Section 1: 8-K (FORM 8-K)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 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): March 15, 2019

Frontier Communications Corporation
(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of incorporation)

001-11001
(Commission File Number)

06-0619596
(IRS Employer Identification No.)

401 Merritt 7, Norwalk, Connecticut
(Address of principal executive offices)

06851
(Zip Code)

(203) 614-5600
(Registrant’s telephone number, including area code)

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

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

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

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

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

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

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. ☐
Closing of Notes Offering

On March 15, 2019, Frontier Communications Corporation (“Frontier” or the “Company”) issued $1.65 billion aggregate principal amount of 8.000% First Lien Secured Notes due 2027 (the “First Lien Notes”). The First Lien Notes were issued pursuant to an indenture, dated as of March 15, 2019 (the “Indenture”), by and among Frontier, the guarantors party thereto, the grantor party thereto, JPMorgan Chase Bank, N.A., as collateral agent, and The Bank of New York Mellon, as trustee. The First Lien Notes were issued in a private offering exempt from the registration requirements of the Securities Act of 1933, as amended (the “Securities Act”), to persons reasonably believed to be qualified institutional buyers in accordance with Rule 144A under the Securities Act and to persons outside the United States pursuant to Regulation S under the Securities Act, at a purchase price equal to 100% of the principal amount thereof.

The First Lien Notes are secured on a first-priority basis by all the assets that secure Frontier’s obligations under its senior secured credit facilities on a first-priority basis.

The First Lien Notes will bear interest at a rate of 8.000% per annum and will mature on April 1, 2027. Interest on the First Lien Notes will be payable to holders of record semi-annually in arrears on April 1 and October 1 of each year, commencing October 1, 2019.

Frontier may redeem the First Lien Notes at any time, in whole or in part, prior to their maturity. The redemption price for First Lien Notes redeemed before April 1, 2022 will be equal to 100% of the principal amount thereof, together with any accrued and unpaid interest to the redemption date, plus a make-whole premium. The redemption price for First Lien Notes redeemed on or after April 1, 2022 will be equal to the redemption prices set forth in the Indenture, together with any accrued and unpaid interest to the redemption date. In addition, at any time before April 1, 2022, Frontier may redeem up to 40% of the First Lien Notes using the proceeds of certain equity offerings.

In the event of a change of control triggering event, each holder of First Lien Notes will have the right to require Frontier to purchase for cash such holder’s First Lien Notes at a purchase price equal to 101% of the principal amount of the First Lien Notes, plus accrued and unpaid interest.

The Indenture contains customary negative covenants, subject to a number of important exceptions and qualifications, including, without limitation, covenants related to indebtedness, disqualified stock and preferred stock; dividends and distributions to stockholders and parent entities; repurchase and redemption of capital stock; investments and acquisitions; transactions with affiliates; liens; mergers, consolidations and transfers of substantially all assets; transfer or sale of assets, including capital stock of subsidiaries; and prepayment, redemption or repurchase of indebtedness subordinated to the First Lien Notes. Certain of these covenants will be suspended during such time, if any, that the First Lien Notes have investment grade ratings by at least two of Moody’s, S&P or Fitch.

The Indenture also provides for customary events of default which, if any of them occurs, would permit or require the principal of and accrued interest on the First Lien Notes to become or to be declared due and payable.

The Company used the proceeds from the offering of the First Lien Notes, together with cash on hand, to (i) repay in full the outstanding borrowings under its senior secured term loan A facility, which otherwise would have matured in March 2021, (ii) repay in full the outstanding borrowings under its credit agreement with CoBank ACB, which otherwise would have matured in October 2021, and (iii) pay related interest, fees and expenses.

The foregoing description of the Indenture is qualified in its entirety by reference to the full text of the Indenture, a copy of which is filed with this report as Exhibit 4.1 and is incorporated by reference herein.
Entry into Credit Agreement Amendment

On March 15, 2019, Frontier entered into Amendment No. 4 (the “Amendment”) to its first amended and restated credit agreement, dated as of February 27, 2017, with JPMorgan Chase Bank, N.A., as administrative agent, and the other lenders party thereto. Among other things, the Amendment (i) extends the maturity date of $835 million of the revolving loans and commitments thereunder from February 27, 2022 to February 27, 2024 (subject to springing maturity to any tranche of our existing debt with an aggregate outstanding principal amount in excess of $500 million), (ii) increases the interest rate applicable to such revolving loans by 0.25% and (iii) makes certain modifications to the debt and restricted payment covenants, in each case, as fully set forth in the 4th Amendment. The maturity date of any revolving loans and commitments not extended pursuant to the 4th Amendment remains February 27, 2022.

The foregoing description of the Amendment is qualified in its entirety by reference to the full text of the Amendment, a copy of which is filed with this report as Exhibit 10.1 and is incorporated by reference herein.

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

The information set forth in Item 1.01 is incorporated by reference into this Item 2.03.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

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EXHIBITS

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| Exhibit C | Form of Security Agreement Additional Pari Passu Joinder |
INDENTURE, dated as of March 15, 2019, (as supplemented or amended from time to time, this “Indenture”) by and among Frontier Communications Corporation, a Delaware corporation (the “Company”), the Guarantors party hereto and The Bank of New York Mellon, as trustee (the “Trustee”) and JPMorgan Chase Bank, N.A., as Collateral Agent (as defined below).

WITNESSETH:

WHEREAS, the Company has duly authorized the execution and delivery of this Indenture to provide for the issuance of (i) $1,650,000,000 aggregate principal amount of its 8.000% First Lien Secured Notes due 2027 (the “Initial Notes”), as issued on the date hereof and (ii) any additional Notes (the “Additional Notes” and, together with the Initial Notes, the “Notes”) that may be issued after the date hereof; and

WHEREAS, all things necessary to make this Indenture a valid and legally binding agreement of the Company, in accordance with its terms, have been done.

NOW, THEREFORE:

In consideration of the premises and the purchase of the Notes by the Holders (as defined below) thereof for the equal and proportionate benefit of all of the present and future Holders of the Notes, each party agrees and covenants as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Definitions.

“144A Global Note” means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will initially be issued in a denomination equal to the principal amount of the Notes sold in reliance on Rule 144A.

“Acquired Indebtedness” means, with respect to any specified Person,

1. Indebtedness of any other Person existing at the time such other Person is merged with or into or became a Subsidiary of such specified Person, including Indebtedness incurred in connection with, or in contemplation of, such other Person merging with or into or becoming a Subsidiary of such specified Person, and

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

“Additional Notes” has the meaning assigned to such term in the recitals.


“Agent” means any Registrar, Paying Agent or any Authenticating Agent or transfer agent.

“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, shall mean 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 Amount” means the sum of (A)(x) cumulative Consolidated EBITDA from and after October 1, 2015 to the most recently ended fiscal quarter for which internal financial statements are available preceding the date of the proposed action (for the avoidance of doubt, such cumulative Consolidated EBITDA shall include the Consolidated EBITDA for any such quarters, whether negative or positive) minus (y) 1.4 times Cumulative Interest Expense plus (without duplication) (B):

(1) 100% of the aggregate net cash proceeds, and the Fair Market Value of marketable securities or other property or assets other than cash, received by the Company from the issue or sale (other than to a Subsidiary) of any class of Equity Interests in the Company after the Issue Date, other than (A) Disqualified Stock, (B) Equity Interests to the extent the net cash proceeds therefrom are applied as provided for in clause (4) of Section 6.09(B) and (C) Refunding Capital Stock to the extent the net cash proceeds therefrom are applied as provided for in clause (2) of Section 6.09(B); plus

(2) 100% of any cash and the Fair Market Value of marketable securities or other property or assets other than cash received by the Company as a capital contribution from its shareholders subsequent to the Issue Date; plus

(3) 100% of the principal amount (or accreted amount (determined in accordance with GAAP), if less) of any Indebtedness, or the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock, of the Company or any Restricted Subsidiary of the Company issued after the Issue Date (other than any such Indebtedness or Disqualified Stock to the extent issued to a Subsidiary of the Company), which has been converted into or exchanged for Equity Interests in the Company (other than Disqualified Stock); plus

(4) to the extent not already included in Consolidated EBITDA, 100% of the aggregate cash proceeds received by the Company or any of its Restricted Subsidiaries since the Issue Date from Investments, whether through interest payments, principal payments, returns, profits, distributions, income and similar amounts, dividends or other distributions and payments, or the sale or other disposition (other than to the Company or a Restricted Subsidiary of the Company) thereof made by the Company and its Restricted Subsidiaries; plus

(5) to the extent that any Unrestricted Subsidiary of the Company is redesignated as a Restricted Subsidiary after the Issue Date, the lesser of (i) the Fair Market Value of the Company’s Investment in such Subsidiary as of the date of such redesignation and (ii) such Fair Market Value as of the date on which such Subsidiary was originally designated as an Unrestricted Subsidiary.

less the amount of any Applicable Amount previously applied pursuant to clause (3)(B)(ii) of Section 6.09(B) and clause (l)(ii) of the definition of “Permitted Debt.”

“Applicable Premium” means the greater of (A) 1.0% of the principal amount of such Note and (B) on any redemption date, the excess (to the extent positive) of:

(1) the present value at such redemption date of (i) the redemption price of such Note at April 1, 2022 (such redemption price (expressed in percentage of principal amount) being set forth in Section 4.07 (excluding accrued but unpaid interest, if any)), plus (ii) all required interest payments due on such Note to and including such date set forth in clause (i) (excluding accrued but unpaid interest, if any), computed upon the redemption date using a discount rate equal to the Applicable Treasury Rate at such redemption date plus 50 basis points; over

(2) the outstanding principal amount of such Note;

in each case, as calculated by the Company or on behalf of the Company by such Person as the Company shall designate. The Trustee shall have no duty to calculate or verify the calculations of the Applicable Premium.
“Applicable Procedures” means, with respect to any transfer or transaction involving a Regulation S Global Note or beneficial interest therein, the rules and procedures of the Depository for such a Regulation S Global Note, to the extent applicable to such transaction and as in effect from time to time.

“Applicable Treasury Rate” means the yield to maturity at the time of computation of United States Treasury securities with a constant maturity (as compiled and published in the most recent Federal Reserve Statistical Release (H) 15 (519) which has become publicly available at least two Business Days prior to the redemption date (or, if such statistical release is not so published or available or such information is not available thereon, any publicly available source of similar market data selected by the Company in good faith)) most nearly equal to the period from the redemption date to April 1, 2022; provided, however, that if the period from the redemption date to April 1, 2022 is not equal to the constant maturity of a United States Treasury security for which a weekly average yield is given, the Applicable Treasury Rate shall be obtained by linear interpolation (calculated to the nearest one-twelfth of a year) from the weekly average yields of United States Treasury securities for which such yields are given, except that if the period from the redemption date to such applicable date is less than one year, the weekly average yield on actually traded United States Treasury securities adjusted to a constant maturity of one year shall be used.

“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 a Sale and Lease-Back Transaction) of the Company or any Restricted Subsidiary (each referred to in this definition as a “disposition”) or

(2) the issuance or sale of Equity Interests of any Restricted Subsidiary (other than preferred stock issued pursuant to Section 6.10), whether in a single transaction or a series of related transactions and whether effected pursuant to a Division or otherwise, in each case, other than:

(a) a disposition of cash or Cash Equivalents, obsolete, uneconomical, surplus or worn out property or equipment, inventory or other assets;

(b) the disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries in a manner permitted pursuant to the provisions described under Article V or any disposition that constitutes a Change of Control pursuant to this Indenture;

(c) the making of any Restricted Payment or Permitted Investment that is permitted to be made under Section 6.09;

(d) any disposition of property or assets or issuance or sale of Equity Interests of any Restricted Subsidiary in any transaction or series of related transactions with an aggregate Fair Market Value for any such transaction or series of related transactions not exceeding the greater of (x) $100.0 million and (y) 0.30% of Total Assets;

(e) any disposition of property or assets between or among the Company and its Restricted Subsidiaries and any issuance of Equity Interests by a Restricted Subsidiary to the Company or another Restricted Subsidiary of the Company;

(f) to the extent allowable under Section 1031 of the Code, any exchange of like property (excluding any boot thereon) for use in a Similar Business;

(g) the lease, assignment or sub-lease of any real or personal property in the ordinary course of business and the license or sublicense of intellectual property or other general intangibles and licenses in the ordinary course of business;

(h) foreclosures on, or expropriations or condemnation of, assets and the settlement, release, waiver or surrender of contract, tort and other claims;
(i) any financing transaction with respect to property built, repaired, improved or acquired by the Company or any Subsidiary after the Issue Date, including Sale and Lease-Back Transactions and asset securitizations, permitted by this Indenture;

(j) dispositions of accounts receivable in connection with the collection or compromise thereof in the ordinary course of business;

(k) the granting of a Lien permitted under Section 6.11;

(l) contractual arrangements under long-term contracts with customers entered into by the Company and its Restricted Subsidiaries which are treated as sales for accounting purposes; provided that there is no transfer of title in connection with such contractual arrangement;

(m) any Plan Contribution;

(n) additional dispositions of assets (taken together with all such dispositions made pursuant to this clause (n)) since the Issue Date with an aggregate Fair Market Value not exceeding the greater of (x) $250.0 million and (y) 1.0% of Total Assets; and

(o) for the avoidance of doubt, any waiver, termination or amendment of contractual terms or rights.


“Beneficial Owner” has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the Beneficial Ownership of any particular “person” as such term is used in Section 13(d)(3) of the Exchange Act, such “person” will be deemed to have Beneficial Ownership of all securities that such “person” has the right to acquire by conversion or exercise of other securities, whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition. The terms “Beneficially Owns,” “Beneficially Owned” and “Beneficial Ownership” have a corresponding meaning.

“Board of Directors” means, with respect to any Person, (i) in the case of any corporation, the board of directors of such Person, (ii) in the case of any limited liability company, the board of managers of such Person, (iii) in the case of any partnership, the Board of Directors of the general partner of such Person and (iv) in any other case, the functional equivalent of the foregoing or, in each case, other than for purposes of the definition of “Change of Control,” any duly authorized committee of such body.

“Board Resolution” means one or more resolutions, certified by the secretary or an assistant secretary of the Company to have been duly adopted or consented to by the Board of Directors and to be in full force and effect, and delivered to the Trustee.

“Business Day” means each day which is not a Legal Holiday.

“Capital Lease Obligations” means Indebtedness represented by obligations under a lease that is required to be capitalized for financial reporting purposes in accordance with GAAP. The amount of Indebtedness will be the capitalized amount of the obligations determined in accordance with GAAP consistently applied.

“Capital Stock” means:

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

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

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.

“Cash Equivalents” means:

(1) securities or obligations issued or unconditionally guaranteed by the United States government or any agency or instrumentality thereof, in each case having maturities of not more than 24 months from the date of acquisition thereof;

(2) securities or obligations issued by any state of the United States of America, or any political subdivision of any such state, or any public instrumentality thereof, having maturities of not more than 24 months from the date of acquisition thereof and, at the time of acquisition, having an investment grade rating generally obtainable from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, then from another nationally recognized rating service);

(3) commercial paper issued by any lender under the Senior Credit Facilities or any bank holding company owning any lender under the Senior Credit Facilities;

(4) commercial paper maturing no more than 12 months after the date of creation thereof and, at the time of acquisition, having a rating of at least A-2 or P-2 from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized rating service);

(5) domestic and LIBOR certificates of deposit or bankers’ acceptances maturing no more than two years after the date of acquisition thereof issued by any lender under the Senior Credit Facilities or any other bank having combined capital and surplus of not less than $250.0 million in the case of domestic banks and $100.0 million in the case of foreign banks;

(6) auction rate securities rated at least Aa3 by Moody’s and AA- by S&P (or, if at any time either S&P or Moody’s shall not be rating such obligations, an equivalent rating from another nationally recognized rating service);

(7) repurchase agreements with a term of not more than 30 days for underlying securities of the type described in clauses (1), (2) and (5) above entered into with any bank meeting the qualifications specified in clause (5) above or securities dealers of recognized national standing;

(8) repurchase obligations with respect to any security that is a direct obligation or fully guaranteed as to both credit and timeliness by the Government of the United States or any agency or instrumentality thereof, the obligations of which are backed by the full faith and credit of the Government of the United States;

(9) marketable short-term money market and similar funds (x) either having assets in excess of $250.0 million or (y) having a rating of at least A-2 or P-2 from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized rating service in the United States); and

(10) shares of investment companies that are registered under the Investment Company Act of 1940 and 95% the investments of which are one or more of the types of securities described in clauses (1) through (9) above;

(11) any other investments used by the Company and its Subsidiaries as temporary investments; and
in the case of investments by the Company or any Subsidiary organized or located in a jurisdiction other than the United States (or any political subdivision or territory thereof), or in the case of investments made in a country outside the United States of America, other customarily utilized high-quality investments in the country where such Subsidiary is organized or located or in which such investment is made, all as reasonably determined in good faith by the Company.

“CFC” means a “controlled foreign corporation” within the meaning of Section 957(a) of the Internal Revenue Code of 1986, as amended (or any successor provision thereto).

“Change of Control” means the occurrence of any of the following:

1. the adoption of a plan relating to the liquidation or dissolution of the Company; or

2. any “person,” as such term is used in Section 13(d)(3) of the Exchange Act, becomes the Beneficial Owner, directly or indirectly, of more than 50% of the voting power of the outstanding Voting Stock of the Company; provided that a transaction in which the Company becomes a Subsidiary of another Person shall not constitute a Change of Control if (a) the stockholders of the Company immediately prior to such transaction Beneficially Own, directly or indirectly through one or more intermediaries, 50% or more of the voting power of the outstanding Voting Stock of such other Person of whom the Company is then a Subsidiary and (b) immediately following such transaction no person (as defined above) other than such other Person, Beneficially Owns, directly or indirectly, more than 50% of the voting power of the Voting Stock of the Company.

Notwithstanding the foregoing, (a) a transaction shall not be deemed to involve a Change of Control solely as a result of the Company becoming a direct or indirect Wholly-Owned Subsidiary of a holding company if (A) the direct or indirect holders of the Voting Stock of such holding company immediately following that transaction are substantially the same as the holders of the Company’s Voting Stock immediately prior to that transaction or (B) immediately following that transaction, no Person (other than a holding company satisfying the requirements of this sentence) is the Beneficial Owner, directly or indirectly, of more than 50% of the Voting Stock of such holding company and (b) the right to acquire Voting Stock (so long as such Person does not have the right to direct the voting of the Voting Stock subject to such right) or any veto power in connection with the acquisition or disposition of Voting Stock will not cause a party to be a Beneficial Owner.

“Change of Control Triggering Event” means the occurrence of both a Change of Control and a Ratings Decline.


“Collateral” means all the “Collateral” and “Pledged Collateral” (or equivalent terms) as defined in any Collateral Document and any and all other property, now existing or hereafter acquired, on which a Lien to secure the Notes Obligations is granted to the Collateral Agent pursuant to the Collateral Documents.

“Collateral Agent” means JPMorgan Chase Bank, N.A., in its capacity as “Collateral Agent” under the Collateral Documents or any successor or assign thereto in such capacity.

“Collateral Documents” means, collectively, the Pledge Agreement, the Security Agreement, the Additional Pari Passu Joinders, the First Priority/Second Priority Intercreditor and Subordination Agreement and all other agreements, instruments and documents that are intended to create, perfect or evidence Liens to secure the Notes Obligations, including all other security agreements, pledge agreements, loan agreements, notes, guarantees, pledges, powers of attorney, consents, assignments, contracts, fee letters, notices, financing statements and all other written matter whether heretofore, now or hereafter executed by the Company or any of its Subsidiaries and delivered to the Collateral Agent for its benefit and the benefit of the other Notes Secured Parties, as amended, extended, renewed, restated, refunded, replaced, refinanced, supplemented, modified or otherwise changed from time to time.

“Collateral Grantors” means, collectively, the Company and the Grantor.
“Commodity Agreement” means any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement.

“Company” means the Person named as the “Company” in the recitals, until a successor Person shall have become such pursuant to the applicable provisions of this Indenture, and thereafter “Company” shall mean such successor Person.

“Company Order” means a written request or order signed in the name of the Company by an Officer of the Company and delivered to the Trustee.

“Consolidated EBITDA” means, with respect to the Company and its Restricted Subsidiaries on a consolidated basis, for any period, the sum of (i) operating income for such period, plus (ii) to the extent resulting in reductions in such operating income for such period, (a) depreciation and amortization expense for such period and (b) the amount of non-cash charges for such period, plus (iii) charges for severance, restructuring and acquisition (including acquisition integration) costs, plus (iv) cost savings, operating expense reductions, other operating improvements and initiatives and synergies related to any Material Transaction that are (a) permitted under Regulation S-X promulgated pursuant to the Securities Act or (b) projected by a financial Officer of the Company in good faith to be reasonably anticipated to be realizable within eighteen (18) months of the date of such Material Transaction (which will be added to Consolidated EBITDA as so projected until fully realized, and calculated on a pro forma basis, as though such cost savings, operating expense reductions, other operating improvements and initiatives and synergies 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 with respect to this clause (iv)(b) such cost savings, operating expense reductions, other operating improvements and initiatives or synergies are reasonably identifiable and factually supportable (in the good faith determination of a financial Officer of the Company); provided, further, that, the aggregate amount of cost savings, operating expense reductions, other operating improvements and initiatives and synergies related to any Material Transaction added back pursuant to this clause (iv)(b) or the definition of “Pro Forma Basis” (that are not permitted under Regulation S-X promulgated pursuant to the Securities Act) in any period of four consecutive fiscal quarters shall not exceed 15% of Consolidated EBITDA with respect to add-backs in connection with Material Transactions; provided, for the avoidance of doubt, the aggregate amount of all such add-backs in any period of four consecutive fiscal quarters shall not exceed 20% of Consolidated EBITDA, in each case for this clause (iv)(b) calculated prior to giving effect to such add-backs added back pursuant to this clause (iv)(b) for such period, minus (v) to the extent resulting in increases in such operating income for such period, the non-cash gains for such period, all determined on a consolidated basis in accordance with GAAP. For any period of calculation, “Consolidated EBITDA” shall be calculated on a Pro Forma Basis to give effect to any Material Transaction; provided, however, that solely for purposes of the calculation of the “Applicable Amount,” historical results of the entity, divisions or lines or assets so acquired will not be included for periods prior to the date such Material Transaction has been consummated.

“Consolidated Interest Expense” means, for any period, the cash interest expense (including that attributable to Capital Lease Obligations in accordance with GAAP), net of cash interest income, of the Company and its Restricted Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of the Company and its Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and all income or costs under Swap Agreements (other than currency swap agreements, currency future or option contracts and other similar agreements unrelated to interest expense) and any cash dividends paid on any Disqualified Stock, amortization of deferred financing costs and any other amounts of noncash interest, all as calculated on a consolidated basis in accordance with GAAP and excluding, for avoidance of any doubt, any interest in respect of items excluded from Indebtedness in the proviso to the definition thereof; provided that, for purposes of Article V, there shall be included in determining Consolidated Interest Expense for any period the cash interest expense (or income) of any acquired Person or business acquired during such period, based on the cash interest expense (or income) of such acquired Person or business for such period (including the portion thereof occurring prior to such acquisition or conversion) assuming any Indebtedness incurred or repaid in connection with any such acquisition or conversion had been incurred or repaid on the first day of such period. Notwithstanding the foregoing, if any lease or other liability is reclassified as Indebtedness or as a Capital Lease Obligation due to a change in accounting principles or the application thereof after the Issue Date, the interest component of all payments associated with such lease or other liability shall be excluded from Consolidated Interest Expense to the extent excluded prior to such change.
“Consolidated Total Indebtedness” means, as of any date of determination, the aggregate principal amount of Indebtedness of the Company and its Restricted Subsidiaries (other than Indebtedness described in clauses (4) and (8) of the definition of “Indebtedness”) outstanding as of such date, in the amount and only to the extent that such Indebtedness would be reflected on a balance sheet prepared as of such date, on a consolidated basis in accordance with GAAP, minus the amount of the cash and Cash Equivalents of the Company and its Restricted Subsidiaries in excess of $50,000,000 that would be reflected on such balance sheet.

“Corporate Trust Office,” means the office of the Trustee at which at any particular time its corporate trust business shall be principally administered, which office at the date of the execution of this instrument is located at 500 Ross Street, 12th Floor, Pittsburgh, PA 15262, Attention: Corporate Trust, Facsimile No. 412-234-8377, or such other address as the Trustee may designate from time to time by notice to the Company, 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 Company).

“Credit Facilities” means, with respect to the Company or any of its Restricted Subsidiaries, one or more debt facilities, including the Senior Credit Facilities, or commercial paper facilities, credit agreements, indentures or other agreements, in each case with banks or other institutional lenders, investors, purchasers, trustees or agents providing for revolving credit loans, term loans, receivables financing (including through the sale of receivables to such lenders or to special purpose entities formed to borrow from such lenders against receivables), letters of credit or other extensions of credit or other Indebtedness, including any notes, guarantees, collateral documents, instruments and agreements executed in connection therewith, and any amendments, waivers, supplements, modifications, extensions, renewals, restatements or refundings thereof and any agreement or instrument (and related documents) governing Indebtedness incurred to replace, refund, refinance or otherwise restructure all or any part of the loans, notes, other credit facilities, borrowings or commitments outstanding or permitted to be outstanding thereunder or any successor or replacement loans, notes, other credit facilities, borrowings or commitments outstanding or permitted to be outstanding thereunder, including any such replacement, refunding, refinancing or other restructuring facility or indenture that increases the amount borrowable thereunder or alters the maturity thereof, in each case whether by the same or any other bank, institutional lender, investor, purchaser, trustee or agent or group thereof.

“Cumulative Interest Expense” means, in respect of any Restricted Payment, the sum of the aggregate amount of Consolidated Interest Expense of the Company and its Restricted Subsidiaries for the period from and after October 1, 2015, to the most recently ended fiscal quarter for which internal financial statements are available preceding the proposed Restricted Payment.

“CUSIP” means the identification number provided by the Committee on Uniform Securities Identification Procedures.

“Currency Agreement” means any foreign exchange contract, currency swap agreement or other similar agreement or arrangement.

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

“Definitive Notes” means certificated Notes.

“Depository” means, with respect to the Notes issuable in whole or in part in the form of one or more Global Notes, the Person designated as Depository by the Company pursuant to Section 2.01 until a successor Depository shall have become such pursuant to the applicable provisions of this Indenture. The “Depository” shall initially be DTC, its nominees and its successors.

“Designated Noncash Consideration” means the Fair Market Value of noncash consideration received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Noncash Consideration pursuant to an Officer’s Certificate, setting forth the basis of such valuation, executed by a responsible financial or accounting Officer of the Company, less the amount of cash, Cash Equivalents or Replacement Assets received in connection with a subsequent sale of such Designated Noncash Consideration.
“Discharge” means, with respect to any Indebtedness, the date on which (a) (i) such Indebtedness and the Pari Passu Obligations or Second Priority Obligations thereunder, as the case may be, have been paid in full in cash, (ii) no holder or lender thereunder, as the case may be, has any remaining commitment to extend credit, and (iii) all letters of credit issued thereunder have been terminated or cash collateralized in accordance with the provisions of such Indebtedness or (b) such Indebtedness and the Pari Passu Obligations or Second Priority Obligations thereunder, as the case may be, are no longer secured by Collateral or guaranteed by any Guarantor pursuant to the terms of the documentation governing such Indebtedness. The term “Discharged” shall have a corresponding meaning.

“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 puttable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than for Capital Stock that is not Disqualified Stock), other than as a result of a change of control or asset sale, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than for Capital Stock that is not Disqualified Stock) other than as a result of a change of control or asset sale, in whole or in part, in each case prior to the date that is 91 days after the earlier of the maturity date of the Notes or the date such Notes are no longer outstanding; provided, however, that if such Capital Stock is issued to any plan for the benefit of employees of the Company or its Restricted 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 the Company or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations.

“Dividing Person” has the meaning assigned to it in the definition of “Division”.

“Division” means the division of the assets, liabilities and/or obligations of a Person (the “Dividing Person”) among two or more Persons pursuant to a “plan of division” or similar arrangement, in each case, as specifically provided for in the applicable organizational statute of such Person, which may or may not include the Dividing Person and pursuant to which the Dividing Person may or may not survive.

“Domestic Subsidiary” means, with respect to any Person, any Restricted Subsidiary of such Person other than a Foreign Subsidiary.

“DTC” means The Depository Trust Company.

“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 (x) a sale of Capital Stock (other than through the issuance of Disqualified Stock) other than (a) offerings registered on Form S-8 (or any successor form) under the Securities Act or any similar offering in other jurisdictions or other securities of the Company and (b) issuances of Capital Stock to any Subsidiary of the Company or (y) a cash equity contribution to the Company.


“Existing Indebtedness” means Indebtedness of the Company or its Restricted Subsidiaries in existence on the Issue Date, plus interest accruing thereon.

“Existing Second Lien Notes” means the Company’s $1,600.0 million aggregate principal amount outstanding of 8.500% second lien notes due 2026.

“Existing Second Lien Notes Documents” means the Existing Second Lien Notes Indenture and each of the other agreements, documents and instruments providing for or evidencing any other Existing Second Lien Notes Obligation under the Existing Second Lien Notes and any other document or instrument executed or delivered at any time in connection with any Existing Second Lien Notes Obligations under the Existing Second Lien Notes (including any intercreditor or joinder agreement among holders of Second Priority Obligations but excluding documents governing Hedging Obligations), to the extent such are effective at the relevant time, as each may be amended, extended, renewed, restated, refunded, replaced, refinanced, supplemented, modified or otherwise changed from time to time.
“Existing Second Lien Notes Indenture” means that certain Indenture, dated as of March 19, 2018, between the Company, the guarantors party thereto, the Grantor, the trustee named therein and the Second Priority Collateral Agent, as amended, extended, renewed, restated, refunded, replaced, refinanced, supplemented, modified or otherwise changed from time to time.

“Existing Second Lien Notes Obligations” means any and all amounts payable under or in respect of the Existing Second Lien Notes and the other Existing Second Lien Notes Documents as amended, restated, supplemented, waived, replaced, restructured, repaid, refunded, refinanced or otherwise modified from time to time (including after termination of the Existing Second Lien Notes), including principal, premium (if any), interest (including Post-Petition Interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company, whether or not a claim for Post-Petition Interest is allowed or allowable in such proceedings), fees, charges, expenses, reimbursement obligations, guarantees and all other amounts payable thereunder or in respect of.

“Existing Unsecured Notes” means, collectively, all the Company’s existing senior unsecured notes, in each case in the aggregate principal amount outstanding as of the Issue Date.

“Existing Notes” means, collectively, the Existing Second Lien Notes and the Existing Unsecured Notes.

“Excluded Subsidiary” means any of the following:

(a) each Immaterial Subsidiary;

(b) each Subsidiary that is not a Wholly-Owned Subsidiary (for so long as such Subsidiary remains a non-Wholly-Owned Subsidiary);

(c) each Domestic Subsidiary to the extent that (i) in the case of a Note Guarantee, (x) such Subsidiary is prohibited from guaranteeing the Notes Obligations by any applicable law or (y) any such Note Guarantee would require consent, approval, license or authorization of a Governmental Authority (unless such consent, approval, license or authorization has been received) or (ii) in the case of providing Collateral, (x) such Subsidiary is prohibited from granting Liens on its assets to secure the Notes Obligations by any applicable law or (y) any such grant of security would require consent, approval, license or authorization of a Governmental Authority (unless such consent, approval, license or authorization has been received);

(d) each Domestic Subsidiary to the extent that (i) in the case of a Note Guarantee, such Subsidiary is prohibited by any applicable contractual requirement (not created in contemplation of the consummation of this restriction) from guaranteeing the Notes Obligations on the Issue Date or at the time such Subsidiary becomes a Subsidiary or (ii) in the case of providing Collateral, such Subsidiary is prohibited by any applicable contractual requirement (not created in contemplation of the consummation of this restriction) from granting Liens on its assets to secure the Notes Obligations on the Issue Date or at the time such Subsidiary becomes a Subsidiary;

(e) any Foreign Subsidiary;

(f) any Domestic Subsidiary (i) that is a FSHCO or (ii) that is a Subsidiary of a Foreign Subsidiary that is a CFC;

(g) in the case of a Note Guarantee, any Domestic Subsidiary with no material operations and no material assets other than the Equity Interests of Subsidiaries;

(h) any special purpose securitization vehicle or similar entity;

(i) any not-for-profit Subsidiary; and

(j) any captive insurance Subsidiary.
“Fair Market Value” means the price that would be paid in an arm’s length transaction between an informed and willing seller under no compulsion to sell and an informed and willing buyer under no compulsion to buy, as determined in good faith by (i) a responsible financial or accounting Officer of the Company with respect to valuations not in excess of $250.0 million and (ii) the Board of Directors of the Company with respect to valuations equal to or in excess of $250.0 million, whose determination, unless otherwise specified, shall be conclusive if evidenced by a Board Resolution.

“FCC” means the United States Federal Communications Commission and any successor agency that is responsible for regulating the United States telecommunications industry.

“First Priority Credit Documents” means the Senior Credit Facilities, this Indenture and each of the other agreements, documents and instruments providing for or evidencing any other First Priority Credit Obligation under Credit Facilities and any other document or instrument executed or delivered at any time in connection with any First Priority Credit Obligation under the Credit Facilities (including any intercreditor or joinder agreement among holders of First Priority Credit Obligations but excluding documents governing Hedging Obligations), to the extent such are effective at the relevant time, as each may be amended, extended, renewed, restated, refunded, replaced, refinanced, supplemented, modified or otherwise changed from time to time.

“First Priority Credit Obligations” means (i) any and all amounts payable under or in respect of the Senior Credit Facilities, this Indenture and the other First Priority Credit Documents as amended, restated, supplemented, waived, replaced, restructured, repaid, refunded, refinanced or otherwise modified from time to time (including after termination of the Senior Credit Facilities), including principal, premium (if any), interest (including Post-Petition Interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company, whether or not a claim for Post-Petition Interest is allowed or allowable in such proceedings), fees, charges, expenses, reimbursement obligations, guarantees and all other amounts payable thereunder or in respect of, in each case, to the extent secured by a Permitted Lien incurred or deemed incurred to secure Indebtedness under a Credit Facility constituting Pari Passu Obligations pursuant to clause (1) of the definition of “Permitted Liens,” and (ii) all other Obligations of the Company or any Other Obligor in respect of Hedging Obligations or Obligations in respect of cash management services in each case owing to a Person that is a holder of Indebtedness described in clause (i) above or an Affiliate of such holder at the time of entry into such Hedging Obligations or Obligations in respect of cash management services.

“First Priority/Second Priority Intercreditor and Subordination Agreement” means the Junior Lien Intercreditor and Subordination Agreement, dated as of March 19, 2018, among the Collateral Agent, the Company, the Guarantors, the Grantor and the other parties thereto, as it may be further amended or supplemented from time to time in accordance with this Indenture.

“Fitch” means Fitch Ratings, Inc., or any successor to its rating agency business.

“Foreign Subsidiary” means, with respect to any Person, any Subsidiary of such Person that is not organized or existing under the laws of the United States, any state thereof or the District of Columbia, and any Subsidiary of such Subsidiary.

“FSHCO” means any domestic Subsidiary that owns no material assets (directly or through subsidiaries) other than the equity interests of one or more Foreign Subsidiaries that are CFCs.

“Future Second Lien Indebtedness” means any Indebtedness of the Company and/or the Guarantors that is secured by a Lien on the Collateral (other than a Lien that is pari passu with or senior to the Lien securing the Notes), as permitted by this Indenture.

“Future Second Lien Indebtedness Secured Parties” means holders of any Future Second Priority Obligations and any trustee, authorized representative or agent of such Future Second Priority Obligations.
“Future Pari Passu Indebtedness” means any future Indebtedness of the Company and/or the Guarantors that is secured by a Lien on the Collateral and ranks equally in right of payment and Lien priority to the Notes as permitted by this Indenture; provided that (i) the trustee, agent or other authorized representative for the holders of such Indebtedness (other than in the case of Additional Notes) shall execute a joinder to the Collateral Documents and (ii) the Company shall designate such Indebtedness as Future Pari Passu Indebtedness under the First Priority/Second Priority Intercreditor and Subordination Agreement.

“Future Pari Passu Indebtedness Secured Parties” means holders of any Future Pari Passu Obligations and any trustee, authorized representative or agent of such Future Pari Passu Obligations.

“Future Pari Passu Obligations” means Obligations in respect of Future Pari Passu Indebtedness, including all Post-Petition Interest with respect thereto.

“Future Second Priority Obligations” means Obligations in respect of Future Second Lien Indebtedness, including all Post-Petition Interest with respect thereto.

“GAAP” means generally accepted accounting principles set forth in the opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and in the 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, as in effect from time to time; provided, however, that if any operating lease would be recharacterized as a capital lease due to changes in the accounting treatment of such operating leases under GAAP since the Issue Date, then solely with respect to the accounting treatment of any such lease, GAAP shall be interpreted as it was in effect on the Issue Date, and provided further that any change in GAAP after the Issue Date relating to the determination of the amount or the extent to which Indebtedness would be reflected on a balance sheet shall be disregarded. All ratios and computations contained or referred to in each Indenture shall be computed in conformity with GAAP applied on a consistent basis.

“Global Note” means a global note substantially in the form of Exhibit A hereto bearing the Global Note Legend and, to the extent required by this Indenture, the Private Placement Legend deposited with or on behalf of, and registered in the name of, the Depository or its nominee.

“Global Note Legend” means the legend set forth in Exhibit A hereof, as applicable, which is required to be place on all Global Notes issued under this Indenture.

“Government Securities” 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 either case, are not callable or redeemable at the option of the issuers 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 Government Securities or a specific payment of principal or interest on any such Government Securities 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 Government Securities or the specific payment of principal or of interest on the Government Securities evidenced by such depository receipt.

“Governmental Authority” means any federal, state, provincial, local or foreign court or tribunal or governmental agency, authority, instrumentality or regulatory or legislative body.

“Grantor” means Frontier Video Services Inc.
“guarantee” means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (1) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness of such other Person (whether arising by virtue of partnership arrangements, or by agreements to keep-well, to purchase assets, goods, securities or services (unless such purchase arrangements are on arm’s-length terms and are entered into in the ordinary course of business), to take-or-pay, or to maintain financial statement conditions or otherwise) or (2) entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); provided that the term “guarantee” shall not include endorsements for collection or deposit in the ordinary course of business. The term “guarantee” used as a verb has a corresponding meaning.

“Guarantor” means any Restricted Subsidiary that guarantees the Notes pursuant to the terms of this Indenture, until such Note Guarantee is released in accordance with the terms of this Indenture.

“Hedging Obligations” means, with respect to any Person, the obligations of such Person under any Interest Rate Agreement, Commodity Agreement or Currency Agreement.

“Holder” means the Person in whose name Notes are registered in the Register.

“Immaterial Subsidiary” means any Subsidiary of the Company that (i) does not incur or guarantee any obligations under any Senior Credit Facility or any other Indebtedness, (ii) did not, as of the last day of the fiscal quarter of the Company most recently ended for which financial statements have been (or were required to be) delivered pursuant to Section 6.08 have assets with a value in excess of 5.0% of the Total Assets or revenues representing in excess of 5.0% of total revenues of the Company and the Subsidiaries on a consolidated basis as of such date, and (iii) taken together with all such Subsidiaries as of such date, did not have assets with a value in excess of 10.0% of Total Assets or revenues representing in excess of 10.0% of total revenues of the Company and its Subsidiaries on a consolidated basis as of such date. Any Subsidiary so designated as an Immaterial Subsidiary that fails to meet the foregoing as of the last day of any such four consecutive fiscal quarter period shall continue to be deemed an “Immaterial Subsidiary” hereunder until the date that is one business day following the filing, transmittal or making available of annual or quarterly financial statements pursuant to Section 6.08 with respect to the last quarter of such four consecutive fiscal quarter period.

“incur” means, with respect to any Indebtedness, to incur, create, issue, assume, guarantee or otherwise become liable for or with respect to, or become responsible for, the payment of, contingently or otherwise, such Indebtedness; provided that (1) any Indebtedness of a Person existing at the time such Person becomes a Restricted Subsidiary will be deemed to be incurred by such Restricted Subsidiary at the time it becomes a Restricted Subsidiary (whether by merger, amalgamation, consolidation, acquisition, Division or otherwise) and (2) neither the accrual of interest nor the accretion or amortization of original issue discount nor the payment of interest or dividend in the form of additional Indebtedness shall be considered an incurrence of Indebtedness.

“Indebtedness” means, with respect to any Person at any date of determination (without duplication):

1. all indebtedness of such Person for borrowed money;
2. all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments;
3. all obligations of such Person in respect of letters of credit or other similar instruments (including reimbursement obligations with respect thereto, but excluding obligations with respect to letters of credit (including trade letters of credit) securing obligations entered into in the ordinary course of business of such Person to the extent such letters of credit are not drawn upon or, if drawn upon, to the extent such drawing is reimbursed no later than the fifth Business Day following receipt by such Person of a demand for reimbursement);
all obligations of such Person to pay the deferred and unpaid purchase price of property or services, which purchase price is due more than one year after the date of placing such property in service or taking delivery and title thereto or the completion of such services, except Trade Payables;

(5) all Capital Lease Obligations of such Person;

(6) all Indebtedness of other Persons secured by a Lien on any asset of such Person, whether or not such Indebtedness is assumed by such Person; provided that the amount of such Indebtedness shall be the lesser of (A) the Fair Market Value of such asset at such date of determination and (B) the amount of such Indebtedness;

(7) all Indebtedness of other Persons guaranteed by such Person to the extent such Indebtedness is guaranteed by such Person;

(8) to the extent not otherwise included in this definition, obligations under Interest Rate Agreements, Commodity Agreements and Currency Agreements, except for Interest Rate Agreements, Commodity Agreements and Currency Agreements entered into for the purpose of fixed, hedging or swapping interest rate, commodity price or foreign currency exchange rate risk; and

(9) all Disqualified Stock issued by such Person with the amount of Indebtedness represented by such Disqualified Stock being equal to the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price, but excluding accrued dividends, if any.

The amount of Indebtedness of any Person at any date shall be the outstanding balance at such date of all unconditional obligations as described above and, with respect to contingent obligations, the maximum liability upon the occurrence of the contingency giving rise to the obligation, provided:

(A) that the amount outstanding at any time of any Indebtedness issued with original issue discount is the face amount of such Indebtedness less the remaining unamortized portion of the original issue discount of such Indebtedness at such time as determined in conformity with GAAP;

(B) that money borrowed and set aside at the time of the incurrence of any Indebtedness in order to prefund the payment of the interest on such Indebtedness shall not be deemed to be “Indebtedness” so long as such money is held to secure the payment of such interest; and

(C) that Indebtedness shall not include:

(I) any liability for federal, state, local or other taxes;

(II) workers’ compensation claims, self-insurance obligations, performance, surety, appeal and similar bonds and completion guarantees provided in the ordinary course of business;

(III) obligations 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; or

(IV) any Indebtedness defeased or called for redemption.

Notwithstanding the foregoing, in connection with the purchase by a Person or any of its Restricted Subsidiaries of any business, the term “Indebtedness” will exclude indemnification or post-closing payment adjustments or earn-out or similar obligations to which the seller may become entitled to the extent such payment is determined by a final closing balance sheet, working capital calculation or other similar method or such payment depends on the performance of such business after the closing; provided, however, that, at the time of closing, the amount of any such payment is not determinable or is of a contingent nature and, to the extent such payment thereafter becomes fixed and finally determined, the amount is paid within 60 days thereafter.
For the avoidance of doubt, no Indebtedness will be deemed to be contractually subordinated in right of payment to any other Indebtedness of a Person solely by virtue of being unsecured or by virtue of being secured on a junior priority basis.

“Indenture” has the meaning assigned to such term in the first paragraph hereof.

“Initial Notes” has the meaning assigned to such term in the recitals.

“Interest Rate Agreement” means 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, option or future contract or other similar agreement or arrangement.

“Investment Grade Rating” means a rating equal to or higher than Baa3 (or the equivalent) by Moody’s, BBB- (or the equivalent) by S&P and BBB- (or the equivalent) by Fitch, or an equivalent rating by any other Rating Agency.

“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, advances to customers, commission, travel and similar advances to officers and employees, in each case 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 (excluding the footnotes) of the Company 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.

“ISIN” means the International Securities Identification Number.

“Issue Date” means March 15, 2019.

“JPMCB Credit Agreement” means the First Amended and Restated Credit Agreement, dated as of February 27, 2017, among the Company, the several lenders from time to time party thereto, JPMorgan Chase Bank, N.A., as administrative agent and the various other parties party thereto (as amended by Amendment No. 1, dated as of March 27, 2017, Increase Joinder No. 1, dated as of June 15, 2017, Amendment No. 2, dated as of January 25, 2018, Consent and Amendment No. 3, dated as of July 3, 2018, Increase Joinder No. 3, dated as of July 3, 2018 and Amendment No. 4, dated as of the Issue Date).

“JPMCB Credit Agreement Administrative Agent” means JPMorgan Chase Bank, N.A. in its capacity as Administrative Agent under the JPMCB Credit Agreement, together with its successors in such capacity.

“Junior Indebtedness” means any Subordinated Indebtedness of the Company.

“Legal Holiday” means a Saturday, a Sunday or a day on which banking institutions in New York City are authorized or required by law, executive order or regulation to remain closed.

“Lien” means, with respect to any property or assets, including Capital Stock, any mortgage or deed of trust, pledge, lien, hypothecation, security interest, charge or encumbrance of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof).

“Material Transaction” means any acquisition or disposition (whether pursuant to a Division or otherwise) outside the ordinary course of business of any property or assets that (x) constitute assets comprising all or substantially all of an operating unit of a business or equity interests of a Person representing a majority of the ordinary voting power or economic interests in such Person that are represented by all its outstanding capital stock and (y) involves aggregate consideration in excess of $50.0 million.
“Maturity” means the date on which the principal of the Notes, or any installment of principal, shall become due and payable as therein and herein provided, whether at the Stated Maturity or by declaration, call for redemption or otherwise.

“Moody’s” means Moody’s Investors Service, Inc. and any successor to its rating agency business.

“Nationally Recognized Independent Financial Advisor” means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Company, qualified to perform the task for which it has been engaged.

“Net Cash Proceeds” means, with respect to any issuance or sale of Capital Stock, the cash proceeds of such issuance or sale net of attorneys’ fees, accountants’ fees, underwriters’ or placement agents’ fees, listing fees, discounts or commissions and brokerage, consultant and other fees and charges actually incurred in connection with such issuance or sale and net of Taxes paid or reasonably estimated to be actually payable as a result of such issuance or sale (including, for the avoidance of doubt, any income, withholding and other Taxes payable as a result of the distribution of such proceeds to the Company and after taking into account any available tax credit or deductions and any tax sharing agreements).

“Net Proceeds” means, with respect to any Asset Sale, (a) the gross cash proceeds (including payments from time to time in respect of installment obligations, if applicable) received by or on behalf of the Company or any of its Restricted Subsidiaries in respect of such Asset Sale less (b) the sum of:

1. the amount, if any, of all Taxes paid or estimated to be payable by the Company or any of its Restricted Subsidiaries in connection with such Asset Sale;

2. the amount of any reasonable reserve established in accordance with GAAP against any liabilities (other than any Taxes deducted pursuant to clause (1) above) (x) associated with the assets that are the subject of such Asset Sale and (y) retained by the Company or any of its Restricted Subsidiaries; provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Proceeds of such an Asset Sale occurring on the date of such reduction;

3. the amount of any Indebtedness (other than Indebtedness described in clause (1) of the second paragraph of Section 6.15(a)) secured by a Lien on the assets that are the subject of such Asset Sale to the extent that the instrument creating or evidencing such Indebtedness requires that such Indebtedness be repaid upon consummation of such Asset Sale; and

4. reasonable and customary fees, commissions, expenses, issuance costs, discounts and other costs paid by the Company or any of its Restricted Subsidiaries, as applicable, in connection with such Asset Sale (other than those payable to the Company or any Subsidiary of the Company), in each case only to the extent not already deducted in arriving at the amount of gross cash proceeds referred to in clause (a) above.

“Non-U.S. Person” means a Person who is not a U.S. Person (as defined in Regulation S).

“Note Custodian” means the custodian with respect to any Global Note appointed by the Depository, or any successor Person thereto, and shall initially be The Bank of New York Mellon.

“Note Documents” means the Notes (including Additional Notes), the Note Guarantees, the Collateral Documents and this Indenture.

“Notes” has the meaning assigned to such term in the recitals.

“Notes Liens” means all Liens that secure the Notes Obligations.
“Notes Obligations” means all Obligations of the Company and the Guarantors under the Notes, this Indenture and the Collateral Documents, including Post-Petition Interest with respect thereto.

“Notes Secured Parties” means the Trustee, the Collateral Agent and the Holders of the Notes.

“Obligations” means any principal, interest (including Post-Petition Interest accruing on or after the filing of any petition in bankruptcy or for reorganization relating to the Company, whether or not a claim for Post-Petition Interest is allowed or allowable in such proceedings), penalties, fees, indemnifications, reimbursements (including reimbursement obligations with respect to letters of credit and banker’s acceptances), damages and other liabilities, and guarantees of payment of such principal, interest, penalties, fees, indemnifications, reimbursements, damages and other liabilities, payable under the documentation governing any Indebtedness.

“Offering Memorandum” means the offering memorandum dated March 12, 2019.

“Officer” means the chairman of the Board of Directors, the chief executive officer, the president, the chief financial officer, any vice president, the treasurer, any assistant treasurer, the controller, any assistant controller, the secretary or any assistant secretary of such Person in accordance with the applicable provisions of this Indenture.

“Officer’s Certificate” means a certificate signed by an Officer of the Company that meets the requirements set forth in this Indenture and is delivered to the Trustee.

“Opinion of Counsel” means a written opinion from legal counsel reasonably acceptable to the Trustee and/or the Collateral Agent, who may be an employee of or counsel to the Company, the Trustee and/or the Collateral Agent. Such opinion may refer to prior Opinions of Counsel, may contain customary assumptions, qualifications and exceptions and, with respect to factual matters, may reasonably rely on an Officer’s Certificate of the Company or certificates of public officials.

“Other Obligors” means the Guarantors and the Grantor.

“Outstanding” means, when used with respect to Notes, as of the date of determination, all Notes theretofore authenticated and delivered under this Indenture, except:

1. Notes theretofore canceled by the Paying Agent or delivered to the Paying Agent for cancellation;
2. Notes or portions thereof for which payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Notes or Notes as to which the Company’s Obligations have been Discharged; provided, however, that if such Notes or portions thereof are to be redeemed, notice of such redemption has been duly given pursuant to this Indenture; and
3. Notes that have been paid pursuant to Section 3.07(b) or in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to a Responsible Officer of the Trustee proof satisfactory to it that such Notes are held by a protected purchaser in whose hands such Notes are valid obligations of the Company;
4. Notes to which defeasance has been effected pursuant to Section 12.03;

provided, however, that in determining whether the Holders of the requisite principal amount of Notes Outstanding have performed any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action) hereunder, Notes owned by the Company or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding unless the Company, such Affiliate or such other obligor owns all of the Notes, except that, in determining whether the Trustee shall be protected in relying upon any such action, only Notes for which the Trustee has received written notice to be so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as Outstanding if the pledgee establishes its right to act with respect to such Notes and that the pledgee is not the Company or any other obligor upon such Notes or any Affiliate of the Company or of such other obligor. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer’s Certificate listing and identifying all such Notes, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and the Trustee shall be entitled to accept such Officer’s Certificate as conclusive evidence of the facts therein set forth and of the fact that all such Notes not listed therein are Outstanding for the purpose of any such determination.
“Pari Passu Obligations” means (i) all Notes Obligations, (ii) all First Priority Credit Obligations and (iii) all Future Pari Passu Obligations.

