the benefit of the Members and Parent or Holdco, as applicable, shall make such payments at the first opportunity that such payments are permitted to be made in accordance with the terms of the Senior Obligations. For the avoidance of doubt, Parent shall use commercially reasonable efforts to cause the terms of the agreements governing Senior Obligations to allow payments to be made under this Agreement. To the extent Parent or its Subsidiaries (including Opco and its Subsidiaries) incur, create or assume any Senior Obligations after the date hereof, Parent shall not, and shall cause its Subsidiaries to not, agree to any provision that restricts in any material respect the amounts payable hereunder if the principal purpose of Parent agreeing to such provision is to circumvent the payment of amounts payable hereunder.

SECTION 5.2. Late Payments by Parent and Holdco. The amount of any Payment not made to any Member by the applicable Final Payment Date, whether as a result of Section 5.1 and the terms of the Senior Obligations or otherwise, shall be payable together with "Default Rate Interest", calculated at the Default Rate and accruing on the amount of the unpaid Payment from the applicable Final Payment Date until the date on which Parent or Holdco, as applicable, makes such Payment to such Member.

SECTION 5.3. Payments Generally. Notwithstanding anything to the contrary herein, any payments under this Agreement to the Blocker Members shall be paid directly by Parent, and any payments under this Agreement to the Rollover Members and the Management Holdings Members shall be paid directly by Holdco.

ARTICLE VI

Tax Matters; Consistency; Cooperation

SECTION 6.1. Participation in Tax Matters. Except as otherwise provided herein or in the Merger Agreement, the Operating Agreement or the Operating Agreement of Surviving Management Holdings, Parent shall have full responsibility for, and sole discretion over, all tax matters concerning Parent, Holdco or Opco, including preparing, filing or amending any Tax Return and defending, contesting or settling any issue pertaining to taxes. Notwithstanding the foregoing, Parent shall notify the Members of, and keep them reasonably informed with respect to, the portion of any audit by any Taxing Authority of Parent, Holdco, Management Holdings, Opco or any of Opco's Subsidiaries, the outcome of which is reasonably expected to materially affect such Members' rights and obligations under this Agreement, and any such Member shall have the right to participate in and to monitor at its own expense (but not to control) any such portion of any such audit; provided that none of Parent, Holdco, Management Holdings, Opco or any of Opco's Subsidiaries shall settle or fail to contest any issue that is reasonably expected to materially adversely affect the Members' rights or obligations under this Agreement (including the amount or timing of payment made hereunder) without the prior written consent of the Designated Representative (such consent not to be unreasonably withheld, conditioned or delayed). In addition to the foregoing, Parent shall not take any action outside the ordinary course of business (other than exercising its early termination right under Section 4.1(a)), the principal purpose of which is to minimize Tax Benefit Payments determined in accordance with this Agreement.

SECTION 6.2. Consistency. Except upon the written advice of the Advisory Firm and except for items that are explicitly described as "deemed" or treated in a similar manner by the terms of this Agreement, all calculations and determinations made hereunder, including any Basis Adjustments, the Schedules and the determination of any Realized Tax Benefits or Realized Tax Detriments, shall be made in accordance with the elections, methodologies and positions set forth in the Merger Agreement, the Operating Agreement and the Operating Agreement of Management Holdings, and otherwise taken by Parent, Holdco, Management Holdings and Opco (and their respective Subsidiaries) on their respective Tax Returns. Each Member shall prepare its Tax Returns in a manner consistent with the terms of this Agreement and any related calculations or determinations made hereunder, including the terms of Section 2.1 and the Schedules provided to each such Member, except as otherwise required by Law. In the event that an Advisory Firm is replaced with another Advisory Firm acceptable to the Audit Committee, the Parties shall cause such replacement Advisory Firm to perform its services necessitated by this Agreement using procedures and methodologies consistent with those of the previous Advisory Firm, unless otherwise required by Law or unless Parent obtains Member Approval to the use of other procedures and methodologies. Parent shall (and shall cause Opco and its other Subsidiaries to) use commercially reasonable efforts (for the avoidance of doubt, taking into account the interests and entitlements of all Members under this Agreement) to defend the tax treatment contemplated by this Agreement and any Schedule (or Amended Schedule, as applicable) in any audit, contest or similar proceeding with any Taxing Authority.

SECTION 6.3. Cooperation.

(a) Each Member shall (i) furnish to Parent in a timely manner such information, documents and other materials as Parent may reasonably request for purposes of making any determination or computation necessary or appropriate under this Agreement, preparing any Tax Return of Opco or any of its Subsidiaries or contesting or defending any related audit, examination or controversy with any Taxing Authority, (ii) make itself available to Parent and its representatives to provide explanations of documents and materials and such other information as Parent or its representatives may reasonably request in connection with any of the matters described in clause (i) above and (iii) reasonably cooperate with Parent or its representatives in connection with any such matter. For the avoidance of doubt, no provision of this Agreement shall be construed to require any Member to provide any other party any right to access or review any Tax Return, tax work papers or other proprietary or confidential information of such Member or its direct or indirect beneficial owners.

(b) Parent shall reimburse the Members for any reasonable and documented out-of-pocket costs and expenses incurred pursuant to Section 6.3(a).

SECTION 6.4. Tax Treatment. Except as otherwise required pursuant to a Determination, each Party agrees to the following for all Tax purposes (including for purposes of filing Tax Returns or defending tax audits, contests or proceedings):

(a) except for the portion treated as Imputed Interest, any payment made under this Agreement to a Rollover Member or Management Holdings Member will be treated as additional consideration paid or funded by Holdco for the Opco Units exchanged by such Rollover Member or Management Holdings Member pursuant to either a direct exchange or disguised sale and giving rise to additional Basis Adjustments and Remedial Allocations;

(b) except for the portion treated as Imputed Interest, any payment made under this Agreement to a Blocker Member will be treated as "boot" received by such Blocker Member in the Reorganizations for purposes of Section 356 of the Code (and treated as part of a redemptive exchange under Section 302(a) and (b) of the Code and not treated as a dividend pursuant to Section 304 or 356(a)(2) of the Code); and

(c) the portion of any payment made under this Agreement that is Imputed Interest will be treated as a payment of interest, and payments of the Interest Amount and Default Rate Interest will not be treated as interest.