“Pari Passu Secured Parties” means (i) the Notes Secured Parties, (ii) the Senior Credit Facilities Secured Parties and (iii) any Future Pari Passu Indebtedness Secured Parties.

“Paying Agent” means any Person authorized by the Company to pay the principal of, premium, if any, or interest on the Notes on behalf of the Company. The Company may act as Paying Agent.

“Permitted Asset Swap” means the concurrent purchase and sale or exchange of Related Business Assets or a combination of Related Business Assets and cash or Cash Equivalents between the Company or any of its Restricted Subsidiaries and another Person.

“Permitted Investments” means:

(1) any Investment in the Company or any of its Restricted Subsidiaries;

(2) any Investment in cash and Cash Equivalents;

(3) any Investment by the Company or any Restricted Subsidiary of the Company in a Person that is engaged in a Similar Business if as a result of such Investment, such Person, in one transaction or a series of related transactions, (i) becomes a Restricted Subsidiary of the Company, including by means of a Division or (ii) is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Company or a Restricted Subsidiary of the Company and, in each case, any Investment held by such Person; provided that, with respect to clause (ii), such Investment was not acquired by such Person in contemplation of such merger, consolidation, amalgamation, Division, transfer, conveyance or liquidation;

(4) any Investment in securities or other assets not constituting cash or Cash Equivalents and received in connection with an Asset Sale made pursuant to the provisions of Section 6.15 or any other disposition of assets not constituting an Asset Sale;

(5) any Investment existing on the Issue Date;

(6) any Investment acquired by the Company or any of its Restricted Subsidiaries:

(a) in compromise or resolution of any other Investment or obligations owed to the Company or any such Restricted Subsidiary, including in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of any trade creditor or customer or in satisfaction of litigation, arbitration or other disputes; or

(b) as a result of a foreclosure by the Company or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;
(7) Swap Obligations permitted under Section 6.10(B)(j);

(8) Investments the payment for which consists of Equity Interests of the Company, or any of its direct or indirect parent companies (exclusive of Disqualified Stock); provided, however, that such Equity Interests will not increase the amount available for Restricted Payments under the calculation set forth in the definition of “Applicable Amount”;

(9) guarantees of Indebtedness permitted under Section 6.10;

(10) any transaction to the extent it constitutes an investment that is permitted and made in accordance with the provisions of Section 6.12(B) (except transactions described in clauses (ii) and (iv) of Section 6.12(B));

(11) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment;

(12) if no Default or Event of Default has occurred and is continuing, additional Investments having an aggregate Fair Market Value, taken together with all other Investments made pursuant to this clause (12), not to exceed since the Issue Date the greater of $750.0 million and 2.5% of Total Assets at the time of such Investments (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(13) advances to employees not in excess of $25.0 million outstanding at any one time, in the aggregate;

(14) loans and advances to officers, directors and employees for business-related travel expenses, moving expenses and other similar expenses, in each case incurred in the ordinary course of business;

(15) receivables owing to the Company or any Restricted Subsidiary of the Company if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms (which trade terms may include such concessionary trade terms as the Company or any such Restricted Subsidiary deems reasonable under the circumstances), and other Investments to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers’ compensation, performance and other similar deposits made in the ordinary course of business by the Company or any Restricted Subsidiary;

(16) deposits or payments made with the FCC in connection with the auction or licensing of any permit, license, authorization, plan, directive, consent, permission, consent order or consent decree of or from any Governmental Authority (“Governmental Authorizations”); and

(17) any Plan Contribution.

“Permitted Liens” means, with respect to any Person:

(1) Liens securing Indebtedness and other obligations permitted to be incurred pursuant to clause (a) of the definition of “Permitted Debt”; provided that the holders of such Indebtedness, or their duly appointed agent, shall become party to the Pledge Agreement and the Security Agreement;

(2) (a) Liens existing on the Issue Date (other than such Liens existing pursuant to clause (1) of this definition and subclause (b) of this clause (2)) and (b) Liens securing the Existing Second Lien Notes; provided that any Indebtedness secured by a Lien pursuant to this clause (2)(b) shall be subject to the First Priority Intercreditor and Subordination Agreement;

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(3) Liens on property that exist when the Company or any of its Restricted Subsidiaries acquires the property; *provided* that such Liens were not incurred in contemplation of such acquisition;

(4) Liens securing Indebtedness that any Restricted Subsidiary of the Company owes to the Company or to any other Restricted Subsidiary of the Company;

(5) Liens on property, shares of stock or Indebtedness of any entity that exists when (a) it becomes a Restricted Subsidiary of the Company, (b) it is merged into or consolidated with the Company or any of its Restricted Subsidiaries, or (c) the Company or any of its Restricted Subsidiaries acquires all or substantially all of the assets of the entity, *provided* that no such Lien extends to any other property of the Company or any of its Restricted Subsidiaries (for the avoidance of doubt, plus property and assets affixed or appurtenant to the property, shares of stock or Indebtedness of such entity and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof);

(6) Liens securing Indebtedness and other obligations permitted to be incurred pursuant to Section 6.10(B)(d) and (j), covering only the assets referred to therein;

(7) Liens securing (a) nondelinquent performance of bids or contracts (other than for borrowed money, obtaining of advances or credit or the securing of debt), (b) contingent obligations on surety and appeal bonds, (c) utility obligations, and (d) other similar nondelinquent obligations, in each case incurred in the ordinary course of business;

(8) Liens securing purchase money Indebtedness or Capital Lease Obligations, *provided* that (a) any such Lien attaches to the property within 270 days after the acquisition thereof and (b) such Lien attaches solely to the property so acquired;

(9) (i) Liens arising solely by virtue of any statutory or common law provision relating to banker’s Liens, rights of set-off or similar rights and remedies as to deposit account or other funds, *provided* that such deposit account is not a dedicated cash collateral account and is not subject to restrictions against the Company’s access in excess of those set forth by regulations promulgated by the Federal Reserve Board and such deposit account is not intended by the Company to provide collateral to the depository institution and (ii) Liens, deposits (including deposits with the FCC) or pledges to secure the performance of bids, tenders, trade governmental contracts, leases, licenses, statutory obligations or other similar obligations incurred in the ordinary course of business;

(10) pledges or deposits under worker’s compensation laws, unemployment insurance laws or similar legislation;

(11) statutory Liens and Liens for taxes, assessments or other governmental charges for sums not yet due or delinquent or which are being contested or appealed in good faith by appropriate proceedings;

(12) Liens arising solely by operation of law and in the ordinary course of business, such as mechanics’, materialmen’s, warehousemen’s and carriers’ Liens and Liens of landlords or of mortgages of landlords on fixtures and movable property located on premises leased in the ordinary course of business;

(13) Liens on personal property (other than shares or debt of the Company’s Restricted Subsidiaries) securing loans maturing in not more than one year or on accounts receivables in connection with a receivables financing program;
(14) any Lien upon any property to secure all or part of the cost of construction thereof or to secure debt incurred prior to, at the time of, or within twelve months after completion of such construction or the commencement of full operations thereof (whichever is later), to provide funds for such purpose;

(15) easements, rights of way, restrictions, title defects, survey title exceptions and other encumbrances incurred which, in the aggregate, do not materially interfere with the ordinary conduct of business;

(16) Liens securing Indebtedness of the Company or any Restricted Subsidiary to the Rural Electrification Administration or the Rural Utilities Service (or any successor to any such agency) in an aggregate principal amount outstanding at any time not to exceed $50.0 million;

(17) Liens on trusts, cash or Cash Equivalents or other funds in connection with the defeasance (whether by covenant or legal defeasance), discharge or redemption of Indebtedness, pending consummation of a strategic transaction, or similar obligations; provided that such defeasance, discharge or redemption is otherwise permitted by this Indenture;

(18) Liens of the Company or any Restricted Subsidiary of the Company with respect to obligations that do not exceed the greater of $100.0 million and 0.5% of Total Assets at any one time outstanding;

(19) Liens to secure any Refinancing Indebtedness permitted to be incurred under this Indenture; provided, however, that (i) the new Lien shall be limited to all or part of the same property and assets that secured or, under the written agreements pursuant to which the original Lien arose, could secure the original Lien (for the avoidance of doubt, plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (x) affixed or incorporated into the property or assets covered by such Lien, (y) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (z) the proceeds and products thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure); (ii) the Indebtedness secured by the new Lien is not increased to any amount greater than the sum of (x) the outstanding principal amount or, if greater, committed amount, of the Refinancing Indebtedness and (y) an amount necessary to pay any fees and expenses, including premiums, related to such refinancing, refunding, extension, renewal or replacement and (iii) to the extent such Refinancing Indebtedness extends, renews, replaces, refunds or refinescences any Indebtedness secured by a Lien that is subordinated to the First Priority Obligations, such Refinancing Indebtedness shall be unsecured or secured by a Lien that is subordinated to the First Priority Obligations;

(20) extensions, renewals or replacement of any of the Liens permitted under this Indenture, if limited to all or any part of the same property securing the original Lien (for the avoidance of doubt, plus property and assets affixed or appurtenant thereto and additions, improvements, accessions, proceeds, dividends or distributions thereof, including after-acquired property that is (i) affixed or incorporated into the property or assets covered by such Lien, (ii) after-acquired property or assets subject to a Lien securing such Indebtedness, the terms of which Indebtedness require or include a pledge of after-acquired property or assets and (iii) the proceeds and products thereof) that secured (or, under the written arrangements under which the original Lien arose, could secure);

(21) [reserved]; and

(22) Liens securing any Obligations with respect to Indebtedness permitted to be incurred under this Indenture; provided that such Lien is by its terms intended to be secured by the Collateral on a basis junior to the Notes.

In the event that a Permitted Lien meets the criteria of more than one of the types of Permitted Liens (at the time of incurrence or at a later date), the Company in its sole discretion may divide, classify or from time to time reclassify all or any portion of such Permitted Lien in any manner that complies with this definition and such Permitted Lien shall be treated as having been made pursuant only to the clause or clauses of the definition of “Permitted Liens” to which such Permitted Lien has been classified or reclassified.

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

“Plan Contribution” means the contribution of real property to the Company’s defined benefit pension plan (or any successor plan) in existence on the Issue Date in lieu of or in conjunction with cash contributions to such pension plan, including by way of a Sale and Lease-Back Transaction, in a manner consistent with past practice.

“Pledge Agreement” means that certain Second Amended and Restated Pledge Agreement, dated as of July 3, 2018, among the Company, as Pledgor, the Collateral Agent, and the other Secured Representatives (as defined in the Pledge Agreement) from time to time party thereto, as may be amended, restated, amended and restated, supplemented, re-affirmed or otherwise modified from time to time including, on the Issue Date, by the Pledge Agreement Additional Pari Passu Joinder.

“Pledge Agreement Additional Pari Passu Joinder” means the Additional Pari Passu Joinder Agreement and Amendment to the Pledge Agreement, dated as of the Issue Date, in the form attached hereto as Exhibit B.

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

“Pro Forma Basis” means, as of any date, that such calculation shall give pro forma effect to all Material Transactions (and the application of the proceeds from any such asset sale or related debt incurrence or repayment) that have occurred during the relevant calculation period and during the period immediately following the end of such period and prior to or simultaneously with the event for which the calculation is made, including pro forma adjustments arising out of events which are attributable to a Material Transaction, including giving effect to those specified in accordance with the definition of “Consolidated EBITDA,” in each case as in good faith determined by a financial Officer of the Company, using historical financial statements of all entities, divisions or lines or assets so acquired or sold and the consolidated financial statements of the Company and/or any of its Restricted Subsidiaries, calculated as if such Material Transaction, and all other Material Transactions that have been consummated during the relevant period, and any Indebtedness incurred or repaid in connection therewith, had been consummated (and the change in Consolidated EBITDA resulting therefrom realized) and incurred or repaid at the beginning of such period.

Whenever pro forma effect is to be given to a Material Transaction, the pro forma calculations shall be made in good faith by a financial Officer of the Company (including adjustments for costs and charges arising out of or related to the Material Transaction and projected cost savings, operating expense reductions, other operating improvements and initiatives and synergies resulting from such Material Transaction that have been or are reasonably anticipated to be realizable, net of the amount of actual benefits realized during such test period from such actions), and any such adjustments included in the initial pro forma calculations shall continue to apply to subsequent calculations (including during any subsequent periods in which the effects thereof are reasonably expected to be realizable); provided that (i) no amounts shall be added pursuant to this paragraph to the extent duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA for such period and (ii) the amount of cost savings, operating expense reductions, other operating improvements and initiatives and synergies that are not in accordance with Regulation S-X promulgated pursuant to the Securities Act shall be subject to the last proviso in clause (iv)(b) of the definition of “Consolidated EBITDA.”

“Rating Agency” means Moody’s, S&P and Fitch or if Moody’s, S&P and/or Fitch shall not make a rating on the Notes publicly available, a nationally recognized statistical rating agency or agencies, as the case may be, selected by the Company (as certified by a Board Resolution) which shall be substituted for Moody’s, S&P and/or Fitch, as the case may be.
“Ratings Decline” means the occurrence of the following on, or within 90 days after, the date of the public notice of the occurrence of a Change of Control or of the intention by the Company or any third-party to effect a Change of Control (which period shall be extended so long as the rating of the Notes is under publicly announced consideration for possible downgrade by any of the Rating Agencies): (1) in the event that the Notes have an Investment Grade Rating by at least two Rating Agencies, such Notes cease to have an Investment Grade Rating by any of such Rating Agencies, or (2) in any other event, the rating of the Notes by any of the Rating Agencies decreases by one or more gradations (including gradations within ratings categories as well as between rating categories) or is withdrawn.

“Redemption Date” means, when used with respect to any Note to be redeemed, in whole or in part, the date fixed for such redemption by or pursuant to this Indenture and the terms of such Note.

“Redemption Price” means, when used with respect to any Note to be redeemed or repurchased, in whole or in part, the price at which it is to be redeemed pursuant to the terms of the Note and this Indenture.

“Regulation S Global Note” means a Global Note substantially in the form of Exhibit A hereto bearing the Global Note Legend and the Private Placement Legend deposited with or on behalf of, and registered in the name of, the Depository or its nominee that will initially be issued in a denomination equal to the principal amount of the Notes sold in reliance on Regulation S under the Securities Act.

“Related Business Assets” means assets (other than cash or Cash Equivalents) used or useful in a Similar Business, provided that any assets received by the Company or a Restricted Subsidiary in exchange for assets transferred by the Company or a Restricted Subsidiary shall not be deemed to be Related Business Assets if they consist of securities of a Person, unless upon receipt of the securities of such Person, such Person would become a Restricted Subsidiary of the Company.

“Replacement Assets” means (1) non-current assets (including any such assets acquired by capital expenditures) that shall be used or useful in a Similar Business or (2) substantially all the assets of a Similar Business or a majority of the Voting Stock of any Person engaged in a Similar Business that shall become on the date of acquisition thereof a Restricted Subsidiary of the Company.

“Responsible Officer” means, (1) with respect to the Trustee, any officer assigned to the Corporate Trust Division - Corporate Finance Unit (or any successor division or unit) of the Trustee located at the Corporate Trust Office of the Trustee, who shall have direct responsibility for the administration of this Indenture, and for the purposes of Section 11.02(c)(i) and the second sentence of Section 11.03 shall also include any other officer of the Trustee to whom any corporate trust matter is referred because of such officer’s knowledge of and familiarity with the particular subject and (2) with respect to the Collateral Agent, any officer of the Collateral Agent who shall have direct responsibility for the administration of the Collateral Documents.

“Restricted Global Note” means a permanent Global Note in substantially the form of Exhibit A attached hereto that bears the Global Note Legend, the Private Placement Legend (to the extent required by this Indenture) and that has the “Schedule of Exchanges of Interests in the Global Note” attached thereto, and that is deposited with or on behalf of and registered in the name of the Depository or a nominee of the Depository, representing Notes that bear the Global Note Legend.

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Notes” means Initial Notes and Additional Notes bearing one of the restrictive legends describe in Section 2.01(d).

“Restricted Subsidiary” of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

“Rule 144A” means Rule 144A under the Securities Act.

“Sale and Lease-Back Transaction” means any arrangement with any Person providing for the leasing by the Company or any Restricted Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by the Company or such Restricted Subsidiary to such Person in contemplation of such leasing.

“SEC” means the U.S. Securities and Exchange Commission.

“Second Priority Collateral Agent” means (i) in the case of the Existing Second Lien Notes Obligations and any Additional Pari Passu Indebtedness (as defined in the applicable Existing Second Lien Notes Document) pursuant to which the administrative agent, trustee or any other similar agent named for such Series becomes an Additional Pari Passu Agent (as defined in the applicable Existing Second Lien Notes Document) pursuant to an Additional Pari Passu Joinder Agreement (as defined in the applicable Existing Second Lien Notes Document), The Bank of New York Mellon, in its capacity as collateral agent, and (ii) in the case of any Series of Future Second Priority Obligations or Future Second Lien Indebtedness Secured Parties that become subject to the First Priority/Second Priority Intercreditor and Subordination Agreement after the Issue Date, the collateral agent, administrative agent, trustee or any other similar agent named for such Series in the applicable joinder to the First Priority/Second Priority Intercreditor and Subordination Agreement.

“Second Priority Obligations” means (i) the Existing Second Lien Notes Obligations and (ii) any Future Second Priority Obligations.

“Second Priority Secured Parties” means (i) the Secured Parties (as defined in the Existing Second Lien Notes Documents) and (ii) any Future Second Lien Indebtedness Secured Parties.

“Secured Indebtedness” means any Indebtedness secured by a Lien on property or assets of the Company or any of its Restricted Subsidiaries.

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

“Security Agreement” means that certain Security Agreement, dated as of July 3, 2018, among the Grantor, the Collateral Agent and the other Secured Representatives (as defined in the Security Agreement) from time to time party thereto, as may be amended, restated, amended and restated, supplemented, re-affirmed or otherwise modified from time to time including, on the Issue Date, by the Security Agreement Additional Pari Passu Joinder.

“Security Agreement Additional Pari Passu Joinder” means the Additional Pari Passu Joinder Agreement and Amendment to the Security Agreement, dated as of the Issue Date, in the form attached hereto as Exhibit C.

“Senior Credit Facilities” means the JPMCB Credit Agreement, including any guarantees, collateral documents, instruments and other agreements executed in connection therewith, and any amendments, waivers, supplements, modifications, extensions, renewals, restatements, replacements, refundings or other restructuring thereof and any indentures or credit facilities or commercial paper facilities with banks or other institutional lenders or investors that replace, refund, refinance or otherwise restructure all or any part of the loans, notes, letters of credit, other credit facilities or commitments thereunder or any successor or replacement loans, notes, letters of credit, other credit facilities or commitments thereunder, including any such replacement, refunding, refinancing or other restructuring facility or indenture that increases the amount borrowable or other credit extendable thereunder, alters the maturity thereof or alters the parties thereto.

“Senior Credit Facilities Secured Parties” means, collectively, the Collateral Agent, the JPMCB Credit Agreement Administrative Agent and the “Secured Parties” as such term is defined in the JPMCB Credit Agreement.
“Series” means (a) with respect to Pari Passu Secured Parties, each of (i) the Senior Credit Facilities Secured Parties (in their capacities as such), (ii) the Notes Secured Parties and (iii) the Future Pari Passu Indebtedness Secured Parties that become subject to the Pledge Agreement, the Security Agreement or the First Priority/Second Priority Intercreditor and Subordination Agreement after the date hereof that are represented by a common representative (in its capacity as such for such Future Pari Passu Indebtedness Secured Parties), and (b) with respect to any Pari Passu Obligations, each of (i) the First Priority Credit Obligations, (ii) the Notes Obligations and (iii) the Future Pari Passu Obligations incurred pursuant to any applicable agreement, which, pursuant to any joinder agreement, are to be represented under the Pledge Agreement, the Security Agreement or the First Priority/Second Priority Intercreditor and Subordination Agreement by a common representative (in its capacity as such for such Future Pari Passu Obligations).

“Significant Subsidiary” means any Restricted Subsidiary that would be a “significant subsidiary” as defined in Article 1, Rule 1-02 (w)(1) or (2) of Regulation S-X, promulgated pursuant to the Securities Act, as such regulation is in effect on the Issue Date.

“Similar Business” means any business conducted or proposed to be conducted by the Company and its Restricted Subsidiaries on the Issue Date or any business that is similar, reasonably related, incidental or ancillary thereto.

“Stated Maturity” means, when used with respect to any Note or any installment of principal thereof or interest thereon, the date specified in such Note as the fixed date on which the principal (or any portion thereof) of or premium, if any, on such Note or such installment of principal or interest is due and payable.

“Subordinated Indebtedness” means any Indebtedness of the Company or any of the Guarantors which is by its terms subordinated in right of payment to the Notes or the Note Guarantees of such Guarantors, as the case may be.

“Subsidiary” means, with respect to any Person,

(1) any corporation, association, or other business entity (other than a partnership, joint venture, limited liability company or similar entity) 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, limited liability company or similar entity of which (x) more than 50% of the capital accounts, distribution rights, total equity and voting interests or general or 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 or otherwise, and (y) such Person or any Subsidiary of such Person is a controlling general partner or otherwise controls such entity.

“Swap Agreement” means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Company or any of its Subsidiaries shall be a Swap Agreement.

“Swap Obligations” means obligations under or with respect to Swap Agreements.

“Tax” means any tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and any other liabilities related thereto).
“Test Period” means, on any date of determination, the period of four consecutive fiscal quarters of the Company then most recently ended (taken as one accounting period) for which internal financial statements are available.

“Total Assets” means the total assets of the Company and its Restricted Subsidiaries, as shown on the most recent consolidated balance sheet of the Company and its Restricted Subsidiaries provided to the Trustee and Holders, in conformity with GAAP (on a pro forma basis to give effect to any acquisition or disposition on or prior to the date of determination).

“Total Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Total Indebtedness as of the last day of the relevant Test Period after giving effect to all incurrences and repayments of Indebtedness from the end of such Test Period to such date of determination to (b) Consolidated EBITDA for such Test Period.

“Trade Payables” means, with respect to any Person, any accounts payable or any other indebtedness or monetary obligation to trade creditors created, assumed or guaranteed by such Person or any of its Subsidiaries arising in the ordinary course of business in connection with the acquisition of goods or services.

“Trust Indenture Act” or “TIA” means the Trust Indenture Act of 1939, as amended.

“Trustee” means The Bank of New York Mellon, a New York banking corporation, until a successor replaces it in accordance with the provisions of this Indenture, and thereafter means the successor.

“UCC” means the Uniform Commercial Code as in effect from time to time in the State of New York; provided, however, that, at any time, if by reason of mandatory provisions of law, any or all of the perfection or priority of the Collateral Agent’s security interest in any item or portion of the Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, the term “UCC” shall mean the Uniform Commercial Code as in effect, at such time, in such other jurisdiction for purposes of the provisions hereof relating to such perfection or priority and for purposes of definitions relating to such provisions.

“Unrestricted Subsidiary” means (x) any Subsidiary of the Company that is designated as an Unrestricted Subsidiary pursuant to a Board Resolution, but only to the extent that:

1. except as permitted by Section 6.12, such Subsidiary is not party to any agreement, contract, arrangement or understanding with the Company or any of its Restricted Subsidiaries unless the terms of such agreement, contract, arrangement or understanding are, taken as a whole, no less favorable to the Company or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Company;

2. such Subsidiary does not hold any Liens on any property of the Company or any of its other Restricted Subsidiaries; and

3. such Subsidiary has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Company or any of its Restricted Subsidiaries, except to the extent that such guarantee or credit support would be released upon such designation; and

(y) any Subsidiary of an Unrestricted Subsidiary.

“U.S. Dollars” means such currency of the United States as at the time of payment shall be legal tender for the payment of public and private debts.

“United States” shall mean the United States of America (including the States and the District of Columbia), its territories and its possessions and other areas subject to its jurisdiction.
“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 at any date, the number of years obtained by dividing (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“Wholly-Owned Subsidiary” 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) 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**

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Section 1.03  Rules of Construction. For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a)  the words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision;

(b)  the words “including” and words of similar import when used in this Indenture shall mean “including, without limitation”;

(c)  references to “Article” or “Section” or other subdivision herein are references to an Article, Section or other subdivision of this Indenture, unless the context otherwise requires; and

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

(e)  “or” is not exclusive;

(f)  words in the singular include the plural, and in the plural include the singular;

(g)  “will” shall be interpreted to express a command;

(h)  all amounts expressed in this Indenture or in any of the Notes in terms of money refer to the lawful currency of the United States of America; and

(i)  notwithstanding any provision of this Indenture, no provision of the TIA shall apply or be incorporated by reference into this Indenture or the Notes.

ARTICLE II
FORM OF NOTES

Section 2.01  Form and Dating. The Notes and the Trustee’s certificate of authentication shall be substantially in the form set forth in Exhibit A hereto and may have such letters, numbers or other marks of identification or designation and such legends or endorsements placed thereon as the Company may deem appropriate and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange on which the Notes may be listed or of any automated quotation system on which any such Notes may be quoted, or to conform to usage, all as determined by the officers executing such Notes as conclusively evidenced by their execution of such Notes.

(a)  Restricted Global Notes. All of the Notes are initially being offered and sold to (i) qualified institutional buyers as defined in Rule 144A in reliance on Rule 144A under the Securities Act or (ii) outside the United States to persons other than U.S. persons in reliance upon Regulation S under the Securities Act, and shall be issued initially in the form of one or more 144A Global Notes and Regulation S Global Notes, respectively, which shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the depositary, DTC, and registered in the name of its nominee, Cede & Co., duly executed by the Company and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of the Restricted Global Notes may from time to time be increased or decreased by adjustments made on the records of the Note Custodian as hereinafter provided, subject in each case to compliance with the Applicable Procedures.

(b)  Form of Notes. Notes issued in global form shall be substantially in the form of Exhibit A (including the Global Note Legend thereon and the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Definitive Notes shall be substantially in the form of Exhibit A attached hereto (but without the Global Note Legend thereon and without the “Schedule of Exchanges of Interests in the Global Note” attached thereto). Each Global Note shall represent such of the outstanding Notes as shall be specified therein and each shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges and redemptions. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the aggregate principal amount of outstanding Notes represented thereby shall be made by the Trustee or the Note Custodian, at the direction of the Trustee, in accordance with instructions given by the Holder thereof as required by this Indenture and shall be made on the records of the Trustee and the Depository.

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Members of, or participants in, the Depository (“Members”) shall have no rights under this Indenture with respect to any Global Note held on their behalf by the Depository or under the Global Note, and the Depository (including, for this purpose, its nominee) may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and Holder of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall (A) prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or (B) impair, as between the Depository and its Members, the operation of customary practices governing the exercise of the rights of a Holder of any Note.

(c) Additional Notes. Subject to compliance with the provisions of Sections 6.10 and 6.11 hereof, the Company may issue Additional Notes in an unlimited amount under this Indenture. The Initial Notes and any Additional Notes will have the same ranking, interest rate, maturity and other terms as the Initial Notes, except for the issue date, the initial interest payment date and the original interest accrual date. Any Additional Notes together with the Notes will constitute a single series of Notes issued under this Indenture. If any Additional Notes are not fungible with any other Notes for United States federal income tax purposes or if the Company otherwise determines that any Additional Notes should be differentiated from any other Notes, such Additional Notes will have a separate CUSIP number; provided that such Additional Notes will still constitute a single series with all other Notes issued under this Indenture.

(d) Book Entry Provisions. The Company shall execute and the Trustee shall, in accordance with this Section 2.01(d), authenticate and deliver initially one or more Global Notes that (i) shall be registered in the name of the applicable Depository or its nominee, (ii) shall be delivered by the Trustee to the applicable Depository or pursuant to the applicable Depository’s instructions and (iii) shall bear legends substantially in the form of the first paragraph of Exhibit A attached hereto.

ARTICLE III

THE NOTES

Section 3.01 Title and Terms. The aggregate principal amount of Notes which may be authenticated and delivered under this Indenture is unlimited. The Initial Notes will be issued in an aggregate principal amount of up to $1,650.0 million. The Notes shall be known and designated as the “8.000% First Lien Secured Notes due 2027” of the Company. The final Stated Maturity of the Notes shall be April 1, 2027.

Interest on the Outstanding principal amount of Notes will accrue at a rate of 8.000% per annum and will be payable semi-annually in arrears on April 1 and October 1 in each year, commencing on October 1, 2019 (each, an “Interest Payment Date”), to the Holders of record on the immediately preceding March 15 and September 15, respectively (each such March 15 and September 15, a “Regular Record Date”). Interest on the Initial Notes will accrue from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid, from March 15, 2019, and interest on any Additional Notes will accrue (or will be deemed to have accrued) from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid on such Additional Notes, from the Interest Payment Date immediately preceding the date of issuance of such Additional Notes, or if the date of issuance of such Additional Notes is an Interest Payment Date, from such date of issuance; provided that if any Note is surrendered for exchange on or after a Regular Record Date that will occur on or after the date of such exchange, interest on the Note received in exchange thereof will accrue from the date of such Interest Payment Date.
Payment of the principal (and premium, if any) and interest on the Notes shall be made, in the currency of the United States of America that at the time is legal tender for payment of public and private debts, at the Corporate Trust Office of the Trustee or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Paying Agent, by wire transfer to an account designated by the Holder.

Section 3.02 Denominations. The Notes shall be issueable only as Notes in denominations of $2,000 and multiples of $1,000 in excess thereof, and shall be payable only in U.S. Dollars.

Section 3.03 Execution and Authentication.

(a) The Notes shall be executed in the name and on behalf of the Company by an Officer. Such signatures may be the manual signature of the present or any future such Officer. If the Person whose signature is on a Note no longer holds that office at the time the Note is authenticated and delivered, the Note shall nevertheless be valid.

(b) The Trustee shall authenticate and deliver (i) Initial Notes for original issue in the aggregate principal amount not to exceed $1,650.0 million and (ii) Additional Notes from time to time for original issue in aggregate principal amounts specified by the Company, in each case specified in clauses (i) and (ii) above, upon a Company Order. The Company Order shall specify the principal amount of Notes to be authenticated and the date on which the original issue of Notes is to be authenticated, whether the Notes are to be Initial Notes or Additional Notes and whether the Notes are to be issued as one or more Global Notes or physical Notes and such other information as the Company may include or the Trustee may reasonably request.

(c) In authenticating the Notes and accepting the additional responsibilities under this Indenture in relation to such Notes, the Trustee shall receive, and (subject to Section 11.02) shall be fully protected in relying upon, an Officer’s Certificate, prepared in accordance with Section 15.01 stating that the conditions precedent, if any, provided for in this Indenture have been complied with, and (other than with respect to the authentication of the Initial Notes) an Opinion of Counsel, prepared in accordance with Section 15.01 and substantially in the form set forth below:

(i) that such Notes, when authenticated and delivered by the Trustee and issued by the Company in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, subject to (A) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws of general applicability relating to or affecting the enforcement of creditors’ rights, (B) general equitable principles (whether considered in a proceeding in equity or at law) and (C) an implied covenant of good faith and fair dealing;

(ii) if applicable, that the supplemental indenture, setting forth the terms of such Notes, when executed and delivered by the Trustee in the manner and subject to any conditions specified in such Opinion of Counsel, will constitute a valid and legally binding obligation of the Company, enforceable in accordance with its terms, subject to (A) bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance and other laws of general applicability relating to or affecting the enforcement of creditors’ rights, (B) general equitable principles (whether considered in a proceeding in equity or at law) and (C) an implied covenant of good faith and fair dealing; and

(iii) that all conditions precedent, if any, provided for in this Indenture in respect of the authentication and delivery by the Company of such Notes have been complied with.

(d) The Trustee shall have the right to decline to authenticate and deliver the Notes under this Section 3.03 if the issue of the Notes pursuant to this Indenture will affect the Trustee’s own rights, duties or immunities under the Notes and this Indenture or otherwise.

(e) Each Note shall be dated the date of its authentication.
(f) Each Depository designated pursuant to Section 2.01 for a Global Note in registered form must, at the time of its designation and at all times while it serves as such Depository, be a clearing agency registered under the Exchange Act and any other applicable statute or regulation.

(g) No Note shall be entitled to any benefit under this Indenture or be valid or obligatory for any purpose unless there appears on such Note a certificate of authentication substantially in the form of Exhibit A hereto duly executed by the Trustee or an Authenticating Agent by manual signature of an authorized signatory of the Trustee or the Authenticating Agent, as the case may be, and such certificate upon any Note shall be conclusive evidence, and the only evidence, that such Note has been duly authenticated and delivered hereunder and is entitled to the benefits of this Indenture. Notwithstanding the foregoing, any Note shall have been authenticated and delivered hereunder but never issued and sold by the Company, and the Company shall deliver such Note to the Trustee for cancellation as provided in Section 3.09, for all purposes of this Indenture such Note shall be deemed never to have been authenticated and delivered hereunder and shall never be entitled to the benefits of this Indenture.

Section 3.04 Temporary Notes

(a) Pending the preparation of definitive Notes, the Company may execute and, upon receipt of a Company Order, the Trustee shall authenticate and deliver, temporary Notes that are printed, lithographed, typewritten, mimeographed or otherwise reproduced, in any authorized denomination, substantially of the tenor of the definitive Notes in lieu of which they are issued, in registered form and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such temporary Notes may determine, as conclusively evidenced by their execution of such temporary Notes. Any such temporary Note may be in global form, representing all or a portion of the Outstanding Notes. Every such temporary Note shall be executed by the Company and shall be authenticated and delivered by the Trustee upon the same conditions and in substantially the same manner, and with the same effect, as the definitive Note or Notes in lieu of which it is issued.

(b) If temporary Notes are issued, the Company shall cause definitive Notes to be prepared without unreasonable delay. After the preparation of definitive Notes, the temporary Notes shall be exchangeable for definitive Notes upon surrender of such temporary Notes at the Corporate Trustee Office for such purposes provided in Section 6.02, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of Notes of authorized denominations and of like tenor. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits under this Indenture as Definitive Notes.

Upon any exchange of a portion of a temporary Global Note for a definitive Note or for the individual Notes represented thereby pursuant to this Section 3.04 or Section 3.06, the temporary Global Note shall be endorsed by the Trustee to reflect the reduction of the principal amount evidenced thereby, whereupon the principal amount of such temporary Global Note shall be reduced for all purposes by the amount so exchanged and endorsed.

Section 3.05 Registrar; Noteholder Lists

(a) The Company shall keep, at an office or agency to be maintained by it in the Corporate Trust Office where Notes may be presented for registration or presented and surrendered for registration of transfer or of exchange, and where Notes that are convertible or exchangeable may be surrendered for conversion or exchange, as applicable (the “Registrar”), a security register for the registration and the registration of transfer or of exchange of the Notes (the registers maintained in the Corporate Trust Office being herein sometimes collectively referred to as the “Register”), as in this Indenture provided, which Register shall be open for inspection by the Trustee during business hours on business days in the location of the Registrar. Such Register shall be in written form or in any other form capable of being converted into written form within a reasonable time. The Company may have one or more co-Registrars; the term “Registrar” includes any co-registrar.

(b) The Company shall enter into an appropriate agency agreement with any Registrar or co-Registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Company shall notify the Trustee of the name and address of each such agent. If the Company fails to maintain a Registrar, the Trustee shall act as such. The Company or any Affiliate thereof may act as Registrar, co-Registrar or transfer agent.
(c) The Company hereby initially appoints The Bank of New York Mellon at its Corporate Trust Office as Registrar in connection with the Notes and this Indenture, until such time as another Person is appointed as such in replacement of the Trustee as such. So long as the Trustee serves as Registrar, it will be entitled as Registrar to the same rights of compensation, reimbursement and indemnification under Section 11.01 as if it were Trustee. No Person shall at any time be appointed as or act as Registrar unless such Person is at such time empowered under applicable law to act as such Registrar.

(d) 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 of the Notes. If the Trustee is not the Registrar, the Company will furnish to the Trustee at least ten 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 of the Notes.

Section 3.06 Transfer and Exchange.

(a) Subject to compliance with any applicable additional requirements contained in Section 3.12, when Notes are presented to the Registrar or a co-registrar with a request to register a transfer or to exchange them for an equal principal amount of Notes of other authorized denominations, the Registrar shall register the transfer or make the exchange as requested if its requirements for such transactions are met. To permit registrations of transfers and exchanges, the Company shall execute and the Trustee shall authenticate Notes at the Registrar’s request. A Holder may transfer or exchange Notes only in accordance with this Indenture. Upon any transfer or exchange, the Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements or transfer documents. No service charge shall be made for any registration of transfer or exchange (except as otherwise expressly permitted herein), but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith (other than any such transfer tax or similar governmental charge payable upon exchanges pursuant to Sections 3.04 or 4.02).

Neither the Company nor the Registrar will be required (i) to issue, register the transfer or purchase of, or exchange Notes for the period beginning at the opening of business 15 days immediately preceding the sending of a notice of redemption of Notes selected for redemption and ending at the close of business on the day such notice is sent or (ii) to issue, register the transfer or purchase of, or exchange Notes selected for redemption.

(b) Neither the Trustee nor any Agent shall have any obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer or exchange imposed under this Indenture or under applicable law with respect to any transfer or exchange of any interest in any Note (including any transfers between or among participants or Beneficial Owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

(c) Neither the Trustee nor any Agent shall have any responsibility or obligation with respect to the accuracy of the records of the Depository or its nominee or any Members, with respect to any ownership interest in the Notes or with respect to the delivery to any Members, Beneficial Owner or other Person (other than the Depository) of any notice (including any notice of redemption) 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 Holders under the Notes shall be given or made only to or upon the order of the registered Holders (which shall be the Depository or its nominee in the case of a Global Note). The rights of Beneficial Owners in any Global Note shall be exercised only through the Depository subject to the applicable rules and procedures of the Depository. The Trustee may rely and shall be fully protected in relying upon information furnished by the Depository with respect to its Members and any Beneficial Owners. The Trustee and the Agents shall be entitled to deal with the Depository, and any nominee thereof, that is the registered holder of any Global Note for all purposes of this Indenture relating to such Global Note (including the payment of principal, premium, if any, and interest and additional amounts, if any, and the giving of instructions or directions by or to the owner or holder of a Beneficial Ownership interest in such Global Note) as the sole holder of such Global Note and shall have no obligations to the Beneficial Owners thereof. None of the Trustee or any Agent shall have any responsibility or liability for any acts or omissions of the Depository with respect to such Global Note, for the records of any such depository, including records in respect of Beneficial Ownership interests in respect of any such Global Note, for any transactions between the Depository and any Members or between or among the Depository, any such Members and/or any holder or owner of a beneficial interest in such Global Note, or for any transfers of beneficial interests in any such Global Note.
(d) Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee, any Agent or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or impair, as between the Depository and any Member, the operation of customary practices of such Depository governing the exercise of the rights of a holder of a beneficial interest in any Global Note.

Section 3.07 Mutilated, Destroyed, Lost and Stolen Notes.

(a) If (i) any mutilated Note is surrendered to the Trustee at its Corporate Trust Office or (ii) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Note, and there is delivered to the Company and the Trustee security or indemnity satisfactory to them to save each of them and any Paying Agent harmless, and neither the Company nor the Trustee receives notice that such Note has been acquired by a protected purchaser, then the Company shall execute and upon Company Order the Trustee shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Note, a new Note of like tenor, form, terms and principal amount, bearing a number not contemporaneously Outstanding, and neither gain nor loss in interest shall result from such exchange or substitution.

(b) In case any such mutilated, destroyed, lost or stolen Note has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Note, pay the amount due on such Note in accordance with its terms.

(c) Upon the issuance of any new Note under this Section 3.07, the Company may require the payment of a sum sufficient to cover any Tax or other governmental charge that may be imposed in respect thereto and any other expenses (including the fees and expenses of the Trustee) in connection therewith.

(d) Every new Note issued pursuant to this Section 3.07 shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

(e) The provisions of this Section 3.07 are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Notes.

Section 3.08 Payment of Interest; Interest Rights Preserved.

(a) Interest on any Note which is payable, and is paid or provided for, on any Interest Payment Date shall be paid to the Person in whose name such Note is registered at the close of business on the Regular Record Date for such interest notwithstanding the cancellation of such Note upon any transfer or exchange subsequent to the Regular Record Date. Payment of interest on Notes shall be made at the Corporate Trust Office or in accordance with the applicable procedures of the Depository (except as otherwise specified pursuant to Section 2.01) or, at the option of the Company by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Trustee, by wire transfer to an account designated by the Holder.

(b) If the Company defaults in a payment of any interest on any Note (“Defaulted Interest”), then such Defaulted Interest shall forthwith cease to be payable to the Holder on the relevant Record Date by virtue of his, her or its having been such a Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in clause (i) or (ii) of this Section 3.08(b):

(i) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names such Notes are registered at the close of business on a special record date for the payment of such Defaulted Interest (a “Special Record Date”), which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each such Note and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 calendar days and not less than 10 calendar days prior to the date of the proposed payment and not less than 10 calendar days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be given to each Holder of Notes, not less than 10 calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been given as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names such Notes are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following clause (ii).
(ii) The Company may make payment of any Defaulted Interest on Notes in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Notes may be listed or of any automated quotation system on which any such Notes may be quoted, and upon such notice as may be required by such exchange or quotation system, as applicable, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

(c) Subject to the foregoing provisions in this Section 3.08, each Note delivered under this Indenture in exchange or substitution for, or upon registration of transfer of, any other Note shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Note.

Section 3.09 Cancellation. Unless otherwise specified pursuant to Section 2.01 for Notes, all Notes surrendered for payment, redemption, registration of transfer or exchange or otherwise shall, if surrendered to any Person other than the Paying Agent, be delivered to the Paying Agent for cancellation and shall be promptly canceled by it and, if surrendered to the Paying Agent, shall be promptly canceled by it. The Company may at any time deliver to the Paying Agent for cancellation any Notes previously authenticated and delivered hereunder that the Company may have acquired in any manner whatsoever, and may deliver to the Paying Agent for cancellation any Notes previously authenticated hereunder that the Company has not issued or sold, and all Notes so delivered shall be promptly canceled by the Paying Agent. No Notes shall be authenticated in lieu of or in exchange for any Notes canceled as provided in this Section, except as expressly permitted by this Indenture. The Paying Agent shall dispose of all canceled Notes held by it in accordance with its then customary procedures, unless otherwise directed by a Company Order, and deliver a certificate of such disposal to the Company upon its request therefor. The acquisition of any Notes by the Company shall not operate as a redemption or satisfaction of the Indebtedness represented thereby unless and until such Notes are surrendered to the Paying Agent for cancellation.

Section 3.10 Computation of Interest. Interest on the Notes shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

Section 3.11 CUSIP Numbers. The Company in issuing or separately identifying any Notes may use CUSIP, ISIN or other similar numbers, if then generally in use, and thereafter, the Trustee may use such numbers in any notice of redemption or exchange, as a convenience to Holders; provided 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 and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such numbers. The Company shall promptly notify the Trustee and the Agents of any change in the CUSIP, ISIN or other similar numbers.
Section 3.12  Legend: Additional Transfer and Exchange Requirements.

(a)  If Notes are issued upon the transfer, exchange or replacement of Notes subject to restrictions on transfer and bearing the legends set forth on the form of Notes attached hereto as Exhibit A (collectively, the “Legend”), or if a request is made to remove the Legend on a Note, the Notes so issued shall bear the Legend, or the Legend shall not be removed, as the case may be, unless there is delivered to the Company such satisfactory evidence, which shall include an opinion of counsel if requested by the Company, as may be reasonably required by the Company, that neither the Legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144 under the Securities Act or that such Notes are not “restricted” within the meaning of Rule 144 under the Securities Act; provided that no such evidence need be supplied in connection with the sale of such Note pursuant to a registration statement that is effective at the time of such sale. Upon (i) provision of satisfactory evidence if requested, or (ii) notification by the Company to the Trustee and Registrar of the sale of such Note pursuant to a registration statement that is effective at the time of such sale, the Trustee, at the written direction of the Company, shall authenticate and deliver a Note that does not bear the Legend. If the Legend is removed from the face of a Note and the Note is subsequently held by an Affiliate of the Company, the Legend shall be reinstated.

(b)  A Global Note may not be transferred, in whole or in part, to any Person other than the Depository or a nominee or any successor thereof, and no such transfer to any such other Person may be registered; provided that the foregoing shall not prohibit any transfer of a Note that is issued in exchange for a Global Note but is not itself a Global Note; provided further that in no event shall a beneficial interest in a Regulation S Global Note be transferred to a U.S. Person prior to the receipt by the Registrar of any certificates required pursuant to Regulation S, as determined by the Company. No transfer of a Note to any Person shall be effective under this Indenture or the Notes unless and until such Note has been registered in the name of such Person. Notwithstanding any other provisions of this Indenture or the Notes, transfers of a Global Note, in whole or in part, shall be made only in accordance with this Section 2.12.

(c)  Subject to the succeeding paragraph, every Note shall be subject to the restrictions on transfer provided in the Legend. Whenever any Restricted Note is presented or surrendered for registration of transfer or for exchange for a Note registered in a name other than that of the Holder, such Note must be accompanied by a certificate in substantially the form set forth in Exhibit A dated the date of such surrender and signed by the Holder of such Note, as to compliance with such restrictions on transfer. The Registrar shall not be required to accept for such registration of transfer or exchange any Note not so accompanied by a properly completed certificate.

(d)  The restrictions imposed by the Legend upon the transferability of any Note shall cease and terminate when such Note has been sold pursuant to an effective registration statement under the Securities Act or transferred in compliance with Rule 144 under the Securities Act (or any successor provision thereto) or, if earlier, upon the expiration of the holding period applicable to sales thereof under Rule 144(d)(1)(ii) under the Securities Act (or any successor provision). Any Note as to which such restrictions on transfer shall have expired in accordance with their terms or shall have terminated may, upon a surrender of such Note for exchange to the Registrar in accordance with the provisions of this Section 2.12 (accompanied, in the event that such restrictions on transfer have terminated by reason of a transfer in compliance with Rule 144 or any successor provision, by, if requested by the Company or the Registrar, an opinion of counsel reasonably acceptable to the Company and addressed to the Company to the effect that the transfer of such Note has been made in compliance with Rule 144 or such successor provision), be exchanged for a new Note, of like tenor and aggregate principal amount, which shall not bear the restrictive Legend. The Company shall inform the Trustee of the effective date of any registration statement registering any Notes under the Securities Act. The Trustee shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the aforementioned opinion of counsel or registration statement.

(e)  As used in this Section 2.12, the term “transfer” encompasses any sale, pledge, transfer, hypothecation or other disposition of any Note.

(f)  The provisions of clauses (iii), (iv) and (v) below shall apply only to Global Notes:

(i)  Notwithstanding any other provisions of this Indenture or the Notes, a Global Note shall not be exchanged in whole or in part for a Note registered in the name of any Person other than the Depository or one or more nominees thereof, provided that a Global Note may be exchanged for Notes registered in the names of any person designated by the Depository in the event that (A) the Depository has notified the obligors that it is unwilling or unable to continue as Depository for such Global Note and the Company fails to appoint a successor Depository or (B) an Event of Default has occurred and is continuing with respect to the Notes. Any Global Note exchanged pursuant to clause (A) above shall be so exchanged in whole and not in part, and any Global Note exchanged pursuant to clause (B) above may be exchanged in whole or from time to time in part as directed by the applicable Depository. Any Note issued in exchange for a Global Note or any portion thereof shall be a Global Note; provided that any such Note so issued that is registered in the name of a Person other than the applicable Depository or a nominee thereof shall not be a Global Note.
(ii) Notes issued in exchange for a Global Note or any portion thereof shall be issued in definitive, fully registered form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Note or portion thereof to be so exchanged, shall be registered in such names and shall be in such authorized denominations as the Depository shall designate and shall bear the applicable legends provided for herein. Any Global Note to be exchanged in whole shall be surrendered by the Depository to the Trustee, as Registrar. With regard to any Global Note to be exchanged in part, either such Global Note shall be so surrendered for exchange or, if the Trustee is acting as custodian for the Depository or its nominee with respect to such Global Note, the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon any such surrender or adjustment, the Trustee shall authenticate and deliver Notes issuable on such exchange to or upon the order of the Depository or an authorized representative thereof.

(iii) Subject to the provisions of clause (v) below, the registered Holder 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.

(iv) In the event of the occurrence of any of the events specified in clause (i) above, the obligors will promptly make available to the Trustee a reasonable supply of applicable Definitive Notes in definitive, fully registered form, without interest coupons.

(v) Neither Agent Members nor any other Persons on whose behalf Agent Members may act shall have any rights under this Indenture with respect to any Global Note registered in the name of the Depository or any nominee thereof, or under any such Global Note, and the Depository or such nominee, as the case may be, may be treated by the Company, the Trustee and any agent of the Company or the Trustee as the absolute owner and holder of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Company, the Trustee or any agent of the Company or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depository or such nominee, as the case may be, or impair, as between the Depository, its Agent Members and any other Person on whose behalf an Agent Member may act, the operation of customary practices of such Persons governing the exercise of the rights of a Holder of any Note.

(vi) 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 Agent Members or Beneficial Owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so as and when expressly required by, the terms or this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.
ARTICLE IV

REDEMPTION OF SECURITIES

Section 4.01 Notices to Trustee.

If the Company elects to redeem Notes pursuant to the optional redemption provisions of Section 4.07, it must furnish to the Trustee, at least 30 days but not more than 60 days before a Redemption Date, an Officer’s Certificate setting forth:

(1) the clause of this Indenture pursuant to which the redemption shall occur;

(2) the Redemption Date;

(3) the principal amount of Notes to be redeemed; and

(4) the Redemption Price.

The Company may cancel any optional redemption referenced in such Officer’s Certificate at any time prior to notice of redemption being sent to any Holder and thereafter shall be null and void.

Section 4.02 Selection of Notes to Be Redeemed or Purchased. If less than all of the Notes are to be redeemed, selection of such Notes for redemption shall be made by the Trustee:

(a) if the Notes are listed on any national securities exchange, in compliance with the requirements of such securities exchange; or

(b) if the Notes are not so listed, on a pro rata basis, by lot or in such manner as the Trustee shall deem to be fair and appropriate; provided that, in each case, no Notes of $2,000 or less shall be purchased or redeemed in part.

Section 4.03 Notice of Redemption.

(a) Notice of redemption shall be delivered electronically or mailed by first-class mail at least 30 days but not more than 60 days prior to the applicable Redemption Date to each Holder of Notes whose Notes are to be redeemed in whole or in part at such Holder’s registered address or otherwise in accordance with the applicable procedures of DTC, except that purchase and redemption notices may be delivered electronically or mailed more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharged of this Indenture pursuant to Article XII. The Company shall deliver electronically or mail by first-class mail copies of notices of purchase or redemption to the Trustee.

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

(i) the Redemption Date;

(ii) the Redemption Price;

(iii) if any Note is being redeemed in part, the portion of the principal amount of such Note to be redeemed and that, after the Redemption Date upon surrender of such Note, a new Note or Notes in principal amount equal to the unredeemed portion will be issued upon cancellation of the original Note;

(iv) the name and address of the Paying Agent;
that Notes called for redemption must be surrendered to the Paying Agent to collect the Redemption Price;

that, unless the Company defaults in making such redemption payment, interest, if any, on Notes called for redemption ceases to accrue on and after the Redemption Date;

the paragraph of the Notes and/or Section of this Indenture pursuant to which the Notes called for redemption are being redeemed;

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

any conditions to redemption.

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

Section 4.04 Effect of Notice of Redemption. Notice of any redemption of the Notes may, at the Company’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 Company’s discretion, be subject to one or more conditions precedent, including, but not limited to, completion of a related transaction. If such redemption or purchase 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 Company’s discretion, the Redemption Date may be delayed until such time as any or all such conditions shall be satisfied, or such redemption or purchase may not occur and such notice may be rescinded in the event that any or all such conditions shall not have been satisfied by the Redemption Date, or by the Redemption Date as so delayed. In addition, the Company may provide in such notice that payment of the Redemption Price and performance of the Company’s obligations with respect to such redemption may be performed by another Person.

Section 4.05 Deposit of Redemption or Purchase Price. Prior to 10:00 a.m. Eastern Time on the redemption or purchase date, the Company shall deposit with the Trustee or with the Paying Agent money sufficient to pay the redemption or purchase price of, and accrued interest, if any, on, all Notes to be redeemed or purchased on that date. The Trustee or the Paying Agent shall promptly return to the Company any money deposited with the Trustee or the Paying Agent by the Company in excess of the amounts necessary to pay the redemption or purchase price of, and accrued interest, if any, on, all Notes to be redeemed or purchased.

If the Company complies with the provisions of the preceding paragraph, on and after the redemption or purchase date, interest, if any, will cease to accrue on the Notes or the portions of Notes called for redemption or purchase. If a Note is redeemed or purchased on or after an Record Date but on or prior to the related Interest Payment Date, then any accrued and unpaid interest up to the Redemption Date shall be paid on the Redemption Date to the Person in whose name such Note was registered at the close of business on such Record Date. If any Note called for redemption or purchase is not so paid upon surrender for redemption or purchase because of the failure of the Company to comply with the preceding paragraph, interest shall be paid on the unpaid principal, from the redemption or purchase date until such principal is paid, and to the extent lawful on any interest not paid on such unpaid principal, in each case at the rate provided in the Notes and in Section 6.01.

Section 4.06 Notes Redeemed or Purchased in Part. Upon surrender of a Note that is redeemed or purchased in part, the Company shall issue and, upon receipt of a Company Order, the Trustee shall authenticate for the Holder at the expense of the Company a new Note equal in principal amount to the unredeemed or unpurchased portion of the Note surrendered; provided, that each such new Note will be in a principal amount of $2,000 or integral multiple of $1,000 in excess thereof.
Section 4.07  Optional Redemption.

(a)  At any time and from time to time prior to April 1, 2022, the Company may redeem the Notes in whole or in part, at a Redemption Price (expressed in percentage of principal amount of the Notes to be redeemed) equal to 100% of the principal amount of such Notes to be redeemed plus the Applicable Premium as of, and accrued and unpaid interest, if any, to, but excluding, the Redemption Date, subject to the rights of the Holders of the Notes on the relevant Record Date to receive interest due on the relevant Interest Payment Date.

(b)  At any time and from time to time prior to April 1, 2022, the Company may redeem the Notes with the Net Cash Proceeds received by the Company from any Equity Offering at a redemption price equal to 108.000% plus accrued and unpaid interest, if any, to, but excluding, the Redemption Date, in an aggregate principal amount for all such redemptions not to exceed 40% of the original aggregate principal amount of the Notes (including Additional Notes); provided that:

(i)  in each case the redemption takes place not later than 180 days after the closing of the related Equity Offering; and

(ii)  not less than 60% of the original aggregate principal amount of the Notes issued under this Indenture remains outstanding immediately thereafter (excluding Notes held by the Company or any of its Restricted Subsidiaries).

The Trustee shall select the Notes to be purchased in the manner described under Sections 4.01 through 4.06.

(c)  Except pursuant to clauses (a) and (b) of this Section 4.07, the Notes will not be redeemable at the Company’s option prior to April 1, 2022.

(d)  At any time and from time to time on or after April 1, 2022, the Company may redeem the Notes, in whole or in part at a Redemption Price equal to the percentage of principal amount set forth below plus accrued and unpaid interest, if any, on the Notes redeemed, to, but excluding, the applicable Redemption Date, if redeemed during the twelve-month period beginning on April 1 of the year indicated below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2022</td>
<td>106.000%</td>
</tr>
<tr>
<td>2023</td>
<td>104.000%</td>
</tr>
<tr>
<td>2024</td>
<td>102.000%</td>
</tr>
<tr>
<td>2025 and thereafter</td>
<td>100.000%</td>
</tr>
</tbody>
</table>

(e)  If the optional Redemption Date is on or after a Record Date and on or before the related Interest Payment Date, the accrued and unpaid interest up to the Redemption Date will be paid on the Redemption Date to the Person in whose name the Note is registered at the close of business on such Record Date, and no additional interest will be payable to Holders whose Notes will be subject to redemption by the Company.

(f)  Unless the Company defaults in the payment of the redemption price, interest will cease to accrue on the Notes or portions thereof called for redemption on the applicable Redemption Date.

(g)  Any redemption pursuant to this Section 4.07 shall be made pursuant to the provisions of Sections 4.01 through 4.06.

Section 4.08  Offers to Repurchase by Application of Proceeds.

(a)  In the event that, pursuant to Section 6.15, the Company shall be required to commence an Asset Sale Offer, it shall follow the procedures specified below.
(b) The Asset Sale Offer shall be made to all Holders and holders of Future Pari Passu Indebtedness as and to the extent required by Section 6.15. The Asset Sale Offer shall remain open for a period of 20 Business Days following its commencement and no longer, except to the extent that a longer period is required by applicable law (the “Offer Period”). No later than five Business Days after the termination of the Offer Period (the “Purchase Date”), the Company shall apply all Excess Proceeds (the “Offer Amount”) to the purchase of Notes and, if required, Future Pari Passu Indebtedness (on a pro rata basis, if applicable), or, if less than the Offer Amount has been tendered, all Notes and Future Pari Passu Indebtedness properly tendered in response to the Asset Sale Offer. Payment for any Notes so purchased shall be made in the same manner as interest payments are made.

(c) If the Purchase Date is on or after a regular Record Date and on or before the related Interest Payment Date, any accrued and unpaid interest up to but excluding the Purchase Date, shall be paid to the Person in whose name a Note is registered at the close of business on such Record Date, and no additional interest shall be payable to Holders who tender Notes pursuant to the Asset Sale Offer.

(d) Upon the commencement of an Asset Sale Offer, the Company shall send, in the manner provided in Section 15.04, a notice to each of the Holders, with a copy to the Trustee. The notice shall contain all instructions and materials necessary to enable such Holders to tender Notes pursuant to the Asset Sale Offer. The notice, which shall govern the terms of the Asset Sale Offer, shall state:

(i) that the Asset Sale Offer is being made pursuant to this Section 4.08 and Section 6.15 and the length of time the Asset Sale Offer shall remain open;

(ii) the Offer Amount, the purchase price and the Purchase Date;

(iii) that any Notes not tendered or accepted for payment shall continue to accrue interest;

(iv) that, unless the Company defaults in making such payment, any Notes accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest on and after the Purchase Date;

(v) that Holders electing to have a Note purchased pursuant to an Asset Sale Offer may elect to have Notes purchased in denominations of $2,000 and integral multiples of $1,000 in excess thereof;

(vi) that Holders electing to have a Note purchased pursuant to any Asset Sale Offer shall be required to surrender such Note, with the form entitled “Option of Holder to Elect Repurchase” attached to such Note completed, or transfer such Note by book-entry transfer, to the Company, the Depository, if appointed by the Company, or a Paying Agent at the address specified in the notice at least three days before the Purchase Date;

(vii) that Holders shall be entitled to withdraw their election if the Company, the Depository or the Paying Agent, as the case may be, receive, not later than the expiration of the Offer Period, a telegram, facsimile transmission or letter setting forth the name of the Holder, the principal amount of the applicable Notes the Holder delivered for purchase and a statement that such Holder is withdrawing his election to have such Notes;

(viii) that, if the aggregate principal amount of the Notes and Future Pari Passu Indebtedness surrendered by the holders thereof exceeds the Offer Amount, the Trustee shall select the Notes and the Company, or, if so elected by the Company, the agent for such Future Pari Passu Indebtedness, shall select such Future Pari Passu Indebtedness to be purchased on a pro rata basis based on the accreted value or principal amount of such Notes or such Future Pari Passu Indebtedness properly tendered (with such adjustments as may be deemed appropriate by the Trustee so that only Notes in denominations of $2,000 and integral multiples of $1,000 in excess thereof, shall be purchased); and

(ix) that Holders whose Notes were purchased only in part shall be issued new Notes equal in principal amount to the unpurchased portion of the Notes surrendered (or transferred by book-entry transfer) representing the same indebtedness to the extent not repurchased.
(e) On or before the Purchase Date, the Company shall, to the extent lawful, (1) accept for payment, on a pro rata basis to the extent necessary, the Offer Amount of the Notes or portions thereof validly tendered pursuant to the Asset Sale Offer, or if less than the Offer Amount has been tendered, all Notes properly tendered and (2) deliver or cause to be delivered to the Trustee the Notes properly accepted together with an Officer's Certificate stating the aggregate principal amount of such Notes or portions thereof so tendered.

(f) The Company, the Depository or the Paying Agent, as the case may be, shall promptly mail or deliver to each tendering Holder an amount equal to the purchase price of the Notes properly tendered by such Holder and accepted by the Company for purchase, and the Company shall promptly issue a new Note, and the Trustee, upon receipt of a Company Order, shall authenticate and mail or deliver (or cause to be transferred by book-entry) such new Note to such Holder (it being understood that, notwithstanding anything in this Indenture to the contrary, no Opinion of Counsel or Officer's Certificate is required for the Trustee to authenticate and mail or deliver such new Note) in a principal amount equal to any unpurchased portion of the Notes surrendered representing the same indebtedness to the extent not repurchased; provided that each such new Note shall be in a principal amount of $2,000 or integral multiples of $1,000 in excess thereof. Any Note not so accepted shall be promptly mailed or delivered by the Company to the Holder thereof. The Company shall publicly announce the results of the Asset Sale Offer on or as soon as practicable after the Purchase Date. Other than as specifically provided in this Section 4.08 or Section 6.15, any purchase pursuant to this Section 4.08 shall be made pursuant to the applicable provisions of this Article IV.

Section 4.09 Mandatory Redemption. The Company is not required to make mandatory redemption or sinking fund payments with respect to the Notes; provided however, that under certain circumstances provided in this Indenture, the Company may be required to purchase Notes in accordance with Sections 4.08, 6.14 and 6.15.

ARTICLE V

MERGER, CONSOLIDATION OR SALE OF ALL OR SUBSTANTIALLY ALL ASSETS

Section 5.01 Company May Consolidate, Etc., Only on Certain Terms. (A)(1) The Company may not consolidate or merge with or into or consummate a Division as the Dividing Person (whether or not the Company is the surviving Person), or sell, lease or convey all or substantially all of the assets of the Company and its Restricted Subsidiaries, taken as a whole, in any one transaction or series of transactions, to any other Person, unless:

(i) the resulting, surviving or transferee Person (the "successor") is either the Company or is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia and expressly assumes by supplemental indenture all of the Company's obligations under this Indenture and the Notes;

(ii) immediately after giving effect to such transaction no Event of Default or event which with notice or lapse of time would be an Event of Default has occurred and is continuing; and

(iii) immediately after giving pro forma effect to such transaction, as if such transaction had occurred at the beginning of the applicable Test Period, (x) the successor would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Total Leverage Ratio test set forth in Section 6.10(A) or (y) the Total Leverage Ratio for the successor and its Restricted Subsidiaries would be less than or equal to the Total Leverage Ratio for the Company and its Restricted Subsidiaries immediately prior to such transaction.

(2) Notwithstanding the foregoing, the Company may merge or amalgamate with an Affiliate of the Company solely for the purpose of reincorporating the Company in another jurisdiction of the United States, any state thereof or the District of Columbia or converting the Company into a limited liability company organized under the United States, any state thereof or the District of Columbia (provided that the Company shall have a co-issuer that is a corporation organized or existing under the laws of the United States, any state thereof or the District of Columbia).
(B) No Other Obligor may consolidate or merge with or into or consummate a Division as the Dividing Person (whether or not such Other Obligor is the surviving entity), or sell, lease or convey all or substantially all of the assets of such Other Obligor, in any one transaction or series of transactions to any other Person, unless:

1. (i) the other Person is the Company or a Restricted Subsidiary that is a Guarantor or a Grantor, as applicable, or becomes a Guarantor or Grantor, as applicable, concurrently with the transaction; or

(ii) either (x) a Guarantor or Grantor is the continuing Person or (y) the resulting, surviving or transferee Person expressly assumes all of the obligations of the Guarantor under its Note Guarantee and this Indenture or the obligations of the Grantor under this Indenture and the Collateral Documents, as applicable; and

2. immediately after giving effect to the transaction, no Event of Default or event which with notice or lapse of time would be an Event of Default has occurred and is continuing; and

3. the transaction constitutes a sale or other disposition (including by way of consolidation, merger, amalgamation or Division) of such Other Obligor or the sale or disposition of all or substantially all the assets of such Other Obligor (in each case other than to the Company or a Restricted Subsidiary) not prohibited by this Indenture.

Notwithstanding anything in this Section 5.01(B), clause (B)(1) shall not apply to any such consolidation, merger or sale, lease, conveyance or Division that complies with Section 6.15.

Section 5.02 Successor Substituted. Upon any consolidation or merger, or any sale, lease or disposition of all or substantially all of the assets of the Company or any Other Obligor in accordance with Section 5.01, the successor will be substituted for the Company or such Other Obligor in this Indenture and the Collateral Documents with the same effect as if it had been an original party thereto. Thereafter, the successor may exercise the rights and powers of the Company or such Other Obligor under this Indenture and the Collateral Documents.

Section 5.03 Documents to be Given to the Trustee. The Trustee shall receive an Officer’s Certificate and an Opinion of Counsel each stating that any consolidation, merger, sale, lease or disposition referred to in this Article V and supplemental indenture required to be executed in connection with this Article V, complies with the provisions of this Article V and that all conditions precedent provided herein relating to such transactions have been complied with.

ARTICLE VI

COVENANTS

Section 6.01 Payment of Principal, Premium, if Any, and Interest. The Company covenants and agrees for the benefit of the Holders that it will pay or cause to be paid the principal of (and premium, if any) and interest on the Notes in accordance with the terms of and in the manner provided in the Notes and this Indenture. Principal (and premium, if any) and interest will be considered paid on the date due if the Paying Agent, if other than the Company, holds as of 10:00 a.m., New York time, on the due date money deposited by the Company in immediately available funds and designated for and sufficient to pay all principal (and premium, if any) and interest then due.

The Company shall pay interest on overdue principal at the rate of 1.0% per annum (the “Overdue Rate”) in excess of the interest rate applicable to the Notes and it shall pay interest on overdue installments of interest at the same rate to the extent lawful.

Section 6.02 Maintenance of Office or Agency. The Company will maintain an office or agency (which may be an office of the Trustee or an affiliate of the Trustee, Registrar or co-registrar) where Notes may be presented or surrendered for payment, where Notes may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The designated office of the Trustee shall be such office or agency of the Company, unless the Company shall designate and maintain some other office or agency for one or more of such purposes. The Company will give prompt written notice to the Trustee of any change in the location of any such office or agency, if such office is an office other than that of the Trustee or an affiliate of the Trustee, Registrar or co-registrar. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Company hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.
The Company 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 any such designation; provided, however, that no such designation or rescission shall in any manner relieve the Company of their obligation to maintain an office or agency in the United States for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

The Company hereby designates the Corporate Trust Office of the Trustee as one such office or agency of the Company in accordance with Section 3.05.

Section 6.03 Money for Notes Payments To Be Held in Trust. (a) If the Company shall at any time act as their own Paying Agent, they will, on or before each due date of the principal of (or premium, if any) or interest on any of the Notes, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal of (or premium, if any) or interest so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

(b) Whenever the Company shall have one or more Paying Agents for the Notes, they will, on or before each due date of the principal of (or premium, if any) or interest on any Notes, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Persons entitled to such principal, premium or interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of such action or any failure so to act.

(c) The Company will cause each Paying Agent (other than the Trustee) to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will:

(i) hold all sums held by it for the payment of the principal of (and premium, if any) or interest on the Notes in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(ii) give the Trustee notice of any Default by the Company in the making of any payment of principal (and premium, if any) or interest; and

(iii) at any time during the continuance of any such Default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

(d) The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such sums.

(e) Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of (or premium, if any) or interest on any Notes and remaining unclaimed for two years after such principal, premium or interest has become due and payable shall be paid to the Company on Company Order, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Note shall thereafter look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as Trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, shall at the expense of the Company cause to be published once, in a newspaper published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.
Section 6.04  **Existence.** Except as permitted by Article V, this Article VI, Section 9.02(b) and the ability to convert the form of an entity under the laws of the state of the Company’s or Restricted Subsidiary’s jurisdiction of organization, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence and the corporate, partnership, limited liability company or other existence of each Restricted Subsidiary, provided, however, that the Company shall not be required to preserve any such existence of a Restricted Subsidiary if the Company shall determine in its sole judgment that the preservation thereof is no longer desirable in the conduct of the business of the Company and its Subsidiaries taken as a whole.

Section 6.05  **Payment of Taxes.** The Company will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, all material taxes, assessments and governmental charges except (x) such as are being contested in good faith by appropriate proceedings or (y) where failure to effect such payment or discharge, taken as a whole, would not be disadvantageous in any material respect to the Holders (in the good faith judgment of management of the Company).

Section 6.06  [Reserved].

Section 6.07  **Statement by Officers as to Default.** The Company shall deliver to the Trustee (with a copy to the Collateral Agent) by registered or certified mail or facsimile transmission, promptly upon becoming aware of the occurrence of any Default or Event of Default, a statement specifying such Default or Event of Default.

The Company will deliver to the Trustee (with a copy to the Collateral Agent) annually, within 120 days after the end of each fiscal year of the Company beginning January 1, 2020, a certificate from its principal executive officer, principal financial officer or principal accounting officer, stating whether or not to the best knowledge of the signer thereof the Company is in compliance (without regard to periods of grace or notice requirements) with all conditions and covenants under this Indenture, and if the Company shall not be in compliance, specifying such non-compliance and the nature and status thereof of which such signer may have knowledge.

Section 6.08  **SEC Reports and Reports to Holders.** Whether or not the Company is subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as any Notes are Outstanding, the Company shall provide the Trustee and Holders within fifteen (15) Business Days after filing, or in the event no such filing is required, within fifteen (15) Business Days after the end of the time periods specified in the SEC’s rules and regulations:

(a)  all quarterly and annual financial information that would be required to be contained in a filing with the SEC on Forms 10-Q and 10-K if the Company were required to file such forms, including a “Management’s Discussion and Analysis of Financial Condition and Results of Operations” and, with respect to the annual financial statements only, a report thereon by the Company’s certified independent accountants; and

(b)  all current reports that would be required to be filed with the SEC on Form 8-K if the Company were required to file such reports.

provided that, the foregoing delivery requirements shall be deemed satisfied if the foregoing materials are available on the SEC’s EDGAR system (or successor thereto) or on the Company’s website within the applicable time period.

In addition, whether or not required by the SEC, the Company shall, if the SEC will accept the filing, file a copy of all of the information and reports referred to in clauses (a) and (b) of this Section 6.08 with the SEC for public availability within the time periods specified in the SEC’s rules and regulations. In addition, the Company will make the information and reports available to securities analysts and prospective investors upon request.
To the extent not satisfied by the foregoing, the Company will agree that, for so long as any Notes are Outstanding, it will furnish to Holders, securities analysts and prospective investors, upon their request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

Notwithstanding anything herein to the contrary, the Company will not be deemed to have failed to comply with any provision of this Section 6.08 for purposes of Section 7.01(iii) as a result of the late filing or provision of any required information or report until 90 days after the date any such information or report was due.

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 actual or constructive knowledge or notice of any information contained therein or determinable from information contained therein, including the Company’s compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on certificates from the Company).

Section 6.09 Limitation on Restricted Payments. (A) The Company will not, and will not permit any Restricted Subsidiary to, directly or indirectly:

(a) declare or pay any dividend or make any distribution on account of the Company’s or any of its Restricted Subsidiary’s Equity Interests, including any dividend or distribution payable on account of the Company’s or any Restricted Subsidiary’s Equity Interests in connection with any merger or consolidation, other than:

(i) dividends or distributions by the Company payable in Equity Interests (other than Disqualified Stock) of the Company or in options, warrants or other rights to purchase such Equity Interests, or

(ii) dividends or distributions payable to the Company or a Restricted Subsidiary of the Company 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 of the Company other than a Wholly-Owned Subsidiary, the Company or a Restricted Subsidiary of the Company 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;

(b) purchase, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Company or any direct or indirect parent of the Company held by Persons other than the Company or any of its Restricted Subsidiaries, in each case in connection with any merger, amalgamation or consolidation;

(c) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case prior to any scheduled repayment, sinking fund payment or maturity, any Junior Indebtedness, other than (i) Indebtedness of the type incurred pursuant to Section 6.10(B)(g) or (ii) the purchase, redemption, repurchase or other acquisition of 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 purchase, redemption, repurchase or acquisition; or

(d) make any Restricted Investment;

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

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

(ii) the Company can incur at least $1.00 of additional Indebtedness pursuant to Section 6.10(A); and

(iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Company and its Restricted Subsidiaries after the Issue Date (including Restricted Payments permitted by Section 6.09(B)(1), but excluding all other Restricted Payments permitted by Section 6.09(B)), is less than the Applicable Amount.

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(B) The foregoing provisions will not prohibit:

(1) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Indenture;

(2) Restricted Payments made in exchange for, or out of the proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary) of, Equity Interests of the Company (in each case, other than any Disqualified Stock) ("Refunding Capital Stock");

(3) the redemption, repurchase, defeasance, exchange or other acquisition or retirement of Junior Indebtedness of the Company or any Restricted Subsidiary of the Company made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Company or any Restricted Subsidiary of the Company which is incurred in compliance with Section 6.10 so long as:

(A) the principal amount (or accreted value, in the case of Indebtedness issued at a discount) of such new Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Junior Indebtedness being so redeemed, repurchased, acquired, defeased, exchanged or retired, plus the amount of all accrued interest and any reasonable fees, expenses and premium incurred or paid in connection with such redemption, repurchase, acquisition, defeasance, exchange or retirement and the incurrence of such new Indebtedness;

(B) such new Indebtedness is subordinated to the Notes at least to the same extent as such Junior Indebtedness so redeemed, repurchased, defeased, exchanged, acquired or retired; provided that this subclause (B) need not be satisfied if (i) such new Indebtedness can be incurred pursuant to Section 6.10(A) or (ii) the amount of such new Indebtedness shall not exceed the Applicable Amount (it being understood that if amounts available under the Applicable Amount are used to redeem, repurchase, defease, exchange, acquire or retire such Junior Indebtedness, then the Applicable Amount shall be reduced by such amounts);

(C) such new Indebtedness has a Weighted Average Life to Maturity at the time incurred which is not less than the shorter of (i) the remaining Weighted Average Life to Maturity of the Junior Indebtedness being so redeemed, repurchased, defeased, exchanged, acquired or retired and (ii) the Weighted Average Life to Maturity that would result if all payments of principal on the Indebtedness being so redeemed, repurchased, defeased, acquired or retired that were due on or after the date one year following the Stated Maturity of any Notes then Outstanding were instead due on such date one year following the Stated Maturity of such Notes; and

(D) the obligor of such new Indebtedness does not include any Restricted Subsidiary that is not an obligor of the Indebtedness being so redeemed, repurchased, defeased, exchanged, acquired or retired;

(4) a Restricted Payment to pay for the repurchase, redemption or other acquisition or retirement for value of Equity Interests of the Company or any of its Restricted Subsidiaries or direct or indirect parent companies held by any future, present or former employee, director or consultant of, or service provider to, the Company, any of its Restricted Subsidiaries or any of its direct or indirect parent companies pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement; provided, however, that the aggregate Restricted Payments made under this clause (4) do not exceed $75.0 million in the aggregate in any calendar year since the Issue Date (with unused amounts for any year being carried over to the next succeeding year, but not to any subsequent year, with the permitted amount for each year being used prior to any amount carried over from the previous year); provided, further, that such amount may be increased by an amount not to exceed:

(A) the cash proceeds from the sale of Equity Interests of the Company and, to the extent contributed to the Company, Equity Interests of any of the Company’s direct or indirect parent companies, in each case to members of management, directors or consultants of, or service providers to, the Company, any of its Restricted Subsidiaries or any of its direct or indirect parent companies that occurs or occurred after the Issue Date, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (B)(1) of the definition of “Applicable Amount”; plus
the cash proceeds of key man life insurance policies received by the Company and its Restricted Subsidiaries after the Issue Date; less

the amount of any Restricted Payments previously made since the Issue Date pursuant to clauses (A) and (B) of this clause (4);

provided, further, that cancellation of Indebtedness owing to the Company, or its Restricted Subsidiaries from members of management of the Company, any of its direct or indirect parent companies or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Company, its Restricted Subsidiaries or any of its direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this Section 6.09 or any other provision of this Indenture;

(5) the declaration and payment of dividends or distributions to holders of any class or series of Disqualified Stock of the Company or any of its Restricted Subsidiaries or preferred stock of any of the Company’s Restricted Subsidiaries issued in accordance with Section 6.10;

(6) repurchases of Equity Interests (A) deemed to occur upon exercise of stock options, warrants or similar instruments if such Equity Interests represent a portion of the exercise price or taxes payable in respect of such options, warrants or similar instruments or (B) upon the vesting of restricted stock, restricted stock units, performance shares units or similar equity incentives to satisfy tax withholding or similar tax obligations with respect thereto;

(7) the repurchase, redemption or other acquisition or retirement for value of any Junior Indebtedness or Disqualified Stock pursuant to the provisions similar to those described in Sections 6.14 and 6.15; provided that all Notes tendered by Holders in connection with any associated Change of Control Offer or Asset Sale Offer relating to such Notes, as applicable, have been repurchased, redeemed or otherwise acquired for value;

(8) the declaration and payment of dividends by the Company to, or the making of loans to, any direct or indirect parent in amounts required for any direct or indirect parent companies to pay

(A) franchise taxes and other fees, taxes and expenses required to maintain their corporate or other legal existence, and

(B) customary salary, bonus and other benefits payable to officers and employees of any direct or indirect parent company of the Company to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Company and its Subsidiaries;

(9) payments to holders of Equity Interests (or to the holders of Indebtedness that is convertible into or exchangeable for Equity Interests upon such conversion or exchange) in lieu of the issuance of fractional shares; and

(10) other Restricted Payments; provided that the amount of any such Restricted Payment, when taken together with the amount of all other Restricted Payments made pursuant to this clause (10), does not exceed the greater of (x) $750.0 million and (y) 2.5% of Total Assets;

provided, however, that at the time of, and after giving effect to, any Restricted Payment permitted under Section 6.09(B)(10), no Default or Event of Default shall have occurred and be continuing or would occur as a consequence thereof.
The amount of all Restricted Payments (other than cash) will be the Fair Market Value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Company or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. For purposes of determining compliance with this Section 6.09, in the event that a Restricted Payment meets the criteria of more than one of the categories described in Section 6.09(A), clauses (1) through (10) of Section 6.09(B) or the definition of “Permitted Investments,” the Company will be permitted to classify such Restricted Payment and later reclassify all or a portion of such Restricted Payment in any manner that complies with this Section 6.09. In addition, a Restricted Payment need not be permitted solely by reference to one provision permitting such Restricted Payment but may be permitted in part by one such provision and in part by one or more other provisions of this Section 6.09 permitting such Restricted Payment.

Section 6.10 Limitation on Incurrence of Indebtedness. (A) The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise with respect to any Indebtedness (including Acquired Indebtedness) and the Company will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; provided, however, that the Company may incur Indebtedness (including Acquired Indebtedness) if as of the date any Permitted Debt would be permitted to classify such Restricted Payment and later reclassify all or a portion of such Restricted Payment in any manner that complies with this Section 6.09. In addition, a Restricted Payment need not be permitted solely by reference to one provision permitting such Restricted Payment but may be permitted in part by one such provision and in part by one or more other provisions of this Section 6.09 permitting such Restricted Payment.

(B) The foregoing limitations will not apply to the following (“Permitted Debt”):

(a) the incurrence of Indebtedness under Credit Facilities by the Company or any of its Restricted Subsidiaries 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), (i) (x) up to an aggregate principal amount of $4,400.0 million and (y) without duplication, Indebtedness incurred to extend, renew, refund, refinance or replace any Indebtedness incurred pursuant to clause (a) (i)(x) (including additional Indebtedness incurred to pay premiums, expenses and fees in connection therewith), plus (ii) (x) up to an additional aggregate principal amount of $800.0 million and (y) without duplication, Indebtedness incurred to extend, renew, refund, refinance or replace any Indebtedness incurred pursuant to clause (a)(ii)(x) (including additional Indebtedness incurred to pay premiums, expenses and fees in connection therewith);

(b) the incurrence by the Company of Indebtedness represented by the Existing Second Lien Notes, including any guarantee thereof, in each case outstanding on the Issue Date;

(c) existing Indebtedness (other than Indebtedness described in clauses (a) and (b) of this Section 6.10(B)), including the Existing Notes (including any exchange notes issued in respect of Existing Notes, and excluding any “additional notes” issued pursuant to the indentures governing such Existing Notes after the Issue Date);

(d) Indebtedness (including Capital Lease Obligations, Indebtedness related to Sale and Lease-Back Transactions, mortgage financings or purchase money obligations) incurred by the Company or any of its Restricted Subsidiaries, or preferred stock of any Restricted Subsidiary issued, to finance the purchase, lease, construction or improvement (including the cost of design, development, construction, acquisition, transportation, installation, improvement and migration) of property (real or personal) or equipment that is used or useful in the business of the Company or any of its Restricted Subsidiaries, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets, in an aggregate principal amount which, when aggregated with the principal amount of all other Indebtedness and preferred stock then outstanding and incurred pursuant to this clause (d) and including all Refinancing Indebtedness incurred to extend, renew, refund, refinance or replace any other Indebtedness and preferred stock incurred pursuant to this clause (d), does not exceed the greater of (x) $250.0 million and (y) 1.00% of Total Assets;

(e) Indebtedness incurred by the Company or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers’ compensation claims, death, disability or other employee benefits or property, casualty or liability insurance or self-insurance, or other Indebtedness with respect to reimbursement type obligations regarding workers’ compensation claims; provided, however, that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;
(f) Indebtedness of the Company and its Restricted Subsidiaries arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring or disposing of all or any portion of such business, assets or Subsidiary for the purpose of financing such acquisition; provided, however, that the maximum assumable liability in respect of all such Indebtedness incurred or assumed in connection with any disposition shall at no time exceed the gross proceeds including noncash proceeds (the Fair Market Value of such noncash proceeds being measured at the time received and without giving effect to any subsequent changes in value) actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(g) Indebtedness of the Company to any Restricted Subsidiary of the Company; provided that any such Indebtedness to any Restricted Subsidiary that is not a Guarantor is subordinated in right of payment to 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 of the Company or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary of the Company) shall be deemed in each case to be an incurrence of such Indebtedness;

(h) Indebtedness or preferred stock of a Restricted Subsidiary to the Company or another Restricted Subsidiary; provided that any such Indebtedness is made pursuant to an intercompany note; provided further that any such Indebtedness or preferred stock to any Restricted Subsidiary that is not a Guarantor is subordinated in right of payment to the Notes;

(i) Indebtedness of the Company and any Guarantor; provided, however, that the aggregate principal amount of Indebtedness or liquidation preference of preferred stock incurred under this clause (i), when aggregated with the principal amount of all other Indebtedness then outstanding and incurred pursuant to this clause (i) and any Refinancing Indebtedness incurred to extend, renew, refund, refinance or replace any other Indebtedness incurred pursuant to this clause (i), does not exceed the greater of $1,000.0 million and 5.0% of Total Assets;

(j) (x) Swap Obligations of the Company entered into for bona fide (non-speculative) business purposes and (y) Indebtedness of the Company in respect of Interest Rate Agreements, Commodity Agreements and Currency Agreements;

(k) obligations in respect of performance, bid, appeal and surety bonds, completion guarantees and similar obligations provided by the Company or any of its Restricted Subsidiaries in the ordinary course of business, including guarantees or obligations of the Company or any of its Restricted Subsidiaries and letters of credit supporting any of the foregoing (in each case other than for an obligation for money borrowed);

(l) the incurrence by the Company or any of its Restricted Subsidiaries of Indebtedness or preferred stock which serves to extend, renew, replace, refund or refinance any Indebtedness or preferred stock including additional Indebtedness or preferred stock incurred to pay premiums, expenses and fees in connection therewith (“Refinancing Indebtedness”) incurred as permitted under Section 6.10(A), clauses (b), (c) and (m) of this Section 6.10(B), this clause (l) or any Refinancing Indebtedness issued to so extend, renew, replace, refund or refinance such Indebtedness or preferred stock prior to its respective maturity; provided, however, that such Refinancing Indebtedness:
(i) 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 being extended, renewed, replaced, refunded or refinanced;

(ii) to the extent such Refinancing Indebtedness extends, renews, replaces, refunds or finances Subordinated Indebtedness, such Refinancing Indebtedness is subordinated to the Notes at least to the same extent as the Indebtedness being extended, renewed, replaced, refinanced or refunded; provided that this subclause (ii) need not be satisfied if the amount of such Refinancing Indebtedness shall not exceed the Applicable Amount (it being understood that if amounts available under the Applicable Amount are used to refinance such Subordinated Indebtedness, then the Applicable Amount shall be reduced by such amount);

(iii) shall not include Indebtedness of a Restricted Subsidiary of the Company that refinances Indebtedness of the Company (it being understood that this clause (iii) does not prohibit Indebtedness of the Company from being Refinancing Indebtedness solely because it may be guaranteed by a Restricted Subsidiary where such guarantee is otherwise permitted by this Indenture (including pursuant to clause (iv) immediately below)); and

(iv) shall not be guaranteed by any Person that does not guarantee such Indebtedness or preferred stock being refinanced, other than to the extent that such guarantee is otherwise permitted by this Indenture;

(m) (i) Indebtedness or preferred stock of Persons that are acquired by the Company or any of its Restricted Subsidiaries or merged into or amalgamated with a Restricted Subsidiary of the Company in accordance with the terms of this Indenture; provided that in the case of this clause (i) immediately and after giving effect to such acquisition, amalgamation or merger either (1) the Company would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Total Leverage Ratio set forth in Section 6.10(A) or (2) the Company’s Total Leverage Ratio is less than or equal to the Company’s Total Leverage Ratio immediately prior to such acquisition, amalgamation or merger; or

(ii) Indebtedness or preferred stock of the Company incurred in connection with or in contemplation of, or to provide all or any portion of the funds or credit support utilized to consummate, the acquisition of Persons that are acquired by the Company or any Restricted Subsidiary of the Company or merged into or amalgamated with a Restricted Subsidiary of the Company in accordance with the terms of this Indenture, provided that in the case of this clause (ii) immediately after giving effect to such acquisition, amalgamation or merger either (1) the Company would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Total Leverage Ratio set forth in Section 6.10(A) or (2) the Company’s Total Leverage Ratio is less than or equal to the Company’s Total Leverage Ratio immediately prior to such acquisition, amalgamation or merger;

(n) Indebtedness (i) arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence, (ii) in respect of netting, overdraft protection and other arrangements arising under standard business terms of any bank which the Company or any of its Restricted Subsidiaries maintains an overdraft, cash pooling or other similar facility or arrangements or (iii) arising in connection with the endorsement of instruments for deposit in the ordinary course of business;

(o) Indebtedness of the Company or any of its Restricted Subsidiaries supported by a letter of credit issued pursuant to the Credit Facilities, in a principal amount not in excess of the stated amount of such letter of credit;

(p) any guarantee by the Company or any of its Restricted Subsidiaries of Indebtedness or other obligations of any of the Company’s Restricted Subsidiaries so long as the incurrence of such Indebtedness incurred by such Restricted Subsidiary is permitted under the terms of this Indenture;
(q) Indebtedness of the Company or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums and (ii) take-or-pay or similar obligations contained in supply arrangements, in each case, incurred in the ordinary course of business;

(r) Indebtedness of the Company or any of its Restricted Subsidiaries attributable to any Sale and Lease-Back Transaction or similar transaction entered into by the Company or any of its Restricted Subsidiaries in connection with a Plan Contribution; and

(s) any guarantee by a Guarantor of (i) Pari Passu Obligations; provided that the incurrence of such Pari Passu Obligations is permitted under this Indenture and such guarantees rank equal in right of payment with such Guarantor’s Note Guarantee, or (ii) any other Indebtedness of the Company or a Restricted Subsidiary; provided that the incurrence of such Indebtedness is permitted under this Indenture and such guarantees are expressly subordinated in right of payment to such Guarantor’s Note Guarantee.

(C) For purposes of determining compliance with this Section 6.10:

(a) in the event that an item of Indebtedness or preferred stock meets the criteria of more than one of the categories of permitted Indebtedness or preferred stock described in clauses (a) through (s) of Section 6.10(B) or is entitled to be incurred pursuant to Section 6.10(A), the Company, in its sole discretion, will classify or reclassify such item of Indebtedness or preferred stock (or any portion thereof) and will only be required to include the amount and type of such Indebtedness or preferred stock in one of the clauses of Section 6.10(B) or as having been incurred pursuant to Section 6.10(A); provided, that all Indebtedness outstanding under the Senior Credit Facilities and this Indenture on the Issue Date after application of the use of proceeds from the Notes as described in the Offering Memorandum will be treated as incurred on such date Section 6.10(B)(a) and the Company shall not be permitted to reclassify all or any portion of such Indebtedness outstanding on the Issue Date;

(b) at the time of incurrence or thereafter, the Company will be entitled to divide and classify or reclassify an item of Indebtedness or preferred stock in more than one of the types of Indebtedness or preferred stock described above;

(c) the Company or the applicable Restricted Subsidiary may, but shall not be required to, elect pursuant to an Officer’s Certificate delivered to the Trustee to treat all or any portion of the commitment under any Indebtedness (including with respect to any revolving loan commitment) as being incurred at the time of such commitment and thereafter outstanding so long as such commitment remains outstanding, regardless of whether fully drawn, in which case any subsequent incurrence of Indebtedness under such commitment shall not be deemed to be an incurrence at such subsequent time; and

(d) for the avoidance of doubt, to the extent any clauses above limit the amount of Indebtedness that can be incurred by a numerical limit, such numerical limit shall be determined by the amount of Indebtedness then outstanding in reliance on such clause.

(D) Accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness, the payment of dividends on Disqualified Stock in the form of additional shares of Disqualified Stock and the reclassification of preferred stock as Indebtedness due to a change in accounting principles or the application thereof will not be deemed to be an incurrence of Indebtedness for purposes of this Section 6.10.

Section 6.11 Limitation on Liens. The Company will not, and will not permit any of its Restricted Subsidiaries to, allow any Lien (each, an “Initial Lien”) on any of the Company’s or its Restricted Subsidiaries’ property or assets (which includes capital stock) securing Indebtedness, unless:

(i) in the case of Initial Liens securing Collateral, such Initial Lien is a Permitted Lien; or

(ii) in the case of Initial Liens on any asset or property that is not Collateral, either (a) the Notes are equally and ratably secured with (or on a senior basis to, in the case such Initial Lien secures any Subordinated Indebtedness) the obligations secured by such Initial Lien until such time as such obligations are no longer secured by a Lien or (b) such Initial Lien is a Permitted Lien.
For the avoidance of doubt, to the extent clause (i) above or any clause of the definition of “Permitted Lien” limits the amount of Indebtedness secured by a Lien, such numerical limit shall be determined by the amount of Indebtedness secured by such Lien then outstanding in reliance on such clause.

Any Lien created for the benefit of Holders pursuant to this Section 6.11 shall be automatically released without any further action by the Holders upon release of the Initial Lien on such other Indebtedness.

Section 6.12 Limitations on Transactions with Affiliates. (A) The Company will not, and will not permit any of its Restricted Subsidiaries to, 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, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each of the foregoing, an “Affiliate Transaction”) in any one or series of related transactions involving aggregate payments or consideration in excess of $100.0 million, unless:

(a) such Affiliate Transaction is on terms that are not materially less favorable, taken as a whole, to the Company or the relevant Restricted Subsidiary than those that could have been obtained in a comparable transaction by the Company or such Restricted Subsidiary with an unrelated Person as determined by the Company in good faith (or, in the event that there are no comparable transactions involving Persons who are not Affiliates of the Company or the relevant Restricted Subsidiary to apply for comparative purposes, is otherwise on terms that, taken as a whole, the Company has determined in good faith to be fair to the Company or the relevant Restricted Subsidiary), and

(b) the Company delivers to the Trustee with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate payments or consideration in excess of $250.0 million, a resolution adopted by the majority of the Board of Directors of the Company (and a majority of the disinterested directors serving on the Board of Directors of the Company) approving such Affiliate Transaction and an Officer’s Certificate certifying that such Affiliate Transaction complies with Section 6.12(A)(a).

(B) The foregoing provisions will not apply to the following:

(i) transactions between or among the Company and/or any of its Restricted Subsidiaries;

(ii) (x) Restricted Payments permitted by Section 6.09 and (y) Permitted Investments;

(iii) (A) fees paid to, and indemnities provided on behalf of, and employment and severance agreements entered into with, current or former officers, directors, employees or consultants of the Company, any of its direct or indirect parent companies or any of its Restricted Subsidiaries in the ordinary course of business and (B) any employee benefits plans or similar plans entered into by the Company or any of its Restricted Subsidiaries in the ordinary course of business;

(iv) transactions in which the Company or any of its Restricted Subsidiaries, as the case may be, delivers to the Trustee a letter from a Nationally Recognized Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or meets the requirements of Section 6.12(A)(a);

(v) the existence of, or the performance by the Company or any of its Restricted Subsidiaries of its obligations under the terms of, any agreement to which it is a party as of the Issue Date and any similar agreements which it may enter into thereafter; provided, however, that the existence of, or the performance by the Company or any of its Restricted Subsidiaries of obligations under any future amendment to any such existing agreement or under any similar agreement entered into after the Issue Date shall only be permitted by this clause (v) to the extent that the terms of any such agreement, together with all amendments thereto, taken as a whole, or new agreement are not more disadvantageous as determined by the Company to the Holders or the Company and its Restricted Subsidiaries in any material respect than the agreement in effect as of the Issue Date;
(vi) any agreement that grants registration and other customary rights in connection therewith or otherwise to the direct or indirect securityholders of the Company or any Restricted Subsidiary of the Company (and the performance of such agreements);

(vii) any transaction with an entity which would constitute an Affiliate Transaction solely because the Company or any of its Restricted Subsidiaries owns an equity interest in or otherwise controls such entity; provided that no Affiliate of the Company or any of its Restricted Subsidiaries other than the Company or a Restricted Subsidiary of the Company shall have a beneficial interest in such joint venture or similar entity;

(viii) the issuance of Equity Interests (other than Disqualified Stock) of the Company to any Person;

(ix) payments or loans (or cancellation of loans) to employees or consultants of the Company, any of its direct or indirect parent companies or any Restricted Subsidiary of the Company which are approved by a majority of the Board of Directors of the Company in good faith;

(x) transactions permitted by, and complying with, the provisions of Article V;

(xi) any contribution of capital to the Company;

(xii) 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 Company and its Restricted Subsidiaries in the reasonable determination of the Board of Directors of the Company or the senior management of the Company, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party;

(xiii) any Plan Contribution; and

(xiv) transactions with Affiliates solely in their capacity as holders of Indebtedness or Capital Stock of the Company or any of its Restricted Subsidiaries, where such Affiliates are generally treated no more favorably than non-Affiliates in such transactions.

Section 6.13 Limitations on Dividend and Other Payment Restrictions Affecting Restricted Subsidiaries. The Company will not, and will not permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist or become effective any consensual encumbrance or consensual restriction on the ability of any such Restricted Subsidiary to:

(a) (1) pay dividends or make any other distributions to the Company or any of its Restricted Subsidiaries:

   (A) on its Capital Stock or

   (B) with respect to any other interest or participation in, or measured by, its profits or

   (2) pay any Indebtedness owed to the Company or any of its Restricted Subsidiaries;

(b) make loans or advances to the Company or any of its Restricted Subsidiaries; or
(c) sell, lease or transfer any of its properties or assets to the Company or any of its Restricted Subsidiaries, except (in each case) for such encumbrances or restrictions existing under or by reason of:

(i) contractual encumbrances or restrictions in effect on the Issue Date, including pursuant to the Senior Credit Facilities and Existing Indebtedness and related documentation as in effect on the Issue Date;

(ii) this Indenture, the Notes, the Collateral Documents and the Note Guarantees;

(iii) purchase money obligations and Capital Lease Obligations for property that impose restrictions of the nature set forth in Section 6.13(c) on that property;

(iv) applicable law or any applicable rule, regulation or order, approval, license or similar restriction, including Governmental Authorizations;

(v) any agreement or other instrument of a Person acquired by the Company or any Restricted Subsidiary of the Company in existence at the time of such acquisition (but not created in contemplation thereof), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person, or the property or assets of the Person, so acquired;

(vi) contracts for the sale of assets, including customary restrictions with respect to a Restricted Subsidiary of the Company pursuant to an agreement that has been entered into for the sale or disposition of all or substantially all of the Capital Stock or assets of such Restricted Subsidiary;

(vii) Secured Indebtedness otherwise permitted to be incurred pursuant to Sections 6.10 and 6.11 that limit the right of the debtor to dispose of the assets securing such Indebtedness;

(viii) restrictions on cash or other deposits or net worth imposed by customers, suppliers, landlords or required by insurance, surety or bonding companies, in each case under contracts entered into in the ordinary course of business;

(ix) customary provisions in joint venture agreements and other similar agreements;

(x) customary provisions contained in leases, licenses and other agreements entered into in the ordinary course of business;

(xi) restrictions in agreements or instruments which prohibit the payment or making of dividends or other distributions other than on a pro rata basis;

(xii) other Indebtedness or preferred stock of the Company or any of its Restricted Subsidiaries that is incurred pursuant to Section 6.10; provided that such encumbrances or restrictions (1) are no less favorable to the Company or such Restricted Subsidiary, taken as a whole, than those included in the Senior Credit Facilities as in effect as of the Issue Date (as determined by the Board of Directors of the Company in good faith) or (2) will not materially affect the Company’s ability to make anticipated principal or interest payments on the Notes (as determined by the Board of Directors of the Company in good faith); and

(xiii) any encumbrances or restrictions of the type referred to in Section 6.13(a), (b) and (c) 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 (xii) of this Section 6.13, provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings (1) are, in the good faith judgment of the Company’s Board of Directors, not materially more restrictive with respect to such encumbrance and other restrictions than those prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing, taken as a whole, or (2) will not materially affect the Company’s ability to make anticipated principal or interest payments on the Notes (as determined by the Board of Directors of the Company in good faith).
Section 6.14  Repurchase of Notes upon a Change of Control Triggering Event. If a Change of Control Triggering Event occurs with respect to the Notes, each Holder of Notes will have the right to require the Company to repurchase all or any part, equal to $2,000 and integral multiples of $1,000, of that Holder’s Notes pursuant to a Change of Control offer (a “Change of Control Offer”) on the terms set forth in thisIndenture at an offer price in cash equal to 101% of the aggregate principal amount of Notes repurchased, plus accrued and unpaid interest on the Notes to, but not including, the applicable date of repurchase (the “Change of Control Payment”). Within 30 days following any Change of Control Triggering Event, if the Company had not, prior to the Change of Control Triggering Event, sent a redemption notice, with a copy to the Trustee, for all the Notes in connection with an optional redemption permitted by Article IV, the Company will mail a notice (the “Change of Control Notice”), with a copy to the Trustee, to each registered Holder briefly describing the transaction or transactions that constitute a Change of Control Triggering Event and offering to repurchase Notes on the date specified in such Change of Control Notice (the “Change of Control Payment Date”), pursuant to the procedures required by this Indenture and described in such notice (which procedures shall be reasonably acceptable to the Trustee).

To the extent that the provisions of any securities laws or regulations conflict with the Change of Control Triggering Event provisions of this Indenture, the Company will comply with the applicable securities laws and regulations and shall not be deemed to have breached its obligations under the Change of Control Triggering Event provisions of this Indenture by virtue of such conflict.

On the Change of Control Payment Date, the Company will, to the extent lawful:

(1) accept for payment all Notes or portions thereof properly tendered pursuant to the Change of Control Offer;

(2) deposit with the Paying Agent an amount equal to the Change of Control Payment in respect of all Notes or portions thereof properly tendered; and

(3) deliver, or cause to be delivered, to the Trustee the Notes so accepted together with an Officer’s Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company.

The Paying Agent will promptly pay to each registered Holder of Notes so tendered and not withdrawn the Change of Control Payment for such Notes, and the Trustee will promptly authenticate, or cause to be transferred by book entry, to each Holder a new Note equal in principal amount to any unpurchased portion of the Notes surrendered, if any; provided, that each such new Note will be in a principal amount of $2,000 and integral multiples of $1,000 in excess thereof. Any Note so accepted for payment will cease to accrue interest on and after the Change of Control Payment Date.

The Company will not be required to make a Change of Control Offer upon a Change of Control Triggering Event if a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Company and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer.

A Change of Control Offer may be made in advance of a Change of Control Triggering Event, and conditional upon the occurrence of such Change of Control Triggering Event, if a definitive agreement is in place for the Change of Control Triggering Event at the time of making the Change of Control Offer. If a Change of Control Notice is delivered prior to the occurrence of a Change of Control Triggering Event, such Change of Control Notice shall state that the Change of Control Offer is conditional on the occurrence of such Change of Control and Ratings Decline and describe each such condition, and, if applicable, state that, in the Company’s discretion, the Change of Control Payment Date may be delayed until such time as any or all such conditions shall be satisfied, or that 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 by the Change of Control Payment Date, or by the Change of Control Payment Date as so delayed. The Change of Control Notice shall also specify the date by which such notice was required to be given, the date by which the Holders have to make an election to repurchase and the procedures therefor, and whether the Holders may withdraw their election to repurchase and the procedures thereafter.
In the event that Holders of not less than 90% in aggregate principal amount of the Outstanding Notes validly tender and do not withdraw such Notes in a Change of Control Offer and the Company, or any third party making a Change of Control Offer in lieu of the Company as described above, purchases all of the Notes validly tendered and not withdrawn by such Holders, within 60 days of such purchase, the Company or such third party will have the right, upon not less than 30 days’ nor more than 60 days’ prior notice, to redeem all of the 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 on the Notes to, but excluding, the Redemption Date pursuant to the procedures set forth in Article IV.

Section 6.15 Asset Sales.