ARTICLE VII

MISCELLANEOUS

SECTION 7.1. Notices. All notices, requests, consents, claims, demands and other communications under this Agreement shall be in writing and shall be deemed to have been duly given (a) when delivered in person; (b) when transmitted (except if not a Business Day, then the next Business Day) via email (to such email address set out below) and sender shall bear the burden of proof of delivery, which shall be deemed satisfied if such notice is also delivered by hand, deposited in registered or certified mail (postage prepaid, return receipt requested), or delivered prepaid to a reputable national overnight air courier service on or before the date that is one (1) Business Day after its transmission by email; and (c) on the next Business Day when sent by national overnight courier (providing proof of delivery), in each case to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this Section 7.1):

If to Parent, to:

Forward Air Corporation
1915 Snapps Ferry Road, Bldg. N
Greeneville, TN 37745
Attention: Michael Hance
Email: MHance@forwardair.com

with a copy (which shall not constitute notice to Parent) to:

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, New York 10019
Attn: Thomas E. Dunn; Christopher K. Fargo; Matthew L. Ploszek;
Andrew T. Davis
E-mail: tdunn@cravath.com; cfargo@cravath.com; mploszek@cravath.com;
adavis@cravath.com

If to Opco, to:

Clue Opco LLC
1915 Snapps Ferry Road, Bldg. N
Greeneville, TN 37745
Attention: Michael Hance
Email: MHance@forwardair.com

with a copy (which shall not constitute notice to Opco) to:

Cravath, Swaine & Moore LLP
825 Eighth Avenue
New York, New York 10019
Attn: Thomas E. Dunn; Christopher K. Fargo; Matthew L. Ploszek;
Andrew T. Davis
E-mail: tdunn@cravath.com; cfargo@cravath.com; mploszek@cravath.com;
adavis@cravath.com

If to the Designated Representative, to:

Ridgemont Equity Partners
101 S. Tryon Street, Suite 3400
Charlotte, NC 28280
Attn: Chief Operating Officer
e-mail: investorrelations@ridgemontep.com

with a copy (which shall not constitute notice to the Designated Representative) to:
Alston & Bird LLP
1120 South Tryon Street, Suite 300
Charlotte, NC 28203
Attention: C. Mark Kelly; Daniel C. Rowe; John F. Baron; Daniel M. Reach
Email: mark.kelly@alston.com; daniel.rowe@alston.com

If to any other Member, to the address and e-mail address specified on such Member's signature page to the applicable Joinder.

SECTION 7.2. Expenses. Except as otherwise set forth herein, each party to this Agreement shall pay its own expenses incurred following the date of this Agreement in connection with this Agreement. Opco shall bear all documented out-of-pocket expenses of the Parties in connection with this Agreement incurred prior to the date of this Agreement.

SECTION 7.3. Counterparts. This Agreement may be executed and delivered (including by electronic, facsimile transmission, DocuSign or .pdf) in counterparts, including by the delivery of a properly executed Letter of Transmittal by a Member, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement and will be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. No party hereto or to any such agreement or instrument will raise the use of electronic delivery to deliver a signature or the fact that any signature or agreement or instrument was transmitted or communicated through the use of electronic delivery as a defense to the formation of a contract, and each such party forever waives any such defense, except to the extent such defense related to lack of authenticity.

SECTION 7.4. Entire Agreement; No Third-Party Beneficiaries. This Agreement, together with the other Transaction Agreements (as defined in the Merger Agreement), including the Operating Agreement, the Operating Agreement of Surviving Management Holdings and the Charter and Bylaws, constitutes the entire agreement, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof and is not intended to and does not confer upon any Person other than the parties hereto (and their respective permitted transferees) any rights or remedies, except as expressly provided in this Agreement (it being understood and agreed that the Persons referred to in any Section of this Agreement as having such rights and who or which are not parties hereto shall be entitled to the benefits of, and to enforce the provisions of, such Section).

SECTION 7.5. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any Law, or public policy, all other terms and provisions of this Agreement will nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties will negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner to the end that the purpose of this Agreement is fulfilled to the fullest extent possible.

SECTION 7.6. Assignment. Each Member may, at any time, assign, sell, alienate, transfer pledge or hypothecate its interest in this Agreement in whole or in part, including the right to receive any payments to be made pursuant to this Agreement, to any Person; provided, however, that no Member may assign, sell, pledge, or otherwise alienate or transfer any interest in this Agreement, including the right to receive any Tax Benefit Payments under this Agreement, to any Person without such Person executing and delivering a Joinder agreeing to succeed to the applicable portion of such Member's interest in this Agreement and to become a Party for all purposes of this Agreement (the "Joinder Requirement"). For the avoidance of doubt, if a Rollover Member transfers Opco Units in accordance with the terms of the Operating Agreement or a Management Holdings Member transfers Management Holdings Units in accordance with the terms of the Operating Agreement of Surviving Management Holdings but does not assign to the transferee of such Units its rights under this Agreement with respect to such transferred Units, such Member shall continue to be entitled to receive the Tax Benefit Payments arising in respect of a subsequent Exchange of such Units (including the Opco Units corresponding to such Management Holdings Units). Parent and Holdco may not assign any of its rights or obligations under this Agreement to any Person without Member Approval. Any purported assignment not in compliance with this Section 7.6 shall be null and void. The implementation of this Section 7.6 is intended to be a "book entry system" as defined in Treasury Regulations Section 5f.103-1(c), and this Section 7.6 shall be interpreted consistently therewith, so that rights under this Agreement are at all times maintained in "registered form" for purposes of the Code and Treasury Regulations. Parent shall maintain a register of any Person entitled to payments under this Agreement, and no Person shall be entitled to any payment under this Agreement unless such Person's name appears on such register. All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the parties hereto and their respective successors, assigns, heirs, executors, administrators and legal representatives.

SECTION 7.7. Amendments; Waivers; Consents. No provision of this Agreement may be amended unless such amendment is approved in writing and signed by Parent with Member Approval; provided that amendment of the definition of Change of Control will also require the written approval of a majority of the Independent Directors. No provision of this Agreement may be waived unless such waiver is in writing and signed by the Party against whom the waiver is to be effective (or, in the case of a waiver by all Members,

signed by the Designated Representative); provided, further that the Reallocation Schedule may only be amended as described in the definition thereof. Notwithstanding the foregoing, no amendment or waiver shall be effective if such amendment or waiver will have a disproportionate and material adverse effect on the payments certain Members will or may receive under this Agreement unless such amendment or waiver is consented in writing by the Members disproportionately and materially adversely affected who would be entitled to receive at least a majority of the total amount of the Early Termination Payments payable to all Members disproportionately and materially adversely affected hereunder at such time (assuming Voluntary Early Termination on such date). In the event that SOFR ceases to be available, the Parties will negotiate in good faith to amend this Agreement to replace SOFR with a mutually acceptable successor rate. The failure of any party to this Agreement to assert any of its rights under this Agreement or otherwise will not constitute a waiver of such rights nor will any single or partial exercise by any party to this Agreement of any of its rights under this Agreement preclude any other or further exercise of such rights or any other rights under this Agreement. The rights and remedies herein provided will be cumulative and not exclusive of any rights or remedies provided by Law or otherwise.

SECTION 7.8. Successors. All of the terms and provisions hereunder shall be binding upon, and shall inure to the benefit of and be enforceable by, the Parties and their respective successors, assigns, heirs, executors, administrators and legal representatives. Parent shall require and cause any direct or indirect successor (whether by equity purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of Parent, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that Parent would be required to perform if no such succession had taken place.

SECTION 7.9. Titles and Subtitles. The titles of the sections and subsections of this Agreement are for convenience of reference only and are not to be considered in construing this Agreement.

SECTION 7.10. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Delaware, without giving effect to any choice or conflict of law provisions or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware. Subject to Section 7.12, all Actions arising out of or relating to this Agreement or the transactions contemplated hereby shall be heard and determined exclusively in the Court of Chancery of the State of Delaware and any state appellate court therefrom within the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom). Subject to Section 7.12, the Parties hereby (a) irrevocably submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware and any appellate court therefrom within the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom) for the purpose of any Action arising out of or relating to this Agreement or the transactions contemplated hereby brought by any party; (b) irrevocably waive, and agree not to assert by way of motion, defense or otherwise, in any such Action, any claim that it is not subject personally to the jurisdiction of the above-named

courts, that its property is exempt or immune from attachment or execution, that the Action is brought in an inconvenient forum, that the venue of the Action is improper, or that this Agreement or the transactions contemplated hereby may not be enforced in or by the above-named courts; and (c) agree that such party will not bring any Action arising out of or relating to this Agreement or the transactions contemplated hereby in any court other than the Court of Chancery of the State of Delaware (or if the Court of Chancery of the State of Delaware does not have subject matter jurisdiction, any federal court within the State of Delaware and the appellate court(s) therefrom). Service of process, summons, notice or document to any party's address and in the manner set forth in Section 7.1 shall be effective service of process for any such action (without limiting other means).

SECTION 7.11. Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS AGREEMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE, EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS. EACH PARTY HERETO CERTIFIES AND ACKNOWLEDGES THAT (A) NO REPRESENTATIVE OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; (B) IT UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (C) IT MAKES THIS WAIVER VOLUNTARILY; AND (D) IT HAS BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE TRANSACTIONS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS IN THIS SECTION 7.11.

SECTION 7.12. Reconciliation Procedures.

(a) In the event that Parent and any Member are unable to resolve a Reconciliation Dispute within the relevant time period designated in this Agreement, the procedures described in this paragraph (the "Reconciliation Procedures") will apply. The applicable Parties shall, within 15 calendar days of the commencement of a Reconciliation Dispute, mutually select a nationally recognized expert in the particular area of disagreement (the "Expert") and submit the Reconciliation Dispute to such Expert for determination. The Expert shall be a partner or principal in a nationally recognized accounting firm, and unless Parent and such Member agree otherwise, the Expert (and its employing firm) shall not have any material relationship with Parent or such Member or other actual or potential conflict of interest. If the applicable Parties are unable to agree on an Expert within such 15 calendar-day time period, each such Party shall select an Expert and those selected Experts shall pick an Expert from a nationally recognized accounting firm that does not have any material relationship with the applicable Parties. The Expert shall resolve any matter relating to (i) a Basis Schedule, Early Termination Schedule or an amendment to either within 30 calendar days and (ii) a Tax Benefit Schedule or an amendment thereto within 15 calendar days or as soon thereafter as is reasonably practicable, in each case after the matter has been submitted to the Expert for resolution. Notwithstanding the preceding sentence, if the matter is not

resolved before any payment that is the subject of a disagreement would be due (in the absence of such disagreement) or any Tax Return reflecting the subject of a disagreement is due, the undisputed amount shall be paid by the date prescribed by this Agreement and such Tax Return may be filed as prepared by Parent, subject to adjustment or amendment upon resolution. The Expert shall finally determine any Reconciliation Dispute, and its determinations pursuant to this Section 7.12(a) shall be binding on the applicable Parties and may be entered and enforced in any court having competent jurisdiction. For the avoidance of doubt, the Expert in making a determination in any Reconciliation Dispute in accordance with this Section 7.12(a) shall be acting in the capacity of an expert in the subject matter of the disagreement and not acting in the capacity as an arbitrator of such Reconciliation Dispute.