(a) The Company will not, and will not permit any Restricted Subsidiary to, consummate an Asset Sale, unless:

(i) the Company or such Restricted Subsidiary, as the case may be, receives consideration at the time of such Asset Sale at least equal to the Fair Market Value of the assets sold or otherwise disposed of;

(ii) except in the case of a Permitted Asset Swap, at least 75% of the consideration therefor received by the Company or such Restricted Subsidiary, as the case may be, is in the form of cash, Cash Equivalents, Replacement Assets or a combination of the foregoing; and

(iii) if such Asset Sale involves the disposition of Collateral, the Company or such Restricted Subsidiary has complied with the other provisions of this Indenture and the Collateral Documents related thereto.

Within 365 days after the Company’s or any Restricted Subsidiary’s receipt of the Net Proceeds of any Asset Sale, the Company or such Restricted Subsidiary, at its option, may apply an amount equal to the Net Proceeds from such Asset Sale:

(1) to permanently reduce Pari Passu Obligations or repay, redeem or purchase the Notes; provided that if the Company shall so reduce, repay, redeem or repurchase Pari Passu Obligations other than the Notes, it will equally and ratably reduce Obligations under the Notes in accordance with the procedures set forth in Article IV, through privately negotiated transactions or open market purchases or by making an offer (in accordance with the procedures set forth in Section 4.08 for an Asset Sale Offer) to all Holders to purchase their Notes, in each case, at or above 100% of the principal amount thereof, plus the amount of accrued but unpaid interest, if any, on the amount of the Notes that would otherwise be prepaid, which offer shall constitute a reduction of the Obligations under the Notes under this provision, whether or not accepted; provided further that, in addition to the foregoing, the Net Proceeds from an Asset Sale of Collateral may not be applied to prepay, repay or repurchase any Indebtedness pursuant to this clause (1) other than Pari Passu Obligations;

(2) to (a) make an investment in any one or more businesses, provided that such investment in any business is in the form of the acquisition of Capital Stock and results in the Company or a Restricted Subsidiary, as the case may be, owning or continuing to own an amount of the Capital Stock of such business such that it constitutes a Restricted Subsidiary, (b) make capital expenditures or (c) acquire other assets (including assets that replace the business, properties and assets that were the subject of the Asset Sale), in each of (a), (b) and (c), engaged, used or useful in a Similar Business; provided further that any Net Proceeds from an Asset Sale of Collateral shall only be invested in other Collateral or in other businesses, properties or assets that become Collateral to the extent such business, properties or assets are required to become “Collateral” or “Pledged Collateral” (or any equivalent term) as defined in the First Priority Credit Documents in accordance with the terms of any of the First Priority Credit Documents;
(3) to retire Notes pursuant to the procedures set forth under Article IV; or

(4) any combination of the foregoing;

provided that, in the case of clause (2) above, a binding commitment entered into prior to the end of such 365-day reinvestment period shall be treated as a permitted application of the Net Proceeds from the date of such commitment so long as the Company or such Restricted Subsidiary enters into such commitment with the good faith expectation that such Net Proceeds will be applied to satisfy such commitment (an "Acceptable Commitment") and, in the event any Acceptable Commitment is later canceled or terminated for any reason before such Net Proceeds are so applied, the Company or such Restricted Subsidiary enters into another Acceptable Commitment (a "Replacement Commitment") within nine months of such cancellation or termination; provided, further, that if any Replacement Commitment is later canceled or terminated for any reason before such Net Proceeds are applied, then such Net Proceeds shall constitute Excess Proceeds.

Any Net Proceeds from an Asset Sale that are not invested or applied as set forth in the preceding paragraph and within the 365-day reinvestment period will be deemed to constitute "Excess Proceeds." When the aggregate amount of Excess Proceeds exceeds $100.0 million, the Company shall make an offer to all Holders, and, if required by the terms of any other Pari Passu Obligations, to the holders of such other Pari Passu Obligations (an "Asset Sale Offer"), to purchase the maximum principal amount of Notes and such other Pari Passu Obligations 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, plus accrued and unpaid interest to, but not including, the date fixed for the closing of such offer, in accordance with the procedures set forth in Section 4.08. The Company will commence an Asset Sale Offer with respect to Excess Proceeds within ten Business Days after the date that Excess Proceeds exceed $100.0 million by mailing the notice required pursuant to the terms of this Indenture, with a copy to the Trustee.

To the extent that the aggregate amount of Notes and such Pari Passu Obligations tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company may use any remaining Excess Proceeds for any purpose not otherwise prohibited by this Indenture, subject to other covenants contained in this Indenture. If the aggregate principal amount of Notes or the other Pari Passu Obligations surrendered by such Holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such other Pari Passu Obligations tendered in accordance with Section 4.08. Upon completion of any such Asset Sale Offer, the amount of Excess Proceeds shall be reset at zero.

Pending the final application of any Net Proceeds of Asset Sales, the Company or the applicable Restricted Subsidiary may apply such Net Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility or otherwise invest such Net Proceeds in any manner not prohibited by this Indenture.

(b) For purposes of clause (a) of this Section 6.15 only, the following shall be deemed to be Cash Equivalents: (i) any liabilities (as shown on the Company’s, or such Restricted Subsidiary’s, most recent balance sheet or in the footnotes thereto) of the Company or any Restricted Subsidiary, other than liabilities that are unsecured or are by their terms subordinated in right of payment to the Notes (or, for the avoidance of doubt, Lien priority on the Collateral), that are assumed by the transferee of any such assets and for which the Company and all of its Restricted Subsidiaries have been unconditionally released by all creditors or their representatives in writing or that are discharged by the transferee or a third party in a transaction pursuant to which neither the Company nor any of its Restricted Subsidiaries has any liability following such Asset Sale, (ii) any Notes or other obligations or securities or assets received by the Company or such Restricted Subsidiary from such transferee that are converted by the Company or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the cash or Cash Equivalents received) within 180 days following the closing of such Asset Sale, (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 Company and each other Restricted Subsidiary are released from any guarantee of such Indebtedness in connection with such Asset Sale; (iv) consideration consisting of Indebtedness of the Company (other than Indebtedness that is unsecured or are by its terms subordinated in right of payment to the Notes) received after the Issue Date from Persons who are not the Company or any Restricted Subsidiary; and (v) any Designated Noncash Consideration received by the Company or any Restricted Subsidiary in such Asset Sale having an aggregate Fair Market Value, taken together with all other Designated Noncash Consideration received pursuant to this clause (v) that is at that time in existence, not to exceed an amount equal to the greater of $900.0 million or 3.00% of Total Assets, with the Fair Market Value of each item of Designated Noncash Consideration being measured at the time received and without giving effect to subsequent changes in value.
To the extent that the provisions of any securities laws or regulations conflict with the provisions of this Indenture, the Company 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.

Section 6.16 Suspension of Covenants. During the period in which: (1) the Notes have an Investment Grade Rating from at least two Rating Agencies or the equivalent thereof under any new ratings system if the ratings system of any such agency shall be modified after the date hereof and (2) no Default or Event of Default has occurred and is continuing under this Indenture (the occurrence of the events described in the foregoing clauses (1) and (2) being collectively referred to as a “Covenant Suspension Event”), the following provisions of this Indenture will not be applicable to the Notes:

(A) Section 6.09;
(B) Section 6.10;
(C) Section 6.12;
(D) Section 6.13;
(E) Section 6.15; and
(F) clause (iii) of Section 5.01(A);

(collectively, the “Suspended Covenants” and, the date of such suspension, the “Suspension Date”). Upon the occurrence of a Covenant Suspension Event, the amount of Excess Proceeds from Net Proceeds shall be set at zero. In the event that the Company and the Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the “Reversion Date”) one or more of the Rating Agencies that had assigned an Investment Grade Rating withdraw their Investment Grade Rating or downgrade the rating assigned to the Notes below an Investment Grade Rating and as a result less than two Rating Agencies have assigned an Investment Grade Rating, then the Company and the Restricted Subsidiaries will thereafter again be subject to the Suspended Covenants with respect to future events. The period of time between the Suspension Date and the Reversion Date is referred to in this description as the “Suspension Period.” Notwithstanding that the Suspended Covenants may be reinstated, no Default or Event of Default will be deemed to have occurred 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). For purposes of determining compliance with Section 6.11 during the Suspension Period, it shall be assumed that the provisions of Section 6.10 are applicable during such period as if the applicable Covenant Suspension Event had not occurred.

On the Reversion Date, all Indebtedness incurred during the Suspension Period will be classified to have been incurred pursuant to Section 6.10(A). To the extent such Indebtedness would not be so permitted to be incurred or issued pursuant to Section 6.10(A), such Indebtedness will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (c) of the definition of “Permitted Debt.” Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 6.09 will be made as though Section 6.09 had been in effect since the Issue Date and throughout the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period will reduce the amount available to be made as Restricted Payments under Section 6.09(A). Notwithstanding anything to the contrary, during a Suspension Period the Company may not designate any Subsidiary as an Unrestricted Subsidiary.
The Company shall deliver promptly to the Trustee an Officer’s Certificate notifying it of any such occurrence under this Section 6.16 and, upon written request by the Company and at its expense, the Trustee shall deliver a notice of such occurrence to the Holders of Notes at their addresses as the same shall then appear in the Register. Any failure of the Company to deliver such Officer’s Certificate or the Trustee to deliver such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any events described under this Section 6.16. The Trustee shall have no duty to monitor any of the events described under this Section 6.16.

Section 6.17 Designation of Restricted and Unrestricted Subsidiaries The Company’s Board of Directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. Any designation of a Restricted Subsidiary as an Unrestricted Subsidiary will be deemed to be a designation of each of such entity’s Subsidiaries as Unrestricted Subsidiaries. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate Fair Market Value of all outstanding Investments owned by the Company and its Restricted Subsidiaries in the Subsidiary designated as an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of such designation and may reduce the amount available for Restricted Payments under Section 6.09 or under one or more of the clauses of the definition of “Permitted Investments”, as determined by the Company. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an Unrestricted Subsidiary. Any designation of a Subsidiary of the Company as an Unrestricted Subsidiary will be evidenced to the Trustee by filing with the Trustee a certified copy of the Board Resolution giving effect to such designation and an Officer’s Certificate certifying that such designation complied with the preceding conditions and was permitted by Section 6.09.

(a) If, at any time, any Unrestricted Subsidiary would fail to meet the requirements as an Unrestricted Subsidiary under this Indenture, it will thereafter cease to be an Unrestricted Subsidiary for purposes of this Indenture and any Indebtedness of such Subsidiary will be deemed to be incurred by a Restricted Subsidiary of the Company as of such date and, if such Indebtedness is not permitted to be incurred as of such date under Section 6.10, the Company will be in default of such covenant.

(b) The Company’s Board of Directors may redesignate any Unrestricted Subsidiary to be a Restricted Subsidiary; provided that, immediately after giving effect to such designation, no Default shall have occurred and be continuing and either:

(1) the Company could incur at least $1.00 of additional Indebtedness pursuant to the Total Leverage Ratio set forth in Section 6.10(A); or

(2) the Company’s Total Leverage Ratio is less than or equal to the Company’s Total Leverage Ratio immediately prior to such designation, on a pro forma basis taking into account such designation;

provided, further, that such redesignation will be deemed to be an incurrence of Indebtedness and, if applicable, an incurrence of related Liens by a Restricted Subsidiary of the Company of any outstanding Indebtedness and, if applicable, related Liens of such Unrestricted Subsidiary and such redesignation will only be permitted if (1) such Indebtedness and, if applicable, related Liens are permitted under Section 6.10 and, if applicable, Section 6.11, calculated, if applicable, on a pro forma basis as if such designation had occurred at the beginning of the four-quarter reference period and (2) no Default or Event of Default would be in existence following such designation.

Section 6.18 Future Guarantors. The Company shall, in each case within 60 days, cause each Restricted Subsidiary of the Company (other than any Excluded Subsidiary) that directly or indirectly assumes, becomes a borrower under or guarantees any Indebtedness of the Company under any Senior Credit Facility or any capital markets Indebtedness to become a Guarantor and execute and deliver a supplemental indenture to this Indenture providing for a Note Guarantee by such Restricted Subsidiary and, if applicable, become a party to the Collateral Documents and take actions required thereunder to perfect liens created thereunder, provided that in the event that the guarantee of the Company’s obligations under the Notes or this Indenture by such Restricted Subsidiary would not be permitted under applicable law, this covenant will not be applicable to such Restricted Subsidiary.

The Company may elect, in its sole discretion, to cause any Subsidiary that is not otherwise required to be a Guarantor to become a Guarantor.
ARTICLE VII
REMEDIES OF TRUSTEE AND SECURITYHOLDERS

Section 7.01 Events of Default. The term “Event of Default,” wherever used herein, with respect to the Notes, means any of the following:

(i) default in the payment of any installment of interest upon the Notes as and when the same shall become due and payable, and continuance of such default for a period of 60 days;

(ii) default in the payment of all or any part of the principal or premium (if any) on the Notes as and when the same shall become due and payable either at its final Stated Maturity, upon any redemption, by declaration or otherwise;

(iii) failure on the part of the Company duly to observe or perform any other of the covenants or agreements on the part of the Company in the Notes or contained in this Indenture for a period of 90 days after the date on which written notice specifying such failure, stating that such notice is a “Notice of Default” hereunder and demanding that the Company remedy the same, shall have been given by registered or certified mail, return receipt requested, to the Company by the Trustee, or to the Company and the Trustee by the Holders of at least 25% in aggregate principal amount of the Outstanding Notes;

(iv) default under any mortgage, indenture or instrument under which there is issued or by which there is secured or evidenced any Indebtedness by the Company or any Restricted Subsidiary or the payment of which is guaranteed by the Company or any Restricted Subsidiary, other than Indebtedness owed to the Company or a Restricted Subsidiary, whether such Indebtedness or guarantee now exists or is created after the issuance of the Notes, if

   (A) such default either

      (1) results from the failure to pay any such Indebtedness at its stated final maturity (after giving effect to any applicable grace periods) or

      (2) relates to an obligation other than the obligation to pay principal of any such Indebtedness at its stated final maturity and results in the holder or holders of such Indebtedness causing such Indebtedness to become due prior to its stated final maturity;

   (B) the principal amount of such Indebtedness, together with the principal amount of any other such Indebtedness in default for failure to pay principal at stated final maturity (after giving effect to any applicable grace periods), or the maturity of which has been so accelerated, aggregate $500.0 million or more at any one time outstanding; and

   (C) in the case of the occurrence of a default described in Section 7.01(iv)(A)(2), such default results in (x) the acceleration of such Indebtedness prior to the stated final maturity thereof or (y) the commencement of judicial proceedings to foreclose upon, or to exercise remedies under applicable law or applicable security documents to take ownership of, the assets securing such Indebtedness;

(v) failure by the Company or any Significant Subsidiary to pay final judgments aggregating in excess of $500.0 million or its foreign currency equivalent (net of any amounts which are covered by insurance policies from creditworthy insurers), which final judgments remain undischarged, unwaived and unstayed for a period of more than 60 days after such judgment becomes final;

(vi) the Company shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or consent to the entry of an order for relief in an involuntary case under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or similar official) of the Company or for any substantial part of its property, or make any general assignment for the benefit of creditors;
(vii) any material provisions of any Collateral Document shall cease to be in full force and effect, or the Company or any other Grantor shall so assert in writing or (ii) any Lien required by this Indenture that is created by any Collateral Document shall cease to be enforceable and perfected and of the same effect and priority purported to be created thereby, or the Company or any other Grantor shall so assert in writing, in each case, for any reason other than (x) pursuant to the terms of this Indenture and of any Collateral Document, including as a result of a transaction not prohibited by this Indenture or (y) the failure of the Collateral Agent to maintain possession of any certificates representing or evidencing the Collateral actually delivered to it; or

(viii) all or substantially all of the value of the Note Guarantees shall cease to be in full force and effect, or Guarantors in respect thereof shall so assert in writing, for any reason other than pursuant to the terms of this Indenture, including as a result of a transaction not prohibited by this Indenture.

Section 7.02 Acceleration of Maturity; Rescission and Annulment

(a) If an Event of Default described in Section 7.01(i) or (ii) occurs with respect to the Notes and is continuing, then, and in each and every such case, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Outstanding Notes by notice in writing to the Company (and to the Trustee if given by Holders), may declare the entire principal of the Notes, and the interest accrued thereon, if any, to be due and payable immediately, and upon any such declaration, the same shall become immediately due and payable.

(b) If an Event of Default described in Section 7.01(iii) occurs with respect to Notes and is continuing for a period of 60 days after the date on which the underlying Default becomes an Event of Default, then, and in each and every such case, unless the principal of the Notes shall have already become due and payable, either the Trustee or the Holders of not less than 25% in aggregate principal amount of the Outstanding Notes by notice in writing to the Company (and to the Trustee if given by Holders), may declare the entire principal of all of the Outstanding Notes, and the interest accrued thereon, if any, to be due and payable immediately, and upon such declaration, the same shall become immediately due and payable.

(c) If an Event of Default described in Section 7.01(vi) occurs and is continuing, then the principal amount of all the Outstanding Notes, and the interest accrued thereon, if any, shall become and be immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

(d) The foregoing provisions are subject to the condition that if, at any time after the principal of the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the moneys due shall have been obtained or entered as hereinafter provided:

(x) the Company shall pay or shall deposit with the Trustee a sum sufficient to pay:

(i) all matured installments of interest upon all the Notes; and

(ii) the principal of any and all Notes which shall have become due otherwise than by acceleration; and

(iii) interest upon such principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest, at the Overdue Rate to the date of such payment or deposit; and

(iv) all amounts payable to the Trustee pursuant to Section 7.07; and
(y) all Events of Default with respect to the Notes, other than the non-payment of the principal of the Notes which shall have become due by acceleration, shall have been cured, waived or otherwise remedied as provided herein,

then, and in every such case, the Holders of a majority, or any applicable supermajority, in aggregate principal amount of the Outstanding Notes, by written notice to the Company and to the Trustee, may waive all defaults related to the Notes and rescind and annul such declaration and its consequences, but no such waiver or rescission and annulment shall extend to or shall affect any subsequent default relating to the Notes or shall impair any right consequent thereon.

(e) In the event of a declaration of acceleration of the Notes because an Event of Default pursuant to Section 7.01(iv) has occurred and is continuing, the declaration of acceleration of the Notes shall be automatically annulled if the default triggering such Event of Default pursuant to Section 7.01(iv) shall be remedied or cured, or waived by the holders of the Indebtedness with respect to which such default has occurred within 30 days after the declaration of acceleration of the Notes.

(f) If a Default is deemed to occur solely as a consequence of the existence of another Default (the “Initial Default”), then, at the time such Initial Default is cured, the Default that resulted solely because of that Initial Default will also be cured without any further action.

Section 7.03 Collection of Indebtedness by Trustee; Trustee May Prove Debt.

(a) The Company covenants that (i) in case default shall be made in the payment of any installment of interest on the Notes when such interest shall have become due and payable, and such default shall have continued for a period of 60 days, or (ii) in case default shall be made in the payment of all or any part of the principal of the Notes when the same shall have become due and payable, whether upon maturity of such Notes or upon any redemption or by declaration or otherwise, then upon demand of the Trustee, the Company will pay to the Trustee for the benefit of the Holders of such Notes the whole amount that then shall have become due and payable on such Notes for principal and interest, as the case may be (with interest to the date of such payment upon the overdue principal and, to the extent that payment of such interest is enforceable under applicable law, on overdue installments of interest at the Overdue Rate applicable to such Notes); and in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, and such other amount due the Trustee under Section 11.01 in respect of such Notes.

(b) Until such demand is made by the Trustee, the Company may pay the principal of and interest on such Notes to the registered Holders, whether or not the Notes be overdue.

(c) In case the Company shall fail forthwith to pay such amounts upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled and empowered to institute any action or proceedings at law or in equity for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree, and may enforce any such judgment or final decree against the Company or other obligor upon such Notes and collect in the manner provided by law out of the property of the Company or other obligor upon such Notes, wherever situated, all the moneys adjudged or decreed to be payable.

(d) In case there shall be pending proceedings relative to the Company or any other obligor upon the Notes then Outstanding under Title 11 of the United States Code or any other applicable federal or state bankruptcy, insolvency or other similar law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Company or its property or such other obligor, or in case of any other similar judicial proceedings relative to the Company or other obligor upon such Notes, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of such Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section 7.03, shall be entitled and empowered, by intervention in such proceedings or otherwise:

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(i) to file and prove a claim or claims for the whole amount of principal and interest, if any, owing and unpaid in respect of such Notes, and, in the case of any judicial proceedings, to file such other papers or documents as may be necessary or advisable in order to have the claims of the Trustee (including any claim for amounts payable to the Trustee under Section 11.01) and of the Holders of such Notes allowed in any judicial proceedings relative to the Company or other obligor upon such Notes, or to the creditors or property of the Company or such other obligor; and

(ii) unless prohibited by applicable law and regulations, or unless otherwise directed by a majority in aggregate principal amount of the Notes at the time Outstanding, to vote on behalf of the Holders of such Notes in any election of a receiver, assignee, trustee or a standby trustee in arrangement, reorganization, liquidation or other bankruptcy or insolvency proceedings, custodian or other person performing similar functions in respect of any such proceedings; and

(iii) to collect and receive any moneys or other property payable or deliverable on any such claims, and to distribute all amounts received with respect to the claims of the Holders of such Notes and of the Trustee on their behalf;

and any trustee, receiver, or liquidator, custodian or other similar official performing similar functions in respect of any such proceedings is hereby authorized by each of the Holders of such Notes to make payments to the Trustee, and, in the event that the Trustee shall consent to the making of payments directly to the Holders of such Notes, to pay to the Trustee its costs and expenses of collection and all other amounts due to it pursuant to Section 11.01.

(e) Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or vote for or accept or adopt on behalf of any Holder of such Notes any plan of reorganization, arrangement, adjustment or composition affecting such Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder of such Notes in any such proceeding, except as aforesaid in clause (ii).

(f) All rights of action and of asserting claims under this Indenture or under the Notes, may be enforced by the Trustee without the possession of any of such Notes or the production thereof in any trial or other proceedings relative thereto, and any such action or proceedings instituted by the Trustee shall be brought in its own name and as trustee of an express trust, and any recovery of judgment shall be awarded to the Trustee for ratable distribution to the Holders of such Notes in respect of which such action was taken, after payment of all sums due to the Trustee under Section 11.01 in respect of such Notes.

(g) In any proceedings brought by the Trustee (and also any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party), the Trustee shall be held to represent all the Holders of the Notes in respect to which such action was taken, and it shall not be necessary to make any Holders of such Notes parties to any such proceedings.

Section 7.04 Application of Proceeds.

(a) Subject to the provisions of the Collateral Documents, any moneys collected by the Trustee pursuant to this Article VII in respect of the Company’s obligations with respect to the Notes or, after an Event of Default, any money or other property distributable in respect of the Company’s obligations under this Indenture, shall be applied in the following order at the date or dates fixed by the Trustee and, in case of the distribution of such moneys on account of principal or interest, upon presentation of the several Notes in respect of which monies have been collected and stamping (or otherwise noting) thereon the payment, or issuing Notes in reduced principal amounts in exchange for the presented Notes if only partially paid, or upon surrender thereof if fully paid:

FIRST: To the payment of all amounts payable to the Trustee (including any predecessor trustee) and the Collateral Agent (including any predecessor trustee) under Sections 10.08(w) and 11.01 in respect to the Notes;

SECOND: In case the principal of the Outstanding Notes in respect of which moneys have been collected shall not have become and be then due and payable, to the payment of interest on such Notes in default in the order of the maturity of the installments on such interest, with interest (to the extent that such interest has been collected by the Trustee and is permitted by applicable law) upon the overdue installments of interest at the Overdue Rate applicable to such Notes, such payments to be made ratably to the persons entitled thereto, without discrimination or preference;
THIRD: In case the principal of the Outstanding Notes in respect of which moneys have been collected shall have become and shall be then due and payable, to the payment of the whole amount then owing and unpaid upon such Notes for principal and interest, with interest upon the overdue principal, and (to the extent that such interest has been collected by the Trustee and is permitted by applicable law) upon the overdue installments of interest at the Overdue Rate applicable to such Notes; and in case such moneys shall be insufficient to pay in full the whole amount so due and unpaid upon such Notes, then to the payment of such principal and interest, without preference or priority of principal over interest, or of interest over principal, or of any installment of interest over any other installment of interest or of any such Note over any other such Note, ratably to the aggregate of such principal and accrued and unpaid interest; and

FOURTH: To the payment of the remainder, if any, to the Company or any other person lawfully entitled thereto.

Section 7.05  Suits for Enforcements.

In case an Event of Default with respect to any Notes has occurred, has not been waived and is continuing, (a) the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture and such Notes by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any of such rights, either at law or in equity or in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or such Notes or in aid of the exercise of any power granted in this Indenture or such Notes or to enforce any other legal or equitable right vested in the Trustee by this Indenture, such Notes or by law and (b) subject to the provisions of the Collateral Documents, the Collateral Agent may pursue any available remedy to enforce the performance of any provision of the Collateral Documents and any remedy available to it to enforce the performance of any provision of this Indenture that runs to its benefit.

Section 7.06  Restoration of Rights on Abandonment of Proceedings.

In case the Trustee or any Holder shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee or such Holder, then and in every such case the Company, the Trustee and the Holders shall be restored respectively to their former positions and rights hereunder, and all rights, remedies and powers of the Company, the Trustee and the Holders shall continue as though no such proceedings had been taken.

Section 7.07  Limitation on Suits by Noteholders.

No Holder of any Notes shall have any right by virtue or by availing of any provision of this Indenture to institute any action or proceeding at law or in equity or in bankruptcy or otherwise upon or under or with respect to this Indenture or such Note, or for the appointment of a trustee, receiver, liquidator, custodian or other similar official or for any other remedy hereunder or thereunder, unless:

(a) such Holder previously shall have given to the Trustee written notice of an Event of Default with respect to the Notes and of the continuance thereof, as hereinbefore provided,

(b) the Holders of at least 25% in aggregate principal amount of the Notes then Outstanding shall have made written request upon the Trustee to institute such action or proceeding in its own name as Trustee hereunder and shall have offered to the Trustee such reasonable indemnity as it may require against the costs, expenses and liabilities to be incurred therein or thereby.

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the Trustee for 60 days after its receipt of such notice, request and offer of indemnity shall have failed to institute any such action or proceeding, and

no direction inconsistent with such written request shall have been given to the Trustee pursuant to Section 7.10.

For the protection and enforcement of the provisions of this Section 7.07, each and every Holder of such Notes and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Section 7.08 Right of Noteholders To Institute Certain Suits.

Notwithstanding any other provision in this Indenture and any provision of any Note, the right of any Holder of any Note to receive payment of the principal of, premium, if any, and interest, if any, on such Note, on or after the respective due dates expressed in such Note, or upon redemption, by declaration, repayment or otherwise, or to institute 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 7.09 Powers and Remedies Cumulative; Delay or Omission Not Waiver of Default.

No right or remedy herein conferred upon or reserved to the Trustee or to the Holders of Notes is intended to be exclusive of any other right or remedy and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

No delay or omission of the Trustee or of any Holder of such Notes to exercise any right or remedy accruing upon any Event of Default occurring and continuing as aforesaid shall impair any such right or remedy or shall be construed to be a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Indenture, any Note or law to the Trustee or to the Holders of such Notes may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or, subject to Section 7.07, by the Holders of Notes.

Section 7.10 Control by Holders of Notes.

Subject to the provisions of the Collateral Documents, the Holders of a majority in aggregate principal amount of the Notes at the time Outstanding shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred on the Trustee with respect to such Notes by this Indenture; provided that such direction shall not be otherwise than in accordance with law and the provisions of this Indenture and shall not expose the Trustee to personal liability; and provided further, that (subject to Section 11.02) the Trustee shall have the right to decline to follow any such direction (a) if the Trustee being advised by counsel, shall determine that the action or proceeding so directed may not lawfully be taken; or (b) if the Trustee by its board of directors, the executive committee or a trust committee of directors or Responsible Officers of the Trustee shall determine in good faith that the action or proceedings so directed would involve the Trustee in personal liability; or (c) if the Trustee in good faith shall so determine that the actions or forbearances specified in or pursuant to such direction would be unduly prejudicial to the interests of the Holders of the Notes not joining in the giving of said direction, it being understood that (subject to Section 11.02) the Trustee shall have no duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders.

Nothing in this Indenture shall impair the right of the Trustee in its discretion to take any action deemed proper by the Trustee that is not inconsistent with such direction or directions by Holders of Notes.

Section 7.11 Waiver of Past Defaults.

Prior to the declaration of acceleration of the maturity of the Notes as provided in Section 7.01, the Holders of a majority in aggregate principal amount of such Notes at the time Outstanding may on behalf of the Holders of all such Notes waive any past default or Event of Default described in Section 7.01 and its consequences, except a default in respect of a covenant or provision of this Indenture or the Notes which cannot be modified or amended without the consent of the Holder of each Note affected. In the case of any such waiver, the Company, the Trustee and the Holders of all such Notes shall be restored to their former positions and rights hereunder, respectively, and such default shall cease to exist and be deemed to have been cured and not to have occurred for purposes of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.
Section 7.12  **Right of Court To Require Filing of Undertaking To Pay Costs.**

All parties to this Indenture agree, and each Holder of any Note by his acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, 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, suffered or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; but the provisions of this Section 7.12 shall not apply to any suit instituted by any Holder or group of Holders holding in the aggregate more than 10% in aggregate principal amount of the Notes, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or interest on any Note on or after the due date expressed in such Note or any date fixed for redemption.

**ARTICLE VIII**

**CONCERNING THE NOTEHOLDERS**

Section 8.01  **Evidence of Action of Noteholders.** Whenever in this Indenture it is provided that the Holders of a specified percentage or a majority in aggregate principal amount of the Notes may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action the Holders of such specified percentage or majority have joined therein may be evidenced by (a) any instrument or any number of instruments of similar tenor executed by Holders in person, by an agent or by a proxy appointed in writing, including through an electronic system for tabulating consents operated by the Depository or otherwise (such action becoming effective, except as herein otherwise expressly provided, when such instruments or evidence of electronic consents are delivered to the Trustee and, where it is hereby expressly required, to the Company), or (b) by the record of the Holders of Notes voting in favor thereof at any meeting of Holders duly called, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Holders.

Section 8.02  **Proof of Execution or Holding of Notes.** Proof of the execution of any instrument by a Holder or his, her or its agent or proxy and proof of the holding by any Person of any of the Notes shall be sufficient if made in the following manner:

(a)  The fact and date of the execution by any Person of any such instrument may be proved (i) by the certificate of any notary public or other officer in any jurisdiction who, by the laws thereof, has power to take acknowledgments or proof of deeds to be recorded within such jurisdiction, that the Person who signed such instrument did acknowledge before such notary public or other officer the execution thereof, or (ii) by the affidavit of a witness of such execution sworn to before any such notary or other officer. Where such execution is by a Person acting in other than his or her individual capacity, such certificate or affidavit shall also constitute sufficient proof of his or her authority.

(b)  The ownership of Notes shall be proved by the Register of such Notes or by a certificate of the Registrar for such Notes.

(c)  The Trustee may require such additional proof of any matter referred to in this Section 8.02 as it shall deem appropriate or necessary, so long as the request is a reasonable one.

(d)  If the Company shall solicit from the Holders of Notes any action, the Company may, at its option, fix in advance a record date for the determination of Holders of Notes entitled to take such action, but the Company shall have no obligation to do so. Any such record date shall be fixed at the Company's discretion. If such a record date is fixed, such action may be sought or given before or after the record date, but only the Holders of Notes of record at the close of business on such record date shall be deemed to be Holders of Notes for the purpose of determining whether Holders of the requisite proportion of Outstanding Notes have authorized or agreed or consented to such action, and for that purpose the Outstanding Notes shall be computed as of such record date.

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Section 8.03  Persons Deemed Owners.

(a) The Company, the Trustee, any Agent and any agent of the Company or the Trustee may treat the Person in whose name any Note is registered in the Register as the owner of such Note for the purpose of receiving payment of principal of and premium, if any, and (subject to Section 3.08) interest on, such Note and for all other purposes whatsoever, whether or not such Note be overdue, and neither the Company, the Trustee, any Agent nor any agent of the Company or the Trustee shall be affected by notice to the contrary. All payments made to any Holder, or upon his, her or its order, shall be valid, and, to the extent of the sum or sums paid, effectual to satisfy and discharge the liability for moneys payable upon such Note.

(b) None of the Company, the Trustee or any Agent shall have any responsibility or liability for any aspect of the records relating to or payments made on account of Beneficial Ownership interests in a Global Note or for maintaining, supervising or reviewing any records relating to such Beneficial Ownership interests.

Section 8.04  Effect of Consents. After an amendment, supplement, waiver or other action becomes effective as to any Notes, a consent to it by a Holder of such Notes is a continuing consent conclusive and binding upon such Holder and every subsequent Holder of the same Notes or portion thereof, and of any Note issued upon the transfer thereof or in exchange therefor or in place thereof, even if notation of the consent is not made on any such Note. An amendment, supplement or waiver becomes effective in accordance with its terms and thereafter binds every Holder.

ARTICLE IX

GUARANTEE

Section 9.01  Guarantee. Subject to the provisions of this Article IX, each Guarantor hereby fully, unconditionally and irrevocably guarantees (the “Note Guarantees”), as primary obligor and not merely as surety, jointly and severally with each other Guarantor, to each Holder of the Notes, the Trustee and the Collateral Agent the full and punctual payment when due, whether at maturity, by acceleration, by redemption or otherwise, of the principal of, premium, if any, and interest on the Notes and all other obligations and liabilities of the Company under this Indenture (including interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Company or any Guarantor whether or not a claim for post-filing or post-petition interest is allowed in such proceeding and the obligations under Section 11.01) (all the foregoing being hereinafter collectively called the “Guaranteed Obligations”). Each Guarantor agrees that the Guaranteed Obligations will rank equally in right of payment with other Indebtedness of such Guarantor, except to the extent such other Indebtedness is subordinate to the Guaranteed Obligations, in which case the obligations of the Guarantors under the Note Guarantees will rank senior in right of payment to such other Indebtedness.

To evidence its Note Guarantee set forth in this Section 9.01, each Guarantor hereby agrees that this Indenture shall be executed on behalf of such Guarantor by an Officer of such Guarantor.

Each Guarantor hereby agrees that its Note Guarantee set forth in Section 9.01 hereof shall remain in full force and effect notwithstanding the absence of the endorsement of any notation of such Note Guarantee.

If an Officer whose signature is on this Indenture no longer holds that office at the time the Trustee authenticates the Note, the Note Guarantee shall be valid nevertheless.
Each Guarantor further agrees (to the extent permitted by law) that the Guaranteed Obligations may be extended or renewed, in whole or in part, without notice or further assent from it, and that it will remain bound under this Article IX notwithstanding any extension or renewal of any Guaranteed Obligation.

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

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

Except as set forth in Sections 9.02, the obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than payment of the Guaranteed Obligations in full), including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Guaranteed Obligations or otherwise. Without limiting the generality of the foregoing, the Guaranteed Obligations of each Guarantor herein shall not be discharged or impaired or otherwise affected by (a) the failure of any Holder to assert any claim or demand or to enforce any right or remedy against the Company or any other person under this Indenture, the Notes or any other agreement or otherwise; (b) any extension or renewal of any thereof; (c) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement; (d) the release of any security held by any Holder for the Guaranteed Obligations; (e) the failure of any Holder to exercise any right or remedy against any other Guarantor; (f) any change in the ownership of the Company; (g) any default, failure or delay, willful or otherwise, in the performance of the Guaranteed Obligations; or (h) any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of any Guarantor or would otherwise operate as a discharge of such Guarantor as a matter of law or equity.

Each Guarantor agrees that its Note Guarantee herein shall remain in full force and effect until payment in full of all the Guaranteed Obligations or such Guarantor is released from its Note Guarantee in compliance with Section 9.02, Article XII or Article XIV. Each Guarantor further agrees that its Note Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of, premium, if any, interest, if any, on any of the Guaranteed Obligations is rescinded or must otherwise be restored by any Holder upon the bankruptcy or reorganization of the Company or otherwise.

In furtherance of the foregoing and not in limitation of any other right which any Holder has at law or in equity against any Guarantor by virtue hereof, upon the failure of the Company to pay any of the Guaranteed Obligations when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, each Guarantor hereby promises to and will, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders or the Trustee on behalf of the Holders an amount equal to the sum of (i) the unpaid amount of such Guaranteed Obligations then due and owing and (ii) accrued and unpaid interest on such Guaranteed Obligations then due and owing (but only to the extent not prohibited by law) (including interest accruing after the filing of any petition in bankruptcy or the commencement of any insolvency, reorganization or like proceeding relating to the Company or any Guarantor whether or not a claim for post-filing or post-petition interest is allowed in such proceeding).

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

Each Guarantor also agrees to pay any and all fees, costs and expenses (including attorneys’ fees and expenses) incurred by the Collateral Agent, Trustee or the Holders in enforcing any rights under this Section 9.01.
Section 9.02 Limitation on Liability; Termination, Release and Discharge.

(a) Any term or provision of this Indenture to the contrary notwithstanding, the obligations of each Guarantor hereunder will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Note Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Guarantor under its Note Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal, foreign or state law and not otherwise being void or voidable under any similar laws affecting the rights of creditors generally.

(b) Any Note Guarantee of a Guarantor shall be automatically and unconditionally released and discharged upon:

   (i) a sale or other disposition (including by way of consolidation, merger, amalgamation or Division) of the Capital Stock of such Guarantor or the sale or disposition of all or substantially all the assets of the Guarantor to a Person other than to the Company or a Restricted Subsidiary and as otherwise permitted by this Indenture;

   (ii) the designation in accordance with this Indenture of the Guarantor as an Unrestricted Subsidiary or the occurrence of any event after which the Guarantor is no longer a Restricted Subsidiary;

   (iii) the defeasance or discharge of the Notes, as provided in Article XII;

   (iv) in the case of a Note Guarantee made by a Guarantor (each, an “Other Guarantee”) as a result of its guarantee of other Indebtedness of the Company or an Other Obligor pursuant to Section 6.18, such Guarantor being released from all of its obligations under the relevant Indebtedness, except a release as a result of the repayment in full of such Indebtedness (it being understood that a release subject to a contingent reinstatement is still considered a release, and if any such Other Guarantee is so reinstated, such Note Guarantee shall also be reinstated).

Section 9.03 Right of Contribution. Each Guarantor hereby agrees that to the extent that any Guarantor shall have paid more than its proportionate share of any payment made on the obligations under the Note Guarantees, such Guarantor shall be entitled to seek and receive contribution from and against the Company or any other Guarantor who has not paid its proportionate share of such payment. The provisions of this Section 9.03 shall in no respect limit the obligations and liabilities of each Guarantor to the Trustee and the Holders and each Guarantor shall remain liable to the Trustee and the Holders for the full amount guaranteed by such Guarantor hereunder.

Section 9.04 No Subrogation. Notwithstanding any payment or payments made by each Guarantor hereunder, no Guarantor shall be entitled to be subrogated to any of the rights of the Trustee or any Holder against the Company or any other Guarantor or any collateral security or guarantee or right of offset held by the Trustee or any Holder for the payment of the Guaranteed Obligations, nor shall any Guarantor seek or be entitled to seek any contribution or reimbursement from the Company or any other Guarantor in respect of payments made by such Guarantor hereunder, until all amounts owing to the Trustee and the Holders by the Company on account of the Guaranteed Obligations are paid in full. If any amount shall be paid to any Guarantor on account of such subrogation rights at any time when all of the Guaranteed Obligations shall not have been paid in full, such amount shall be held by such Guarantor in trust for the Trustee and the Holders, segregated from other funds of such Guarantor, and shall, forthwith upon receipt by such Guarantor, be turned over to the Trustee in the exact form received by such Guarantor (duly indorsed by such Guarantor to the Trustee, if required), to be applied against the Guaranteed Obligations.
ARTICLE X

COLLATERAL

Section 10.01  Collateral Documents. 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, according to the terms hereunder or thereunder, shall be secured as provided in the Collateral Documents, which define the terms of the Liens that secure the Notes Obligations. The Trustee and the Company hereby acknowledge and agree that the Collateral Agent’s security interest in the Collateral is for the benefit of the Notes Secured Parties and pursuant to the terms of the Collateral Documents. Each Holder, by accepting a Note, consents and agrees to the terms of the Collateral Documents (including the provisions providing for the possession, use, release and foreclosure of Collateral) and the First Priority/Second Priority Intercreditor and Subordination Agreement as the same may be in effect or may be amended from time to time in accordance with their terms and this Indenture and the First Priority/Second Priority Intercreditor and Subordination Agreement, and irrevocably authorizes and directs the Collateral Agent (i) to enter into the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement, (ii) to execute each document in connection with any Collateral Document expressed to be executed by Collateral Agent on its behalf (including any intercreditor agreement or joinder to any Collateral Document in connection with Indebtedness or other obligations not prohibited by this Indenture (including Future Pari Passu Obligations)) and (iii) perform the duties and exercise the rights, powers, and discretions that are specifically given to it under the Collateral Documents or other documents to which the Collateral Agent is a party, together with any other incidental rights, power and discretions. The Company shall deliver to the Collateral Agent and the Trustee copies of all documents required to be filed pursuant to the Collateral Documents, and will do or cause to be done all such acts and things as may be required by the next sentence of this Section 10.01, to assure and confirm to the Collateral Agent for the benefit of the Notes Secured Parties the security interest in the Collateral contemplated hereby, by the Collateral 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. The Company shall, and shall cause the Subsidiaries of the Company to, take any and all actions and make all filings (including the filing of UCC financing statements, continuation statements and amendments thereto) required to cause the Collateral Documents to create and maintain, as security for the Notes Obligations in favor of the Collateral Agent for the benefit of the Holders and the Trustee, a valid and enforceable perfected Lien and security interest in and on all of the Collateral, subject to no Liens other than Permitted Liens. Neither the Trustee nor the Collateral Agent shall have any responsibility or liability in connection with such actions and filings.

Section 10.02  Release of Collateral.

(a)  Subject to clauses (b) and (c) below, the first priority Liens on the Collateral will be automatically released with respect to the Notes and the Note Guarantees, and the Trustee and/or the Collateral Agent (subject to its receipt of an Officer’s Certificate and Opinion of Counsel as provided below) shall execute documents evidencing such release (each in form and substance satisfactory to the Trustee and the Collateral Agent), at the Company’s sole cost and expense, under one or more of the following circumstances:

(i)  in whole upon:

(A) payment in full of the principal of, together with accrued and unpaid interest on, and all other Obligations on the Notes; or

(B) a Legal Defeasance or Covenant Defeasance of this Indenture or the satisfaction and discharge of this Indenture, in each case, as set forth under Article XII;

(ii) in part, as to any property or asset constituting Collateral that is sold or otherwise disposed of to a Person other than the Company or a Restricted Subsidiary in a transaction permitted by Sections 4.08 and 6.15 and not prohibited by any of the Note Documents; or

(iii) in whole or in part as provided in Article XIV.

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With respect to any release of Collateral, upon receipt of an Officer’s Certificate and, if requested, an Opinion of Counsel each stating that all conditions precedent under this Indenture and the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement, if any, to such release have been complied with and that it is proper for the Trustee or Collateral Agent to execute and deliver the documents requested by the Company in connection with such release, and any instruments of termination, satisfaction or release prepared by the Company (each in form and substance satisfactory to the Trustee and the Collateral Agent), the Trustee or the Collateral Agent, as applicable, shall execute, deliver or acknowledge (at the Company’s sole expense) such instruments or releases to evidence the release of any Collateral permitted to be released pursuant to this Indenture or the Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement. Neither the Trustee nor the Collateral Agent shall be liable for any such release undertaken in reliance upon any such Officer’s Certificate or, if requested, such Opinion of Counsel, and notwithstanding any term hereof or in any Collateral Document or in the First Priority/Second Priority Intercreditor and Subordination Agreement to the contrary, the Trustee and the Collateral Agent shall not be under any obligation to release any such Lien and security interest, or execute and deliver any such instrument of release, satisfaction or termination, unless and until it receives such Officer’s Certificate and, if requested, such Opinion of Counsel.

At any time when a Default or Event of Default has occurred and is continuing and the maturity of the Notes has been accelerated (whether by declaration or otherwise) and the Trustee has delivered notice of acceleration to the Collateral Agent, no release of Collateral pursuant to the provisions of this Indenture or the Collateral Documents shall be effective as against the Holders, except as otherwise provided in the Collateral Documents.

Section 10.03 Suits to Protect the Collateral. Subject to the provisions of Article XI and the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement the Trustee, without the consent of the Holders, on behalf of the Holders, may or may direct the Collateral Agent to take all actions it determines in order to:

(a) enforce any of the terms of the Collateral Documents; and

(b) collect and receive any and all amounts payable in respect of the Notes Obligations.

Subject to the provisions of the Collateral Documents, the Trustee and the Collateral Agent shall have power to institute and to maintain such suits and proceedings as the Trustee may determine to prevent any impairment of the Collateral by any acts which may be unlawful or in violation of any of the Collateral Documents or this Indenture, and such suits and proceedings as the Trustee may determine 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 Collateral Agent and neither the Trustee nor the Collateral Agent shall be liable for any such impairment.

Section 10.04 Authorization of Receipt of Funds by the Trustee Under the Collateral Documents. The Collateral Agent is authorized to receive any funds for the benefit of the Holders distributed under the Collateral Documents and distribute the same to the Trustee who may 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 Collateral Agent or the Trustee to execute the 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 X to be sold be under any obligation to ascertain or inquire into the authority of the applicable Collateral Grantor 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 a Collateral Grantor 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 a Collateral Grantor or of any Officer or Officers thereof required by the provisions of this Article X; and if the Trustee shall be in the possession of the Collateral under any provision of this Indenture, then such powers may be exercised by the Trustee.
Section 10.07 Release Upon Termination of the Company’s Obligations. In the event that the Company delivers to the Trustee and the Collateral Agent an Officer’s Certificate certifying that (i) payment in full of the principal of, together with accrued and unpaid interest on, the Notes and all other Obligations under this Indenture, the Notes, the Note Guarantees and the Collateral Documents that are due and payable at or prior to the time such principal, together with accrued and unpaid interest, are paid or (ii) the Company shall have exercised its Legal Defeasance option or its Covenant Defeasance option, in each case in compliance with the provisions of Article XII, and an Opinion of Counsel stating that all conditions precedent to the execution and delivery of such notice by the Trustee and the release of the security interest of the Collateral Agent have been satisfied, the Trustee shall deliver to the Company and the Collateral Agent a notice stating that the Trustee, on behalf of the Holders, disclaims and gives up any and all rights it has in or to the Collateral (other than with respect to funds held by the Trustee pursuant to Article XII), and any rights it has under the Collateral Documents, and upon receipt by the Collateral Agent of such notice, the Collateral Agent shall be deemed not to hold a Lien in the Collateral on behalf of the Notes Secured Parties and shall execute or cause to be executed (at the sole expense of the Company) such documents (in form and substance satisfactory to the Trustee and Collateral Agent) evidencing the termination of such Liens for the benefit of the Notes Secured Parties as requested in writing by the Company such Lien as soon as is reasonably practicable.

Section 10.08 Collateral Agent.

(a) Each Holder by accepting a Note hereby (i) irrevocably appoints (and authorizes and directs the Trustee to appoint) JPMorgan Chase Bank, N.A., as Collateral Agent to act as collateral agent for the Holders under the Collateral Documents and any other relevant documents to which the Collateral Agent is a party, (ii) irrevocably authorizes and directs the Trustee to execute the Additional Pari Passu Joinders and any intercreditor agreement or joinder to any Collateral Document in connection with Indebtedness or other obligations not prohibited by this Indenture (including Future Pari Passu Obligations) and (iii) irrevocably appoints JPMorgan Chase Bank, N.A. as Collateral Agent and authorizes the Collateral Agent to take such action on its behalf under the provisions of this Indenture, the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement and to exercise such powers and perform such duties as are expressly delegated to the Collateral Agent by the terms of this Indenture, the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement. The Collateral Agent agrees to act as such on the express conditions contained in this Section 10.08. The provisions of this Section 10.08 are solely for the benefit of the Collateral Agent and none of the Trustee, any of the Holders nor any of the Collateral Grantors shall have any rights as a third party beneficiary of any of the provisions contained herein other than as expressly provided in Section 12.3. Each Holder agrees that any action taken by the Collateral Agent in accordance with the provision of this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement and the Collateral Documents, and the exercise by the 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 Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement, the duties of the Collateral Agent shall be ministerial and administrative in nature, and the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein and in the Collateral Documents to which the Collateral Agent is a party, nor shall the 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 Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement or otherwise exist against the Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term “agent” in this Indenture with reference to the 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 Collateral Agent may perform any of its duties under this Indenture, the Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement 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 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.
None of the Collateral Agent or any of its respective Related Persons shall (i) be liable for any action taken or omitted to be taken 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) or under or in connection with any Collateral Document or the First Priority/Second Priority Intercreditor and Subordination Agreement or the transactions contemplated thereby (except for its own gross negligence or willful misconduct), 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 a Collateral Grantor or Affiliate of any Collateral Grantor, or any Officer or Related Person thereof, contained in this Indenture, or any other Note Documents, or in any certificate, report, statement or other document referred to or provided for in, or received by the Collateral Agent under or in connection with, this Indenture, the Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement, or the validity, effectiveness, genuineness, enforceability or sufficiency of this Indenture, the Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement, or for any failure of any Collateral Grantor or any other party to this Indenture, the Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement to perform its obligations hereunder or thereunder or for the value or sufficiency of any Collateral. None of the Collateral Agent or any of its respective 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 Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement or to inspect the properties, books, or records of any Collateral Grantor or any Collateral Grantor’s Affiliates.

The 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 counsel to the Company or any other Collateral Grantor), independent accountants and other experts and advisors selected by the Collateral Agent. The 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. The Collateral Agent shall be fully justified in failing or refusing to take any action under this Indenture, the Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement unless it shall first receive such advice or concurrence of the Trustee or the Holders of a majority in aggregate principal amount of the Notes or Pari Passu Secured Parties or instructions in accordance with Additional Pari Passu Joinders, as may be applicable, and such request and any action taken or failure to act pursuant thereto shall be binding upon all of the Holders.

The Collateral Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default, unless an Officer of the Collateral Agent shall have received written notice from the Trustee or the Company referring to this Indenture, describing such Default or Event of Default and stating that such notice is a “notice of default” and the Trustee has provided to the Collateral Agent a copy of such notice. Subject to the provisions of the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement, the 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 VII or the Holders of a majority in aggregate principal amount of the Notes (subject to this Section 10.08) or the Pari Passu Obligations or instructions in accordance with Additional Pari Passu Joinders, as may be applicable.
(f) The Collateral Agent may resign at any time by notice to the Trustee and the Company, such resignation to be effective upon the acceptance of a successor agent to its appointment as Collateral Agent. If the Collateral Agent resigns under this Indenture, the Company shall appoint a successor collateral agent. Subject to the provisions of the Collateral Documents, if no successor collateral agent is appointed prior to the intended effective date of the resignation of the Collateral Agent (as stated in the notice of resignation), the Collateral Agent may appoint, after consulting with the Trustee, subject to the consent of the Company (which shall not be unreasonably withheld and which shall not be required during a continuing Event of Default), a successor collateral agent. If no successor collateral agent is appointed and consented to by the Company pursuant to the preceding sentence within thirty (30) days after the intended effective date of resignation (as stated in the notice of resignation) the 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, such successor collateral agent shall succeed to all the rights, powers and duties of the retiring Collateral Agent, and the term “Collateral Agent” shall mean such successor collateral agent, and the retiring Collateral Agent’s appointment, powers and duties as the Collateral Agent shall be terminated. After the retiring Collateral Agent’s resignation, the provisions of this Section 10.08 (and Section 11.01) shall continue to inure to its benefit and the retiring 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 Collateral Agent under this Indenture.

(g) JPMorgan Chase Bank, N.A. shall initially act as Collateral Agent and shall be authorized to appoint co-Collateral Agents, agents, attorneys, custodians or nominees as necessary in its sole discretion. Except as otherwise explicitly provided herein or in the Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement, neither the 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 Collateral Agent shall be accountable only for amounts that it actually receives as a result of the exercise of such powers, and neither the 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. The Collateral Agent shall not be responsible for any misconduct or negligence on the part of any co-Collateral Agent, agent, attorney, custodian or nominee appointed with due care by it hereunder.

(h) The Collateral Agent is authorized and directed to (i) enter into the Collateral Documents to which it is a party, whether executed on or after the Issue Date, (ii) enter into the First Priority/Second Priority Intercreditor and Subordination Agreement, (iii) make the representations of the Holders set forth in the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement, (iv) bind the Holders on the terms as set forth in the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement and (v) perform and observe its obligations under the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement.

(i) The 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 UCC can be perfected only by possession. Should the Trustee obtain possession of any such Collateral, upon request from the Company, the Trustee shall notify the Collateral Agent thereof and promptly shall deliver such Collateral to the Collateral Agent or otherwise deal with such Collateral in accordance with the Collateral Agent’s instructions.

(j) The 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 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 Collateral Grantor’s property constituting collateral intended to be subject to the Lien and security interest of the Collateral 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 Collateral Agent pursuant to this Indenture, any Collateral Document or the First Priority/Second Priority Intercreditor and Subordination Agreement other than pursuant to the instructions of the Trustee or the Holders of a majority in aggregate principal amount of the Notes or as otherwise provided in the Collateral Documents, as may be applicable, it being understood and agreed that in respect of the Collateral, or any act, omission, or event related thereto, the Collateral Agent shall have no other duty or liability whatsoever to the Trustee or any Holder as to any of the foregoing.
(k) If a Collateral Grantor (i) incurs any obligations in respect of Second Priority Obligations at any time when no intercreditor agreement is in effect or at any time when Indebtedness constituting Second Priority Obligations is concurrently retired, and (ii) delivers to the Collateral Agent an Officer’s Certificate so stating and requesting the Collateral Agent to enter into an intercreditor agreement (on substantially the same terms as the First Priority/Second Priority Intercreditor and Subordination Agreement), the Collateral Agent, subject to the provisions of the Collateral Documents, shall (and is hereby authorized and directed to) enter into such intercreditor agreement (at the sole expense and cost of the Company, including legal fees and expenses of the Collateral Agent), bind the Holders on the terms set forth therein and perform and observe its obligations thereunder.

(l) No provision of this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement or any Collateral Document shall require the 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 Collateral Agent) if it shall have received indemnity satisfactory to the Collateral Agent against potential costs and liabilities incurred by the Collateral Agent relating thereto. Notwithstanding anything to the contrary contained in this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement or the Collateral Documents, in the event the 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 Collateral Agent shall not be required to commence any such action or exercise any remedy or take any such other action if the Collateral Agent has determined that the 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 unless the Collateral Agent has received security or indemnity from the Holders in an amount and in a form all satisfactory to the Collateral Agent in its sole discretion, protecting the Collateral Agent from all such liability. The Collateral Agent shall at any time be entitled to cease taking any action described in this clause if it no longer reasonably deems any indemnity, security or undertaking from the Company or the Holders to be sufficient.

(m) The Collateral Agent (i) shall not be liable for any action taken or omitted to be taken by it in connection with this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement and the Collateral Documents 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 gross negligence or willful misconduct, (ii) shall not be liable for interest on any money received by it except as the Collateral Agent may agree in writing with the Company (and money held in trust by the 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 Collateral Agent shall not be construed to impose duties to act.

(n) Neither the 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 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 Collateral Agent does not assume any responsibility for any failure or delay in performance or any breach by any Collateral Grantor under this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement and the Collateral Documents. The Collateral Agent shall not be responsible to the Holders or any other Person for any recitals, statements, information, representations or warranties contained in any Note Documents or in any certificate, report, statement, or other document referred to or provided for in, or received by the Collateral Agent under or in connection with, this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement or any Collateral Document; the execution, validity, genuineness, effectiveness or enforceability of the First Priority/Second Priority Intercreditor and Subordination Agreement and any Collateral Documents 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 Notes 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 Notes Obligations. The 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 First Priority/Second Priority Intercreditor and Subordination Agreement and the Collateral Documents, or the satisfaction of any conditions precedent contained in this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement and any Collateral Documents. The Collateral Agent shall not be required to initiate or conduct any litigation or collection or other proceeding under this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement and the Collateral Documents unless expressly set forth hereunder or thereunder. The Collateral Agent and the Trustee shall have the right at any time to seek instructions from the Holders with respect to the administration of the Note Documents.
(p) The parties hereto and the Holders hereby agree and acknowledge that the Collateral Agent shall not assume, be responsible for or otherwise be obligated for any liabilities, claims, causes of action, suits, losses, allegations, requests, demands, penalties, fines, settlements, damages (including foreseeable and unforeseeable), judgments, expenses and costs (including but not limited to, any remediation, corrective action, response, removal or remedial action, or investigation, operations and maintenance or monitoring costs, for personal injury or property damages, real or personal) of any kind whatsoever, pursuant to any environmental law as a result of this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement, the Collateral Documents or any actions taken pursuant hereto or thereto. Further, the parties hereto and the Holders hereby agree and acknowledge that in the exercise of its rights under this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement and the Collateral Documents, the Collateral Agent may hold or obtain indicia of ownership primarily to protect the security interest of the Collateral Agent in the Collateral and that any such actions taken by the Collateral Agent shall not be construed as or otherwise constitute any participation in the management of such Collateral.

(q) Upon the receipt by the Collateral Agent of a written request of the Company signed by one of its Officers (a “Collateral Document Order”), the Collateral Agent is hereby authorized and directed to execute and enter into, and shall execute and enter into, without the further consent of any Holder or the Trustee, any Collateral Document (in form and substance satisfactory to the Collateral Agent) to be executed after the Issue Date. Such Collateral Document Order shall (i) state that it is being delivered to the Collateral Agent pursuant to, and is a Collateral Document Order referred to in, this clause (q), and (ii) instruct the Collateral Agent to execute and enter into such Collateral Document. Any such execution of a Collateral Document shall be at the direction and expense of the Company, upon delivery to the Collateral Agent of an Officer’s Certificate and, if requested, Opinion of Counsel stating that all conditions precedent to the execution and delivery of the Collateral Document have been satisfied. The Holders, by their acceptance of the Notes, hereby authorize and direct the Collateral Agent to execute such Collateral Documents.

(r) Subject to the provisions of the applicable Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement, each Holder, by acceptance of the Notes, agrees that it will be bound by and will take no actions contrary to the provisions of the First Priority/Second Priority Intercreditor and Subordination Agreement and the Collateral Documents. For the avoidance of doubt, the Collateral Agent shall have no discretion under this Indenture, the First Priority/Second Priority Intercreditor and Subordination Agreement or the Collateral Documents and shall not be required to make or give any determination, consent, approval, request or direction without the written direction of the Holders of a majority in aggregate principal amount of the then outstanding Notes or the Pari Passu Obligations, or instructions in accordance with the Additional Pari Passu Joinders, as may be applicable, or the Trustee, as applicable.

(s) The Collateral Agent is authorized to receive any funds for the benefit of itself, the Trustee and the Holders distributed under the Collateral Documents or the First Priority/Second Priority Intercreditor and Subordination Agreement and to the extent not prohibited under the First Priority/Second Priority Intercreditor and Subordination Agreement, 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 7.04 hereof and the other provisions of this Indenture.
Notwithstanding anything to the contrary in this Indenture or any other Note Document, in no event shall the 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 or the other Note Documents (including the filing or continuation of any UCC financing or continuation statements or similar documents or instruments), nor shall the Collateral Agent or the Trustee be responsible for, and neither the Collateral Agent nor the Trustee makes any representation regarding, the validity, effectiveness or priority of any of the Collateral Documents or the security interests or Liens intended to be created thereby.

Before the Collateral Agent acts or refrains from acting in each case at the request or direction of the Collateral Grantors, it may require an Officer’s Certificate and an Opinion of Counsel, which shall conform to the provisions of Section 15.01. The 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.

Any Person into which the Collateral Agent or any successor to it as collateral agent shall be merged or converted, or any Person with which it or any successor to it shall be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Collateral Agent or any such successor to it shall be a party, or any Person to which the Collateral Agent or any successor to it shall sell or otherwise transfer all or substantially all of the corporate trust business of the Collateral Agent, shall be the successor Collateral Agent under this Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto.

The Company shall pay compensation to, reimburse expenses of and indemnify the Collateral Agent in accordance with Section 11.01 mutatis mutandis.

ARTICLE XI
CONCERNING THE TRUSTEE

Section 11.01 Rights of Trustees; Compensation and Indemnity. The Trustee accepts the trusts created by this Indenture upon the terms and conditions hereof, including the following, to all of which the parties hereto and the Holders from time to time of the Notes agree:

(a) The Trustee shall be entitled to such compensation as the Company and the Trustee shall from time to time agree in writing for all services rendered by it hereunder (including in any agent capacity in which it acts). The compensation of the Trustee shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust. The Company shall reimburse the Trustee promptly upon its request for all out-of-pocket expenses, disbursements and advances (including costs of collection) incurred or made by the Trustee in accordance with this Indenture (including the reasonably incurred expenses and disbursements of its agents, delegates, attorneys and counsel), except any such expense, disbursement or advance caused by its own negligence, bad faith or willful misconduct.

Each of the Company and each Guarantor (each, an “Indemnifying Person”) also agree to indemnify each of the Trustee and its officers, agents, directors and employees hereunder for, and to hold them harmless against, any and all loss, liability, damage, claim, or expense (including fees and expense of counsel), including taxes (other than taxes based upon, measured by or determined by the income of the Trustee), arising out of or in connection with this Indenture, the Notes, the acceptance or administration of the trust or trusts hereunder and the performance of its duties (including in any agent capacity in which it acts), as well as the costs and expenses of defending itself against any claim (whether asserted by any Indemnifying Person, or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder, or in connection with enforcing the provisions of this Section, except to the extent such loss, liability, damage claim or expense is due to the Trustee’s own negligence, bad faith or willful misconduct. The Trustee shall notify the Company promptly of any claim for which it may seek indemnity; provided, however, that the Trustee shall not incur any liability if it fails to so notify and that the failure to so notify the Company shall not affect the obligations of the Company hereunder to indemnify.
As security for the performance of the obligations of each Indemnifying Person under this Section 11.01(a), the Trustee shall have a lien prior to the Notes upon the Collateral and all other property and funds held or collected by the Trustee as such, except funds held in trust by the Trustee to pay principal of and interest on any Notes. Notwithstanding any provisions of this Indenture to the contrary, the obligations of each Indemnifying Person to compensate and indemnify the Trustee under this Section 11.01(a) shall survive the resignation or removal of the Trustee, any satisfaction and discharge under Article XII, the payment of any Notes and the termination of this Indenture for any reason. In addition to and without prejudice to its other rights hereunder, when the Trustee incurs expenses or renders services after an Event of Default specified in Section 7.01(vi) occurs, the expenses and compensation for the services are intended to constitute expenses of administration under the Bankruptcy Code or any applicable state bankruptcy, insolvency or similar laws. “Trustee” for purposes of this Section 11.01(a) shall include any predecessor Trustee; provided, however, that the negligence, willful misconduct or bad faith of any Trustee hereunder shall not affect the rights of any other Trustee hereunder.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duty hereunder either directly or by its agents, delegates or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, delegate or attorney appointed with due care by it hereunder.

(c) The Trustee may consult with counsel of its selection, and, subject to Section 11.02, the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in reliance thereon.

(d) The Trustee, subject to Section 11.02, may rely upon the certificate of the Secretary or one of the Assistant Secretaries of the Company as to the adoption of any Board Resolution or resolution of the stockholders of the Company, and any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by a Company Order.

(e) Subject to Section 11.04, the Trustee, any Agent or any agent of the Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with the Company with the same rights it would have had if it were not the Trustee or such agent.

(f) Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on or investment of any money received by it hereunder except as otherwise agreed in writing with the Company.

(g) Any action taken by the Trustee pursuant to any provision hereof at the request or with the consent of any Person who at the time is the Holder of any Note shall be conclusive and binding in respect of such Note upon all future Holders thereof or of any Note or Notes which may be issued for or in lieu thereof in whole or in part, whether or not such Note shall have noted thereon the fact that such request or consent had been made or given.

(h) The Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, direction, order, approval, bond, debenture, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(i) The Trustee shall not be under any obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or direction of any of the Holders of the Notes, pursuant to any provision of this Indenture, unless such Holders of the Notes shall have offered to the Trustee pre-funding, security and/or indemnity satisfactory to the Trustee against the costs, expenses and liabilities which may be incurred by it therein or thereby.
The Trustee shall not be liable for any action taken, suffered or omitted to be taken by it in good faith and believed by it to be authorized or within its discretion or within the rights or powers conferred upon it by this Indenture.

The Trustee shall not be deemed to have knowledge or be charged with notice of any Default or Event of Default with respect to any Notes unless a Responsible Officer of the Trustee has actual knowledge by way of written notice thereof or unless the Holders of not less than 25% of the Outstanding Notes notify the Trustee thereof by a written notice to the Trustee that is received by a Responsible Officer of the Trustee at its Corporate Trust Office and such notice references such Notes and this Indenture.

The Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of Indebtedness or other paper or document; provided, however, that the Trustee, may, but shall not be required to, make such further inquiry or investigation into such facts or matters as it may see fit at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation.

The rights, privileges, protections, immunities and benefits given to the Trustee, including its right to be secured, pre-funded and/or indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder and to each agent, custodian and other person employed to act hereunder.

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

The Trustee may request that the Company deliver a 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 certificate may be signed by any person authorized to sign an Officer’s Certificate, including any person specified as so authorized in any such certificate previously delivered and not superseded.

The permissive right of the Trustee to take or refrain from taking action hereunder shall not be construed as a duty.

The Trustee may refrain from taking any action in any jurisdiction if taking such action in that jurisdiction would, in the reasonable opinion of the Trustee based on written advice received from counsel or any opinion of counsel, be contrary to any law of that jurisdiction or, to the extent applicable, the State of New York. Furthermore, the Trustee may refrain from taking such action if, in the reasonable opinion of the Trustee based on such written advice or opinion of counsel, it would otherwise render the Trustee liable to any person in that jurisdiction or the State of New York and there has not been offered to the Trustee pre-funding, security and/or indemnity satisfactory to it against the liabilities to be incurred therein or thereby, or the Trustee would not have the legal capacity to take such action in that jurisdiction by virtue of applicable law in that jurisdiction or the State of New York or by virtue of a written order of any court or other competent authority in that jurisdiction that the Trustee does not have such legal capacity.

Notwithstanding any other provision of this Indenture, the Trustee shall be entitled to make a deduction or withholding from any payment which it makes under this Indenture for or on account of any present or future taxes, duties or charges if and to the extent so required by any applicable law and any current or future regulations or agreements thereunder or official interpretations thereof or any law implementing an intergovernmental approach thereto or by virtue of the relevant holder failing to satisfy any certification or other requirements in respect of the Notes, in which event the Trustee shall make such payment after such withholding or deduction has been made and shall account to the relevant authorities for the amount so withheld or deducted and shall have no obligation to gross up any payment hereunder or pay any additional amount as a result of such withholding tax.
Section 11.02 Duties of Trustee.

(a) In case an Event of Default has occurred and is continuing, the Trustee shall, with respect to such Notes, exercise such of the rights and powers vested in it by this Indenture, and shall 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 his or her own affairs.

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

(i) the Trustee undertakes to perform such duties and only such duties with respect to the Notes as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee, whose duties and obligations shall be determined solely by the express provisions of this Indenture; and

(ii) the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, in the absence of bad faith on the part of the Trustee, upon certificates and opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same 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, statements, opinions or conclusions stated therein).

(c) None of the provisions of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

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

(ii) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in connection with a Notes in accordance with the direction of Holders of a majority in principal amount of the Outstanding Notes, determined as provided herein, relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture with; and

(iii) this subsection (c) shall not be construed to limit the effect of subsections (b) and (e) of this Section 11.02.

(d) Whether or not therein expressly so provided, 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 11.02.

(e) None of the provisions of this Indenture shall require the Trustee to expend or risk its own funds or otherwise to 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 the Trustee shall have reasonable grounds for believing that repayment of such funds or adequate security, pre-funding and/or indemnity against such risk or liability is not reasonably assured to it.

Section 11.03 Notice of Defaults. Within 90 calendar days after the occurrence thereof and if known to the Trustee, the Trustee shall give to the Holders of the Notes notice of each Default or Event of Default with respect to the Notes known to the Trustee, by transmitting such notice to Holders at their addresses as the same shall then appear on the Register, unless such Default shall have been cured or waived before the giving of such notice. Except in the case of a default in the payment of the principal of (or premium, if any) or interest on any Notes, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors or Responsible Officers of the Trustee in good faith determines that the withholding of such notice is in the interest of the Holders of Notes.
Section 11.04 Eligibility; Disqualification. This Indenture shall always have a Trustee. The Trustee shall have a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

Section 11.05 Resignation and Notice; Removal. The Trustee, or any successor to it hereafter appointed, may at any time resign and be discharged of the trusts hereby created with respect to any one or more or all Notes by giving to the Company notice in writing and specifying the effective date of such resignation. Such resignation shall take effect upon the appointment of a successor Trustee and the acceptance of such appointment by such successor Trustee on or after the effective date of such resignation specified in such written notice. Any Trustee hereunder may be removed with respect to any Notes at any time by the filing with such Trustee with at least 30 days advance notice to the Trustee of such removal and the delivery to the Company of an instrument or instruments in writing signed by the Holders of a majority in principal amount of the Notes then Outstanding, specifying such removal and the date when it shall become effective.

If at any time:

1. the Trustee shall fail to comply with the provisions of Section 11.04(b) after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Note for at least six months, or

2. the Trustee shall cease to be eligible under Section 11.04 and shall fail to resign after written request therefor by the Company or by any Holder who has been a bona fide Holder of a Note for at least six months, or

3. the Trustee shall become incapable of acting or shall be adjudged bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by written notice to the Trustee may remove the Trustee and appoint a successor Trustee with respect to all Notes, or (ii) subject to Section 7.12, any Holder who has been a bona fide Holder of a Note for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee with respect to all Notes and the appointment of a successor Trustee or Trustees.

Upon its resignation or removal, any Trustee shall be entitled to the payment of reasonable compensation for the services rendered hereunder by such Trustee and to the payment of all reasonable expenses incurred hereunder and all moneys then due to it hereunder. The Trustee’s rights to indemnification and its lien provided in Section 11.01(a) shall survive its resignation or removal, the satisfaction and discharge of this Indenture and the termination of this Indenture for any reason.

Section 11.06 Successor Trustee by Appointment.

(a) In case at any time the Trustee shall resign, or shall be removed (unless the Trustee shall be removed as provided in Section 11.04(b), in which event the vacancy shall be filled as provided in Section 11.04(b)), or shall become incapable of acting, or shall be adjudged bankrupt or insolvent, or if a receiver of the Trustee or of its property shall be appointed, or if any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation with respect to the Notes, a successor Trustee with respect to the Notes (it being understood that any such successor Trustee may be appointed and that at any time there shall be only one Trustee) may be appointed by the Holders of a majority in aggregate principal amount of the Notes then Outstanding, by an instrument or instruments in writing signed in duplicate by such Holders and filed, one original thereof with the Company and the other with the successor Trustee; provided that, until a successor Trustee shall have been so appointed by the Holders of Notes as herein authorized, the Company, or, in case all or substantially all the assets of the Company shall be in the possession of one or more custodians or receivers lawfully appointed, or of trustees in bankruptcy or reorganization proceedings (including a trustee or trustees appointed under the provisions of the Bankruptcy Code), or of assignees for the benefit of creditors, such receivers, custodians, trustees or assignees, as the case may be, by an instrument in writing, shall appoint a successor Trustee with respect to the Notes. Subject to the provisions of Sections 11.04 and 11.05, upon the appointment as above provided of a successor Trustee with respect to the Notes, the Trustee with respect to the Notes shall cease to be Trustee hereunder. After any such appointment other than by the Holders of Notes, the Person making such appointment shall forthwith cause notice thereof to be mailed to the Holders of Notes at their addresses as the same shall then appear on the Register but any successor Trustee so appointed shall, immediately and without further act, be superseded by a successor Trustee appointed by the Holders of Notes in the manner above prescribed, if such appointment be made prior to the expiration of one year from the date of the mailing of such notice by the Company, or by such receivers, trustees or assignees.

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(b) If any Trustee with respect to the Notes shall resign or be removed and a successor Trustee shall not have been appointed by the Company or by the Holders of the Notes within 30 days of any notice of resignation or removal or, if any successor Trustee so appointed shall not have accepted its appointment within 30 calendar days after such appointment shall have been made, the resigning Trustee at the expense of the Company may appoint a successor Trustee or apply to any court of competent jurisdiction for the appointment of a successor Trustee. If in any other case a successor Trustee shall not be appointed pursuant to the foregoing provisions of this Section 11.06 within three months after such appointment might have been made hereunder, the Holder of any Notes or any retiring Trustee at the expense of the Company may apply to any court of competent jurisdiction to appoint a successor Trustee. Such court may thereupon, in any such case, after such notice, if any, as such court may deem proper and prescribe, appoint a successor Trustee.

(c) Any successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor Trustee and to the Company, or to the receivers, trustees, assignees or court appointing it, as the case may be, an instrument accepting such appointment hereunder, and thereupon such successor Trustee, without any further act, deed or conveyance, shall become vested with all the authority, rights, powers, trusts, immunities, duties and obligations of such predecessor Trustee with like effect as if originally named as Trustee hereunder, and such predecessor Trustee, upon payment of its charges and disbursements then unpaid, shall thereupon become obligated to pay over, and such successor Trustee shall be entitled to receive, all moneys and properties held by such predecessor Trustee as Trustee hereunder, subject nevertheless to its lien provided for in Section 11.01(a). Nevertheless, on the written request of the Company or of the successor Trustee or of the Holders of at least 10% in aggregate principal amount of the Notes then Outstanding, such predecessor Trustee, upon payment of its said charges and disbursements, shall execute and deliver an instrument transferring to such successor Trustee upon the trusts herein expressed all the rights, powers and trusts of such predecessor Trustee and shall assign, transfer and deliver to the successor Trustee all moneys and properties held by such predecessor Trustee, subject nevertheless to its lien provided for in Section 10.01(a); and, upon request of any such successor Trustee and the Company shall make, execute, acknowledge and deliver any and all instruments in writing for more fully and effectually vesting in and confirming to such successor Trustee all such authority, rights, powers, trusts, immunities, duties and obligations. In case of the appointment hereunder of a successor Trustee, then, the predecessor Trustee and each successor Trustee with respect to such Notes shall execute and deliver an indenture supplemental hereto wherein each successor Trustee shall accept such appointment and which shall add to or change any of the provisions of this Indenture as shall be necessary to provide for or facilitate the administration of the trusts hereunder by more than one Trustee, it being understood that nothing herein or in such supplemental indenture shall constitute such Trustees co-trustees of the same trust and that each such Trustee shall be trustee of a trust or trusts hereunder separate and apart from any trust or trusts hereunder administered by any other such Trustee.

Section 11.07 Successor Trustee by Merger. Any Person into which the Trustee or any successor to it in the trusts created by this Indenture shall be merged or converted, or any Person with which it or any successor to it shall be consolidated, or any Person resulting from any merger, conversion or consolidation to which the Trustee or any such successor to it shall be a party, or any Person to which the Trustee or any successor to it shall sell or otherwise transfer all or substantially all of the corporate trust business of the Trustee, shall be the successor Trustee under this Indenture without the execution or filing of any paper or any further act on the part of any of the parties hereto; provided that such Person shall be otherwise qualified and eligible under this Article XI. In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of such Notes shall have been authenticated but not delivered by the Trustee then in office, any successor to such Trustee may adopt the certificate of authentication of any predecessor Trustee, and deliver such Notes so authenticated with the same effect as if such successor Trustee had itself authenticated such Notes; and in case at that time any of the Notes shall not have been authenticated, any successor to such Trustee may authenticate such Notes either in the name of any predecessor Trustee hereunder or in the name of the successor Trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture; provided that the certificate of the Trustee shall have; provided, however, that the right to adopt the certificate of authentication of any predecessor Trustee or authenticate Notes in the name of any predecessor Trustee shall apply only to its successor or successors by merger, conversion or consolidation.
Section 11.08 **Right to Rely on Officer’s Certificate.** Subject to Section 11.02, and subject to the provisions of Section 15.01 with respect to the certificates required thereby, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of bad faith on the part of the Trustee, be deemed to be conclusively proved and established by an Officer’s Certificate with respect thereto delivered to the Trustee, and such Officer’s Certificate, in the absence of bad faith on the part of the Trustee, shall be full warrant to the Trustee for any action taken, suffered or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 11.09 **Appointment of Authenticating Agent.** The Trustee may appoint an agent (the “Authenticating Agent”) to authenticate the Notes, and the Trustee shall give written notice of such appointment to the Company and all Holders of Notes with respect to which such Authenticating Agent shall serve. Unless limited by the terms of such appointment, any such Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by the Authenticating Agent. Notes so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder.

Each Authenticating Agent shall at all times be a Person organized and doing business and in good standing under the laws of the United States, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than $50,000,000 and subject to supervision or examination by federal or state authority. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Article XI, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Article XI, it shall resign immediately in the manner and with the effect specified in this Article XI.

Any Person into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any Person resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any Person succeeding to all or substantially all of the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such Person shall be otherwise eligible under this Article XI, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section 11.09, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall give written notice of such appointment to all Holders of Notes with respect to which such Authenticating Agent shall serve. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section 11.09.

The Company agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section 11.09.
Section 11.10  **Not Responsible for Recitals of Issuance of Notes.** The Trustee or any Authenticating Agent shall not be responsible in any manner whatsoever for the correctness of the recitals herein or in the Notes (except its certificates of authentication thereon) contained, all of which are made solely by the Company. The Trustee shall not be responsible or accountable in any manner whatsoever for or with respect to the validity or execution or sufficiency of this Indenture or of the Notes (except with respect to its own signatures and/or certificates of authentication thereon), and the Trustee makes no representation with respect thereto. The Trustee or any Authenticating Agent shall not be accountable for the use or application by the Company of any Notes, or the proceeds of any Notes. The Trustee shall not be responsible to make any calculation with respect to any matter under this Indenture. The Trustee shall have no duty to monitor or investigate the Company’s compliance with or the breach of, or cause to be performed or observed, any representation, warranty, or covenant, or agreement of any Person, other than the Trustee, made in this Indenture.

**ARTICLE XII**

**SATISFACTION AND DISCHARGE; DEFEASANCE**

Section 12.01  [Reserved].

Section 12.02  **Satisfaction and Discharge of Indenture.**

(a)  This Indenture, the Notes and the Collateral Documents shall, upon Company Order and at the Company’s expense, be discharged and cease to be of further effect as to all Notes issued hereunder (except as to any surviving rights of registration of transfer or exchange of such Notes herein expressly provided for and rights to receive payments of principal of, premium, if any, and interest, on, such Notes), and the Notes Liens and Note Guarantees will be released, and the Trustee and the Collateral Agent, at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Indenture and the other Notes Documents when:

(i)  either

   (A) all Notes heretofore authenticated and delivered (other than (i) Notes which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 3.07 and (ii) Notes for whose payment money has theretofore been deposited in trust with the Trustee or any Paying Agent or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 6.03) have been delivered to the Trustee for cancellation; or

   (B) (I) all Notes that have not been previously delivered to the Trustee for cancellation, (1) have become due and payable by their terms, or (2) will become due and payable at their Stated Maturity within one year, or (3) have been called for redemption or 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 Company, in the case of (1), (2) or (3) above, has irrevocably deposited or caused to be deposited with the Trustee, as trust funds in trust solely for the benefit of the Holders of the Notes, cash in U.S. dollars, non-callable Government Securities, or a combination thereof, in such amounts as shall be sufficient without reinvestment, to pay and discharge the entire amount Outstanding Notes not previously delivered to the Trustee for cancellation or redemption for principal (and premium, if any) and accrued interest on the Notes to the date of such deposit (in the case of Notes which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be; (II) the Company has paid or caused to be paid all other sums payable by the Company with respect to the Notes; and (III) the Company has delivered irrevocable instructions to the Trustee to apply the deposited money toward the payment of the Notes at their Stated Maturity or on the Redemption Date, as the case may be; and

(ii) no Default or Event of Default shall have occurred and be continuing with respect to the Notes on the date of such deposit or shall occur as a result of such deposit and such deposit shall not result in a breach or violation of, or constitute a default under, any other instrument to which the Company is a party or by which the Company bound.
(b) The Company must deliver an Officer’s Certificate and an Opinion of Counsel to the Trustee stating that all conditions precedent to satisfaction and discharge have been complied with.

(c) Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 11.01, the obligations of the Company to any Authenticating Agent under Section 11.09 and, if money or Government Securities shall have been deposited with the Trustee pursuant to subclause (B) of clause (i) of this Section 12.02, the obligations of the Trustee under Section 12.07 and the last paragraph of Section 6.03 shall survive such satisfaction and discharge.

Section 12.03 Defeasance upon Deposit of Moneys or Government Securities.

(a) The Company and the Other Obligors may, at their option and at any time, elect to have either Section 12.03(b) or Section 12.03(c) applied to all Outstanding Notes issued under this Indenture, the Note Guarantees and the Collateral Documents and have the Notes Liens released upon compliance with the conditions set forth below in this Section 12.03.

(b) Upon the Company’s exercise under Section 12.03(a) of the option applicable to this Section 12.03(b), the Company and the Other Obligors shall, subject to the satisfaction of the conditions set forth in Section 12.03(d), be deemed to have been Discharged from their obligations with respect to all Outstanding Notes, Note Guarantees and Note Liens on the date such conditions are satisfied (“Legal Defeasance”). For this purpose, “Legal Defeasance” means that the Company and each Other Obligor shall be deemed to have paid and Discharged the entire Indebtedness represented by the Outstanding Notes and to have satisfied all of their other obligations under the Notes, this Indenture, the Note Guarantees, Note Liens and the Collateral Documents, except for the following provisions which shall survive until otherwise terminated or discharged hereunder:

(i) the rights of Holders of the Outstanding Notes to receive payments in respect of the principal of, or interest or premium, if any, on such Outstanding Notes when such payments are due from the trust referred to in Section 12.03(d);

(ii) the Company’s obligations with respect to the Notes issued under this Indenture concerning mutilated, destroyed, lost or stolen Notes and the maintenance of an office or agency for payment and money for security payments held in trust;

(iii) the rights, powers, trusts, duties and immunities of the Trustee, and the Company’s obligations in connection therewith; and

(iv) this Section 12.03(b) and Section 12.03(c).

Subject to compliance with this Article XII, the Company and each Other Obligor may exercise its option under this Section 12.03(b) notwithstanding the prior exercise of its option under Section 12.03(c).

“Discharged” means that the Company shall be deemed to have paid and discharged the entire Indebtedness represented by, and obligations under, the Notes and to have satisfied all the obligations under this Indenture relating to the Notes (and the Trustee, at the expense of the Company, shall execute proper instruments acknowledging the same), except (A) the rights of Holders of Notes to receive, from the trust fund described in clause (i) of 12.03(d), payment of the principal of, premium, if any, or interest, on such Notes when such payments are due, (B) the Company’s obligations with respect to the Notes under Sections 3.04, 3.06, 3.07, 6.02, 6.03, 12.06 and 12.07 and (C) the rights, powers, trusts, duties and immunities of the Trustee hereunder.

(c) Upon the Company’s exercise under Section 12.03(a) of the option applicable to this Section 12.03(c), the Company and each Other Obligor shall, subject to the satisfaction of the conditions set forth in Section 12.03(d), be released from their obligations under (i) any covenant contained in Section 5.01 and in Section 6.05, Sections 6.08 through and including 6.15 and Section 6.18 with respect to the Notes, (ii) the Note Guarantees and (iii) the Note Liens, on and after the date the conditions set forth in Section 11.03(d) are satisfied (hereinafter, “Covenant Defeasance”), and the Notes shall thereafter be deemed not to be “Outstanding” for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be deemed “Outstanding” for all other purposes hereunder. For this purpose, such “Covenant Defeasance” means that, with respect to the Outstanding Notes, the Company and each Other Obligor may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event of Default under Sections 7.01(iii), 7.01(iv), 7.01(v), 7.01(vi) and 7.01(vii) and, with respect to only any Significant Subsidiary and not the Company, Section 7.01(vi), but, except as specified above, the remainder of this Indenture and the Notes shall be unaffected thereby.
(d) The following shall be the conditions to the exercise of either the Legal Defeasance option under Section 12.03(b) or the Covenant Defeasance option under Section 12.03(c):

(i) The Company shall irrevocably have deposited, or caused to be deposited, with the Trustee (or another trustee satisfying the requirements of Section 11.04 who shall agree to comply with the provisions of this Article XII applicable to it) as trust funds in trust for the purpose of making the following payments, specifically pledged as security for, and dedicated solely to the benefit of the Holders of the Notes; (A) cash in U.S. Dollars, or (B) non-callable Government Securities, or (C) a combination thereof, in such amounts as will be sufficient, in the opinion of a nationally recognized firm of independent public accountants, to pay, without reinvestment, and discharge, and which shall be applied by the Trustee (or other qualifying trustee) to pay, without reinvestment, and discharge, the principal of (and premium, if any) and interest on the Notes on the Stated Maturity (or Redemption Date, if applicable); provided that the Trustee shall have been irrevocably instructed to apply such cash or the proceeds of such Government Securities to said payments with respect to the Notes. Before such a deposit, the Company may give to the Trustee, in accordance with Section 4.03, a notice of its election to redeem all of the Outstanding Notes at a future date in accordance with Article IV, which notice shall be irrevocable. Such irrevocable redemption notice, if given, shall be given effect in applying the foregoing;

(ii) in the case of Legal Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel confirming that,

(A) the Company has received from, or there has been published by, the United States Internal Revenue Service a ruling, or
(B) 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 Holders of the Outstanding Notes will not recognize income, gain or loss for U.S. Federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. Federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(iii) in the case of Covenant Defeasance, the Company shall have delivered to the Trustee an Opinion of Counsel confirming that the Holders of the Outstanding Notes will not recognize income, gain or loss for U.S. Federal income tax purposes as a result of such Covenant Defeasance and will be subject to such tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(iv) no Default or Event of Default (other than that resulting from borrowing funds to be applied to make such deposit) shall have occurred and be continuing on the date of such deposit or insofar as Events of Default from bankruptcy or insolvency events are concerned, at any time in the period ending on the 91st day after the date of deposit;
such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under, any material agreement or instrument (other than this Indenture) to which, the Company is a party or by which the Company is bound;

the Company shall have delivered to the Trustee an Officer’s Certificate stating that the deposit was not made by the Company with the intent of preferring the Holders over its other creditors, or with the intent of defeating, hindering, delaying or defrauding any creditors of the Company or others; and

the Company shall have delivered to the Trustee an Officer’s Certificate and an Opinion of Counsel from counsel in the United States each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance, as the case may be, have been complied with.

Section 12.04 Repayment to Company. The Trustee and any Paying Agent shall promptly pay to the Company (or to its designee) upon Company Order any excess moneys or Government Securities held by them at any time, including any such moneys or Government Securities held by the Trustee under any escrow trust agreement entered into pursuant to Section 12.06. The provisions of the last paragraph of Section 6.03 shall apply to any moneys or Government Securities held by the Trustee or any Paying Agent under this Article that remains unclaimed for two years after the Maturity of any Notes for which moneys or Government Securities have been deposited pursuant to Section 12.03.

Section 12.05 Indemnity for Government Securities. The Company shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against the deposited Government Securities or the principal or interest received on such Government Securities.

Section 12.06 Deposits to Be Held in Escrow. Any deposits with the Trustee referred to in Section 12.03 shall be irrevocable (except to the extent provided in Sections 12.04 and 12.07) and shall be made under the terms of an escrow trust agreement. As contemplated under this Article XII, if any Outstanding Notes are to be redeemed prior to their Stated Maturity, pursuant to any optional redemption provisions, the applicable escrow trust agreement shall provide therefor and the Company shall make such arrangements as are satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company.

If Notes with respect to which such deposits are made may be subject to later redemption at the option of the Company, the applicable escrow trust agreement may, at the option of the Company, provide therefor. In the case of an optional redemption in whole or in part, such agreement shall require the Company to deposit with the Trustee on or before the date notice of redemption is given funds sufficient to pay the Redemption Price of the Notes to be redeemed together with all unpaid interest thereon to the Redemption Date. Upon such deposit of funds, the Trustee shall pay or deliver over to the Company as excess funds pursuant to Section 12.04 all funds or obligations then held under such agreement and allocable to the Notes to be redeemed.

Section 12.07 Application of Trust Money.

(a) Neither the Trustee nor any other paying agent shall be required to pay interest on any moneys deposited pursuant to the provisions of this Indenture, except such as it shall agree with the Company in writing to pay thereon. Any moneys so deposited for the payment of the principal of, or premium, if any, interest on the Notes and remaining unclaimed for two years after the date of the Maturity of the Notes or the date fixed for the redemption of all the Notes at the time Outstanding, as the case may be, shall be applied as provided in Section 6.03(e).

(b) Subject to the provisions of clause (a) above, any moneys or Government Securities which at any time shall be deposited by the Company or on its behalf with the Trustee or any other paying agent for the purpose of paying the principal of, premium, if any, and interest on any of the Notes shall be and are hereby assigned, transferred and set over to the Trustee or such other paying agent in trust for the respective Holders of the Notes for the purpose for which such moneys or Government Securities shall have been deposited; provided that such moneys or Government Securities need not be segregated from other funds except to the extent required by law.
ARTICLE XIII

IMMUNITY OF CERTAIN PERSONS

Section 13.01  No Personal Liability of Directors, Officers, Employees and Stockholders. No director, officer, employee, incorporator or stockholder of the Company or any of its parent companies or subsidiaries shall have any liability for any obligations of the Company or any Guarantor under any Note Document or for any claim based on, in respect of, or by reason of such obligations or their creation to the extent permitted by applicable law. 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.

ARTICLE XIV

AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 14.01  Without Consent of Holders. The Company, the Other Obligors, the Trustee and the Collateral Agent, at any time and from time to time, may enter into one or more indentures supplemental hereto, or otherwise amend the Note Documents, in form satisfactory to the Trustee, for any one or more of or all the following purposes:

(a)  to cure any ambiguity, mistake, defect or inconsistency;

(b)  to provide for uncertificated Notes in addition to or in place of certificated Notes or to provide for or confirm the issuance of Additional Notes otherwise permitted by this Indenture;

(c)  to comply with Article V;

(d)  to provide the assumption of the Company’s or any Other Obligor’s obligations to Holders;

(e)  to make any change that would provide any additional rights or benefits to the Holders or that does not adversely affect the legal rights under this Indenture of any such Holder;

(f)  to add covenants or provide for a Note Guarantee for the benefit of the Holders or to surrender any right or power conferred in this Indenture upon the Company;

(g)  at the Issuer’s election, to comply with requirements of the SEC in order to effect or maintain the qualification of this Indenture under the TIA;

(h)  to evidence and provide for the acceptance and appointment under this Indenture of a successor Trustee or Collateral Agent pursuant to the requirements of Sections 11.05 and 11.06;

(i)  to provide for any Restricted Subsidiary to provide a Note Guarantee in accordance with Section 6.10, to add guarantees with respect to the Notes, to add security to or for the benefit of the Holders of the Notes, or to confirm and evidence the release, termination, discharge or retaking of any guarantee or Lien with respect to or securing the Notes when such release, termination, discharge or retaking is provided for under any Note Document;

(j)  to conform the text of this Indenture or the Notes to any provision of the “Description of notes” section of the Offering Memorandum;

(k)  making any amendment to the provisions of this Indenture relating to the transfer and legending of the Notes; provided, however, that (A) compliance with this Indenture as so amended would not result in such Notes being transferred in violation of the Securities Act or any applicable securities law and (B) such amendment does not materially and adversely affect the rights of Holders to transfer such Notes;
(l) to mortgage, pledge, hypothecate or grant any other Lien in favor of the Collateral Agent for its benefit and the benefit of the Trustee, the Holders of the Notes and the Holders of any other Pari Passu Obligations, as additional security for the payment and performance of all or any portion of the Pari Passu Obligations, in any property or assets, including any which are required to be mortgaged, pledged or hypothecated, or in which a Lien is required to be granted to or for the benefit of the Trustee or the Collateral Agent pursuant to any Note Document or otherwise;

(m) to provide for the release of any Note Guarantee or any Collateral from the Lien pursuant to the Note Documents when permitted or required by any Note Document; or

(n) secure any Future Pari Passu Indebtedness or Pari Passu Obligations to the extent permitted under the Note Documents.

Subject to the provisions of Section 14.03, the Trustee and the Collateral Agent is authorized to join with the Company and the Other Obligors in the execution of any such supplemental indenture, or other change to any Note Document, to make the further agreements and stipulations which may be therein contained and to accept the conveyance, transfer, assignment, mortgage or pledge of any property or assets thereunder.

Any supplemental indenture authorized by the provisions of this Section 14.01 may be executed by the Company, the Other Obligors, the Trustee and the Collateral Agent without the consent of the Holders of the Notes, notwithstanding any of the provisions of Section 14.02.

After the execution by the Company, the Other Obligors, the Trustee and the Collateral Agent of any supplemental indenture pursuant to the provisions of this Section 14.01, the Company shall deliver, or upon written request and at the Company’s expense, the Trustee and the Collateral Agent shall deliver, a notice, setting forth in general terms the substance of such supplemental indenture, to the Holders of Notes at their addresses as the same shall then appear in the Register. Any failure of the Company to deliver or cause to be delivered such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 14.02 With Consent of Holders; Limitations.

(a) With the consent of the Holders of at least a majority in aggregate principal amount of the Outstanding Notes affected by such supplemental indenture voting separately, the Company, the Other Obligors, the Trustee and the Collateral Agent may, from time to time and at any time, amend or supplement the Note Documents for the purpose of adding any provisions hereto or thereto, changing in any manner or eliminating any of the provisions or of modifying in any manner the rights of the Holders (including consents obtained in connection with a purchase of, or tender offer or exchange offer for, the Notes) and any existing Default, Event of Default or compliance with any provision of the Note Documents may be waived with the consent of the Holders of not less than a majority in principal amount of the Outstanding Notes (including consents obtained in connection with a purchase of or tender offer or exchange offer for the Notes); provided, however, without the consent of each Holder of Notes issued under this Indenture affected thereby, an amendment, supplement or waiver may not, with respect to any Notes issued under this Indenture and held by a non-consenting Holder,

(i) reduce the principal amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(ii) reduce the principal of or change the Stated Maturity of any Notes or alter or waive the provisions with respect to the redemption of the Notes (other than Sections 6.14 and 6.15);

(iii) reduce the rate of or change the time for payment of interest on any Notes;
(iv) waive a Default or Event of Default in the payment of principal or premium, if any, or interest on the Notes issued under this Indenture, except a rescission of acceleration of the Notes by the Holders of at least a majority in aggregate principal amount of the Notes and a waiver of the payment default that resulted from such acceleration, or in respect of a covenant or provision contained in this Indenture which cannot be amended or modified without the consent of all Holders;

(v) make any Notes payable in money other than that stated in the Notes;

(vi) make any change in Section 7.11 or the rights of Holders to receive payments of principal or premium, if any, or interest on the Notes;

(vii) make any change in the amendment and waiver provisions set forth in this Section 14.02;

(viii) modify or change any provision of this Indenture or the related definitions to affect the ranking of the Notes in a manner that adversely affects the Holders of the Notes;

(ix) impair the right of any Holder to receive payment of principal of, or interest on such Holder’s Notes on or after the due dates therefor or to institute suit for the enforcement of any payment on or with respect to such Holder’s Notes; or

(x) make any change in the provisions in the First Priority/Second Priority Intercreditor and Subordination Agreement, this Indenture, the Pledge Agreement or the Security Agreement dealing with the application of proceeds of Collateral that would adversely affect the Holders of the Notes in any material respect.

In addition, any amendment to, or waiver of, the provisions of this Indenture or any Collateral Document that has the effect of releasing all or substantially all of the Collateral from the Liens securing the Notes Obligations will require the consent of the Holders of at least 66-2/3% in aggregate principal amount of the Notes then Outstanding, notwithstanding, for the avoidance of doubt, any release of all or substantially all of the Collateral from the Liens securing the Senior Credit Facilities.

(b) It shall not be necessary for the consent of the Holders under this Section 14.02 to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such consent shall approve the substance thereof.

(c) The Company may set a record date pursuant to Section 8.02(d) for purposes of determining the identity of the Holders of Notes entitled to give a written consent or waive compliance by the Company as authorized or permitted by this Section 14.02.

(d) After the execution by the Company and the Trustee of any supplemental indenture pursuant to the provisions of this Section 14.02, the Company shall mail a notice, setting forth in general terms the substance of such supplemental indenture, to the Holders of Notes at their addresses as the same shall then appear in the Register. Any failure of the Company to mail such notice, or any defect therein, shall not, however, in any way impair or affect the validity of any such supplemental indenture.

Section 14.03 Trustee and Collateral Agent Protected. Upon the request of the Company, accompanied by the Officer’s Certificate and Opinion of Counsel required by Section 15.01 stating that the execution of such supplemental indenture to be entered into pursuant to Section 14.01 or Section 14.02 is authorized or permitted by this Indenture, and evidence reasonably satisfactory to the Trustee and the Collateral Agent of consent of the Holders if the supplemental indenture is to be executed pursuant to Section 14.02, the Trustee shall join with the Company in the execution of said supplemental indenture unless said supplemental indenture affects the Trustee’s own rights, duties or immunities under this Indenture or otherwise, in which case the Trustee and/or the Collateral Agent may in its discretion, but shall not be obligated to, enter into said supplemental indenture. The Trustee and the Collateral Agent shall be fully protected in relying upon such Officer’s Certificate and an Opinion of Counsel.
Section 14.04  **Effect of Execution of Supplemental Indenture.** Upon the execution of any supplemental indenture pursuant to the provisions of this Article XIV, this Indenture shall be deemed to be modified and amended in accordance therewith and, except as herein otherwise expressly provided, the respective rights, limitations of rights, obligations, duties and immunities under this Indenture of the Trustee, the Collateral Agent, the Company and the Holders of all of the Notes affected, as the case may be, shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments, and all the terms and conditions of any such supplemental indenture shall be, and be deemed to be, part of the terms and conditions of this Indenture for any and all purposes.

Section 14.05  **Notation on or Exchange of Notes.** Notes authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article may bear a notation in the form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Company, to any modification of this Indenture contained in any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for the Notes then Outstanding in equal aggregate principal amounts, and such exchange shall be made without cost to the Holders of the Notes.

**ARTICLE XV**

**MISCELLANEOUS PROVISIONS**

Section 15.01  **Certificates and Opinions as to Conditions Precedent.**

(a) Upon any request or application by the Company to the Trustee or the Collateral Agent to take any action under any of the provisions of this Indenture, the Company shall furnish to the Trustee and the Collateral Agent an Officer’s Certificate stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and (except with respect to the authentication of the Initial Notes) an Opinion of Counsel stating that in the opinion of such counsel all such conditions precedent have been complied with, except that in the case of any such application or demand as to which the furnishing of such document is specifically required by any provision of this Indenture relating to such particular application or request, no additional certificate or opinion need be furnished.

(b) Each certificate or opinion provided for in this Indenture and delivered to the Trustee and the Collateral Agent with respect to compliance with a condition or covenant provided for in this Indenture shall include (i) a statement that the Person giving such certificate or opinion has read such covenant or condition; (ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based; (iii) a statement that in the opinion of such Person, he or she has made such examination or investigation as is necessary to enable such Person to express an informed view or opinion as to whether or not such covenant or condition has been complied with; and (iv) a statement as to whether or not, in the opinion of such Person, such condition or covenant has been complied with.

(c) Any certificate, statement or opinion of an officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his or her certificate, statement or opinion is based are erroneous. Any certificate, statement or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate, statement or opinion of, or representations by, governmental or other officials, customary for opinions of the type required, or an officer or officers of the Company stating that the information with respect to such factual matters is in the possession of the Company, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate, statement or opinion or representations with respect to such matters are erroneous.

(d) Any certificate, statement or opinion of an officer of the Company or of counsel to the Company may be based, insofar as it relates to accounting matters, upon a certificate or opinion of, or representations by, an accountant or firm of accountants, unless such officer or counsel, as the case may be, knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the accounting matters upon which his or her certificate, statement or opinion may be based are erroneous. Any certificate or opinion of any firm of independent registered public accountants filed with the Trustee shall contain a statement that such firm is independent.
In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form one instrument.

Section 15.02  [Reserved].

Section 15.03  Notices to the Company, Trustee and Collateral Agent. Any notice or demand authorized or permitted by this Indenture to be made upon, given or furnished to, or filed with, the Company or the Trustee shall be sufficiently made, given, furnished or filed for all purposes if it shall be mailed, by regular mail or overnight courier, delivered or faxed to:

(a) the Company, at Frontier Communications Corporation, 401 Merritt 7, Norwalk, Connecticut 06851, Facsimile No.: (203) 614-4651, Attn: Chief Financial Officer and General Counsel, or at such other address or facsimile number as may have been furnished in writing to the Trustee by the Company.

(b) the Trustee at the Corporate Trust Office of the Trustee.

(c) the Collateral Agent at JPMorgan Chase & Co., 4 CMC, CIB DMO WLO, Brooklyn, New York 11245-0001, Mail code NY1-C413.

Any such notice, demand or other document shall be in writing. Anything herein to the contrary notwithstanding, no such notice or demand shall be effective as to the Trustee unless it is actually received by the Trustee at its Corporate Trust Office.

The Trustee and the Collateral Agent each agrees to accept and act upon instructions or directions pursuant to this Indenture, the Collateral Documents and the First Priority/Second Priority Intercreditor and Subordination Agreement sent by unsecured e-mail, pdf, facsimile transmission or other similar unsecured electronic methods; provided, however, that the Trustee and the Collateral Agent shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which such incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Company elects to give the Trustee or the Collateral Agent e-mail or facsimile instructions (or instructions by a similar electronic method), the Trustee’s or the Collateral Agent’s, as applicable, understanding of such instructions shall be deemed controlling. Neither the Trustee nor the Collateral Agent shall have any duty or obligation to verify or confirm that the person who sent such instructions or directions is, in fact, such person who is authorized to give instructions or directions on behalf of the Company as listed in an incumbency certificate; and neither the Trustee nor the Collateral Agent shall be liable for any liabilities, losses, costs or expenses arising directly or indirectly from the Trustee’s or the Collateral Agent’s, as applicable, reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Company agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee and the Collateral Agent, including the risk of the Trustee and the Collateral Agent acting on unauthorized instructions, and the risk or interception and misuse by third parties.