(b) Subject to the next sentence, the applicable Parties shall bear their own costs and expenses of such proceeding, unless (i) the Expert adopts the Member's position, in which case Parent shall reimburse the Member for any reasonable and documented out-of-pocket costs and expenses in such proceeding or (ii) the Expert adopts Parent's position, in which case the Member shall reimburse Parent for any reasonable and documented out-of-pocket costs and expenses in such proceeding. The costs and expenses relating to the engagement of such Expert or amending any Tax Return shall be borne by Parent.

SECTION 7.13. Withholding. Parent and Holdco shall be entitled to deduct and withhold from any payment that is payable to any Member pursuant to this Agreement such amounts as Parent and Holdco are required to deduct and withhold with respect to the making of such payment by applicable Law. To the extent that amounts are so deducted and withheld and paid over to the appropriate Taxing Authority by Parent or Holdco, as applicable, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid by Parent or Holdco, as applicable, to the relevant Member in respect of whom the deduction and withholding was made. If Parent or Holdco becomes aware of any such requirement to so deduct and withhold from any payment under this Agreement to a Member, Parent or Holdco, as applicable, shall use commercially reasonable efforts to provide such Member with written notice of the amount of and applicable Law requiring such withholding at least ten (10) calendar days prior to making such deduction and withholding. The Parties shall reasonably cooperate to reduce or eliminate any amounts that would otherwise be required to be deducted and withheld pursuant to this Section 7.13.

SECTION 7.14. Admission of Parent into a Consolidated Group; Certain Tax Actions and Covenants.

(a) If Parent is or becomes a member of an affiliated or consolidated group of corporations that files a consolidated income Tax Return pursuant to Section 1501 or other applicable sections of the Code governing affiliated or consolidated groups, or any corresponding or similar provisions of state or local tax Law, then (i) the provisions hereunder shall be applied with respect to the group as a whole, and (ii) Payments and other applicable items hereunder shall be computed with reference to the affiliated or consolidated taxable income of the group as a whole, as the case may be (for the avoidance of doubt, the term "consolidated group" as used in this Agreement shall include any combined, consolidated, affiliated, unitary or other similar group for state or local tax Law purposes).

(b) If any entity that is obligated to make a payment hereunder transfers one or more assets to a corporation (or a Person classified as a corporation for U.S. federal income or other applicable state or local tax purposes) with which such entity does not file a consolidated Tax Return pursuant to Section 1501 of the Code, such entity, for purposes of calculating the amount of any payment due hereunder, shall be treated as having disposed of such asset in a fully taxable transaction on the date of such contribution. The consideration deemed to be received by such entity shall be equal to the fair market value of the contributed asset. For purposes of this Section 7.14, a transfer of a partnership interest shall be treated as a transfer of the transferring partner's share of each of the assets and liabilities of that partnership. Any dispute as to fair market value in connection with this Section 7.14(b) will be resolved pursuant to the Reconciliation Procedures.

(c) Parent will not cause or permit Management Holdings or Opco (or any of its Subsidiaries that are currently treated as entities other than corporations for U.S. federal income tax purposes) to be treated as a corporation for U.S. federal income or other applicable state or local tax purposes, except with the Member Approval.

(d) Unless Section 7.14(e) applies, if any Person the income of which is included in the income of Parent's consolidated group transfers (or is deemed to transfer for U.S. federal income tax purposes) any interest in Opco or any Reference Asset to an entity the income of which is not included in the income of such consolidated group in a transaction in which the transferee's basis in the property acquired is determined in whole or in part by reference to the transferor's basis in the property, then Parent will cause the transferee to assume the obligation to make Payments with respect to any Reference Asset or interest therein acquired by the transferee (directly or indirectly) in the transfer (without duplication of any payments made by Parent or Holdco as a result of any gain or loss recognized in the transaction) in a manner consistent with the principles of this Agreement.

(e) Without duplication of Section 7.14(a), if Parent (or any member of Parent's consolidated group) transfers (or is deemed to transfer for U.S. federal income tax purposes) any interest in Opco in a transaction that is wholly or partially taxable, then for purposes of calculating any payment under this Agreement, Opco will be treated as having disposed of the portion of any Reference Asset that is indirectly transferred by Parent or other entity described above in a wholly or partially taxable transaction, as applicable, in which income, gain or loss is allocated to Parent in accordance with the Operating Agreement (determined as if the transferred Opco interest represents a proportionate share of an undivided interest in each asset of Opco).

(f) If Opco transfers (or is deemed to transfer for U.S. federal income tax purposes) any Reference Asset to an entity the income of which is not included in the income of Parent's consolidated group in a transaction in which the transferee's basis in the Reference Asset acquired is determined in whole or in part by reference to the transferor's basis in the Reference Asset, for purposes of calculating the amount of any payment under this Agreement, Opco will be treated as having disposed of the Reference Asset (on the date of the transfer) in a fully taxable transaction in which income, gain or loss is allocated to Parent in accordance with the Operating Agreement. The consideration deemed to be received in any deemed transaction described in this Section 7.14(f) will be equal to the fair market value of

the transferred Reference Asset as of the date of the transfer, plus (without duplication): (A) the amount of debt to which the Reference Asset is subject, in the case of a transfer of an encumbered Reference Asset or (B) the amount of debt allocated to the Reference Asset, in the case of a transfer of an equity interest in an entity classified as a partnership for applicable tax purposes. Any dispute as to fair market value in connection with this Section 7.14(f) will be resolved pursuant to the Reconciliation Procedures.

(g) Any transaction described in this Section 7.14 will be taken into account in determining the Realized Tax Benefits or Realized Tax Detriments, as applicable, for the Taxable Year in which the transaction is deemed to occur, consistent with the principles of this Agreement; provided, however, that none of the transactions set forth in the Merger Agreement shall constitute a transaction described in this Section 7.14.

(h) Parent and Holdco will be treated as part of the same "consolidated group" (within the meaning of Treasury Regulations Section 1.1502-1(h)) and will file a consolidated income Tax Return pursuant to Section 1501 or other applicable sections of the Code governing affiliated or consolidated groups, or any corresponding or similar provisions of state or local tax Law; provided, however, that if any member of Parent's consolidated group that owns any units in Opco deconsolidates from such consolidated group (or any such member is unable to be treated as part of a combined, consolidated, affiliated, unitary or other similar group with Parent for state or local tax Law purposes), then Parent will cause such member (or the new parent of the consolidated group in the case where Parent deconsolidates from the consolidated group) to assume the obligations under this Agreement (including to make Payments hereunder) as if it were Parent or Holdco (as applicable), solely with respect to the applicable tax attributes associated with any Reference Asset it owns (directly or indirectly) in a manner consistent with the principles of this Agreement.

(i) None of the parties hereto will take any action to cause Parent or Holdco to be treated as other than a corporation for U.S. federal income or other applicable state or local tax purposes, except with Member Approval.

SECTION 7.15. Confidentiality. (a) The Members shall and shall direct their respective Representatives to (i) hold confidential and not disclose, without the prior written approval of Parent, all confidential or proprietary written, recorded or oral information or data (including research, developmental, technical, marketing, sales, financial, operating, performance, cost, business and process information or data, knowhow and computer programming and other software techniques) provided by Parent or any of its Subsidiaries to the Members or their Representatives, whether such confidentiality or proprietary status is indicated orally or in writing or if such Member should reasonably have understood that the information should be treated as confidential, whether or not the specific words "confidential" or "proprietary" are used ("Confidential Information"), and (ii) use such Confidential Information only for the purpose of performing its obligations hereunder, managing and monitoring the Members' investment in Parent and its Subsidiaries and carrying on the business of Parent and its Subsidiaries; provided that the Members and their respective Representatives may disclose or use such Confidential Information (x) in their capacity as directors, officers or employees of Parent or its Subsidiaries and (y) to each other, in their capacities as such and, with respective to Representatives that are attorneys, accountants,

consultants and other professional advisors, to the extent necessary to their services in connection with monitoring its investment in Parent and its Subsidiaries, to any affiliate of such Member and their respective directors, employees, consultants and representatives, in each case in the ordinary course of business (provided that the recipients of such Confidential Information are subject to customary confidentiality andnon-disclosure obligations) or (z) as may be necessary in connection with such Member's enforcement of its rights in connection with this Agreement. Each Member acknowledges and agrees that it shall be liable for any breach of the terms of this Section 7.15 applicable to Affiliates and Representatives by its Affiliates and Representatives, except with respect to an Affiliate or Representative who enters into or has entered into a confidentiality agreement with Parent with respect to the subject matter of this Section 7.15.

(b) Notwithstanding the foregoing, the confidentiality and non-use obligations of Section 7.15(a) will not apply to Confidential Information:

(i) which any Member or any of its Representatives is required to disclose by judicial or administrative process, or by other requirements of applicable Law or regulation or any governmental authority (including any applicable rule, regulation or order of a self-governing authority, such as the NASDAQ); provided that, where and to the extent legally permitted and reasonably practicable, such Member shall (A) give Parent reasonable notice of any such requirement and, to the extent protective measures consistent with such requirement are available, the opportunity to seek appropriate protective measures and (B) reasonably cooperate with Parent, at Parent's sole cost and expense, in attempting to obtain such protective measures;

(ii) which becomes available to the public other than as a result of a breach ofSection 7.15(a);

(iii) which has been independently developed by such Member without use of or reliance upon Confidential Information; or

(iv) which has been provided to any Member or any of its Representatives by a third party who obtained such information from a source other than from Parent or any of its Affiliates or other than as a result of a breach of Section 7.15(a).

SECTION 7.16. Change in Law. Notwithstanding anything herein to the contrary, if, in connection with an actual or proposed change in Law, a Member reasonably believes that the existence of this Agreement could cause income (other than income arising from receipt of a payment under this Agreement) recognized by such Member (or direct or indirect equity holders in such Member) in connection with any Exchange to be treated as ordinary income rather than capital gain (or otherwise taxed at ordinary income rates) for U.S. federal income tax purposes or would have other material adverse tax consequences to such Member or any direct or indirect owner of such Member, then, at the written election of such Member in its sole discretion (in an instrument signed by such Member and delivered to Parent) and to the extent specified therein by such Member, this Agreement shall cease to

have further effect with respect to such Member and shall not apply to an Exchange by such Member occurring after a date specified by such Member, or may be amended in a manner reasonably determined by such Member; provided that such amendment shall not result in an increase in any payments owed by Parent or Holdco under this Agreement at any time as compared to the amounts and times of payments that would have been due in the absence of such amendment and the Designated Representative consents in writing to such amendment, such consent not to be unreasonably withheld, conditioned or delayed.

SECTION 7.17. Interest Rate Limitation. Notwithstanding anything to the contrary contained herein, the interest paid or agreed to be paid hereunder with respect to amounts due to any Member hereunder shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the "Maximum Rate"). If any Member shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the applicable payment (but in each case exclusive of any component thereof comprising interest) or, if it exceeds such unpaid non-interest amount, refunded to Parent or Holdco, as applicable. In determining whether the interest contracted for, charged or received by any Member exceeds the Maximum Rate, such Member may, to the extent permitted by applicable Law, (i) characterize any payment that is not principal as an expense, fee or premium rather than interest, (ii) exclude voluntary prepayments and the effects thereof or (iii) amortize, prorate, allocate and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the payment obligations owed by Parent or Holdco, as applicable to such Member hereunder. Notwithstanding the foregoing, it is the intention of the Parties to conform strictly to any applicable usury Laws.