Section 15.04  Notices to Holders; Waiver. All notices to Holders of Notes will be validly given if electronically delivered or mailed to them at their respective addresses in the Register. For so long as any Notes are represented by Global Notes, all notices to Holders will be delivered to DTC in accordance with the Applicable Procedures of DTC, delivery of which shall be deemed to satisfy the requirements of this paragraph.
In the event of suspension of regular mail service or by reason of any other cause it shall be impracticable to give notice by mail, then such notification as shall be given with the approval of the Trustee shall constitute sufficient notice for every purpose hereunder.

Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance on such waiver. In any case where notice to Holders is given by mail, neither the failure to mail such notice nor any defect in any notice so mailed to any particular Holder shall affect the sufficiency of such notice with respect to other Holders, and any notice that is mailed in the manner herein provided shall be conclusively presumed to have been duly given. In any case where notice to Holders is given by publication, any defect in any notice so published as to any particular Holder shall not affect the sufficiency of such notice with respect to other Holders, and any notice that is published in the manner herein provided shall be conclusively presumed to have been duly given.

Section 15.05  Legal Holiday. In any case where any Interest Payment Date, Redemption Date, Maturity or other scheduled date of payment of any Notes shall not be a Business Day at the Corporate Trust Office for the Notes, then payment of principal and premium, if any, interest need not be made at the Corporate Trust Office on such date, but may be made on the next succeeding Business Day at Corporate Trust Office with the same force and effect as if made on such Interest Payment Date, Redemption Date or Maturity, as the case may be, and no interest shall accrue on such payment for the period from and after such Interest Payment Date, Redemption Date or Maturity, as the case may be, to such Business Day if such payment is made or duly provided for on such Business Day.

Section 15.06  Effects of Headings and Table of Contents. The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 15.07  Successors and Assigns. Subject to the terms of this Indenture, all covenants and agreements in this Indenture by the parties hereto shall bind their respective successors and permitted assigns of the rights and obligations of this Indenture (in the case of the Company, pursuant to Article V of this Indenture) and inure to the benefit of their permitted successors and permitted assigns of the rights and obligations of this Indenture, whether so expressed or not.

Section 15.08  Severability. If any provision hereof shall be held to be invalid, illegal or unenforceable under applicable law, then the remaining provisions hereof shall be construed as though such invalid, illegal or unenforceable provision were not contained herein.

Section 15.09  Benefits of Indenture. Nothing in this Indenture expressed and nothing that may be implied from any of the provisions hereof is intended, or shall be construed, to confer upon, or to give to, any Person other than the parties hereto and their successors and the Holders any benefit or any right, remedy or claim under or by reason of this Indenture or any covenant, condition, stipulation, promise or agreement hereof, and all covenants, conditions, stipulations, promises and agreements in this Indenture contained shall be for the sole and exclusive benefit of the parties hereto and their successors and of the Holders.

Section 15.10  Counterparts. This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile or electronic (i.e., “pdf” or “tif”) transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile or electronic (i.e., “pdf” or “tif”) transmission shall be deemed to be their original signatures for all purposes.

Section 15.11  Governing Law; Waiver of Trial by Jury. This Indenture and the Notes shall be governed by, and construed in accordance with, the laws of the State of New York.
EACH OF THE PARTIES HERETO, AND EACH HOLDER OF A SECURITY BY ITS ACCEPTANCE THEREOF, IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS INDENTURE OR THE SECURITIES.

Section 15.12 Submission to Jurisdiction. The Company irrevocably and unconditionally submits to the non-exclusive jurisdiction of any U.S. federal or New York State court located in the Borough of Manhattan, the City of New York over any suit, action or proceeding arising out of or relating to this Indenture or the Notes. The Company irrevocably and unconditionally waives any objection to the laying of venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. A final judgment in any such suit, action or proceeding brought in any such court shall be conclusive and binding upon the Company and each Guarantor and may be enforced in any other courts to whose jurisdiction the Company is or may be subject, by suit upon judgment. The Company and each Guarantor further agrees that nothing herein shall affect any Holder’s right to effect service of process in any other manner permitted by law or bring a suit action or proceeding (including a proceeding for enforcement of a judgment) in any other court or jurisdiction in accordance with applicable law.

Section 15.13 U.S.A. PATRIOT Act. The parties hereto acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Indenture agree that they will provide to the Trustee and the Agents such information as they may reasonably request, from time to time, in order for the Trustee and the Agents to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow them to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

Section 15.14 Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 15.15 No Adverse Interpretation of Other Agreements. This Indenture may not be used to interpret any other indenture, loan or debt agreement of the Company or its Subsidiaries or of any other Person. Any such indenture, loan or debt agreement may not be used to interpret this Indenture.

Section 15.16 First Priority/Second Priority Intercreditor and Subordination Agreement. Reference is made to the First Priority/Second Priority Intercreditor and Subordination Agreement. Each Holder, by its acceptance of a Note, (a) consents to the priority of Liens and payments provided for in the First Priority/Second Priority Intercreditor and Subordination Agreement and (b) agrees that it will be bound by and will take no actions contrary to the provisions of the First Priority/Second Priority Intercreditor and Subordination Agreement. The foregoing provisions are intended as an inducement to the lenders under the Senior Credit Facilities to extend credit and such lenders, the Second Priority Collateral Agent and the Second Priority Secured Parties are each intended third party beneficiaries of such provisions and the provisions of the First Priority/Second Priority Intercreditor and Subordination Agreement.

[Signatures on following page]
IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed as of the date first written above.

FRONTIER COMMUNICATIONS CORPORATION,
as Company and Pledgor

By: /s/ Mark D. Nielsen
    Name: Mark D. Nielsen
    Title: Executive Vice President, Chief Legal Officer and Secretary

FRONTIER SOUTHWEST INCORPORATED
FRONTIER FLORIDA LLC
FRONTIER COMMUNICATIONS NORTHWEST INC.
CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC
FRONTIER COMMUNICATIONS OF MINNESOTA, INC.
FRONTIER COMMUNICATIONS OF IOWA, LLC
CITIZENS TELECOMMUNICATIONS COMPANY OF TENNESSEE, L.L.C.
CITIZENS TELECOMMUNICATIONS COMPANY OF UTAH
FRONTIER COMMUNICATIONS OF WISCONSIN LLC, as Guarantors

By: /s/ Mark D. Nielsen
    Name: Mark D. Nielsen
    Title: Vice President, Chief Legal Officer and Secretary

FRONTIER VIDEO SERVICES INC., as Grantor

By: /s/ Mark D. Nielsen
    Name: Mark D. Nielsen
    Title: Vice President, Chief Legal Officer and Secretary

[Signature Page to First Lien Notes Indenture]
JPMORGAN CHASE BANK, N.A.,
as Collateral Agent

By: /s/ Sandeep S. Parihar
Name: Sandeep S. Parihar
Title: Executive Director

[Signature Page to First Lien Notes Indenture]
[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 COMPANY 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 THEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTRED 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 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.

[[FOR REGULATION S GLOBAL NOTE ONLY] UNTIL 40 DAYS AFTER THE LATER OF COMMENCEMENT OR COMPLETION OF THE OFFERING, AN OFFER OR SALE OF SECURITIES WITHIN THE UNITED STATES BY A DEALER (AS DEFINED IN THE SECURITIES ACT) MAY VIOLATE THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT IF SUCH OFFER OR SALE IS MADE OTHERWISE THAN IN ACCORDANCE WITH RULE 144A THEREUNDER.]

[Restricted Notes Legend]

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT, OR THE SECURITIES LAWS OF ANY STATE OR OTHER JURISDICTION. NEITHER THIS SECURITY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE REOFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENUMBRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, SUCH REGISTRATION. THE HOLDER OF THIS SECURITY, BY ITS ACCEPTANCE HEREOF, AGREES ON ITS OWN BEHALF AND ON BEHALF OF ANY INVESTOR ACCOUNT FOR WHICH IT HAS PURCHASED SECURITIES, TO OFFER, SELL OR OTHERWISE TRANSFER SUCH SECURITY, PRIOR TO THE DATE (THE “RESALE RESTRICTION TERMINATION DATE”) THAT IS, IN THE CASE OF RULE 144A NOTES, ONE YEAR AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF, THE ORIGINAL ISSUE DATE OF THE ISSUANCE OF ANY ADDITIONAL NOTES AND THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATE OF THE COMPANY WAS THE OWNER OF THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY), OR, IN THE CASE OF REGULATION S NOTES, 40 DAYS AFTER THE LATER OF THE ORIGINAL ISSUE DATE HEREOF AND THE DATE ON WHICH THIS SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY) WAS FIRST OFFERED TO PERSONS OTHER THAN DISTRIBUTORS (AS DEFINED IN RULE 902 OF REGULATION S) IN RELIANCE ON REGULATION S, ONLY (A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITIES ARE ELIGIBLE FOR RESALE PURSUANT TO RULE 144A UNDER THE SECURITIES ACT (“RULE 144A”), TO A PERSON IT REASONABLY BELIEVES IS A “QUALIFIED INSTITUTIONAL BUYER” AS DEFINED IN RULE 144A THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) PURSUANT TO OFFERS AND SALES TO NON-U.S. PERSONS THAT OCCUR OUTSIDE THE UNITED STATES WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT, OR (E) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY’S AND THE TRUSTEE’S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E) TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATION AND/ OR OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE REHASLE RESTRICTION TERMINATION DATE.
BY ITS ACQUISITION HEREOF, THE HOLDER HEREOF REPRESENTS THAT IT IS NOT A U.S. PERSON NOR IS IT PURCHASING FOR THE ACCOUNT OF A U.S. PERSON AND IS ACQUIRING THIS SECURITY IN AN OFFSHORE TRANSACTION IN ACCORDANCE WITH REGULATION S UNDER THE SECURITIES ACT.

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.
Frontier Communications Corporation
8.000% First Lien Secured Notes Due 2027

PRINCIPAL AMOUNT: $

___________________________________

CUSIP: 

___________________________________

ISIN: 

___________________________________

No.: 

Frontier Communications Corporation, a Delaware corporation (the “Company,” which term includes any successor thereto under the Indenture referred to on the reverse hereof), for value received, hereby promises to pay to Cede & Co., or registered assigns, the principal sum of [ ] DOLLARS ($[ ]) [(or such other principal amount as shall be set forth in the Schedule of Exchanges of Interest in the Global Note attached hereto)] on April 1, 2027, or on such earlier date as the principal hereof may become due in accordance with the provisions of this Note.

Interest Rate: 8.000% per annum.

Interest Payment Dates: April 1 and October 1 of each year, commencing on October 1, 2019.

Record Dates: March 15 and September 15.

Reference is made to the further provisions of this Note set forth on the reverse hereof. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been manually signed by the Trustee under the Indenture referred to on the reverse hereof.
IN WITNESS WHEREOF, Frontier Communications Corporation has caused this Note to be duly executed.

FRONTIER COMMUNICATIONS CORPORATION

By:

Name:
Title:

Dated:

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TRUSTEE’S CERTIFICATE OF AUTHENTICATION

This is one of the Notes referred to in the within-mentioned Indenture.

Date of authentication: ________________

THE BANK OF NEW YORK MELLON,
as Trustee

By: ________________

Authorized Signatory

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1. Interest. The Company promises to pay interest on the principal amount of this Note at a rate of 8.000% per annum. The date from which interest shall accrue on the Notes shall be March 15, 2019, or the most recent Interest Payment Date to which interest has been paid or provided for. The Company will pay interest semi-annually in arrears on April 1 and October 1 of each year, beginning October 1, 2019. In any case in which an Interest Payment Date, Redemption Date, Maturity or other payment date is not a Business Day as defined in the Indenture, payment may be made on the next succeeding day that is a Business Day. Any payment made on such Business Day will have the same force and effect as if made on the date on which the payment is due, and no interest shall accrue for the intervening period. Interest shall be computed on the basis of a 360-day year of twelve 30-day months.

2. Method of Payment. The Company shall pay interest on the Notes (except Defaulted Interest), if any, to the Persons in whose name such Notes are registered as of the close of business on the Record Date referred to on the face of this Note immediately preceding the related Interest Payment Date. Payment of interest on the Notes shall be made, in the currency of the United States of America that at the time is legal tender for payment of public and private debts, at the Corporate Trust Office or, at the option of the Company, by check mailed to the address of the Person entitled thereto as such address shall appear in the Register or, in accordance with arrangements satisfactory to the Paying Agent, by wire transfer to an account designated by the Holder.

3. Paying Agent, Authenticating Agent and Registrar. Initially, The Bank of New York Mellon will act as Paying Agent, Authenticating Agent and Registrar. The Company may change or appoint any Paying Agent or Registrar without notice to any Holder. The Company may act in any such capacity.

4. Indenture. This Note is one of a duly authorized issue of Notes of the Company designated as its 8.000% First Lien Secured Notes due 2027 (the “Notes”) issued under an Indenture dated as of March 15, 2019 (together with any supplemental indentures thereto, the “Indenture”). The Notes are first lien secured obligations of the Company and constitute the series designated on the face of this Note as the “8.000% First Lien Secured Notes due 2027,” initially limited to $1,650,000,000 in aggregate principal amount. The Company will furnish to any Holder upon written request and without charge a copy of the Indenture. Requests may be made to: Frontier Communications Corporation, 401 Merritt 7, Norwalk, Connecticut 06851, Attn: Mark D. Nielsen, Esq.

5. Optional Redemption. The Notes are redeemable at the option of the Company at the prices, and upon the terms and conditions, set forth in Section 4.07 of the Indenture.

6. Mandatory Redemption. The Company will not be required to make any mandatory redemption or sinking fund payments with respect to the Notes.

7. Repurchase at the Option of Holder.

(a) If there is a Change of Control Triggering Event, the Company will be required to make a Change of Control Offer to each Holder to repurchase all or any part (equal to $2,000 or an integral multiple of $1,000 in excess thereof) of such Holder’s Notes at a purchase price in cash equal to 101% of the aggregate principal amount thereof plus accrued and unpaid interest on the Notes repurchased to, but not including, the date of purchase, subject to the rights of Holders on the relevant record date to receive interest due on the relevant Interest Payment Date for periods prior to such repurchase date pursuant to Section 6.14 of the Indenture. Within 30 days following any Change of Control Triggering Event, if the Company had not, prior to the Change of Control Triggering Event, sent a redemption notice, with a copy to the Trustee, for all the Notes in connection with an optional redemption permitted by Article IV of the Indenture, the Company will mail a Change of Control Notice, with a copy to the Trustee, for all the Notes to each registered Holder briefly describing the transaction or transactions that constitute a Change of Control Triggering Event and offering to repurchase Notes on the date specified in such Change of Control Notice, pursuant to the procedures required by the Indenture and described in such notice (which procedures shall be reasonably acceptable to the Trustee).
Within 10 Business Days of each date on which the aggregate amount of Excess Proceeds exceeds $100.0 million, the Company shall apply the entire aggregate amount of unutilized Excess Proceeds to make an Asset Sale Offer pursuant to Section 6.14 of the Indenture to all Holders of Notes, and if required by the terms of any Future Pari Passu Indebtedness, to the holders of such Future Pari Passu Indebtedness, to purchase the maximum principal amount of Notes and such Future Pari Passu Indebtedness 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, plus accrued and unpaid interest to, but not including, the date fixed for the closing of such offer, in accordance with the procedures set forth in the Indenture. To the extent that the aggregate amount of Notes and such Future Pari Passu Indebtedness tendered pursuant to an Asset Sale Offer is less than the Excess Proceeds, the Company may use any remaining Excess Proceeds for any purpose not otherwise prohibited by the Indenture, subject to the covenants contained in the Indenture. If the aggregate principal amount of Notes or the Future Pari Passu Indebtedness surrendered by the Holders thereof exceeds the amount of Excess Proceeds, the Trustee shall select the Notes and such Future Pari Passu Indebtedness to be purchased on a pro rata basis based on the accreted value or principal amount of the Notes or such Future Pari Passu Indebtedness tendered in accordance with Section 4.08 of the Indenture. Holders of Notes that are the subject of an offer to purchase will receive an Asset Sale Offer from the Company prior to any related purchase date and may elect to have such Notes purchased by completing the form entitled “Option of Holder to Elect Purchase” attached to the Notes.

8. **Notice of Redemption.** Notice of redemption will be sent at least 30 days (or, if any Global Notes are outstanding, such shorter period as may be permitted by the eligibility rules of the Depository) but not more than 60 days before the Redemption Date to each Holder whose Notes are to be redeemed, except that redemption notices may be sent or mailed more than 60 days prior to a Redemption Date if the notice is issued in connection with a defeasance of the Notes or a satisfaction and discharge of the Indenture.

9. **Denominations, Transfer, Exchange.** The Notes are in registered form without coupons in the denominations of $2,000 and integral multiples of $1,000 in excess thereof. The transfer of Notes may be registered and Notes may be exchanged as provided in the Indenture. The Notes may be presented for exchange or for registration of transfer (duly endorsed or with the form of transfer endorsed thereon duly executed if so required by the Company or the Registrar) at the office of the Registrar or at the office of any transfer agent designated by the Company for such purpose. Also, the Company need not exchange or register the transfer of any Notes (i) for a period beginning at the opening of business 15 days immediately preceding the sending of notice of redemption of Notes selected for redemption and ending at the close of business on the day such notice is sent or (ii) during the period between a record date and the corresponding Interest Payment Date.

10. **Reserved.**

11. **Persons Deemed Owners.** The registered Holder may be treated as its owner for all purposes.

12. **Amendments, Supplements and Waivers.** The Indenture and the Notes may be amended or supplemented as provided in the Indenture. Any consent or waiver by the Holders as provided in the Indenture shall be conclusive and binding upon such Holders and upon all future Holders and holders of any security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, whether or not notation of such consent or waiver is made upon the Notes.

13. **Defaults and Remedies.** The Events of Default relating to the Notes are defined in Section 7.01 of the Indenture. Upon the occurrence of an Event of Default, the rights and obligations of the Company, the Trustee and the Holders shall be as set forth in the applicable provisions of the Indenture.

14. **No Personal Liability.** No director, officer, employee, incorporator or stockholders of the Company or any of its parent companies or subsidiaries shall have any liability for any obligations of the Company or any Guarantor under any Note Document or for any claim based on, in respect of, or by reason of such obligations or their creation to the extent permitted by applicable law. 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.

15. **Authentication.** This Note shall not be entitled to any benefit under the Indenture or be valid or obligatory for any purpose until authenticated by the manual signature of the Trustee.

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16. **Governing Law.** The Indenture and this Note shall be governed by, and construed in accordance with, the laws of the State of New York.

17. **CUSIP and ISIN Numbers.** Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures, the Company has caused CUSIP and ISIN numbers to be printed on the Notes, and the Trustee may use CUSIP and ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.
ASSIGNMENT

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 Company. 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: __________________________

Signature must be guaranteed

________________________________________
Signature Guarantee: __________________________

Signature Guarantee

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.

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OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Company pursuant to Section 6.14 or Section 6.15 of the Indenture, check the box below:

☐ Section 6.14 ☐ Section 6.15

If you want to elect to have only part of the Note purchased by the Company pursuant to Section 6.14 or Section 6.15 of the Indenture, state the amount you elect to have purchased:

$

Date: Your Signature: (Sign exactly as your name appears on the face of this Note)

Tax Identification No: (Sign exactly as your name appears on the face of this Note)

SIGNATURE GUARANTEE

Signatures must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Registrar, which requirements include membership or participation in the Security Transfer Agent Medallion Program (“STAMP”) or such other “signature guarantee program” as may be determined by the Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.
CERTIFICATE TO BE DELIVERED UPON EXCHANGE OR REGISTRATION OF TRANSFER RESTRICTED NOTES

This certificate relates to $ principal amount of Notes held in definitive form by the undersigned. The undersigned 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 prior to the expiration of the period referred to in Rule 144 under the Securities Act, the undersigned confirms that such Notes are being transferred in accordance with its terms:

CHECK ONE BOX BELOW

☐ (1) to the Company; 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;

or

☐ (6) 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 (4), (5) or (6) is checked, the Trustee may require, prior to registering any such transfer of the Notes, such legal opinions, certifications and other information as the Company has 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.

Your Signature

Signature Guarantee:
Date: __________________________
Signature must be guaranteed by a participant in a recognized signature guaranty medallion program or other signature guarantor acceptable to the Trustee

Signature of Signature Guarantee:
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 Company as the undersigned has requested pursuant to Rule 144A or has determined not to request such information and that it is aware that the transferor is relying upon the undersigned’s foregoing representations in order to claim the exemption from registration provided by Rule 144A.

Dated: _______________             NOTICE: To be executed by an executive officer
The following exchanges of a part of this Global Note for an interest in another Global Note or for a Definitive Note, or exchanges of a part of another Global Note or Definitive Note for an interest in this Global Note, have been made:

<table>
<thead>
<tr>
<th>Date of Exchange</th>
<th>Amount of decrease in principal amount of this Global Note</th>
<th>Amount of increase in principal amount of this Global Note</th>
<th>Principal amount of this Global Note following such decrease (or increase)</th>
<th>Signature of authorized officer of Trustee or Notes Custodian</th>
</tr>
</thead>
</table>

* Insert in Global Notes.
EXHIBIT B

Form of Pledge Agreement Additional Pari Passu Joinder

ADDITIONAL PARI PASSU JOINDER AGREEMENT AND AMENDMENT

The undersigned is an Additional Pari Passu Agent (the “New Additional Pari Passu Agent”) for Persons wishing to become “Secured Parties” (the “New Secured Parties”) under the Second Amended and Restated Pledge Agreement, dated as of July 3, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Pledge Agreement” (terms used without definition herein have the meanings assigned to such terms by the Pledge Agreement)), between the Pledgor party thereto and JPMorgan Chase Bank, N.A. as collateral agent (in such capacity, together with its successors and assigns in such capacity, the “Collateral Agent”) for the Secured Parties.

Section 1. General.

In consideration of the foregoing, the undersigned hereby:

(a) represents that the New Additional Pari Passu Agent has been authorized by the New Secured Parties to become a party to the Pledge Agreement on behalf of the New Secured Parties under that certain Indenture, dated as of the date hereof by and among Frontier Communications Corporation, as Company, the guarantors party thereto, the Grantor (as defined therein), the Collateral Agent and The Bank of New York Mellon, as trustee (the “New Pari Passu Agreement”) and to act as the Additional Pari Passu Agent for the New Secured Parties hereunder and under the Pledge Agreement;

(b) acknowledges that the New Secured Parties have received a copy of the Pledge Agreement;

(c) on behalf of itself and the other New Secured Parties (and at the direction of the New Secured Parties and as provided in the New Pari Passu Agreement) irrevocably appoints JPMorgan Chase Bank, N.A. to act as Collateral Agent under the Pledge Agreement and authorizes the Collateral Agent to take such action as agent on behalf of the undersigned and the other New Secured Parties and to exercise such powers under the Pledge Agreement as are delegated to the Collateral Agent by the terms thereof, together with all such powers as are reasonably incidental thereto; and

(d) accepts and acknowledges the terms of (i) Section 2, Section 3 and Section 4 of this Additional Pari Passu Joinder Agreement (this “Agreement”) and (ii) the Pledge Agreement applicable to it and the New Secured Parties and agrees to serve as Additional Pari Passu Agent for the New Secured Parties with respect to the New Pari Passu Agreement and the Secured Obligations thereunder and agrees on its own behalf and on behalf of the New Secured Parties to be bound by (i) the terms of Section 2, Section 3 and Section 4 of this Agreement and (ii) the Pledge Agreement applicable to holders of Secured Obligations, with all the rights and obligations of a Secured Party thereunder, and to be bound by all the provisions hereof and thereof as fully as if it had been a Secured Party on the effective date of the Pledge Agreement.

The name and address of the New Additional Pari Passu Agent for purposes of Section 4.01 of the Pledge Agreement are as follows:

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Section 2. Actions with Respect to Pledged Collateral.

(a) Notwithstanding anything in the Pledge Agreement to the contrary, with respect to any Pledged Collateral, (i) only the Collateral Agent shall act or refrain from acting with respect to the Pledged Collateral (including with respect to any intercreditor agreement with respect to any Pledged Collateral) and then only on the instructions of the Applicable Secured Representative and (ii) no Non-Applicable Secured Representative or other Non-Controlling Secured Party shall or shall instruct or direct the Collateral Agent to, commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator, examiner or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its security interest in or realize upon, or take any other action available to it in respect of, any Pledged Collateral (including with respect to any intercreditor agreement with respect to any Pledged Collateral), whether under the Pledge Agreement, applicable law or otherwise or have a right to consent to any such action, it being agreed that only the Collateral Agent acting on the instructions of the Applicable Secured Representative shall be entitled to take any such actions or exercise any such remedies with respect to Pledged Collateral; provided that, notwithstanding the foregoing, (i) in any Insolvency or Liquidation Proceeding, any Secured Representative or any other Secured Party may file a claim or proof of claim or statement of interest with respect to the First Lien Obligations owed to the Secured Parties; (ii) any Secured Representative or any other Secured Party may take any action to preserve or protect the validity and enforceability of the Liens granted in favor of Secured Parties, provided that no such action is, or could reasonably be expected to be, (A) adverse to the Liens granted in favor of the Controlling Secured Parties or the rights of the Applicable Secured Representative, Collateral Agent or any other Controlling Secured Parties to exercise remedies in respect thereof or (B) otherwise inconsistent with the terms of this Agreement; and (iii) any Secured Representative or any other Secured Party may file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of such Secured Party, including any claims secured by the Pledged Collateral, in each case, to the extent not inconsistent with the terms of this Agreement. Notwithstanding the equal priority of the Liens, the Applicable Secured Representative and Collateral Agent may deal with the Pledged Collateral as if such Applicable Secured Representative and Collateral Agent had a senior Lien on such Collateral. No Non-Applicable Secured Representative or Non-Controlling Secured Party will contest, protest or object to any foreclosure proceeding or action brought by the Applicable Secured Representative, Collateral Agent or Controlling Secured Party or any other exercise by the Applicable Secured Representative, Collateral Agent or Controlling Secured Party of any rights and remedies relating to the Pledged Collateral. The foregoing shall not be construed to limit the rights and priorities of any Secured Party or Collateral Agent with respect to any Collateral not constituting Pledged Collateral.

(b) Each of the Secured Representatives agrees that it will not accept any Lien on any Collateral for the benefit of any Series of First Lien Obligations (other than funds deposited for the discharge or defeasance of any Series of First Lien Obligations) other than pursuant to the First Lien Security Documents.

(c) Each of the Secured Parties agrees that it will not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the perfection, priority, validity, attachment or enforceability of a Lien held by or on behalf of any of the Secured Parties in all or any part of the Collateral, or the provisions of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any Secured Representative or any other Secured Party to enforce this Agreement.

(d) The provisions of this Section 2 shall amend and override the provisions of Section 3.02(e) of the Pledge Agreement.

Section 3. Certain Agreements with Respect to Bankruptcy or Insolvency Proceedings.
The parties acknowledge that the terms of this Agreement constitute a “subordination agreement” under section 510(a) of any Bankruptcy Code and this Agreement shall continue in full force and effect notwithstanding the commencement of any proceeding under any Bankruptcy Law by or against the Borrower or any of its Subsidiaries.

(b) If Parent or any other Pledgor shall become subject to any Insolvency or Liquidation Proceeding and shall, as debtor(s)-in-possession, move for approval of debtor-in-possession financing (“DIP Financing”) to be provided by one or more lenders (the “DIP Lenders”) under Section 364 of the Bankruptcy Code or any equivalent provision of any other Bankruptcy Law and/or the use of cash collateral under Section 363 of the Bankruptcy Code or any equivalent provision of any other Bankruptcy Law, each Secured Party agrees that it will not oppose and will raise no objection to any such financing or to any Liens on the Pledged Collateral securing the same (“DIP Financing Liens”) and/or to any use of cash collateral that constitutes Pledged Collateral unless, in each case, the Applicable Secured Representative, shall then object to such DIP Financing or such DIP Financing Liens or use of cash collateral (and (i) to the extent that such DIP Financing Liens are senior to the Liens on any such Pledged Collateral for the benefit of the Controlling Secured Parties, each Non-Controlling Secured Party will subordinate its Liens with respect to such Pledged Collateral on the same terms as the Liens of the Controlling Secured Parties (other than any Liens of any Secured Parties constituting DIP Financing Liens) are subordinated thereto, and (ii) to the extent that such DIP Financing Liens rank pari passu with the Liens on any such Pledged Collateral granted to secure the First Lien Obligations of the Controlling Secured Parties, each Non-Controlling Secured Party will confirm the priorities of its Liens with respect to such Pledged Collateral as set forth herein), in each case so long as (A) the Secured Parties of each Series retain the benefit of their Liens on all such Pledged Collateral pledged to the DIP Lenders, including proceeds thereof arising after the commencement of such Insolvency or Liquidation Proceeding, with the same priority vis-a-vis all the other Secured Parties (other than any Liens of the Secured Parties constituting DIP Financing Liens) as existed prior to the commencement of the Insolvency or Liquidation Proceedings, (B) the Secured Parties of each Series are granted Liens on any additional or replacement collateral pledged to any Secured Parties as adequate protection or otherwise in connection with such DIP Financing and/or use of cash collateral, with the same priority vis-a-vis the Secured Parties as set forth in this Agreement, (C) if any amount of such DIP Financing and/or cash collateral is applied to repay any of the First Lien Obligations, such amount is applied pursuant to Section 3.02 of the Pledge Agreement, and (D) if any Secured Parties are granted adequate protection with respect to First Lien Obligations subject hereto, including in the form of periodic payments, in connection with such DIP Financing or use of cash collateral, the proceeds of such adequate protection are applied pursuant to Section 3.02 of the Pledge Agreement; provided that the Secured Parties of each Series shall have a right to object to the grant of a Lien to secure the DIP Financing over any assets subject to Liens in favor of the Secured Parties of such Series or its Collateral Agent that shall not constitute Pledged Collateral; and provided, further, that any Secured Parties receiving adequate protection shall not object to any other Secured Party receiving adequate protection comparable to any adequate protection granted to such Secured Parties in connection with a DIP Financing or use of cash collateral. The provisions of this Section 3 shall amend and override the provisions of Section 3.02(e) of the Pledge Agreement.

Section 4. Reinstatement. In the event that any of the First Lien Obligations shall be paid in full and such payment or any part thereof shall subsequently, for whatever reason (including an order or judgment for avoidance or disgorgement of a preference or fraudulent conveyance or transfer under any Bankruptcy Law), be required to be returned or repaid, the terms and conditions of this Agreement and the Pledge Agreement shall be fully applicable thereto until all such First Lien Obligations shall again have been paid in full in cash.

Section 5. Definitions.

“Applicable Secured Representative” means, with respect to any Pledged Collateral, (i) until the earlier of (x) the Discharge of Credit Agreement Obligations and (y) the Non-Applicable Secured Representative Enforcement Date, the Administrative Agent and (ii) from and after the earlier of (x) the Discharge of Credit Agreement Obligations and (y) the Non-Applicable Secured Representative Enforcement Date, the Major Non-Applicable Secured Representative.

“Bankruptcy Code” means Title 11 of the United States Code, as amended, modified or supplemented, from time to time.
“Bankruptcy Law” means the Bankruptcy Code, and any other federal, state, provincial or foreign law providing for the relief of debtors, or any arrangement, reorganization, insolvency, examinership, receivership, moratorium, assignment for the benefit of creditors, any other marshalling of the assets or liabilities of the Borrower or any of its Subsidiaries, or similar law affecting creditors’ rights generally.

“Controlling Secured Parties” means, with respect to any Pledged Collateral, the Secured Parties whose Secured Representative is the Applicable Secured Representative for such Pledged Collateral.

“Credit Agreement Obligations” means the “Obligations” as defined in the Credit Agreement.

“DIP Financing” has the meaning assigned to such term in Section 2.05(b).

“DIP Financing Liens” has the meaning assigned to such term in Section 2.05(b).

“DIP Lenders” has the meaning assigned to such term in Section 2.05(b).

“Discharge” means, with respect to any Pledged Collateral and any Series of First Lien Obligations, the date on which such Series of First Lien Obligations is no longer secured by such Pledged Collateral. The term “Discharged” shall have a corresponding meaning.

“Discharge of Credit Agreement Obligations” means the Discharge of the Credit Agreement Obligations; provided that a Discharge of Credit Agreement Obligations shall not be deemed to have occurred in connection with a Refinancing of such Credit Agreement Obligations with additional First Lien Obligations secured by such Pledged Collateral under an Additional Pari Passu Agreement which has been designated in writing by the Administrative Agent or by the Borrower, in each case, to the Collateral Agent and each Secured Representative as “Credit Agreement Obligations” for purposes of this Agreement.

“First Lien Obligations” means, collectively, (i) the Credit Agreement Obligations, (ii) the Indenture Obligations and (iii) each Series of Additional Pari Passu Indebtedness.

“First Lien Security Documents” means the Collateral Documents (as defined in the Credit Agreement) and each other agreement entered into in favor of any Collateral Agent for the purpose of securing any Series of First Lien Obligations.

“Indenture Obligations” means the “Notes Obligations” as defined in Section 1.01 of the New Pari Passu Agreement or the equivalent provision thereof.

“Insolvency or Liquidation Proceeding” means:

(1) any case or proceeding commenced by or against Parent or any other Pledgor under any Bankruptcy Law, any other proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of Parent or any other Pledgor, any receivership or assignment for the benefit of creditors relating to Parent or any other Pledgor or any similar case or proceeding relative to the Parent or any other Pledgor or its creditors, as such, in each case whether or not voluntary;

(2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to Parent or any other Pledgor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency (except for any voluntary liquidation, dissolution or other winding up to the extent permitted by the applicable Covered Documents); or

(3) any other case or proceeding of any type or nature in which substantially all claims of creditors of Parent or any other Pledgor are determined and any payment or distribution is or may be made on account of such claims.
“Major Non-Applicable Secured Representative” means, with respect to any Pledged Collateral, the Secured Representative (other than the Administrative Agent) of the Series of First Lien Obligations that constitutes the largest outstanding principal amount of any then outstanding Series of First Lien Obligations (excluding the Series of Credit Agreement Obligations) with respect to such Pledged Collateral as such Secured Representative is notified in writing by Parent, but solely to the extent that such Series of First Lien Obligations has a larger aggregate principal amount than the Series of Credit Agreement Obligations then outstanding, as determined by the Borrower. For the avoidance of doubt, as of the date hereof the Notes Trustee shall be deemed to be the Major Non-Applicable Secured Representative and shall remain the Major Non-Applicable Secured Representative until such time as it is notified in writing by Parent or the Applicable Secured Representative that another Secured Representative is the Major Non-Applicable Secured Representative. Parent shall use commercially reasonable efforts to provide a prompt written notice to the Notes Trustee upon any such determination, it being understood that Parent shall be entitled to rely upon certifications from the applicable Secured Representative in making such determination. The Company (as defined in the New Pari Passu Agreement) shall use commercially reasonable efforts to provide a prompt written notice to the Trustee and the Applicable Secured Representative upon any such determination, it being understood that the Company shall be entitled to rely upon certifications from the applicable representative in making such determination.

“Non-Applicable Secured Representative” means, at any time with respect to any Pledged Collateral, any Secured Representative that is not the Applicable Secured Representative at such time with respect to such Pledged Collateral.

“Non-Applicable Secured Representative Enforcement Date” means, with respect to any Non-Applicable Secured Representative, the date which is 180 days (throughout which 180-day period such Non-Applicable Secured Representative was the Major Non-Applicable Secured Representative) after the occurrence of both (i) an Event of Default under and as defined in the Covered Documents under which such Non-Applicable Secured Representative is the Major Non-Applicable Secured Representative and (ii) the Applicable Secured Representative and each Collateral Agent’s receipt of written notice from such Major Non-Applicable Secured Representative certifying that (x) such Non-Applicable Secured Representative is the Major Non-Applicable Secured Representative and that an Event of Default under and as defined in the Covered Documents under which such Non-Applicable Secured Representative is the Secured Representative has occurred and is continuing and (y) the First Lien Obligations of the Series with respect to which such Major Non-Applicable Secured Representative is the Secured Representative are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with the terms of the applicable Covered Documents; provided that the Non-Applicable Secured Representative Enforcement Date shall be stayed and shall not occur and shall be deemed not to have occurred with respect to any Pledged Collateral (1) at any time the Collateral Agent on the instructions of the Applicable Secured Representative has commenced and is diligently pursuing any enforcement action with respect to such Pledged Collateral or (2) at any time the Collator which has granted a security interest in such Pledged Collateral is then a debtor under or with respect to (or otherwise subject to) any Insolvency or Liquidation Proceeding. Such Applicable Secured Representative and Collateral Agent shall give prompt notice of such enforcement action to each Non-Applicable Secured Representative; provided that the failure to give such notice shall not affect its rights hereunder.

“Non-Controlling Secured Parties” means, with respect to any Pledged Collateral, the Secured Parties which are not Controlling Secured Parties with respect to such Pledged Collateral.

“Notes Trustee” means the “Trustee” as defined in the New Pari Passu Agreement.

“Reaffirmation” has the meaning assigned to such term in Section 6.

“Refinance” means, in respect of any Indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other Indebtedness or enter alternative financing arrangements, in exchange or replacement for such Indebtedness (in whole or in part), including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including in each case, but not limited to, after the original instrument giving rise to such Indebtedness has been terminated and including, in each case, through any credit agreement, indenture or other agreement. “Refinanced” and “Refinancing” have correlative meanings.
“Secured Representative” means, (i) with respect to the Credit Agreement Obligations, the Administrative Agent, (ii) with respect to the Indenture Obligations, the Notes Trustee and (iii) with respect to any Series of Additional Pari Passu Indebtedness, the administrative agent, trustee or any other similar agent or Person designated an Secured Representative of such Series in the applicable Additional Pari Passu Joinder Agreement.

“Series” means with respect to any First Lien Obligations, each of (i) the Credit Agreement Obligations, (ii) the Indenture Obligations and (iii) the Additional Pari Passu Indebtedness incurred pursuant to any Additional Pari Passu Agreement, which pursuant to any Additional Pari Passu Joinder Agreement, are to be represented hereunder by a common Secured Representative (in its capacity as such for such Additional Pari Passu Indebtedness).

Section 6. Reaffirmation.

As of the date hereof, the Pledgor ratifies, confirms and reaffirms (collectively, the “Reaffirmation”) its obligations under the Pledge Agreement and its prior grant and the validity of the Liens granted by it pursuant to the Pledge Agreement, with all such Liens continuing in full force and effect after giving effect to this Agreement and Amendment No. 1 to the Pledge Agreement, dated as of the date hereof and confirms that such Liens secure all obligations under the New Pari Passu Agreement and the Notes (as defined in the New Pari Passu Agreement). By making the Reaffirmation pursuant to this Section 6, the Pledgor shall be deemed to have executed and delivered a Reaffirmation Agreement as contemplated by Section 4.16(c) of the Pledge Agreement.

[Signature Pages Follow]

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IN WITNESS WHEREOF, the undersigned has caused this Additional Pari Passu Joinder Agreement and Amendment to be duly executed by its authorized officer as of the 15th day of March, 2019.

THE BANK OF NEW YORK MELLON,
as the New Additional Pari Passu Agent

By:

Name:
Title:

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AGREED TO AND ACCEPTED:
The Collateral Agent hereby acknowledges its acceptance of this Additional Pari Passu Joinder Agreement for purposes of the Pledge Agreement.

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

By: _________________________________
    Name:
    Title:
ACKNOWLEDGED AND AGREED TO:

FRONTIER COMMUNICATIONS CORPORATION, as Pledgor

By: __________________________________________
Name:__________________________________________
Title:__________________________________________
ADDITIONAL PARI PASSU JOINDER AGREEMENT AND AMENDMENT

The undersigned is an Additional Pari Passu Agent (the “New Additional Pari Passu Agent”) for Persons wishing to become “Secured Parties” (the “New Secured Parties”) under the Security Agreement, dated as of July 3, 2018 (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, the “Security Agreement” (terms used without definition herein have the meanings assigned to such terms by the Security Agreement)), between the Pledgor party thereto and JPMorgan Chase Bank, N.A. as collateral agent (in such capacity, together with its successors and assigns in such capacity, the “Collateral Agent”) for the Secured Parties.

Section 1. General.

In consideration of the foregoing, the undersigned hereby:

(a) represents that the New Additional Pari Passu Agent has been authorized by the New Secured Parties to become a party to the Security Agreement on behalf of the New Secured Parties under that certainIndenture, dated as of the date hereof by and among Frontier Communications Corporation, as Company, the guarantors party thereto, the Grantor (as defined therein), the Collateral Agent and The Bank of New York Mellon, as trustee (the “New Pari Passu Agreement”) and to act as the Additional Pari Passu Agent for the New Secured Parties hereunder and under the Security Agreement;

(b) acknowledges that the New Secured Parties have received a copy of the Security Agreement;

(c) on behalf of itself and the other New Secured Parties (and at the direction of the New Secured Parties and as provided in the New Pari Passu Agreement) irrevocably appoints JPMorgan Chase Bank, N.A. to act as Collateral Agent under the Security Agreement and authorizes the Collateral Agent to take such action as agent on behalf of the undersigned and the other New Secured Parties and to exercise such powers under the Security Agreement as are delegated to the Collateral Agent by the terms thereof, together with all such powers as are reasonably incidental thereto; and

(d) accepts and acknowledges the terms of (i) Section 2, Section 3 and Section 4 of this Additional Pari Passu Joinder Agreement (this “Agreement”) and (ii) the Security Agreement applicable to it and the New Secured Parties and agrees to serve as Additional Pari Passu Agent for the New Secured Parties with respect to the New Pari Passu Agreement and the Secured Obligations thereunder and agrees on its own behalf and on behalf of the New Secured Parties to be bound by (i) the terms of Section 2, Section 3 and Section 4 of this Agreement and (ii) the Security Agreement applicable to holders of Secured Obligations, with all the rights and obligations of a Secured Party thereunder, and to be bound by all the provisions hereof and thereof as fully as if it had been a Secured Party on the effective date of the Security Agreement.

The name and address of the New Additional Pari Passu Agent for purposes of Section 4.01 of the Security Agreement are as follows:
Section 2. **Actions with Respect to Pledged Collateral.**

(a) Notwithstanding anything in the Security Agreement to the contrary, with respect to any Pledged Collateral, (i) only the Collateral Agent shall act or refrain from acting with respect to the Pledged Collateral (including with respect to any intercreditor agreement with respect to any Pledged Collateral) and then only on the instructions of the Applicable Secured Representative and (ii) no Non-Applicable Secured Representative or other Non-Controlling Secured Party shall or shall instruct or direct the Collateral Agent to, commence any judicial or nonjudicial foreclosure proceedings with respect to, seek to have a trustee, receiver, liquidator, examiner or similar official appointed for or over, attempt any action to take possession of, exercise any right, remedy or power with respect to, or otherwise take any action to enforce its security interest in or realize upon, or take any other action available to it in respect of, any Pledged Collateral (including with respect to any intercreditor agreement with respect to any Pledged Collateral), whether under the Security Agreement, applicable law or otherwise or have a right to consent to any such action, it being agreed that only the Collateral Agent acting on the instructions of the Applicable Secured Representative shall be entitled to take any such actions or exercise any such remedies with respect to Pledged Collateral; provided that, notwithstanding the foregoing, (i) in any Insolvency or Liquidation Proceeding, any Secured Representative or any other Secured Party may file a claim or proof of claim or statement of interest with respect to the First Lien Obligations owed to the Secured Parties; (ii) any Secured Representative or any other Secured Party may take any action to preserve or protect the validity and enforceability of the Liens granted in favor of Secured Parties, provided that no such action is, or could reasonably be expected to be, (A) adverse to the Liens granted in favor of the Controlling Secured Parties or the rights of the Applicable Secured Representative, Collateral Agent or any other Controlling Secured Parties to exercise remedies in respect thereof or (B) otherwise inconsistent with the terms of this Agreement; and (iii) any Secured Representative or any other Secured Party may file any responsive or defensive pleadings in opposition to any motion, claim, adversary proceeding or other pleading made by any Person objecting to or otherwise seeking the disallowance of the claims of such Secured Party, including any claims secured by the Pledged Collateral, in each case, to the extent not inconsistent with the terms of this Agreement. Notwithstanding the equal priority of the Liens, the Applicable Secured Representative and Collateral Agent may deal with the Pledged Collateral as if such Applicable Secured Representative and Collateral Agent had a senior Lien on such Collateral. No Non-Applicable Secured Representative or Non-Controlling Secured Party will contest, protest or object to any foreclosure proceeding or action brought by the Applicable Secured Representative, Collateral Agent or Controlling Secured Party or any other exercise by the Applicable Secured Representative, Collateral Agent or Controlling Secured Party of any rights and remedies relating to the Pledged Collateral. The foregoing shall not be construed to limit the rights and priorities of any Secured Party or Collateral Agent with respect to any Collateral not constituting Pledged Collateral.

(b) Each of the Secured Representatives agrees that it will not accept any Lien on any Collateral for the benefit of any Series of First Lien Obligations (other than funds deposited for the discharge or defeasance of any Series of First Lien Obligations) other than pursuant to the First Lien Security Documents.

(c) Each of the Secured Parties agrees that it will not (and hereby waives any right to) contest or support any other Person in contesting, in any proceeding (including any Insolvency or Liquidation Proceeding), the perfection, priority, validity, attachment or enforceability of a Lien held by or on behalf of any of the Secured Parties in all or any part of the Collateral, or the provisions of this Agreement; provided that nothing in this Agreement shall be construed to prevent or impair the rights of any Secured Representative or any other Secured Party to enforce this Agreement.

(d) The provisions of this Section 2 shall amend and override the provisions of Section 3.02(e) of the Security Agreement.

Section 3. **Certain Agreements with Respect to Bankruptcy or Insolvency Proceedings.**
(a) The parties acknowledge that the terms of this Agreement constitute a “subordination agreement” under section 510(a) of any Bankruptcy Code and this Agreement shall continue in full force and effect notwithstanding the commencement of any proceeding under any Bankruptcy Law by or against the Borrower or any of its Subsidiaries.

(b) If Parent or any other Pledgor shall become subject to any Insolvency or Liquidation Proceeding and shall, as debtor(s)-in-possession, move for approval of debtor-in-possession financing (“DIP Financing”) to be provided by one or more lenders (the “DIP Lenders”) under Section 364 of the Bankruptcy Code or any equivalent provision of any other Bankruptcy Law and/or the use of cash collateral under Section 363 of the Bankruptcy Code or any equivalent provision of any other Bankruptcy Law, each Secured Party agrees that it will not oppose and will raise no objection to any such financing or to any Liens on the Pledged Collateral securing the same (“DIP Financing Liens”) and/or to any use of cash collateral that constitutes Pledged Collateral unless, in each case, the Applicable Secured Representative, shall then object to such DIP Financing or such DIP Financing Liens or use of cash collateral (and (i) to the extent that such DIP Financing Liens are senior to the Liens on any such Pledged Collateral for the benefit of the Controlling Secured Parties, each Non-Controlling Secured Party will subordinate its Liens with respect to such Pledged Collateral on the same terms as the Liens of the Controlling Secured Parties (other than any Liens of any Secured Parties constituting DIP Financing Liens) are subordinated thereto, and (ii) to the extent that such DIP Financing Liens rank pari passu with the Liens on any such Pledged Collateral granted to secure the First Lien Obligations of the Controlling Secured Parties, each Non-Controlling Secured Party will confirm the priorities of its Liens with respect to such Pledged Collateral as set forth herein), in each case so long as (A) the Secured Parties of each Series retain the benefit of their Liens on all such Pledged Collateral pledged to the DIP Lenders, including proceeds thereof arising after the commencement of such Insolvency or Liquidation Proceeding, with the same priority vis-a-vis all the other Secured Parties (other than any Liens of the Secured Parties constituting DIP Financing Liens) as existed prior to the commencement of the Insolvency or Liquidation Proceedings, (B) the Secured Parties of each Series are granted Liens on any additional or replacement collateral pledged to any Secured Parties as adequate protection or otherwise in connection with such DIP Financing and/or use of cash collateral, with the same priority vis-a-vis the Secured Parties as set forth in this Agreement, (C) if any amount of such DIP Financing and/or cash collateral is applied to repay any of the First Lien Obligations, such amount is applied pursuant to Section 3.02 of the Security Agreement, and (D) if any Secured Parties are granted adequate protection with respect to First Lien Obligations subject hereto, including in the form of periodic payments, in connection with such DIP Financing or use of cash collateral, the proceeds of such adequate protection are applied pursuant to Section 3.02 of the Security Agreement; provided that the Secured Parties of each Series shall have a right to object to the grant of a Lien to secure the DIP Financing over any assets subject to Liens in favor of the Secured Parties of such Series or its Collateral Agent that shall not constitute Pledged Collateral; and provided, further, that any Secured Parties receiving adequate protection shall not object to any other Secured Party receiving adequate protection comparable to any adequate protection granted to such Secured Parties in connection with a DIP Financing or use of cash collateral. The provisions of this Section 3 shall amend and override the provisions of Section 3.02(e) of the Security Agreement.

Section 4. Reinstatement. In the event that any of the First Lien Obligations shall be paid in full and such payment or any part thereof shall subsequently, for whatever reason (including an order or judgment for avoidance or disgorgement of a preference or fraudulent conveyance or transfer under any Bankruptcy Law), be required to be returned or repaid, the terms and conditions of this Agreement and the Security Agreement shall be fully applicable thereto until all such First Lien Obligations shall again have been paid in full in cash.

Section 5. Definitions.

“Applicable Secured Representative” means, with respect to any Pledged Collateral, (i) until the earlier of (x) the Discharge of Credit Agreement Obligations and (y) the Non-Applicable Secured Representative Enforcement Date, the Administrative Agent and (ii) from and after the earlier of (x) the Discharge of Credit Agreement Obligations and (y) the Non-Applicable Secured Representative Enforcement Date, the Major Non-Applicable Secured Representative.

“Bankruptcy Code” means Title 11 of the United States Code, as amended, modified or supplemented, from time to time.
“Bankruptcy Law” means the Bankruptcy Code, and any other federal, state, provincial or foreign law providing for the relief of debtors, or any arrangement, reorganization, insolvency, examinership, receivership, moratorium, assignment for the benefit of creditors, any other marshalling of the assets or liabilities of the Borrower or any of its Subsidiaries, or similar law affecting creditors’ rights generally.

“Controlling Secured Parties” means, with respect to any Pledged Collateral, the Secured Parties whose Secured Representative is the Applicable Secured Representative for such Pledged Collateral.

“Credit Agreement Obligations” means the “Obligations” as defined in the Credit Agreement.

“DIP Financing” has the meaning assigned to such term in Section 2.05(b).

“DIP Financing Liens” has the meaning assigned to such term in Section 2.05(b).

“DIP Lenders” has the meaning assigned to such term in Section 2.05(b).

“Discharge” means, with respect to any Pledged Collateral and any Series of First Lien Obligations, the date on which such Series of First Lien Obligations is no longer secured by such Pledged Collateral. The term “Discharged” shall have a corresponding meaning.

“Discharge of Credit Agreement Obligations” means the Discharge of the Credit Agreement Obligations; provided that a Discharge of Credit Agreement Obligations shall not be deemed to have occurred in connection with a Refinancing of such Credit Agreement Obligations with additional First Lien Obligations secured by such Pledged Collateral under an Additional Pari Passu Agreement which has been designated in writing by the Administrative Agent or by the Borrower, in each case, to the Collateral Agent and each Secured Representative as “Credit Agreement Obligations” for purposes of this Agreement.

“First Lien Obligations” means, collectively, (i) the Credit Agreement Obligations, (ii) the Indenture Obligations and (iii) each Series of Additional Pari Passu Indebtedness.

“First Lien Security Documents” means the Collateral Documents (as defined in the Credit Agreement) and each other agreement entered into in favor of any Collateral Agent for the purpose of securing any Series of First Lien Obligations.

“Indenture Obligations” means the “Notes Obligations” as defined in Section 1.01 of the New Pari Passu Agreement or the equivalent provision thereof.

“Insolvency or Liquidation Proceeding” means:

(1) any case or proceeding commenced by or against Parent or any other Pledgor under any Bankruptcy Law, any other proceeding for the reorganization, recapitalization or adjustment or marshalling of the assets or liabilities of Parent or any other Pledgor, any receivership or assignment for the benefit of creditors relating to Parent or any other Pledgor or any similar case or proceeding relative to the Parent or any other Pledgor or its creditors, as such, in each case whether or not voluntary;

(2) any liquidation, dissolution, marshalling of assets or liabilities or other winding up of or relating to Parent or any other Pledgor, in each case whether or not voluntary and whether or not involving bankruptcy or insolvency (except for any voluntary liquidation, dissolution or other winding up to the extent permitted by the applicable Covered Documents); or

(3) any other case or proceeding of any type or nature in which substantially all claims of creditors of Parent or any other Pledgor are determined and any payment or distribution is or may be made on account of such claims.
“Major Non-Applicable Secured Representative” means, with respect to any Pledged Collateral, the Secured Representative (other than the Administrative Agent) of the Series of First Lien Obligations that constitutes the largest outstanding principal amount of any then outstanding Series of First Lien Obligations (excluding the Series of Credit Agreement Obligations) with respect to such Pledged Collateral as such Secured Representative is notified in writing by Parent, but solely to the extent that such Series of First Lien Obligations has a larger aggregate principal amount than the Series of Credit Agreement Obligations then outstanding, as determined by the Borrower. For the avoidance of doubt, as of the date hereof the Notes Trustee shall be deemed to be the Major Non-Applicable Secured Representative and shall remain the Major Non-Applicable Secured Representative until such time as it is notified in writing by Parent or the Applicable Secured Representative that another Secured Representative is the Major Non-Applicable Secured Representative. Parent shall use commercially reasonable efforts to provide a prompt written notice to the Notes Trustee upon any such determination, it being understood that Parent shall be entitled to rely upon certifications from the applicable Secured Representative in making such determination. The Company (as defined in the New Pari Passu Agreement) shall use commercially reasonable efforts to provide a prompt written notice to the Trustee and the Applicable Secured Representative upon any such determination, it being understood that the Company shall be entitled to rely upon certifications from the applicable representative in making such determination.

“Non-Applicable Secured Representative” means, at any time with respect to any Pledged Collateral, any Secured Representative that is not the Applicable Secured Representative at such time with respect to such Pledged Collateral.

“Non-Applicable Secured Representative Enforcement Date” means, with respect to any Non-Applicable Secured Representative, the date which is 180 days (throughout which 180-day period such Non-Applicable Secured Representative was the Major Non-Applicable Secured Representative) after the occurrence of both (i) an Event of Default under and as defined in the Covered Documents under which such Non-Applicable Secured Representative is the Major Non-Applicable Secured Representative and (ii) the Applicable Secured Representative and each Collateral Agent’s receipt of written notice from such Major Non-Applicable Secured Representative certifying that (x) such Non-Applicable Secured Representative is the Major Non-Applicable Secured Representative and that an Event of Default under and as defined in the Covered Documents under which such Non-Applicable Secured Representative is the Secured Representative has occurred and is continuing and (y) the First Lien Obligations of the Series with respect to which such Major Non-Applicable Secured Representative is the Secured Representative are currently due and payable in full (whether as a result of acceleration thereof or otherwise) in accordance with the terms of the applicable Covered Documents; provided that the Non-Applicable Secured Representative Enforcement Date shall be stayed and shall not occur and shall be deemed not to have occurred with respect to any Pledged Collateral (1) at any time the Collateral Agent on the instructions of the Applicable Secured Representative has commenced and is diligently pursuing any enforcement action with respect to such Pledged Collateral or (2) at any time the Pledgor which has granted a security interest in such Pledged Collateral is then a debtor under or with respect to any Insolvency or Liquidation Proceeding. Such Applicable Secured Representative and Collateral Agent shall give prompt notice of such enforcement action to each Non-Applicable Secured Representative; provided that the failure to give such notice shall not affect its rights hereunder.

“Non-Controlling Secured Parties” means, with respect to any Pledged Collateral, the Secured Parties which are not Controlling Secured Parties with respect to such Pledged Collateral.

“Notes Trustee” means the “Trustee” as defined in the New Pari Passu Agreement.

“Reaffirmation” has the meaning assigned to such term in Section 6.

“Refinance” means, in respect of any Indebtedness, to refinance, extend, renew, defease, amend, increase, modify, supplement, restructure, refund, replace or repay, or to issue other Indebtedness or enter alternative financing arrangements, in exchange or replacement for such Indebtedness (in whole or in part), including by adding or replacing lenders, creditors, agents, borrowers and/or guarantors, and including in each case, but not limited to, after the original instrument giving rise to such Indebtedness has been terminated and including, in each case, through any credit agreement, indenture or other agreement. “Refinanced” and “Refinancing” have correlative meanings.
“Secured Representative” means, (i) with respect to the Credit Agreement Obligations, the Administrative Agent, (ii) with respect to the Indenture Obligations, the Notes Trustee and (iii) with respect to any Series of Additional Pari Passu Indebtedness, the administrative agent, trustee or any other similar agent or Person designated an Secured Representative of such Series in the applicable Additional Pari Passu Joinder Agreement.

“Series” means with respect to any First Lien Obligations, each of (i) the Credit Agreement Obligations, (ii) the Indenture Obligations and (iii) the Additional Pari Passu Indebtedness incurred pursuant to any Additional Pari Passu Agreement, which pursuant to any Additional Pari Passu Joinder Agreement, are to be represented hereunder by a common Secured Representative (in its capacity as such for such Additional Pari Passu Indebtedness).

Section 6. Reaffirmation.

As of the date hereof, the Pledgor ratifies, confirms and reaffirms (collectively, the “Reaffirmation”) its obligations under the Security Agreement and its prior grant and the validity of the Liens granted by it pursuant to the Security Agreement, with all such Liens continuing in full force and effect after giving effect to this Agreement and Amendment No. 1 to the Security Agreement, dated as of the date hereof and confirms that such Liens secure all obligations under the New Pari Passu Agreement and the Notes (as defined in the New Pari Passu Agreement). By making the Reaffirmation pursuant to this Section 6, the Pledgor shall be deemed to have executed and delivered a Reaffirmation Agreement as contemplated by Section 4.16(c) of the Security Agreement.

[Signature Pages Follow]
IN WITNESS WHEREOF, the undersigned has caused this Additional Pari Passu Joinder Agreement and Amendment to be duly executed by its authorized officer as of the 15th day of March, 2019.

THE BANK OF NEW YORK MELLON,

as the New Additional Pari Passu Agent

By: ________________________________
   Name: ____________________________
   Title: _____________________________

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AGREED TO AND ACCEPTED:
The Collateral Agent hereby acknowledges its acceptance
of this Additional Pari Passu Joinder Agreement for
purposes of the Security Agreement.

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

By: __________________________________________
    Name: 
    Title: 

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ACKNOWLEDGED AND AGREED TO:

FRONTIER VIDEO SERVICES INC.,
as Pledgor

By: __________________________________________
Name: 
Title:

Section 3: EX-10.1 (EXHIBIT 10.1)

AMENDMENT NO. 4 TO CREDIT AGREEMENT

This is AMENDMENT NO. 4 TO THE CREDIT AGREEMENT, dated as of March 15, 2019 (this “Agreement”). Reference is made to that certain First Amended and Restated Credit Agreement, dated as of February 27, 2017, by and among FRONTIER COMMUNICATIONS CORPORATION, a Delaware corporation (the “Borrower”), the several Lenders from time to time party thereto (the “Lenders”), JPMORGAN CHASE BANK, N.A., as Administrative Agent (the “Administrative Agent”) and the various other parties thereto (as amended by that certain Amendment No. 1, dated as of March 27, 2017, by that certain Increase Joinder No. 1, dated as of June 15, 2017, by that certain Amendment No. 2, dated as of January 25, 2018, by that certain Consent and Amendment No. 3 to Credit Agreement, dated as of July 3, 2018, and by that certain Increase Joinder No. 2, dated as of July 3, 2018 and as further amended, restated, amended and restated, modified and supplemented from time to time prior to the date hereof, the “Credit Agreement”, and the Credit Agreement, as amended by this Agreement, the “Amended Credit Agreement”). Capitalized terms used and not otherwise defined herein shall have the meanings assigned to such terms in the Amended Credit Agreement.

WHEREAS, pursuant to Section 2.18 of the Credit Agreement, pursuant to any Pro Rata Extension Offer, the Borrower is permitted to consummate transactions with Lenders of a Class to extend the maturity date of such Lenders’ Loans or Commitments and to otherwise modify the terms of such Loans or Commitments;

WHEREAS, pursuant to Section 2.18(a) of the Credit Agreement, the Administrative Agent in its reasonable discretion has waived the requirement that the Borrower deliver notice to the Administrative agent not less than ten (10) Business Days prior to the proposed date of funding of Extended Loans pursuant to a Pro Rata Extension Offer;

WHEREAS, (i) each Revolving Lender who executes this Agreement as an Extending Revolving Lender (as defined below) has agreed to extend the maturity date of its Revolving Commitments in accordance with and subject to the terms set forth herein and (ii) the 2024 Revolving Commitments and the 2024 Revolving Loans, on the one hand, and the 2022 Revolving Commitments and any 2022 Revolving Loans, on the other hand, will constitute separate tranches and Classes under the Credit Agreement;

WHEREAS, pursuant to Section 9.02 of the Credit Agreement, without the consent of any Lender, the Borrower and the Administrative Agent (i) may enter into any amendment, supplement or modification of any Loan Document to enhance the rights or benefits of any Lender under any Loan Document and (ii) enter into any amendment, supplement or modification of any Loan Document to cure any ambiguity, omission, mistake, defect or inconsistency or to effect administrative changes of a technical nature;

WHEREAS, in consideration of the Extending Revolving Lenders’ agreement to extend the maturity date of their Revolving Commitments, the Borrower and the Administrative Agent intend to make certain other amendments to the Credit Agreement to enhance the rights and benefits of the Lenders; and
WHEREAS, the Borrower and the Administrative Agent and Collateral Agent intend to amend the Pledge Agreement and the Security Agreement to effect administrative changes of a technical nature to the Pledge Agreement and the Security Agreement, respectively.

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. Extension of Revolving Commitments.

(a) Each Lender that is a Revolving Lender under the Credit Agreement on the date hereof (an “Existing Revolving Lender”), by executing its appropriate signature page to this Agreement and delivering such signature page to the Administrative Agent, agrees to extend and reclassify all of its (i) Revolving Commitments outstanding immediately prior to the Amendment No. 4 Effective Date (the “Existing Revolving Commitments”) to 2024 Revolving Commitments and (ii) Revolving Loans outstanding immediately prior to the Amendment No. 4 Effective Date (the “Existing Revolving Loans”) to 2024 Revolving Loans, in each case, upon the Amendment No. 4 Effective Date.

(b) As of the Amendment No. 4 Effective Date, each Existing Revolving Lender that has executed and delivered a counterpart to this Agreement as an “Extending Revolving Lender” (each, an “Extending Revolving Lender”) shall have its entire Existing Revolving Commitment automatically reclassified as a 2024 Revolving Commitment and all of its Existing Revolving Loans reclassified as 2024 Revolving Loans, respectively, for all purposes under the Amended Credit Agreement, and such 2024 Revolving Commitments and 2024 Revolving Loans shall be outstanding under the Amended Credit Agreement on the terms and conditions set forth herein.

(c) As of the Amendment No. 4 Effective Date, all of the Existing Revolving Commitments of any Existing Revolving Lender that is not an Extending Revolving Lender (each a “Non-Extending Revolving Lender”) shall be reclassified as and constitute 2022 Revolving Commitments, and all of the Existing Revolving Loans of any Non-Extending Revolving Lender shall be reclassified as and constitute 2022 Revolving Loans, in each case under the Amended Credit Agreement and shall continue to be in effect and outstanding under the Amended Credit Agreement on the terms and conditions set forth therein.

Section 2. Amendments.

(a) The Credit Agreement is, effective as of the Amendment No. 4 Effective Date, amended to (i) delete the stricken text (indicated textually in the same manner as the following example: stricken text) and (ii) add the double-underlined text (indicated textually in the same manner as the following example: double-underlined text) as set forth in the pages of the Credit Agreement attached as Exhibit A hereto.

(b) Schedule 1 to the Credit Agreement is, effective as of the Amendment No. 4 Effective Date, hereby amended and restated in its entirety in the form of Schedule 1 hereto.
Section 3. **Representations and Warranties, No Default.** The Borrower hereby represents and warrants that as of the Amendment No. 4 Effective Date, (i) after giving effect to the amendments set forth in Section 2 of this Agreement, no Default or Event of Default shall have occurred and be continuing or would result therefrom and (ii) each of the representations and warranties made by the Borrower set forth in Article III of the Credit Agreement or in any other Loan Document are true and correct in all material respects on and as of the Amendment No. 4 Effective Date (except to the extent such representations and 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, and, to the extent such representations and warranties are qualified as to materiality, Material Adverse Effect or similar language, such representations shall be true and correct in all respects).

Section 4. **Effectiveness.** Sections 1 and 2 of this Agreement shall become effective on the date (such date, if any, the “Amendment No. 4 Effective Date”) that the following conditions have been satisfied:

(a) **Executed Counterparts.** The Administrative Agent shall have received from the Borrower, each other Loan Party, the Administrative Agent and each Extending Revolving Lender (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence reasonably satisfactory to the Administrative Agent (which may include electronic transmission of a signed signature page to this Agreement) that such party has signed a counterpart of this Agreement;

(b) **Officer’s Certificate.** The Administrative Agent shall have received a certificate of a Financial Officer of the Borrower confirming compliance with the conditions set forth in Sections 4(e) and (f) below;

(c) **Legal Opinions.** The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Amendment No. 4 Effective Date) of (i) Mark D. Nielsen, Esq., Executive Vice President and Chief Legal Officer of the Borrower and (ii) Kirkland & Ellis LLP, counsel to the Borrower, in each case, covering such matters relating to the Borrower and this Agreement as the Administrative Agent shall reasonably request (and the Borrower hereby instructs such counsel to deliver such opinions to the Lenders and the Administrative Agent);

(d) **Corporate Documents.** The Administrative Agent shall have received (i) a recently dated certificate as to the good standing of each Loan Party under the laws of its jurisdiction, and (ii) a certificate of the secretary or assistant secretary of the Borrower certifying (x) that attached thereto are true and complete copies of (1) the certificate of incorporation of the Borrower, and all amendments thereto, certified as of a recent date by the appropriate Governmental Authority in its jurisdiction of incorporation, (2) the bylaws of the Borrower as in effect on the Amendment No. 4 Effective Date, and (3) the resolutions of the board of directors of the Borrower authorizing the amendments contemplated hereunder, the execution, delivery and performance of this Agreement and the other Loan Documents to which the Borrower is contemplated to be a party, and (y) as to the incumbency and genuineness of the signature of each officer of the Borrower executing Loan Documents.
(e) **Representations and Warranties.** The representations and warranties in Article III of the Credit Agreement shall be true and correct in all material respects as of the Amendment No. 4 Effective Date (except in the case of any such representations and warranty that expressly relates to an earlier given date or period, in which case such representation and warranty shall be true and correct in all material respects as of the respective earlier date or respective period, as the case may be, and, to the extent such representations and warranties are qualified as to materiality, Material Adverse Effect or similar language, such representations shall be true and correct in all respects);

(f) **No Default.** No Default or Event of Default shall have occurred and be continuing; and

(g) **Fees.** The Administrative Agent shall have received, (i) for distribution to each Extending Revolving Lender on the Amendment No. 4 Effective Date (immediately prior to giving effect to the amendments contemplated to occur on the Amendment No. 4 Effective Date) who consents to this Agreement and unconditionally submits an executed signature page hereto prior to March 5, 2019 at 5:00 p.m. (New York time), a fee equal to 0.25% of the aggregate principal amount of such Extending Revolving Lender’s Revolving Commitments on the Amendment No. 4 Effective Date (immediately prior to giving effect to the amendments contemplated to occur on the Amendment No. 4 Effective Date), which fee shall be non-refundable and fully earned and payable on the Amendment No. 4 Effective Date, and (ii) all fees required to be paid, and all expenses required to be paid or reimbursed under Section 9.03(a) of the Credit Agreement for which invoices have been presented a reasonable period of time prior to the Amendment No. 4 Effective Date.

Section 5. **Reaffirmation.** Each Loan Party party hereto hereby acknowledges its receipt of a copy of this Agreement and the Amended Credit Agreement and its review of the terms and conditions hereof and thereof and consents to the terms and conditions hereof and of the Amended Credit Agreement and the transactions contemplated thereby. Each Guarantor hereby (a) affirms and confirms its guarantees and other commitments under the Guaranty Agreement and (b) agrees that the Guaranty Agreement is in full force and effect and shall accrue to the benefit of the Secured Parties to guarantee the Obligations. The Collateral Documents and all of the Collateral described therein do and shall continue to secure the payment of all Secured Obligations, and the Borrower confirms and reaffirms its prior grant of security interests and liens under the Collateral Documents, which shall continue in full force and effect after giving effect to this Agreement.

Section 6. **Counterparts.** This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which when so executed and delivered shall be deemed to be an original, but all of which when taken together shall constitute a single instrument. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or any other electronic transmission shall be effective as delivery of a manually executed counterpart hereof.

Section 7. **Applicable Law; Waiver of Jury Trial; Jurisdiction; Consent to Service of Process.** The provisions set forth in Sections 9.09 and 9.10 of the Credit Agreement are hereby incorporated *mutatis mutandis* with all references to the “Agreement” therein being deemed references to this Agreement.

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Section 8. **Headings.** The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

Section 9. **Effect of Amendment.** Except as expressly set forth herein, (i) this Agreement shall not by implication or otherwise limit, impair, constitute a waiver of or otherwise affect the rights and remedies of the Lenders, the Administrative Agent or any other Agent, in each case under the Credit Agreement or any other Loan Document, and (ii) shall not alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Credit Agreement or any other provision of either such agreement or any other Loan Document. The parties hereto acknowledge and agree that the amendment of the Credit Agreement pursuant to this Agreement and all other Loan Documents amended and/or executed and delivered in connection herewith shall not constitute a novation of the Credit Agreement and the other Loan Documents as in effect prior to the Amendment No. 4 Effective Date. This Agreement shall constitute a Loan Document for purposes of the Credit Agreement, and from and after the Amendment No. 4 Effective Date, all references to the Credit Agreement in any Loan Document and all references in the Credit Agreement to “this Agreement”, “hereunder”, “hereof” or words of like import referring to the Credit Agreement, shall, unless expressly provided otherwise, refer to the Amended Credit Agreement. The Borrower hereby consents to this Agreement and confirms that all obligations of the Borrower under the Loan Documents to which it is a party shall continue to apply to the Amended Credit Agreement.

[Signature pages follow]
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.

FRONTIER COMMUNICATIONS CORPORATION, as Borrower

By: /s/ Mark D. Nielsen
    Name: Mark D. Nielsen
    Title: Executive Vice President, Chief Legal Officer and Secretary

FRONTIER SOUTHWEST INCORPORATED, as a Guarantor

By: /s/ Mark D. Nielsen
    Name: Mark D. Nielsen
    Title: Vice President, Chief Legal Officer and Secretary

FRONTIER FLORIDA LLC, as a Guarantor

By: /s/ Mark D. Nielsen
    Name: Mark D. Nielsen
    Title: Vice President, Chief Legal Officer and Secretary

FRONTIER COMMUNICATIONS NORTHWEST INC., as a Guarantor

By: /s/ Mark D. Nielsen
    Name: Mark D. Nielsen
    Title: Vice President, Chief Legal Officer and Secretary

CITIZENS TELECOMMUNICATIONS COMPANY OF MINNESOTA, LLC, as a Guarantor

By: /s/ Mark D. Nielsen
    Name: Mark D. Nielsen
    Title: Vice President, Chief Legal Officer and Secretary

[Signature Page to Amendment No. 4 to Credit Agreement]
FRONTIER COMMUNICATIONS OF MINNESOTA, INC., as a Guarantor

By: /s/ Mark D. Nielsen
Name: Mark D. Nielsen
Title: Vice President, Chief Legal Officer and Secretary

FRONTIER COMMUNICATIONS OF IOWA, LLC, as a Guarantor

By: /s/ Mark D. Nielsen
Name: Mark D. Nielsen
Title: Vice President, Chief Legal Officer and Secretary

CITIZENS TELECOMMUNICATIONS COMPANY OF TENNESSEE L.L.C., as a Guarantor

By: /s/ Mark D. Nielsen
Name: Mark D. Nielsen
Title: Vice President, Chief Legal Officer and Secretary

CITIZENS TELECOMMUNICATIONS COMPANY OF UTAH, as a Guarantor

By: /s/ Mark D. Nielsen
Name: Mark D. Nielsen
Title: Vice President, Chief Legal Officer and Secretary

FRONTIER COMMUNICATIONS OF WISCONSIN LLC, as a Guarantor

By: /s/ Mark D. Nielsen
Name: Mark D. Nielsen
Title: Vice President, Chief Legal Officer and Secretary

[Signature Page to Amendment No. 4 to Credit Agreement]
FRONTIER VIDEO SERVICES INC., as a Pledgor

By:  /s/ Mark D. Nielsen

Name: Mark D. Nielsen
Title: Vice President, Chief Legal Officer and Secretary

[Signature Page to Amendment No. 4 to Credit Agreement]
JPMORGAN CHASE BANK, N.A., as Administrative Agent

By: /s/ John G. Kowalczuk
    Name: John G. Kowalczuk
    Title: Executive Director

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

By: /s/ John G. Kowalczuk
    Name: John G. Kowalczuk
    Title: Executive Director

[Signature Page to Amendment No. 4 to Credit Agreement]
JPMORGAN CHASE BANK, N.A., as a Revolving Lender

By: /s/ John G. Kowalczuk
   Name: John G. Kowalczuk
   Title: Executive Director

[Signature Page to Amendment No. 4 to Credit Agreement]
[Signature Page to Amendment No. 4 to Credit Agreement]
Citibank, N.A.,
as a Revolving Lender

By: /s/ Keith Lukasovich
   Name: Keith Lukasovich
   Title: Managing Director & Vice President

[Signature Page to Amendment No. 4 to Credit Agreement]
Morgan Stanley Bank, N.A.,
as a Revolving Lender

By:    /s/ Mike King
Name:  Mike King
Title:  Authorized Signatory

[Signature Page to Amendment No. 4 to Credit Agreement]
Morgan Stanley Senior Funding, Inc.,
as a Revolving Lender

By:  /s/ Mike King
Name: Mike King
Title: Authorized Signatory

[Signature Page to Amendment No. 4 to Credit Agreement]
Barclays Bank PLC,
as a Revolving Lender

By:  /s/ Craig Malloy
    Name: Craig Malloy
    Title: Director

[Signature Page to Amendment No. 4 to Credit Agreement]
DEUTSCHE BANK AG NEW YORK BRANCH,

as a Revolving Lender

By:  /s/ Alicia Schug

Name: Alicia Schug
Title: Vice President

By:  /s/ Yumi Okabe

Name: Yumi Okabe
Title: Vice President

[Signature Page to Amendment No. 4 to Credit Agreement]
MUZUHO BANK, LTD.,
as a Revolving Lender

By:  /s/ Donna DeMagistris
     Name: Donna DeMagistris
     Title: Authorized Signatory

[Signature Page to Amendment No. 4 to Credit Agreement]
GOLDMAN SACHS BANK USA,
as a Revolving Lender

By: /s/ Rebecca Kratz
Name: Rebecca Kratz
Title: Authorized Signatory

[Signature Page to Amendment No. 4 to Credit Agreement]
CREDIT SUISSE AG, Cayman Islands Branch,
as a Revolving Lender

By:  
/s/ Vipul Dhadda
Name:  Vipul Dhadda
Title:  Authorized Signatory

By:  
/s/ Emerson Almeida
Name:  Emerson Almeida
Title:  Authorized Signatory

[Signature Page to Amendment No. 4 to Credit Agreement]
**SCHEDULE 1**

**REVOLVING COMMITMENTS**

<table>
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<tr>
<th>Lender</th>
<th>Revolving Commitment</th>
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<td>$16,279,411.76</td>
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<td>Deutsche Bank AG New York</td>
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<tr>
<td>Mizuho Bank Ltd.</td>
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<td>Goldman Sachs Bank USA</td>
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<td><strong>Total</strong></td>
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<td><strong>$133,859,397.39</strong></td>
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</table>
EXHIBIT A

[See Attached Amended Credit Agreement]
FIRST AMENDED AND RESTATED CREDIT AGREEMENT

dated as of

February 27, 2017

as amended by Amendment No. 1, dated as of March 27, 2017, by Increase Joinder No. 1, dated as of June 15, 2017, by Amendment No. 2, dated as of January 25, 2018, and by Consent and Amendment No. 3, dated as of July 3, 2018, by Increase Joinder No. 2, dated as of July 3, 2018 and by Amendment No. 4, dated as of March 15, 2019

among

FRONTIER COMMUNICATIONS CORPORATION

The LENDERS Party Hereto

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

and

JPMORGAN CHASE BANK, N.A.
CITIBANK, N.A.
BARCLAYS BANK PLC
BANK OF AMERICA, N.A.
CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH
DEUTSCHE BANK SECURITIES INC.
MIZUHO BANK LTD
MORGAN STANLEY SENIOR FUNDING, INC.
GOLDMAN SACHS BANK USA,
as Joint Lead Arrangers and Joint Bookrunners for the initial First Amended and Restated Credit Agreement

and

JPMORGAN CHASE BANK, N.A.
MORGAN STANLEY SENIOR FUNDING, INC.
DEUTSCHE BANK SECURITIES INC.
MIZUHO BANK LTD.
CREDIT SUISSE SECURITIES (USA) LLC
CITIGROUP GLOBAL MARKETS INC.
GOLDMAN SACHS LENDING PARTNERS LLC
as Joint Lead Arrangers and Joint Bookrunners for Increase Joinder No. 1

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.
ROYAL BANK OF CANADA
as Joint Lead Arrangers for Increase Joinder No. 1
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FIRST AMENDED AND RESTATED CREDIT AGREEMENT (this “Agreement”) dated as of February 27, 2017, among FRONTIER COMMUNICATIONS CORPORATION, a Delaware corporation (the “Borrower”), the LENDERS from time to time party hereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent. All capitalized terms used herein and defined in Article I are used herein as defined therein.

WHEREAS, prior to the First Amendment and Restatement Effective Date, the Borrower, on the one hand and JPMorgan Chase Bank, N.A., as administrative agent, and the lenders party thereto, on the other hand, previously entered into (i) that certain Credit Agreement, dated as of June 2, 2014 (as amended, restated or otherwise modified from time to time, the “Existing Revolving Credit Agreement”), and (ii) that certain Credit Agreement, dated as of August 12, 2015 (as amended, restated or otherwise modified from time to time, the “Existing Term Loan Credit Agreement”), in each case, pursuant to which the lenders party thereto provided the Borrower with certain financial accommodations; and

WHEREAS, in accordance with Section 9.02 of each of the Existing Revolving Credit Agreement and the Existing Term Loan Credit Agreement, the Borrower, the Lenders, and JPMorgan Chase Bank, N.A., as administrative agent, desire to amend and restate the Existing Revolving Credit Agreement and the Existing Term Loan Credit Agreement as provided herein and to both be governed under this Agreement and the related Loan Documents.

NOW, THEREFORE, in consideration of the mutual conditions and agreements set forth in this Agreement, and for good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned hereby agree that each of the Existing Revolving Credit Agreement and the Existing Term Loan Credit Agreement shall be amended and restated in its entirety to read as set forth herein (it being agreed that this Agreement shall not be deemed to evidence or result in a novation or repayment and reborrowing of the Obligations under the Existing Revolving Credit Agreement or the Existing Term Loan Credit Agreement) and the parties hereto covenant and agree as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01 Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

“2014 CoBank Credit Agreement” means the Credit Agreement, dated as of June 2, 2014, by and among the Borrower, CoBank ACB, as administrative agent, and the lenders party thereto, together with any term loan facility of the Borrower that replaces, renews, refinances or refunds the foregoing.

“2016 CoBank Credit Agreement” means the Credit Agreement, dated as of October 12, 2016, by and among the Borrower, CoBank ACB, as administrative agent, and the lenders party thereto, together with any term loan facility of the Borrower that replaces, renews, refinances or refunds the foregoing.

“2021 Springing Maturity Date” means March 31, 2021.

“2022 Springing Maturity Date” means January 14, 2022.

“2022 Revolving Commitment” means, with respect to each Non-Extending Revolving Lender, the commitment to make 2022 Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate amount of such Lender’s 2022 Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 or increased from time to time pursuant to Section 2.21 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s 2022 Revolving Commitment is set forth on Schedule 1 under the heading “2022 Revolving Commitments” or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The aggregate amount of 2022 Revolving Commitments of all Non-Extending Revolving Lenders shall be $15,000,000.00 immediately following the Amendment No. 4 Effective Date.
“2022 Revolving Credit Exposure” means, as to each Revolving Lender, the sum of the outstanding principal amount of such Revolving Lender’s 2022 Revolving Loans and LC Exposure at such time.

“2022 Revolving Facility” means the 2022 Revolving Commitments and the extensions of credit made hereunder by the Non-Extending Revolving Lenders.

“2022 Revolving Loans” means a Loan made by a Revolving Lender pursuant to Section 2.01(b) with respect to its 2022 Revolving Commitment.

“2024 Revolving Commitment” means, with respect to each Extending Revolving Lender, the commitment to make 2024 Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate amount of such Lender’s 2024 Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 or increased from time to time pursuant to Section 2.21 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s 2024 Revolving Commitment is set forth on Schedule 1 under the heading “2024 Revolving Commitments” or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The aggregate amount of 2024 Revolving Commitments of all Extending Revolving Lenders shall be $835,000,000.00 immediately following the Amendment No. 4 Effective Date.

“2024 Revolving Credit Exposure” means, as to each Revolving Lender, the sum of the outstanding principal amount of such Revolving Lender’s 2024 Revolving Loans and LC Exposure at such time.

“2024 Revolving Facility” means the 2024 Revolving Commitments and the extensions of credit made hereunder by the Extending Revolving Lenders.

“2024 Revolving Loans” means a Loan made by a Revolving Lender pursuant to Section 2.01(b) with respect to its 2024 Revolving Commitment.

“ABR,” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

“Additional Interest” means all additional interest then owing pursuant to any applicable registration rights agreement in respect of any security or securities under the Senior Notes Indenture.

“Adjusted Leverage Ratio” means, as of any date of determination, the ratio of (a) Total Indebtedness as of the last day of the relevant Test Period limited to that of the Borrower and its Restricted Subsidiaries and after giving effect to all incurrences and repayments of Indebtedness from the end of such Test Period to such date of determination to (b) Consolidated Adjusted EBITDA for such Test Period.
“Adjusted LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, (a) in the case of Revolving Loans and the Initial Term Loans, the greater of (x) (i) an interest rate per annum (rounded upward, if necessary, to the nearest 1/100th of 1%) equal to the LIBO Rate for such Interest Period multiplied by (ii) the Statutory Reserve Rate for such Interest Period and (y) 0.00% per annum and (b) in the case of Term B-1 Loans, the greater of (x) (i) an interest rate per annum (rounded upward, if necessary, to the nearest 1/100th of 1%) equal to the LIBO Rate for such Interest Period multiplied by (ii) the Statutory Reserve Rate for such Interest Period and (y) 0.75%.

“Administrative Agent” means JPMorgan Chase Bank, N.A., in its capacity as administrative agent for the Lenders hereunder and its successors in such capacity.

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

“All-in Yield” means, as to any Indebtedness, the effective yield with respect thereto as reasonably determined by the Administrative Agent in consultation with the Borrower, whether in the form of interest rate, margin, original issue discount, upfront fees, rate floors or otherwise, in each case, incurred or payable by Borrower generally to all lenders of such Indebtedness; provided that in determining such yield, (x) original issue discount or upfront fees (but not any arrangement, structuring or other fees payable in connection therewith that are not shared with all lenders providing such Indebtedness) (which upfront fees shall be deemed to constitute a like amount of original issue discount) paid to the lenders providing such Indebtedness in the initial primary syndication thereof shall be included and equated to interest rate (in the case of a loan, with original issue discount being equated to interest based on an assumed four-year life to maturity on a straight-line basis), and (y) any amendments to the applicable margin on the Term B-1 Facility that became effective subsequent to the Term B-1 Increase Effective Date but prior to the time of such additional Term B Facility shall also be included in such calculations in determining the All-in Yield of the Term B-1 Facility; provided further that in the case of fixed rate Indebtedness, the “All-in Yield” of the Term B-1 Loans shall be based on the spread to mid-swaps on the date of incurrence of any such fixed rate Indebtedness for a term equal to the term of such fixed rate Indebtedness, with such spread to mid-swaps being determined by the Administrative Agent in its sole discretion by subtracting the swap rate quoted by Reuters (or other publicly available service selected by the Administrative Agent in its sole discretion) at the closing of the Business Day of the issuance of such Indebtedness for the period described above from the yield of such fixed rate Indebtedness at the time of issuance (taking into account issue price to investors, interest rate and payment dates in accordance with standard bond market convention).

“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

“Agreement” has the meaning assigned to such term in the preamble hereto.

“Alternate Base Rate” means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the NYFRB Rate in effect on such day plus ½ of 1% and (c) the Adjusted LIBO Rate for a one month Interest Period on such day (or if such day is not a Business Day, the immediately preceding Business Day) plus 1%, provided that for the purpose of this definition, the Adjusted LIBO Rate for any day shall be based on the LIBO Screen Rate (or if the LIBO Screen Rate is not available for such one month Interest Period, the Interpolated Rate) at approximately 11:00 a.m. London time on such day. Any change in the Alternate Base Rate due to a change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate shall be effective from and including the effective date of such change in the Prime Rate, the NYFRB Rate or the Adjusted LIBO Rate, respectively.
“Amendment No. 2 Effective Date” means January 25, 2018.

“Amendment No. 3” shall mean that certain Consent and Amendment No. 3 to Credit Agreement, dated as of July 3, 2018 by and among Borrower, the Lenders party thereto, and the Administrative Agent.

“Amendment No. 3 Effective Date” shall have the meaning assigned to such term in Amendment No. 3.

“Amendment No. 4” shall mean that certain Amendment No. 4 to Credit Agreement, dated as of March 15, 2019 by and among the Loan Parties party thereto, the Lenders party thereto, and the Administrative Agent.

“Amendment No. 4 Effective Date” shall have the meaning assigned to such term in Amendment No. 4.

“Anti-Corruption Laws” means all laws, rules, and regulations of any jurisdiction applicable to the Borrower and its Subsidiaries from time to time primarily concerning or relating to bribery, money laundering or corruption.

“Applicable Amount” means the sum of (A)(x) cumulative Consolidated Adjusted EBITDA from and after October 1, 2015 to the most recently ended fiscal quarter for which internal financial statements are available preceding the date of the proposed action (for the avoidance of doubt, such cumulative Consolidated Adjusted EBITDA shall include the Consolidated Adjusted EBITDA for any such quarters, whether negative or positive) minus (y) 1.4 times Cumulative Interest Expense plus (without duplication) (B):

(1) 100% of the aggregate net cash proceeds, and the fair market value of marketable securities or other property or assets other than cash, received by the Borrower from the issue or sale (other than to a Subsidiary) of any class of Equity Interests in the Borrower after September 25, 2015, other than (A) Disqualified Stock, (B) Equity Interests to the extent the net cash proceeds therefrom are applied as provided for in clause (iv) of Section 6.10(b) and (C) Refunding Capital Stock to the extent the net cash proceeds therefrom are applied as provided for in clause (ii) of Section 6.10(b); plus

(2) 100% of any cash and the fair market value of marketable securities or other property or assets other than cash received by the Borrower as a capital contribution from its shareholders subsequent to September 25, 2015; plus

(3) 100% of the principal amount (or accreted amount (determined in accordance with GAAP), if less) of any Indebtedness, or the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock, of the Borrower or any Restricted Subsidiary of the Borrower issued after September 25, 2015 (other than any such Indebtedness or Disqualified Stock to the extent issued to a Subsidiary of the Borrower), which has been converted into or exchanged for Equity Interests in the Borrower (other than Disqualified Stock); plus
(4) to the extent not already included in Consolidated Adjusted EBITDA, 100% of the aggregate cash proceeds received by the Borrower or any of its Restricted Subsidiaries since September 25, 2015 from Investments, whether through interest payments, principal payments, returns, profits, distributions, income and similar amounts, dividends or other distributions and payments, or the sale or other disposition (other than to the Borrower or a Restricted Subsidiary of the Borrower) thereof made by the Borrower and its Restricted Subsidiaries; plus

(5) to the extent that any Unrestricted Subsidiary of the Borrower is redesignated as a Restricted Subsidiary after April 1, 2016, the lesser of (i) the fair market value of the Borrower’s Investment in such Subsidiary as of the date of such redesignation and (ii) such fair market value as of the date on which such Subsidiary was originally designated as an Unrestricted Subsidiary;

less the amount of any Applicable Amount previously applied pursuant to clause (iii)(B)(ii) of Section 6.10(b) and clause (k)(ii) of the definition of “Permitted Debt.”

“Applicable Percentage” means, with respect to any Lender, (i) with respect to Revolving Loans or LC Exposure, a percentage equal to a fraction, the numerator of which is such Lender’s Revolving Commitment and the denominator of which is the aggregate Revolving Commitment of all Revolving Lenders and (ii) with respect to the Term Loans of any Class, a percentage equal to a fraction the numerator of which is such Lender’s outstanding principal amount of Term Loans of such Class and the denominator of which is the aggregate outstanding principal amount of the Term Loans of such Class; provided that, in the case of Section 2.17 when a Defaulting Lender shall exist, any such Defaulting Lender’s Commitment or outstanding principal amount of Loans (as applicable) shall be disregarded in the calculation. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.

“Applicable Rate” means:

(a) in the case of the Term B-1 Loans, 3.75% for Eurodollar Loans and 2.75% for ABR Loans and,

(b) in the case of (i) Revolving Loans and, prior to the Amendment No. 4 Effective Date, (ii) 2022 Revolving Loans and (iii) the Initial Term Loans, in each case, for any day, with respect to any Eurodollar Loan, ABR Loan, or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth below, based upon the Leverage Ratio applicable on such date, in the table immediately below, based upon the Leverage Ratio applicable on such date:

<table>
<thead>
<tr>
<th>Pricing Level</th>
<th>Leverage Ratio</th>
<th>Applicable Rate for ABR Loans</th>
<th>Applicable Rate for Eurodollar Loans</th>
<th>Applicable Rate for Commitment Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>&lt; 2.50:1.00</td>
<td>0.75%</td>
<td>1.75%</td>
<td>0.250%</td>
</tr>
<tr>
<td>2</td>
<td>≥ 2.50:1.00 but &lt; 3.00:1.00</td>
<td>1.00%</td>
<td>2.00%</td>
<td>0.350%</td>
</tr>
<tr>
<td>3</td>
<td>≥ 3.00:1.00 but &lt; 3.50:1.00</td>
<td>1.25%</td>
<td>2.25%</td>
<td>0.400%</td>
</tr>
<tr>
<td>4</td>
<td>≥ 3.50:0.00:1.00 but &lt; 4.00:1.00</td>
<td>1.50%</td>
<td>2.50%</td>
<td>0.450%</td>
</tr>
<tr>
<td>5</td>
<td>≥ 4.00:1.00</td>
<td>1.75%</td>
<td>2.75%</td>
<td>0.500%</td>
</tr>
</tbody>
</table>

(c) in the case of 2024 Revolving Loans, for any day, with respect to any Eurodollar Loan, ABR Loan, or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth in the table immediately below, based upon the Leverage Ratio applicable on such date:
For purposes of the foregoing clauses (b) and (c):

(i) if at any time the Borrower fails to deliver any financial statements required under Section 5.02 on or before the date such financial statements are due, Pricing Level 5 shall be deemed applicable for the period commencing three (3) Business Days after the required date of delivery of such financial statements and ending on the date that is three (3) Business Days after such financial statements, together with the corresponding compliance certificate required by Section 5.02(c), are actually delivered, after which the Pricing Level shall be determined in accordance with the table above as applicable; and

(ii) adjustments, if any, to the Pricing Level then in effect shall be effective three (3) Business Days after the Administrative Agent has received the applicable financial statements required under Section 5.02 and corresponding compliance certificate required by Section 5.02(c) (it being understood and agreed that each change in Pricing Level shall apply during the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change).

Notwithstanding the foregoing, during the period beginning on the First Amendment and Restatement No. 4 Effective Date and ending on the date of delivery of the financial statements and compliance certificate with respect to the fiscal yearquarter ended DecemberMarch 31, 2016,2019, the Applicable Rate in respect of 2024 Revolving Loans for the purposes of the foregoing clause (b) shall be based on Pricing Level 4, and thereafter, the Applicable Rate in respect of 2024 Revolving Loans shall be determined in accordance with the preceding table and provisions.

Notwithstanding the foregoing, the Applicable Rate with respect to any Extended Commitment or any Extended Loans will be set forth in the applicable Extension Amendment for the applicable Class, the Applicable Rate in respect of any Class of Refinancing Term Loans shall be the applicable percentages per annum set forth in the relevant agreement and the Applicable Rate in respect of any Incremental Revolving Commitment or Incremental Term Loan shall be the applicable percentage per annum set forth in the relevant Increase Joinder.

“Asset Exchange” means the exchange or other transfer of telecommunications assets between or among the Borrower and another Person or other Persons in connection with which the Borrower would transfer telecommunications assets and/or other property in consideration of the receipt of telecommunications assets and/or other property having a fair market value substantially equivalent to those transferred by the Borrower (as determined in good faith by the board of directors of the Borrower); provided that the principal value of the assets being transferred to the Borrower shall be represented by telecommunications assets.
“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in substantially the form of Exhibit A or any other form approved by the Administrative Agent.

“Auction Manager” has the meaning assigned to such term in Section 2.20(a).

“Auction Procedures” means auction procedures with respect to Purchase Offers set forth in Exhibit B hereto.

“Availability Period” means the period from and including the First Amendment and Restatement No. 4 Effective Date to but excluding the earlier of the applicable Revolving Facility Commitment Termination Date and the date of termination of the applicable Revolving Commitments.

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

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

“Bankruptcy Event” means, with respect to any Lender, such Lender becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business, appointed for it, or, in the good faith determination of the Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, or become the subject of a Bail-In Action, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Lender by a Governmental Authority or instrumentality thereof, provided that such ownership interest does not result in or provide such Lender or its direct or indirect parent company with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority or instrumentality), to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Lender.

“Board” means the Board of Governors of the Federal Reserve System of the United States of America.

“Borrower” has the meaning assigned to such term in the preamble hereto.

“Borrowing” means (a) all ABR Loans of the same Class made or converted on the same date or (b) Eurodollar Loans of the same Class that have the same Interest Period.

“Borrowing Approvals” has the meaning assigned to such term in Section 3.01(d).

“Borrowing Request” means a request by the Borrower for a Borrowing in accordance with Section 2.03.

“Business Day” means any day (a) that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed and (b) if such day relates to a borrowing, a continuation or conversion of or into, or the Interest Period for, a Eurodollar Borrowing, or to a notice by the Borrower with respect to any such borrowing, payment, prepayment, continuation, conversion, or Interest Period, that is also a day on which dealings in Dollar deposits are carried out in the London interbank market.
“Capital Expenditures” shall mean, for any person in respect of any period, the aggregate of, without duplication (a) all expenditures incurred by such person during such period that, in accordance with GAAP, are or should be included in “additions to property, plant or equipment” or similar items reflected in the statement of cash flows of such person and (b) Capital Lease Obligations incurred by such Person during such period.

“Capital Lease Obligations” of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP (subject to Section 1.03) and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with GAAP.

“Capital Stock” means:

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

(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.

“Cash Equivalents” means any of the following:

(1) securities or obligations issued or unconditionally guaranteed by the United States government or any agency or instrumentality thereof, in each case having maturities of not more than 24 months from the date of acquisition thereof;

(2) securities or obligations issued by any state of the United States of America, or any political subdivision of any such state, or any public instrumentality thereof, having maturities of not more than 24 months from the date of acquisition thereof and, at the time of acquisition, having an investment grade rating generally obtainable from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, then from another nationally recognized rating service);

(3) commercial paper issued by any Lender or any “Lender” under the Existing Credit Agreements or any bank holding company owning any such Lender;

(4) commercial paper maturing no more than 12 months after the date of creation thereof and, at the time of acquisition, having a rating of at least A-2 or P-2 from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized rating service);
(5) domestic and LIBOR certificates of deposit or bankers’ acceptances maturing no more than two years after the date of acquisition thereof issued by any Lender or any “Lender” under the Existing Credit Agreements or any other bank having combined capital and surplus of not less than $250.0 million in the case of domestic banks and $100.0 million in the case of foreign banks;

(6) auction rate securities rated at least Aa3 by Moody’s and AA- by S&P (or, if at any time either S&P or Moody’s shall not be rating such obligations, an equivalent rating from another nationally recognized rating service);

(7) repurchase agreements with a term of not more than 30 days for underlying securities of the type described in clauses (1), (2) and (5) above entered into with any bank meeting the qualifications specified in clause (5) above or securities dealers of recognized national standing;

(8) repurchase obligations with respect to any security that is a direct obligation or fully guaranteed as to both credit and timeliness by the Government of the United States or any agency or instrumentality thereof, the obligations of which are backed by the full faith and credit of the Government of the United States;

(9) marketable short-term money market and similar funds (x) either having assets in excess of $250.0 million or (y) having a rating of at least A-2 or P-2 from either S&P or Moody’s (or, if at any time neither S&P nor Moody’s shall be rating such obligations, an equivalent rating from another nationally recognized rating service in the United States);

(10) shares of investment companies that are registered under the Investment Company Act of 1940 and 95% the investments of which are one or more of the types of securities described in clauses (1) through (9) above; and

(11) in the case of investments by the Borrower or any Subsidiary organized or located in a jurisdiction other than the United States (or any political subdivision or territory thereof), or in the case of investments made in a country outside the United States of America, other customarily utilized high-quality investments in the country where such Subsidiary is organized or located or in which such investment is made, all as reasonably determined in good faith by the Borrower.

“CFC” means a “controlled foreign corporation” within the meaning of section 957(a) of the Code (or any successor provision thereto).

A “Change in Control” shall be deemed to have occurred if (a) any Person or group (within the meaning of Rule 13d-5 of the Exchange Act) shall own directly or indirectly, beneficially or of record, shares representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding capital stock of the Borrower; or (b) a majority of the seats (other than vacant seats) on the board of directors of the Borrower shall at any time have been occupied by Persons who were neither (i) nominated by the board of directors or the management of the Borrower, nor (ii) approved or appointed by directors so nominated.

“Change in Law” means (a) the adoption of any law, rule or regulation after the First Amendment and Restatement Effective Date, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the First Amendment and Restatement Effective Date or (c) compliance by any Lender or any Issuing Bank (or, for purposes of Section 2.12(b), by any lending office of such Lender or by such Lender’s or such Issuing Bank’s holding company, if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the First Amendment and Restatement Effective Date; provided that, notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder, issued in connection therewith or in implementation thereof, and (ii) all requests, rules, guidelines and 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 relating to Basel III, shall in the case of each of the foregoing clauses (i) and (ii), be deemed to be a “Change in Law,” regardless of the date enacted, adopted, issued or implemented.
“Class,” when used in reference to (a) any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are 2022 Revolving Loans, 2024 Revolving Loans, Initial Term Loans, Term B-1 Loans or Other Loans, and (b) any Commitment, refers to whether such Commitment is a 2022 Revolving Commitment, 2024 Revolving Commitment, Term B-1 Commitment or in respect of a commitment to make Other Loans. Other Loans that have different terms and conditions (together with the Commitments in respect thereof) from the 2022 Revolving Loans, the 2024 Revolving Loans, the Initial Term Loans, the Term B-1 Loans or from other Other Loans shall be construed to be in separate and distinct Classes.

“CoBank” means CoBank, ACB, a federally chartered instrumentality of the United States.

“CoBank Equities” has the meaning specified in Section 5.07(a).


“Collateral” means all the “Collateral” and “Pledged Collateral” (or equivalent terms) as defined in any Collateral Document and any and all other property, now existing or hereafter acquired, that may at any time be or become subject (or purported to be subject) to a security interest or Lien to secure the Secured Obligations.

“Collateral Agent” means JPMorgan Chase Bank, N.A., in its capacity as collateral agent for the Secured Parties hereunder and its successors in such capacity.

“Collateral and Guarantee Requirement” means the requirement that the Administrative Agent shall have received (or, in the case of clause (c) below, the Collateral Agent):

(a) a duly executed and delivered counterpart of the Pledge Agreement from the Pledgors and acknowledgment thereof by the Borrower and the Pledged Subsidiaries;

(b) a duly executed and delivered counterpart of the Guarantee Agreement from each of the Guarantors;

(c) the certificates or instruments evidencing the issued and outstanding equity interests of the Pledged Subsidiaries and, to the extent required by the applicable Collateral Document, all certificates, agreements, acknowledgments or instruments representing, evidencing or acknowledging the Collateral accompanied by instruments of transfer and stock powers undated and endorsed in blank;
(d) UCC financing statements in appropriate form for filing under the UCC and such other documents reasonably requested by the Administrative Agent as may be necessary or appropriate or, in the opinion of the Administrative Agent, desirable to perfect the Liens created or purported to be created by the Collateral Documents; and

(e) the Collateral Agent shall have a valid and perfected first priority (subject to Liens permitted hereunder) security interest, for the benefit of the Secured Parties, in (i) on the First Amendment and Restatement Effective Date and at all times thereafter, all issued and outstanding equity interests of the Pledged Subsidiaries and the other Pledged Collateral and (ii) after the First Amendment and Restatement Effective Date, all other assets that are required from time to time to be subject to a Lien securing the Obligations pursuant to the terms of this Agreement, in any such case, except to the extent such security interest has been released in accordance with the terms of this Agreement or the applicable Collateral Document(s).

“Collateral Documents” means, collectively, the Pledge Agreement, the Security Agreement (upon execution and delivery thereof), the Intercreditor Agreements (if any) and all other agreements, instruments and documents executed in connection with this Agreement that are intended to create, perfect or evidence Liens to secure the Secured Obligations, including, without limitation, all other security agreements, pledge agreements, loan agreements, notes, guarantees, pledges, powers of attorney, consents, assignments, contracts, fee letters, notices, financing statements and all other written matter whether heretofore, now or hereafter executed by the Borrower or any of its Subsidiaries and delivered to the Administrative Agent.

“Commitment” means, with respect to any Lender, such Lender’s Revolving Commitment and/or any Incremental Loan Commitments, in each case as the same may be reduced or terminated in accordance with the terms hereof.