SECTION 7.18. Independent Nature of Rights and Obligations. The rights and obligations of each Member hereunder are several and not joint with the rights and obligations of any other Person. A Member shall not be responsible in any way for the performance of the obligations of any other Person hereunder, nor shall a Member have the right to enforce the rights or obligations of any other Person hereunder (other than obligations of Parent). The obligations of a Member hereunder are solely for the benefit of, and shall be enforceable solely by, Parent. Nothing contained herein or in any other agreement or document delivered in connection herewith, and no action taken by any Member pursuant hereto or thereto, shall be deemed to constitute the Members acting as a partnership, association, joint venture or any other kind of entity, or create a presumption that the Members are in any way acting in concert or as a group with respect to such rights or obligations or the transactions contemplated hereby.

SECTION 7.19. Successor. All of the terms and provisions of this Agreement shall be binding upon, shall inure to the benefit of and shall be enforceable by the parties hereto and their respective successors, permitted assigns, heirs, executors, administrators and legal representatives. Parent shall require and cause any direct or indirect successor (whether by purchase, merger, consolidation or otherwise) to all or substantially all of the business or assets of Parent, by written agreement, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that Parent would be required to perform if no such succession had taken place.

SECTION 7.20. Enforcement. The Parties agree that the Parties would be irreparably damaged if any provision of this Agreement were not performed in accordance with its specific terms or was otherwise breached, and that monetary damages, even if available, would not be an adequate remedy therefor. Accordingly, the Parties shall be entitled to seek an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the performance of the terms of this Agreement, in addition to any other remedy at law or in equity. The Parties further agree that no party to this Agreement shall be required to obtain, furnish or post any bond or similar instrument in connection with or as a condition to obtaining any such legal or equitable relief and each party waives any objection to the imposition of such relief or any right it might have to require the obtaining, furnishing or posting of any such bond or similar instrument. Each of the Parties acknowledges and agrees that the right of specific enforcement is an integral part of the transactions contemplated by this Agreement and without such right, none of the Parties would have entered into this Agreement.

SECTION 7.21. Effectiveness. This Agreement shall become effective upon its execution and delivery by the R Investors and the E Investors (each as defined in the Major Shareholders Agreements) and Parent.

SECTION 7.22. Designated Representative.

(a) The Designated Representative is hereby irrevocably appointed as the representative, agent, proxy, andattorney-in-fact for all the Members for all purposes under this Agreement and the other Transaction Agreements, including the full power and authority on the Members' behalf (i) to perform the rights and acts as described as being within its authority, discretion or power as set forth herein or such other Transaction Agreement, including all such actions which are contemplated to be performed, reviewed or otherwise within its discretion herein or in such other Transaction Agreements, including the right to negotiate and settle disputes arising under, or relating to, this Agreement and the other Transaction Agreements (except as otherwise expressly set forth herein or therein by reference to a different standard or requirement for approval) and (ii) to take all other actions to be taken by or on behalf of the Members in connection with the Transaction Agreements and consistent with the foregoing authority. The Members, by approving this Agreement (whether by written consent, vote or by execution of this Agreement or a Letter of Transmittal), further agree that such agency and proxy are coupled with an interest, are therefore irrevocable without the consent of the Designated Representative and shall survive the death, incapacity, bankruptcy, dissolution or liquidation of any Member. All decisions and actions by the Designated Representative pursuant to the authority granted herein shall be binding upon all of the Members and no Member shall have the right to object, dissent, protest or otherwise contest the same. Parent may conclusively rely, without independent verification or investigation, upon any such decision or action of the Designated Representative as being the binding decision or action of every Member. The Designated Representative shall have no duties or obligations to the Members hereunder, except as expressly set forth in the Transaction Agreements. By its approval of, or consent to, the Transactions and the adoption of this Agreement, its acceptance of any consideration pursuant to the Merger Agreement or this Agreement or delivery of a Letter of Transmittal, each Member hereby irrevocably approves and adopts the appointment of the Designated Representative as such Member's representative, agent, proxy, and attorney-in-fact to act in accordance with the authority granted in this Section 7.21.

(b) Following the Closing Date, a majority-in-interest of the Members (as determined by their relative entitlement to Merger Consideration as of the Closing) may, by written consent, appoint a new representative as the Designated Representative. Notice, together with a copy of the written consent appointing such new representative and bearing the signatures of such majority-in-interest of the Members, must be delivered to Parent not less than 15 days prior to such appointment. Such appointment will be effective upon the later of the date indicated in the consent or the date such consent is received by Parent. In the event that the Designated Representative becomes unable or unwilling to continue in its capacity as Designated Representative, or if the Designated Representative resigns as the Designated Representative, a majority-in-interest of the Members (determined as set forth above) may by written consent appoint a new representative as the Designated Representative.

(c) The Designated Representative shall hold the Designated Representative Expense Amount (as defined in the Merger Agreement) together with earnings on such amount, if any, as a fund (the "Designated Representative Expense Fund") from which the Designated Representative may pay its any out-of-pocket losses and reasonable expenses or other costs it incurs in performing its duties and obligations under this Agreement or the other Transaction Agreements, including its legal and consultant fees, expenses and costs for reviewing, analyzing and defending any claim or process arising under or pursuant to this Agreement or any other Transaction Agreement within its scope of authority as set forth herein (collectively, "Administrative Costs"). For income tax purposes, the Designated Representative Expense Amount (as defined in the Merger Agreement) shall be treated as having been received and voluntarily set aside by the Members at the time of the Closing. At such time, and from time to time, that the Designated Representative determines in its sole discretion that the Designated Representative Expense Fund will not be required for the payment of such Administrative Costs or other amounts hereunder, the Designated Representative shall distribute the amounts then on deposit in the Designated Representative Expense Fund (the "Remaining Funds") to the Members in accordance with their respective share of the Remaining Funds, based on their respective "last dollar out" sharing percentage of the proceeds set forth in the Closing Capitalization Schedule to the Merger Agreement (such amount with respect to the Members, their respective "Pro Rata Share"). The Designated Representative may, or Parent or its applicable Subsidiary shall, if requested by the Designated Representative, report and withhold any taxes from amounts paid by or from the Designated Representative Expense Fund and Parent or its applicable Subsidiary shall, if requested by the Designated Representative, cooperate in connection therewith including by processing any such amounts to be treated as compensation through its applicable regular payroll process; provided, however, that the Designated Representative is not acting as a withholding agent or in any similar capacity in connection with the Designated Representative Expense Fund, and has no tax reporting or income distribution obligations hereunder.

(d) Notwithstanding anything to the contrary contained in this Agreement or any other Transaction Agreements, the Designated Representative in its capacity as such shall have no duties or responsibilities except those expressly set forth herein or in such other Transaction Agreement, and no implied covenants, functions, responsibilities, duties,

obligations or liabilities on behalf of any Member shall otherwise exist against the Designated Representative. No bond shall be required of the Designated Representative and the Designated Representative shall receive no compensation for its services. The Designated Representative shall not be liable to any Member for any act done or omitted hereunder as the Designated Representative except for its willful misconduct or actual fraud with respect to any matter arising out of or in connection with the acceptance or administration of its duties hereunder (it being understood that any act done or omitted pursuant to the advice of counsel shall be conclusive evidence of the absence of willful misconduct or actual fraud). The Designated Representative shall be entitled to be indemnified by the Members (among them in accordance with their respective Pro Rata Share) for any loss, liability or expense incurred without willful misconduct or actual fraud on the part of the Designated Representative with respect to any matter arising out of or in connection with the acceptance or administration of its duties hereunder or the other Transaction Agreements (including the hiring of legal counsel and the incurring of legal fees and costs) and, without limiting the Members' obligations with respect thereto, may fund such amounts from the Designated Representative Expense Fund. The Designated Representative shall be entitled to recover from the Members (among them in accordance with their respective Pro Rata Share) any out-of-pocket costs and expenses incurred by the Designated Representative in good faith and in connection with actions taken by the Designated Representative pursuant to this Agreement or the Transaction Agreements contemplated hereby or the acceptance of administration of its duties hereunder (including the hiring of legal counsel and the incurring of legal fees and costs) and, without limiting the Members' obligations with respect thereto, may fund such amounts from the Designated Representative Expense Fund.

[Signature Page Follows this Page]

IN WITNESS WHEREOF, the undersigned have executed or caused to be executed on their behalf this Agreement as of the date first written above.

PARENT:

FORWARD AIR CORPORATION

by /s/ Thomas Schmitt
Name: Thomas Schmitt
Title: President and Chief Executive Officer

HOLDCO:

CENTRAL STATES LOGISTICS, INC.

by /s/ Thomas Schmitt
Name: Thomas Schmitt
Title: President and Chief Executive Officer

OPCO:

CLUE OPCO LLC

by /s/ Thomas Schmitt
Name: Thomas Schmitt
Title: President and Chief Executive Officer

OMNI MANAGEMENT HOLDINGS, LLC

by: Forward Air Corporation, as its sole member

by /s/ Michael L. Hance
Name: Michael L. Hance
Title: Chief Legal Officer and Secretary

Exhibit A

FORM OF JOINDER AGREEMENT

This JOINDER AGREEMENT, dated as of [●], 20[●] (this "Joinder"), is delivered pursuant to that certain Tax Receivable Agreement, dated as of January 25, 2024 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the "Tax Receivable Agreement"), by and among Forward Air Corporation, a Tennessee corporation ("Parent"), Central States Logistics, Inc., a Delaware limited liability company and wholly owned subsidiary of Parent ("Holdco"), Clue Opco LLC, a Delaware limited liability company ("Opco"), Omni Management Holdings, LLC, a Delaware limited liability company ("Management Holdings"), the Rollover Members (as defined therein), the Management Holdings Members (as defined therein), the Blocker Members (as defined therein), and each of the other Members (as defined therein) from time to time party thereto. Capitalized terms used but not otherwise defined herein have the respective meanings set forth in the Tax Receivable Agreement.

1. Interest in the Tax Receivable Agreement. The undersigned hereby represents and warrants to Parent that, as of the date hereof, the undersigned has been assigned an interest in the Tax Receivable Agreement from a Member.

2. Joinder to the Tax Receivable Agreement. Upon the execution of this Joinder by the undersigned and delivery hereof to Parent, the undersigned hereby is and hereafter will be a Member under the Tax Receivable Agreement and a Party thereto, with all the rights, privileges and responsibilities of a Member thereunder. The undersigned hereby agrees that it shall comply with and be fully bound by the terms of the Tax Receivable Agreement as if it had been a signatory thereto as of the date thereof.

3. Incorporation by Reference. All terms and conditions of the Tax Receivable Agreement are hereby incorporated by reference in this Joinder as if set forth herein in full.

4. Address. All notices under the Tax Receivable Agreement to the undersigned shall be directed to:

[Name]
[Address]
[City, State, Zip Code]
Attn:
E-mail:

[Signature Page Follows this Page]

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Joinder as of the day and year first above written.

[NAME OF NEW PARTY]

by _____
Name:
Title:

Acknowledged and agreed
as of the date first set forth above:

FORWARD AIR CORPORATION

by _____
Name: Thomas Schmitt
Title: Chief Executive Officer

Exhibit 99.1

January 25, 2024

Forward Air Announces Closing of Omni Logistics Transaction

Will Create a Category Leader in the Expedited LTL Market

Will Deliver Significant Long-Term Value to Shareholders Through Compelling Strategic and Financial Benefits

GREENEVILLE, Tenn.—(BUSINESS WIRE)— Forward Air Corporation (NASDAQ: FWRD) ("Forward" or "the Company") today announced that it has completed its previously announced acquisition of Omni Logistics, LLC ("Omni").

Together, Forward and Omni will create a category leader in the expedited LTL market, built on precision execution. With a differentiated service offering, industry-leading team and expanded geographic footprint, the combined company will offer high-value freight to its expedited LTL network. The combination of these complementary businesses uniquely positions Forward to accelerate its 'Grow Forward' strategy and deliver long-term value to shareholders, customers, employees and other stakeholders.

Having already engaged in significant integration planning work since the transaction was announced in August 2023, Forward Air is confident in its ability to deliver significant strategic and financial benefits from the transaction, including substantial revenue and cost synergies and operational efficiencies.

Tom Schmitt, Chairman and Chief Executive Officer of Forward, said, "This is an exciting day for Forward and we are pleased to welcome the Omni team to the Forward family. Together, we are now uniquely positioned to be the premier provider of choice in high-quality freight transportation to a larger customer base with an expanded domestic footprint."

Schmitt continued, "One of the defining characteristics of our corporate culture is that we do not wait around for good things to happen, we go out and make them happen. We are approaching this important next phase with a sense of urgency and are committed to delivering on a clear and measurable plan designed to meet the needs of our customers, create opportunities for our teammates, and generate long-term value for our shareholders."

Forward will provide more details on its Grow Forward strategy, including targeted outcomes as well as additional information on its management structure and Board composition, when it conducts its Q4 and FY 2023 earnings conference call in February 2024.

About Forward Air

Forward Air is a leading asset-light provider of transportation services across the United States, Canada and Mexico. We provide expedited less-than-truckload services, including local pick-up and delivery, shipment consolidation/deconsolidation, warehousing, and customs brokerage by utilizing a comprehensive national network of terminals. In addition, we offer truckload brokerage services, including dedicated fleet services; and intermodal, first-and last-mile, high-value drayage services, both to and from seaports and railheads, dedicated contract and Container Freight Station warehouse and handling services. We are more than a transportation company. Forward is a single resource for your shipping needs. For more information, visit our website at www.forwardaircorp.com.

Cautionary Statement Regarding Forward-Looking Statements

This document includes forward-looking statements within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, which are made pursuant to the safe harbor provisions of the Private Securities Litigation Reform Act of 1995, as amended. These statements may reflect Forward's expectations, beliefs, hopes, intentions or strategies regarding, among other things, the transactions contemplated under the Merger Agreement (collectively with the other transactions contemplated by the other Transaction Agreements referred to in the Merger Agreement, the "Transactions") between Forward and Omni, the benefits and synergies of the Transactions and future opportunities for the combined company, as well as other statements that are other than historical fact, including, without limitation, statements concerning future financial performance, future debt and financing levels, investment objectives, implications of litigation and regulatory investigations and other management plans for future operations and performance. Words such as "anticipate(s)", "expect(s)", "intend(s)", "plan(s)", "target(s)", "project(s)", "believe(s)", "will", "aim", "would", "seek(s)", "estimate(s)" and similar expressions are intended to identify such forward-looking statements.

Forward-looking statements are based on management's current expectations, projections, estimates, assumptions and beliefs and are subject to a number of known and unknown risks, uncertainties and other factors that could lead to actual results materially different from those described in the forward-looking statements. Forward can give no assurance that its expectations will be attained. Forward's actual results, liquidity and financial condition may differ from the anticipated results, liquidity and financial condition indicated in these forward-looking statements. We caution readers that any such statements are based on currently available operational, financial and competitive information, and they should not place undue reliance on these forward-looking statements, which reflect management's opinion only as of the date on which they were made. These forward-looking statements are not a guarantee of future performance and involve risks and uncertainties, and there are certain important factors that could cause Forward's actual results to differ, possibly materially, from expectations or estimates reflected in such forward-looking statements, including, but without limitation: (i) the outcome of any additional legal proceedings that have or may be instituted against the parties or any of their respective directors or officers related to the Transactions; (ii) the diversion of management time on issues related to the Transactions or any legal proceedings related thereto; (iii) the risk that the parties may be unable to achieve the expected strategic, financial and other benefits of the Transactions, including the realization of expected synergies and the achievement of deleveraging targets, within the expected time-frames or at all, particularly depending on the outcome of any legal proceedings related to the Transactions; (iv) the risk that the businesses will not be integrated successfully or that integration may be more difficult, time-consuming or costly than expected, particularly depending on the outcome of any legal proceedings related to the Transactions; (v) the risk that operating costs, customer loss, management and

employee retention and business disruption (including, without limitation, difficulties in maintaining relationships with employees, customers, clients or suppliers) may be greater than expected following the Transactions, particularly depending on the outcome of any legal proceedings related to the Transactions; (vi) risks associated with the need to obtain additional financing which may not be available or, if it is available, may result in a reduction in the ownership of current Forward shareholders, particularly depending on the outcome of any legal proceedings related to the Transactions; and (vii) general economic and market conditions.

These and other risks and uncertainties are more fully discussed in the risk factors identified in "Item 1A. Risk Factors" in Part I of Forward's most recently filed Annual Report on Form 10-K, and as may be identified in Forward's Quarterly Reports on Form10-Q and Current Reports on Form 8-K. Except to the extent required by law, Forward expressly disclaims any obligation to release publicly any updates or revisions to any forward-looking statements contained herein to reflect any change in Forward's expectations with regard thereto or change in events, conditions or circumstances on which any statement is based.

View source version on businesswire.com:
https://www.businesswire.com/news/home/20240125704053/en/

Elizabeth Volpe / Libby Lloyd
Brunswick Group
(212) 333- 3810
ForwardAirCorporation@BrunswickGroup.com

Source: Forward Air Corporation