“Commodity Agreement” means any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement.

“Companies” has the meaning assigned to such term in Section 5.02(a).

“Competitor” has the meaning ascribed thereto in the definition of “Disqualified Lender.”

“Consolidated Adjusted EBITDA” means the Consolidated EBITDA limited to that of the Borrower and its Restricted Subsidiaries; provided that solely for purposes of the calculation of “Applicable Amount,” historical results of the entity, divisions or lines or assets so acquired will only be included for periods prior to the date such Material Transaction has been consummated in the Borrower’s sole discretion.

“Consolidated EBITDA” means, with respect to the Borrower and its Subsidiaries for any period, the sum of (i) operating income for such period, plus (ii) to the extent resulting in reductions in such operating income for such period, (a) depreciation and amortization expense for such period and (b) the amount of non-cash charges for such period, plus (iii) charges for severance, restructuring and acquisition (including acquisition integration) costs, plus (iv) cost savings, operating expense reductions, other operating improvements and initiatives and synergies related to any Material Transaction that are (a) permitted under Regulation S-X of the SEC or (b) projected by a Financial Officer in good faith to be reasonably anticipated to be realizable within eighteen (18) months of the date of such Material Transaction (which will be added to Consolidated EBITDA as so projected until fully realized, and calculated on a Pro Forma Basis, as though such cost savings, operating expense reductions, other operating improvements and initiatives and synergies 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, with respect to this clause (iv)(b), such cost savings, operating expense reductions, other operating improvements and initiatives or synergies are reasonably identifiable and factually supportable (in the good faith determination of a Financial Officer of the Borrower); provided, further, that the aggregate amount of cost savings, operating expense reductions, other operating improvements and initiatives and synergies related to any Material Transaction added back pursuant to this clause (iv)(b) or the definition of “Pro Forma Basis” (that are not permitted under Regulation S-X of the SEC) in any period of four consecutive fiscal quarters shall not exceed 20% of Consolidated EBITDA calculated prior to giving effect to such add-backs added back pursuant to this clause (iv)(b) for such period, minus (v) to the extent resulting in increases in such operating income for such period, the non-cash gains for such period, all determined on a consolidated basis in accordance with GAAP. For any period of calculation, “Consolidated EBITDA” shall be calculated on a Pro Forma Basis.
As used in this definition, “Material Transaction” means any acquisition or disposition outside the ordinary course of business of any property or assets that (x) constitute assets comprising all or substantially all of an operating unit of a business or equity interests of a Person representing a majority of the ordinary voting power or economic interests in such Person that are represented by all its outstanding capital stock and (y) involves aggregate consideration in excess of $50,000,000.

“Consolidated Interest Expense” means, for any period, the cash interest expense (including that attributable to Capital Lease Obligations in accordance with GAAP), net of cash interest income, of the Borrower and its Restricted Subsidiaries on a consolidated basis with respect to all outstanding Indebtedness of the Borrower and its Restricted Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers’ acceptance financing and all income or costs under Swap Contracts (other than currency swap agreements, currency future or option contracts and other similar agreements unrelated to interest expense) and any cash dividends paid on any Disqualified Stock, but excluding any Additional Interest, amortization of deferred financing costs and any other amounts of noncash interest, all as calculated on a consolidated basis in accordance with GAAP and excluding, for avoidance of any doubt, any interest in respect of items excluded from Indebtedness in the proviso to the definition thereof. Notwithstanding the foregoing, if any lease or other liability is reclassified as Indebtedness or as a Capital Lease Obligation due to a change in accounting principles or the application thereof after September 25, 2015, the interest component of all payments associated with such lease or other liability shall be excluded from Consolidated Interest Expense to the extent excluded prior to such change. Consolidated Interest Expense shall exclude all interest accrued on each series of Securities (whether or not paid) during the period from September 25, 2015 to, and including, April 1, 2016.

“Consolidated Net Worth” means, as at any date of determination, the consolidated stockholders’ equity of the Borrower and its consolidated Subsidiaries, including redeemable preferred securities where the redemption date occurs after the Latest Maturity Date, mandatorily redeemable convertible or exchangeable preferred securities, mandatorily convertible or exchangeable Indebtedness (or Indebtedness subject to mandatory forward purchase contracts for equity or similar securities) and minority equity interests in other persons, as determined on a consolidated basis in conformity with GAAP consistently applied.

“Consolidated Tangible Assets” means, for any Person, total assets of such Person and its consolidated Subsidiaries, determined on a consolidated basis, less goodwill, patents, trademarks and other assets classified as intangible assets in accordance with GAAP.

“Consolidated Total Assets” means the total assets of the Borrower and its Restricted Subsidiaries, as shown on the most recent consolidated balance sheet of the Borrower and its Restricted Subsidiaries delivered pursuant to Section 5.02(a) or (b), in conformity with GAAP (on a pro forma basis to give effect to any acquisition or disposition on or prior to the date of determination).
“Consolidated Working Capital” shall mean, with respect to the Borrower and its Subsidiaries on a consolidated basis at any date of determination, Current Assets and long-term accounts receivable at such date of determination minus Current Liabilities at such date of determination; provided, that increases or decreases in Consolidated Working Capital shall be calculated without regard to any changes in Current Assets or Current Liabilities as a result of (a) any reclassification in accordance with GAAP of assets or liabilities, as applicable, between current and noncurrent or (b) the effects of purchase accounting.

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

“Cumulative Interest Expense” means, in respect of any Restricted Payment, the sum of the aggregate amount of Consolidated Interest Expense of the Borrower and its Restricted Subsidiaries for the period from and after October 1, 2015, to the most recently ended fiscal quarter for which internal financial statements are available preceding the proposed Restricted Payment.

“Currency Agreement” means any foreign exchange contract, currency swap agreement or other similar agreement or arrangement.

“Current Assets” shall mean, with respect to the Borrower and its Subsidiaries on a consolidated basis at any date of determination, the sum of all assets (other than cash or Cash Equivalents) that would, in accordance with GAAP, be classified on a consolidated balance sheet of the Borrower and the Subsidiaries as current assets at such date of determination, other than amounts related to current or deferred Taxes based on income or profits.

“Current Liabilities” shall mean, with respect to the Borrower and its Subsidiaries on a consolidated basis at any date of determination, all liabilities that would, in accordance with GAAP, be classified on a consolidated balance sheet of the Borrower and its Subsidiaries as current liabilities at such date of determination, other than (a) the current portion of any Indebtedness, (b) accruals of interest expense (excluding interest expense that is due and unpaid), (c) accruals for current or deferred Taxes based on income or profits, (d) accruals, if any, of transaction costs resulting from the Increase Joinder Transactions, (e) all Indebtedness consisting of revolving loans or swingline loans (including Revolving Loans), whether or not current, (f) deferred revenue arising from cash receipts that are earmarked for specific projects, (g) the current portion of deferred acquisition costs and (h) current accrued costs associated with any restructuring, business optimization or similar initiative (including accrued severance and accrued facility closure costs).

“Debtor Relief Laws” means the Bankruptcy Code of the United States of America, 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 of America or other applicable jurisdictions from time to time in effect and affecting the rights of creditors generally.

“Default” means any event or condition which, upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.
“Defaulting Lender” means any Lender (a) that has failed to fund any portion of its Loans or participations in Letters of Credit within two Business Days of the date required to be funded by it hereunder, unless, in each case, such Lender notifies the Administrative Agent and the Borrower in writing that such failure is the result of Lender’s good faith determination that a condition precedent to funding (specifically identified and supported by facts) has not been satisfied, (b) that has notified the Borrower, the Administrative Agent, any Issuing Bank or any Lender in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement, (c) that has failed, within three Business Days after written request by the Administrative Agent or the Borrower, to confirm in writing to the Administrative Agent and the Borrower that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans and participations in then outstanding Letters of Credit, unless such failure is the result of a good faith determination that a condition precedent to funding (specifically identified and supported by facts) has not been satisfied, (d) that has otherwise failed to pay over to the Administrative Agent or any other Lender any other amount (other than a de minimis amount) required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute or (e) if a Bankruptcy Event has occurred with respect to such Lender (or any holding company parent of such Lender).

“Deceased Indebtedness” means Indebtedness (a) that has been defeased in accordance with the terms of the indenture or other agreement under which it was issued, (b) that has been called for redemption and for which funds sufficient to redeem such Indebtedness have been set aside by the Borrower, or (c) for which amounts are set aside in trust or are held by a representative of the holders of such Indebtedness or any third party escrow agent pending satisfaction or waiver of the conditions for the release of such funds.

“Disclosed Matters” means any event, circumstance, condition or other matter disclosed in the reports and other documents furnished to or filed with the SEC by the Borrower and that are publicly available on or prior to the First Amendment and Restatement Effective Date.

“Disqualified Lender” means (a) competitors of the Borrower or any of its Subsidiaries that are in the same or a similar or reasonably related line of business and, in each case, identified in an e-mail sent to JPMDQ_Contact@jpmorgan.com by the Borrower from time to time (each such entity, a “Competitor”) and (b) Affiliates of Competitors to the extent such Affiliates are clearly identifiable (on the basis of the similarity of such Affiliate’s name to the name of an entity so identified in writing) or designated in writing to the Administrative Agent from time to time and to the extent such Affiliates are not bona fide debt funds or investment vehicles that are primarily engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business with appropriate information barriers in place; provided, that no such updates to the list of Disqualified Lenders (i) shall be deemed effective until the date that is three (3) Business Days after written notice thereof is received by the Administrative Agent and (ii) shall be deemed to retroactively disqualify any parties that have previously acquired an assignment or participation interest or any party for which the “trade date” with respect to an assignment or participation interest has occurred in respect of the Loans in compliance with the provisions of this Agreement, from continuing to hold or vote such previously acquired assignments and participations or from closing an assignment or participation interest sale for which the “trade date” has previously occurred on the terms set forth herein for Lenders that are not Disqualified Lenders.

“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 puttable or exchangeable, or upon the happening of any event, matures or is mandatorily redeemable (other than for Capital Stock that is not Disqualified Stock), other than as a result of a change of control or asset sale, pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof (other than for Capital Stock that is not Disqualified Stock) other than as a result of a change of control or asset sale, in whole or in part, in each case prior to the date that is 91 days after the earlier of the maturity date of the applicable Class of Loans or Commitments or the date such Loans or Commitments are no longer outstanding; provided, however, that if such Capital Stock is issued to any plan for the benefit of employees of the Borrower or its Restricted 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 the Borrower or its Restricted Subsidiaries in order to satisfy applicable statutory or regulatory obligations.
“Dollars” or “$” refers to lawful money of the United States of America.

“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 delegatee) having responsibility for the resolution of any EEA Financial Institution.

“Environmental Laws” means all national, federal, state, provincial, municipal or local laws, statutes, ordinances, orders, judgments, decrees, injunctions, writs, policies and guidelines (having the force of law), directives, approvals, notices, rules and regulations and other applicable laws relating to environmental or occupational health and safety matters, including those relating to the Release or threatened Release of Specified Substances and to the generation, use, storage or transportation of Specified Substances, each as in effect as of the date of determination.


“ERISA Affiliate” means each trade or business (whether or not incorporated) which together with the Borrower or a Subsidiary of the Borrower would be deemed to be a “single employer” within the meaning of Section 4001(b)(1) of ERISA.

“ERISA Termination Event” means (i) a “Reportable Event” described in Section 4043 of ERISA (other than a “Reportable Event” not subject to the provision for 30-day notice to the PBGC under such regulations), or (ii) the withdrawal of the Borrower or any of its ERISA Affiliates from a Plan during a plan year in which it was a “substantial employer” as defined in Section 4001(a)(2) of ERISA, or (iii) the filing of a notice of intent to terminate a Plan or the treatment of a Plan amendment as a termination under Section 4041 of ERISA, or (iv) the institution of proceeding to terminate a Plan by the PBGC or (v) any other event or condition which might constitute grounds under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Plan.
“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.

“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.

“Eurodollar,” when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

“Event of Default” has the meaning assigned to such term in Section 7.01.

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

(a) the sum, without duplication, of

(i) consolidated net income of the Borrower and its Restricted Subsidiaries for such Excess Cash Flow Period,

(ii) decreases in Consolidated Working Capital for such Excess Cash Flow Period (other than any such decreases arising from dispositions outside the ordinary course of business by the Borrower and the Subsidiaries completed during such Excess Cash Flow Period), and

(iii) depreciation and amortization expense for such period,

less

(b) the sum, without duplication, of

(i) the amount of any required contribution made by the Borrower or any Subsidiary to any pension plan of the Borrower or any Subsidiary,

(ii) without duplication of amounts deducted pursuant to clause (ix) below in prior years, the amount of Capital Expenditures made in cash during such Excess Cash Flow Period by the Borrower and its Subsidiaries, except to the extent that such Capital Expenditures or acquisitions were financed with the proceeds of Indebtedness of the Borrower or the Subsidiaries (other than under any revolving facility (including the any Revolving Facility)),

(iii) the aggregate amount of all principal payments of Indebtedness of the Borrower and the Subsidiaries (including (A) the principal component of payments in respect of Capital Lease Obligations and (B) the amount of any scheduled repayment of Term Loans and any mandatory prepayment of Term Loans from any asset sale, but excluding (x) all other prepayments of Term Loans, (y) all prepayments of Revolving Facility Loans and (z) all prepayments in respect of any other revolving credit facility, except in the case of clause (z) to the extent there is an equivalent permanent reduction in commitments thereunder), except to the extent financed with the proceeds of other Indebtedness (other than under any revolving facility) of the Borrower or the Subsidiaries,
(iv) increases in Consolidated Working Capital for such Excess Cash Flow Period (other than any such increases arising from acquisitions outside the ordinary course of business by the Borrower and the Subsidiaries completed during such Excess Cash Flow Period or the application of purchase accounting),

(v) payments by the Borrower and the Subsidiaries during such period in respect of long-term liabilities of the Borrower and the Subsidiaries other than Indebtedness, to the extent not already deducted from Consolidated EBITDA,

(vi) without duplication of amounts deducted pursuant to clause (ix) below in prior fiscal years, the aggregate amount of cash consideration paid by the Borrower and the Subsidiaries (on a consolidated basis) in connection with Permitted Investments to the extent that such Investments were financed with internally generated cash flow of the Borrower and the Subsidiaries,

(vii) the amount of Restricted Payments during such Excess Cash Flow Period (on a consolidated basis) by the Borrower and the Subsidiaries made in compliance with Section 6.10 (other than any Restricted Payment made by use of the Applicable Amount) to the extent such Restricted Payments were not financed with the proceeds of Indebtedness of the Borrower and the Subsidiaries,

(viii) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Borrower and the Subsidiaries during such Excess Cash Flow Period made in connection with any prepayment or early redemption of Indebtedness,

(ix) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by the Borrower or any of the Subsidiaries pursuant to binding contracts (the “Contract Consideration”) entered into prior to or during such period relating to Capital Expenditures or acquisitions to be consummated or made during the period of four consecutive fiscal quarters of the Borrower following the end of such Excess Cash Flow Period, provided that to the extent the aggregate amount of internally generated cash actually utilized to finance such Capital Expenditures or acquisitions during such period of four consecutive fiscal quarters is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters,

(x) the amount of Taxes paid in cash for such Excess Cash Flow Period to the extent not deducted in calculating consolidated net income, and

(xi) the amount of other cash expenses included in Consolidated EBITDA to the extent not paid from the proceeds of Indebtedness.

“Excess Cash Flow Period” means each fiscal year of the Borrower, commencing with the fiscal year of the Borrower ending December 31, 2018.


“Excluded Subsidiary” means any of the following:

(a) each Immaterial Subsidiary,
(b) each Subsidiary that is not a wholly-owned Subsidiary (for so long as such Subsidiary remains a non-wholly owned Subsidiary),

c) each domestic Subsidiary to the extent that (i) in the case of a Guarantee, (x) such Subsidiary is prohibited from Guaranteeing the Secured Obligations by any applicable law or (y) any such Guarantee would require consent, approval, license or authorization of a Governmental Authority (unless such consent, approval, license or authorization has been received) or (ii) in the case of providing Pledged Collateral, (x) such Subsidiary is prohibited from granting Liens on its assets to secure the Secured Obligations by any applicable law or (y) any such grant of security would require consent, approval, license or authorization of a Governmental Authority (unless such consent, approval, license or authorization has been received),

d) each domestic Subsidiary to the extent that (i) in the case of a Guarantee, such Subsidiary is prohibited by any applicable contractual requirement (not created in contemplation of the consummation of this restriction) from Guaranteeing the Secured Obligations on the First Amendment and Restatement Effective Date or at the time such Subsidiary becomes a Subsidiary or (ii) in the case of providing Pledged Collateral, such Subsidiary is prohibited by any applicable contractual requirement (not created in contemplation of the consummation of this restriction) from granting Liens on its assets to secure the Secured Obligations on the First Amendment and Restatement Effective Date or at the time such Subsidiary becomes a Subsidiary,

(e) any Foreign Subsidiary,

(f) any domestic Subsidiary (i) that is a FSHCO or (ii) that is a Subsidiary of a Foreign Subsidiary that is a CFC,

(g) in the case of a Guarantee, any domestic Subsidiary with no material operations and no material assets other than the equity interests of Subsidiaries,

(h) any special purpose securitization vehicle or similar entity,

(i) any not-for-profit Subsidiary,

(j) any captive insurance Subsidiary, and

(k) any other domestic Subsidiary with respect to which the Administrative Agent and Borrower reasonably agree that the cost or other consequences (including, without limitation, Tax consequences) of providing a Guarantee of or granting Liens to secure the Secured Obligations are likely to be excessive in relation to the value to be afforded thereby.

“Excluded Taxes” means, with respect to the Administrative Agent, any Lender or any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder or under any other Loan Document, (a) Taxes imposed on or measured by such recipient’s net income (however denominated), and franchise Taxes imposed on it (in lieu of net income Taxes), by a jurisdiction (or any political subdivision thereof) as a result of such recipient being organized or having its principal office or, in the case of any Lender, its applicable lending office in such jurisdiction, (b) any Tax in the nature of the branch profits tax under Section 884(a) of the Code that is imposed by any jurisdiction described in clause (a), (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 2.16(b)), any U.S. federal withholding Tax that is imposed on amounts payable to such Foreign Lender pursuant to any Law in effect at the time such Lender becomes a party hereto (or designates a new lending office), except to the extent that such Lender (or its assignor, if any) was entitled, immediately prior to the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding Tax pursuant to Section 2.14(a), (d) Taxes attributable to a Lender or other recipient’s failure to comply with Section 2.14(e), and (e) any U.S. federal withholding Taxes imposed under FATCA.
“Existing Credit Agreements” means the 2014 CoBank Credit Agreement and the 2016 CoBank Credit Agreement.

“Existing Indebtedness” means Indebtedness of the Company or its Restricted Subsidiaries in existence on the Term B-1 Increase Effective Date, plus interest accruing thereon.

“Existing Revolving Commitments” has the meaning assigned to such term in Amendment No. 4.

“Existing Revolving Loans” has the meaning assigned to such term in Amendment No. 4.

“Extended Commitment” has the meaning assigned to such term in Section 2.18(a).

“Extended Loan” has the meaning assigned to such term in Section 2.18(a).

“Extending Lender” has the meaning assigned to such term in Section 2.18(a).

“Extending Revolving Lender” has the meaning assigned to such term in Amendment No. 4.

“Extension” has the meaning assigned to such term in 2.18(a).

“Extension Amendment” has the meaning assigned to such term in Section 2.18(b).

“FATCA” means Sections 1471 through 1474 of the Code, as of the First Amendment and Restatement Effective Date (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code as of the First Amendment and Restatement Effective Date (or any amended or successor version described above) and any intergovernmental agreement (and any related laws or administrative pronouncements) implementing the foregoing.


“Federal Funds Effective Rate” means, for any day, the rate calculated by the NY FRB 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, provided that if the Federal Funds Effective Rate shall be less than zero, such rate shall be deemed to zero for the purposes of this Agreement.

“First Lien Indebtedness” means, as of any date, (a) the aggregate principal amount of Indebtedness of the Borrower and its consolidated Subsidiaries outstanding as of such date, in the amount and only to the extent that such Indebtedness would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with GAAP and only to the extent secured by Liens on all or any portion of the assets of the Borrower or any of its Subsidiaries on such date, other than any such Indebtedness secured by Liens on assets solely consisting of Collateral so long as (i) the Liens securing such Indebtedness are junior to the Liens securing the each Revolving Facility and the Term Loans and (ii) any Guarantee by a Guarantor of the obligations of the Borrower in respect of such indebtedness is subordinate in right of payment to the Guarantee by such Guarantor of the obligations of the Borrower in respect of the each Revolving Facility and the Term Loans, minus (b) the amount of the cash and Cash Equivalents of the Borrower and its consolidated Subsidiaries in excess of $50,000,000 that would be reflected on such balance sheet.
“First Lien Leverage Ratio” means, as of any date of determination, the ratio of (a) First Lien Indebtedness as of the last day of the four consecutive fiscal quarters most recently then ended for which financial statements have been or are required to have been delivered pursuant to Sections 5.02(a) or (b) of this Agreement to (b) Consolidated EBITDA for the period of four consecutive fiscal quarters most recently then ended for which financial statements have been or are required to have been delivered pursuant to Sections 5.02(a) or 5.02(b) of this Agreement.

“Financial Covenant Commitments” means any Class of Commitments that expressly has the benefit of the Financial Covenant set forth in Section 6.07. As of the First Amendment and Restatement Effective Date, the Revolving Commitment is a Financial Covenant Commitment.

“Financial Covenant Loans” means any Class of Loans that expressly has the benefit of the Financial Covenant set forth in Section 6.07. As of the First Amendment and Restatement Effective Date, the Revolving Loans and the Initial Term Loans are Financial Covenant Loans. For the avoidance of doubt, the Term B-1 Loans are not Financial Covenant Loans.

“Financial Officer” of any Person means the President, Chief Financial Officer, Chief Executive Officer, Vice President - Finance, Executive Vice President, Chief Accounting Officer, Treasurer or Controller of such Person. Any document delivered hereunder that is signed by a Financial Officer shall be conclusively presumed to have been authorized by all necessary corporate or other requisite organizational action on the part of such Person and such Financial Officer shall be conclusively presumed to have acted on behalf of such Person. Unless the context otherwise requires, a reference to a Financial Officer shall be deemed to be a reference to a Financial Officer of the Borrower.

“First Amendment and Restatement Effective Date” means February 27, 2017.

“Foreign Lender” means any Lender or Issuing Bank that is not a United States person within the meaning of Section 7701(a)(30) of the Code.

“Foreign Subsidiary” means any Subsidiary that is incorporated or organized under the laws of any jurisdiction other than the United States of America, any state thereof or the District of Columbia.

“FSHCO” means any domestic Subsidiary that owns no material assets (directly or through subsidiaries) other than the equity interests of one or more Foreign Subsidiaries that are CFCs.

“GAAP” means generally accepted accounting principles in the United States of America.

“Governmental Approval” means any authorization, consent, order, approval, license, franchise, lease, ruling, tariff, rate, permit, certificate, exemption of, or filing or registration with, any Governmental Authority.
“Governmental Authority” means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state, local, county, provincial or other, 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).

“Guarantee” means, as to any Person, without duplication, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, for which the guaranteeing Person may be liable pursuant to the terms of its Guarantee thereof or, if not stated or determinable, the maximum reasonably anticipated liability of the guaranteeing Person in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.

“Guarantors” means each Subsidiary that is or becomes a Loan Party pursuant to Section 5.06 or 6.08, whether existing on the First Amendment and Restatement Effective Date or established, created or acquired after the First Amendment and Restatement Effective Date, unless and until such time as such Guarantor is released from its obligations under the Guarantee Agreement in accordance with the terms and provisions hereof or thereof. After giving effect to the post closing actions described in Section 5.09, the Guarantors shall be those entities listed on Schedule 4.

“Guaranty Agreement” means, collectively, (i) the Guaranty Agreement, dated as of May 2, 2017, by the Guarantors party thereto in favor of the Administrative Agent, as may be amended, restated, supplemented or otherwise modified from time to time, between each applicable Guarantor and the Administrative Agent and (ii) each Guarantee executed and delivered pursuant to Section 6.08.

“Hostile Acquisition” means any Target Acquisition (as defined below) involving a tender offer or proxy contest that has not been recommended or approved by the board of directors (or similar governing body) of the Person that is the subject of such Target Acquisition prior to the first public announcement or disclosure relating to such Target Acquisition. As used in this definition, the term “Target Acquisition” means any transaction, or any series of related transactions, by which the Borrower and/or any of its Subsidiaries is to directly or indirectly (i) acquire any ongoing business or all or substantially all of the assets of any Person or division thereof, whether through purchase of assets, merger or otherwise, (ii) acquire (in one transaction or as the most recent transaction in a series of transactions) control of at least a majority in ordinary voting power of the securities of a Person which have ordinary voting power for the election of directors or (iii) otherwise acquire control of a more than 50% ownership interest in any such Person.
“Immaterial Subsidiary” means any Subsidiary that (a) did not, as of the last day of the fiscal quarter of Parent most recently ended for which financial statements have been (or were required to be) delivered pursuant to Section 5.02(a) or 5.02(b), have assets with a value in excess of 5.0% of the Consolidated Tangible Assets or revenues representing in excess of 5.0% of total revenues of Borrower and the Subsidiaries on a consolidated basis as of such date, and (b) taken together with all such Subsidiaries as of such date, did not have assets with a value in excess of 10.0% of Consolidated Tangible Assets or revenues representing in excess of 10.0% of total revenues of Borrower and the Subsidiaries on a consolidated basis as of such date.

“Impacted Interest Period” has the meaning assigned to such term in the definition of “LIBO Rate.”

“Increase Effective Date” has the meaning assigned to such term in Section 2.21(a).

“Increase Joinder” has the meaning assigned to such term in Section 2.21(c).

“Increase Joinder No. 1” means that certain Increase Joinder No. 1 dated as of the Term B-1 Increase Effective Date relating to the Term B-1 Loans.

“Increase Joinder Transactions” has the meaning assigned to such term in Section 3.10.

“Incremental Amount” means (a) $800,000,000, (b) the aggregate amount of prepayments, redemptions, repurchases and other payments of principal and reductions in Revolving Commitments made in respect of any Pari Senior Debt (excluding prepayments, redeclumps, repurchases and other payments made with the proceeds of new Indebtedness) plus (c) the aggregate amount of prepayments, redemptions, repurchases and other payments of principal and reductions in Revolving Commitments constituting Pari Senior Debt using the proceeds of new Indebtedness (other than Pari Senior Debt); provided that the portion of the Incremental Amount incurred in reliance upon this clause (c) shall only be permitted to the extent that the proceeds of the relevant Incremental Loan Commitments or Incremental Equivalent Indebtedness are used to repay or redeem existing Indebtedness of the Borrower (other than any Pari Senior Debt) and to pay any related premiums, fees, costs and expenses. To the extent the proceeds of any Incremental Loan Commitments or Incremental Equivalent Indebtedness are used to repay or redeem existing Pari Senior Debt and to pay any related premiums, fees, costs and expenses, such Incremental Loan Commitments or Incremental Equivalent Indebtedness shall not be deemed to utilize or reduce the Incremental Amount.

“Incremental Equivalent Indebtedness” means Indebtedness (other than syndicated institutional term loans secured by Liens ranking pari passu with the Liens securing the Obligations) issued or Guaranteed by the Loan Parties that is designated by the Borrower in an officers’ certificate delivered to the Administrative Agent as “Incremental Equivalent Indebtedness” on or prior to the date of incurrence; provided that (i) such Indebtedness does not have a final maturity that is prior to the latest Maturity Date or a Weighted Average Life to Maturity that is shorter than the Weighted Average Life to Maturity of any Class of Term Loans then outstanding, (ii) such Indebtedness is not secured by a Lien on any assets of the Borrower or any of its Subsidiaries except for Liens on the Collateral permitted by Section 6.01, (iii) such Indebtedness is not incurred or Guaranteed by any Subsidiaries that are not Loan Parties, (iv) the All-in Yield in respect of any such Incremental Equivalent Indebtedness or Refinancing Indebtedness that (x) is in the form of senior notes secured by Liens on the Collateral on a pari passu basis with the Term B-1 Loans and (y) has a maturity date on or prior to June 15, 2025 shall not exceed the All-in Yield in respect of the Term B-1 Loans by more than 0.50%, or if it does so exceed 0.50% then the Applicable Rate applicable to such Term B-1 Loans shall be increased such that after giving effect to such increase, such differential shall not exceed 0.50%, (v) the other terms and conditions relating to such debt securities or loans (other than interest rates, rate floors, call protection, discounts, fees, premiums and optional payment or redemption provisions) shall not be more restrictive (taken as a whole) than those applicable to the Revolving Facility or to any Initial Term Loans, except to the extent (a) this Agreement shall be modified to grant the Revolving Facility and Initial Term Loans the benefit of such more restrictive provisions, (b) applicable solely to periods after the Latest Maturity Date in effect at the time of incurrence or issuance of such Incremental Equivalent Indebtedness or (c) as otherwise agreed by the Administrative Agent in its reasonable discretion and (vi) on the date on which such Incremental Equivalent Indebtedness is incurred, the aggregate outstanding principal amount of Incremental Equivalent Indebtedness, Incremental Term Loans and Incremental Loan Commitments incurred from and after the Amendment No. 2 Effective Date shall not exceed the Incremental Amount.

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“Incremental Loan Commitment” has the meaning assigned to such term in Section 2.21(a).

“Incremental Revolving Commitment” has the meaning assigned to such term in Section 2.21(a).

“Incremental Term A Loan” has the meaning assigned to such term in Section 2.21(c).

“Incremental Term B Loan” has the meaning assigned to such term in Section 2.21(c).

“Incremental Term Loan” has the meaning assigned to such term in Section 2.21(c).

“Incremental Term Loan Commitment” has the meaning assigned to such term in Section 2.21(a).

“Indebtedness” of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind (other than customer deposits made in the ordinary course of business), (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property or assets purchased by such Person, (e) all obligations of such Person issued or assumed as the deferred purchase price of property or services (other than current trade payables, expense accruals and deferred compensation items arising, in each case, in such Person’s ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed; provided that, if such Person has not assumed such obligations, then the amount of Indebtedness of such Person for purposes of this clause (f) shall be equal to the lesser of the amount of the obligations of the holder of such obligations and the fair market value of the assets of such Person that secure such obligations, (g) all Capital Lease Obligations of such Person, (h) all obligations of such Person in respect of Swap Contracts (except to the extent such obligations are used as a bona fide hedge of other Indebtedness of such Person): provided that the amount of such obligations shall be deemed to be the net termination obligations of such Person thereunder calculated as if such Swap Contracts were terminated on such date of calculation (but such net termination shall not be less than zero for purposes of this definition), (i) all obligations of such Person as an account party in respect of letters of credit and bankers’ acceptances (except to the extent any such obligations are incurred in support of other obligations constituting Indebtedness of such Person and other than, to the extent reimbursed if drawn, letters of credit in support of ordinary course performance obligations), and (j) all Guarantees of such Person in respect of any of the foregoing; provided that the term Indebtedness shall not include endorsements for collection or deposit, in either case in the ordinary course of business.
“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of the Borrower under any Loan Document and (b) to the extent not otherwise described in (a), Other Taxes.

“Indemnitee” has the meaning assigned to such term in Section 9.03(b).

“Information” has the meaning assigned to such term in Section 9.12.

“Initial Term Loan Borrowing Date” means April 1, 2016, the first date on which Initial Term Loans were funded.

“Initial Term Loan Maturity Date” means, March 31, 2021; provided that, prior to the Term B-1 Repayment Date, (a) if the aggregate outstanding principal amount of the Borrower’s existing 8.500% Senior Notes due April 2020 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the January 2020 Springing Maturity Date, then the Initial Term Loan Maturity Date shall occur on the January 2020 Springing Maturity Date and (b) if the aggregate outstanding principal amount of the Borrower’s existing 8.875% Senior Notes due September 2020 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the June 2020 Springing Maturity Date, then the Initial Term Loan Maturity Date shall occur on the June 2020 Springing Maturity Date.

“Initial Term Loans” means the term loans made by the Lenders to the Borrower on the Initial Term Loan Borrowing Date and by any Increase Joinder. As of the First Amendment and Restatement Effective Date, the outstanding aggregate principal amount of Initial Term Loans was $1,564,062,500.

“Intercreditor Agreements” means any Permitted First Lien Intercreditor Agreement and Permitted Junior Intercreditor Agreement, collectively, in each case to the extent in effect.

“Interest Election Request” means a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.05.

“Interest Payment Date” means (a) with respect to any ABR Loan, each Quarterly Date, and (b) with respect to any Eurodollar Loan, the last day of each Interest Period therefor and, in the case of any Interest Period of more than three months’ duration, each day prior to the last day of such Interest Period that occurs at three-month intervals after the first day of such Interest Period.

“Interest Period” means, for any Eurodollar Loan or 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, two, three or six months thereafter (or such other period reasonably satisfactory to the Administrative Agent and each of the Lenders), as specified in the applicable Borrowing Request or Interest Election Request, 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, and (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. For purposes hereof, the date of a Loan initially shall be the date on which such Loan is made and thereafter shall be the effective date of the most recent conversion or continuation of such Loan.
“Interest Rate Agreement” means 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, option or future contract or other similar agreement or arrangement.

“Interpolated Rate” means, at any time, for any Interest Period, the rate per annum (rounded to the same number of decimal places as the LIBO Screen Rate) determined by the Administrative Agent (which determination shall be conclusive and binding absent manifest error) to be equal to the rate that results from interpolating on a linear basis between: (a) the LIBO Screen Rate for the longest period (for which the LIBO Screen Rate is available) that is shorter than the Impacted Interest Period; and (b) the LIBO Screen Rate for the shortest period (for which the LIBO Screen Rate is available) that exceeds the Impacted Interest Period, in each case, at such time.

“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, advances to customers, commission, travel and similar advances to officers and employees, in each case 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 (excluding the footnotes) of the Borrower 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.

“Issuing Bank” means each of the Lenders set forth on Schedule 1 up to the amount of its Letter of Credit Sublimit, each in its capacity as an issuer of Letters of Credit hereunder, and its applicable successors in such capacity as provided in Section 2.22(j) and/or any other Revolving Lender which has agreed in writing to be an Issuing Bank and is reasonably acceptable to the Borrower and the Administrative Agent. Each Issuing Bank may, in its good faith discretion, arrange for one or more Letters of Credit to be issued by Affiliates of the Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.


“January 2024 Springing Maturity Date” means January 14, 2024.

“Joint Lead Arranger” means the entities identified as such on the cover of this Agreement.


“Later Maturing Other Junior Indebtedness” means (i) Indebtedness for borrowed money that matures after the Revolving Commitment Termination Date and is secured by a Lien on the Collateral that is contractually subordinated to the Liens securing the Obligations that mature after the Revolving Commitment Termination Date or (ii) unsecured Indebtedness for borrowed money that matures after the Revolving Commitment Termination Date.

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“Latest Maturity Date” means, at any date of determination, the latest Maturity Date then in effect on such date of determination.

“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any governmental authority, in each case whether or not having the force of law.

“LC Disbursement” means a payment made by any Issuing Bank pursuant to a Letter of Credit.

“LC Exposure” 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 LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

“Lenders” means the Term Lenders, the Revolving Lenders, any other Person that shall have become a party hereto pursuant to an Assignment and Assumption and any Lender of Incremental Term Loans pursuant to Section 2.21, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

“Letter of Credit” means any letter of credit issued pursuant to this Agreement.

“Letter of Credit Sublimit” means, with respect to any Issuing Bank (i) the amount set forth opposite the name of such Issuing Bank on Schedule 1 (which Letter of Credit Sublimits, on the First Amendment and Restatement Effective Date, shall not exceed the maximum allowable LC Exposure pursuant to Section 2.22(c) in the aggregate) or (ii) such other amount specified in the agreement by which such Issuing Bank becomes an Issuing Bank hereunder.

“Leverage Ratio” means, as of the last day of any fiscal quarter, the ratio of (a) Total Indebtedness as of such day to (b) Consolidated EBITDA for the four consecutive fiscal quarters ending on such day.

“LIBO Rate” means, with respect to any Eurodollar Borrowing for any Interest Period, the London interbank offered rate as administered by ICE Benchmark Association (or any other Person that takes over the administration of such rate for Dollars) for a period equal in length to such Interest Period as displayed on pages LIBOR01 or LIBOR02 of the Reuters screen that displays such rate (or, in the event such rate does not appear on a Reuters page or screen, on any successor or substitute page on such screen that displays such rate, or on the appropriate page of such other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion; in each case, the “LIBO Screen Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period; provided that, if the LIBO Screen Rate shall be less than zero, such rate shall be deemed to be zero for the purposes of this Agreement; and provided, further, if the LIBO Screen Rate shall not be available at such time for such Interest Period (an “Impacted Interest Period”), then the LIBO Rate shall be the Interpolated Rate; provided that, if any Interpolated Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“LIBO Screen Rate” has the meaning assigned to such term in the definition of “LIBO Rate.”
“Lien” means, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, encumbrance, charge, or security interest in or on such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease, or title retention agreement relating to such asset and (c) in the case of securities, any purchase option, call, or similar right of a third party with respect to such securities.

“Loan Documents” means, collectively, this Agreement, the Collateral Documents, the Guaranty Agreement and each note issued pursuant to Section 2.07(f).

“Loan Parties” means the Borrower and the Guarantors.

“Loans” means the loans made by the Lenders to the Borrower pursuant to this Agreement including any Loans contemplated by Section 2.21.

“Margin Regulations” means Regulations T, U and X of the Board.

“Material Adverse Effect” means a material adverse effect on the business, assets, operations, financial condition or results of operations of the Borrower and the Subsidiaries taken as a whole.

“Material Transaction” means the meaning assigned to such term in the definition of “Consolidated EBITDA.”

“Maturity Date” means (a) with respect to the Initial Term Loans, the Initial Term Loan Maturity Date, (b) with respect to any Revolving Facility, the applicable Revolving Facility Commitment Termination Date, (c) with respect to the Term B-1 Loans, the Term B-1 Maturity Date and (d) with respect to any other Class of Loans or Commitments, the maturity dates specified in the applicable Increase Joinder Extension Amendment or Refinancing Amendment.

“Moody’s” means Moody’s Investors Service, Inc.

“Net Proceeds” means:

(a) 100% of the cash proceeds actually received by the Borrower or any Principal Subsidiary (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise and including casualty insurance settlements and condemnation awards, but in each case only as and when received) from any sale, assignment or other disposition (x) of Collateral, (y) of any property or assets of any Pledged Subsidiary or any Specified Subsidiary or (z) made in reliance on Section 6.02(e) (excluding, in each such case, any proceeds from sales, assignments or other dispositions in the ordinary course of business or to the extent less than $75,000,000 in the aggregate during any calendar year (subject to carryover of unused amounts not to exceed an aggregate of $200,000,000 in any calendar year)), net of (i) attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith, (ii) the principal amount of any Indebtedness (other than Indebtedness under the Loan Documents) that is secured by a Lien (other than a Lien that ranks pari passu with or is subordinated to the Liens securing the Obligations) on the asset subject to such sale, assignment or disposition and that is required to be repaid in connection with such sale, assignment or disposition, together with any applicable premium, penalty, interest and breakage costs, (iii) in the case of any sale, assignment or disposition by a non-wholly owned Principal Subsidiary, the pro rata portion of the Net Proceeds thereof (calculated without regard to this clause (iii)) attributable to minority interests and not available for distribution to or for the account of the Borrower or a wholly owned Principal Subsidiary as a result thereof, (iv) taxes paid or reasonably estimated to be payable, directly or indirectly, as a result thereof (including taxes that are or would be imposed on the distribution or repatriation of any such Net Proceeds), and (v) the amount of any reasonable reserve established in accordance with GAAP against any adjustment to the sale price or any liabilities (other than any taxes deducted pursuant to clause (i) above) (x) related to any of the applicable assets and (y) retained by the Borrower or any Principal Subsidiary, including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (provided, however, the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any such liability) shall be deemed to be Net Proceeds of such sale, assignment or disposition occurring on the date of such reduction), provided that, at the option of the Borrower, all or any portion of the proceeds from any sale, assignment or other disposition any property or assets of a Pledged Subsidiary or a Specified Subsidiary may be used to acquire, maintain, develop, construct, improve, upgrade or repair assets of the Borrower or any Pledged Subsidiary or any Specified Subsidiary, in each case within 365 days of such receipt (or, if any such proceeds are contractually committed during such 365-day period to be so used, within 545 days of such receipt), and such proceeds shall not constitute Net Proceeds except to the extent not so used within 365 days of such receipt (or, if any such proceeds are contractually committed during such 365-day period to be so used, within 545 days of such receipt) (it being understood that, if any portion of such proceeds is not so used within the applicable period, such remaining portion shall constitute Net Proceeds as of the end of such period); and
(b) 100% of the cash proceeds from the incurrence, issuance or sale by the Borrower or any of the Principal Subsidiaries of any Indebtedness incurred in violation of Section 6.08, net of all taxes paid or reasonably estimated to be payable, directly or indirectly, as a result thereof and fees (including investment banking fees, underwriting fees and discounts), commissions, costs and other expenses, in each case incurred in connection with such incurrence, issuance or sale.

For purposes of calculating the amount of Net Proceeds, fees, commissions and other costs and expenses payable to the Borrower shall be disregarded.

“Non-Consenting Lender” has the meaning assigned to such term in Section 2.16(b).

“Non-Extending Revolving Lender” has the meaning specified in Amendment No. 4.

“Non-Financial Covenant Tranche” means any Class of Loans or Commitments that does not expressly have the benefit of the Financial Covenant set forth in Section 6.07 (including the Term B-1 Loans).

“NYFRB” means the Federal Reserve Bank of New York.

“NYFRB Rate” means, for any day, the greater of (a) the Federal Funds Effective Rate in effect on such day and (b) the Overnight Bank Funding Rate in effect on such day (or for any day that is not a Business Day, for the immediately preceding Business Day); provided that if none of such rates are published for any day that is a Business Day, the term “NYFRB Rate” means the rate for a federal funds transaction quoted at 11:00 a.m. on such day received to the Administrative Agent from a Federal funds broker of recognized standing selected by it; provided, further, that if any of the aforesaid rates shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.
“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, the Borrower arising under any Loan Document or otherwise with respect to any Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against the Borrower or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.

“October 2022 Springing Maturity Date” means October 18, 2022.

“Original Effective Date” means August 12, 2015, the date of effectiveness of the Existing Term Loan Credit Agreement.

“Other Loans” means, collectively, (a) Extended Loans, (b) Refinancing Term Loans, (c) Incremental Revolving Loans (d) Replacement Revolving Loans and (e) Incremental Term Loans.

“Other Taxes” means any and all present or future stamp or documentary Taxes or any other excise or property Taxes levies arising from any payment made hereunder or under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

“Other Term Loans” means Term Loans that are Other Loans.

“Overnight Bank Funding Rate” means, for any day, the rate comprised of both overnight federal funds and overnight Eurodollar borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the NYFRB as set forth on its public website from time to time, and published on the next succeeding Business Day by the NYFRB as an overnight bank funding rate (from and after such date as the NYFRB shall commence to publish such composite rate).

“Pari Senior Debt” means any Indebtedness created under the Loan Documents and any other Indebtedness of the Borrower which is secured by Liens on all or any portion of the Collateral on a pari passu basis with the Liens securing the each Revolving Facility and the Term Loans.

“Participant” means any Person to whom a participation is sold as permitted by Section 9.04(d).

“Participant Register” has the meaning assigned to such term in Section 9.04(d).

“Patriot Act” has the meaning assigned to such term in Section 9.14.

“PBGC” means the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

“Permitted Debt” means:

(a) Indebtedness created under the Loan Documents and any Replacement Revolving Commitments, Replacement Revolving Loans, Refinancing Notes and Refinancing Term Loans;

(b) Existing Indebtedness (other than Indebtedness described in clause (a) of this definition);
(c) Indebtedness (including Capital Lease Obligations, Indebtedness related to Sale and Lease-Back Transactions, mortgage financings or purchase money obligations) incurred by the Borrower or any of its Restricted Subsidiaries, or preferred stock of any Restricted Subsidiary issued, to finance the purchase, lease, construction or improvement (including, without limitation, the cost of design, development, construction, acquisition, transportation, installation, improvement and migration) of property (real or personal) or equipment that is used or useful in the business of the Borrower or any of its Restricted Subsidiaries, whether through the direct purchase of assets or the Capital Stock of any Person owning such assets, in an aggregate principal amount which, when aggregated with the principal amount of all other Indebtedness and preferred stock then outstanding and incurred pursuant to this clause (c) and including all Refinancing Indebtedness incurred to extend, renew, refund, refinance or replace any other Indebtedness and preferred stock incurred pursuant to this clause (c), does not exceed the greater of (x) $250.0 million and (y) 1.00% of Consolidated Total Assets;

(d) Indebtedness incurred by the Borrower or any of its Restricted Subsidiaries constituting reimbursement obligations with respect to letters of credit issued in the ordinary course of business, including letters of credit in respect of workers’ compensation claims, death, disability or other employee benefits or property, casualty or liability insurance or self-insurance, or other Indebtedness with respect to reimbursement type obligations regarding workers’ compensation claims; provided, however, that upon the drawing of such letters of credit or the incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or incurrence;

(e) Indebtedness of the Borrower and its Restricted Subsidiaries arising from agreements providing for indemnification, adjustment of purchase price or similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or a Subsidiary, other than guarantees of Indebtedness incurred by any Person acquiring or disposing of all or any portion of such business, assets or Subsidiary for the purpose of financing such acquisition; provided, however, that the maximum assumable liability in respect of all such Indebtedness incurred or assumed in connection with any disposition shall at no time exceed the gross proceeds including noncash proceeds (the fair market value of such noncash proceeds being measured at the time received and without giving effect to any subsequent changes in value) actually received by the Borrower and its Restricted Subsidiaries in connection with such disposition;

(f) Indebtedness of the Borrower to any Restricted Subsidiary of the Borrower; provided that any such Indebtedness is subordinated in right of payment to the Obligations; 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 of the Borrower or any other subsequent transfer of any such Indebtedness (except to the Borrower or another Restricted Subsidiary of the Borrower) shall be deemed in each case to be an incurrence of such Indebtedness;

(g) Indebtedness or preferred stock of a Restricted Subsidiary to the Borrower or another Restricted Subsidiary; provided that any such Indebtedness is made pursuant to an intercompany note;

(h) Indebtedness of the Borrower; provided, however, that the aggregate principal amount of Indebtedness or liquidation preference of preferred stock incurred under this clause (h), when aggregated with the principal amount of all other Indebtedness then outstanding and incurred pursuant to this clause (h) and any Refinancing Indebtedness incurred to extend, renew, refund, refinance or replace any other Indebtedness incurred pursuant to this clause (h), does not exceed the sum of (x) the greater of $1,000.0 million and 5.0% of Consolidated Total Assets plus (y) $900.0 million;
(i) Swap Obligations of the Borrower entered into for bona fide (non-speculative) business purposes and (y) Indebtedness of the Borrower in respect of Interest Rate Agreements, Commodity Agreements and Currency Agreements;

(j) obligations in respect of performance, bid, appeal and surety bonds, completion guarantees and similar obligations provided by the Borrower or any of its Restricted Subsidiaries in the ordinary course of business, including guarantees or obligations of the Borrower or any of its Restricted Subsidiaries and letters of credit supporting any of the foregoing (in each case other than for an obligation for money borrowed);

(k) the incurrence by the Borrower or any of its Restricted Subsidiaries of Indebtedness or preferred stock which serves to extend, renew, replace, refund or refinance any Indebtedness or preferred stock incurred as permitted under Section 6.08(a), clauses (a) (with respect to Refinancing Notes), (b), (c), (l) and (o)(2) of this definition, this clause (k) or any Indebtedness or preferred stock issued to so extend, renew, replace, refund or refinance such Indebtedness or preferred stock including additional Indebtedness or preferred stock incurred to pay premiums, expenses and fees in connection therewith (the “Refinancing Indebtedness”) prior to its respective maturity; provided, however, that such Refinancing Indebtedness:

(i) 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 being extended, renewed, replaced, refunded or refinanced;

(ii) is incurred in an aggregate principal amount (or if issued with original issue discount, an aggregate issue price) that is equal to or less than the sum of the aggregate principal amount (or if issued with original issue discount, the aggregate accreted value) then outstanding of the Indebtedness being extended, renewed, replaced, refunded or refinanced (plus, without duplication, any additional Indebtedness incurred to pay interest, fees or premiums required by the instruments governing such existing Indebtedness or in connection with the issuance of such Refinancing Indebtedness and fees and expenses incurred in connection therewith);

(iii) to the extent such Refinancing Indebtedness extends, renews, replaces, refunds or refines Subordinated Indebtedness, such Refinancing Indebtedness is subordinated to the Loans at least to the same extent as the Indebtedness being extended, renewed, replaced, refinanced or refunded; provided that this subclause (ii) need not be satisfied if the amount of such Refinancing Indebtedness shall not exceed the Applicable Amount (it being understood that if amounts available under the Applicable Amount are used to refinance such Subordinated Indebtedness, then the Applicable Amount shall be reduced by such amount);

(iv) shall not include Indebtedness of a Restricted Subsidiary of the Borrower that refines Indebtedness of the Borrower;

(v) to the extent such Refinancing Indebtedness is secured by the Collateral (A) such Refinancing Indebtedness shall not be secured by any assets that do not constitute Collateral (or become Collateral substantially concurrently with the issuance of such Refinancing Indebtedness) and (B) such Refinancing Indebtedness shall be subject to the provisions of a Permitted First Lien Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable (and in any event shall be subject to a Permitted Junior Intercreditor Agreement if the Indebtedness being refinanced is secured on a junior lien basis to any of the Secured Obligations); and
(vi) to the extent such Refinancing Indebtedness is Guaranteed by any Guarantor (A) such Refinancing Indebtedness shall not be Guaranteed by any Subsidiary that is not a Guarantor and that was not a guarantor of the Indebtedness refinanced thereby and (B) to the extent that such Guarantor’s Guarantee of the Indebtedness refinanced by such Refinancing Indebtedness was subordinated in right of payment to the Guarantee by such Guarantor of the Obligations of the Borrower in respect of the each Revolving Facility and the Term Loans, such Guarantor’s Guarantee of such Refinancing Indebtedness shall be subordinated in right of payment to the Guarantee by such Guarantor of the Obligations of the Borrower in respect of the each Revolving Facility and the Term Loans pursuant to the terms of (x) the definitive documentation governing such Guarantee or (y) a Permitted Junior Intercreditor Agreement;

(l) (i) Indebtedness or preferred stock of Persons that are acquired by the Borrower or any of its Restricted Subsidiaries or merged into or amalgamated with a Restricted Subsidiary of the Borrower in accordance with the terms of this Agreement, provided that in the case of this clause (i) immediately and after giving effect to such acquisition, amalgamation or merger either (1) the Borrower would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Adjusted Leverage Ratio set forth in Section 6.08(a) or (2) the Adjusted Leverage Ratio is less than or equal to the Adjusted Leverage Ratio immediately prior to such acquisition, amalgamation or merger; or

(ii) Indebtedness or preferred stock of the Borrower incurred in connection with or in contemplation of, or to provide all or any portion of the funds or credit support utilized to consummate, the acquisition of Persons that are acquired by the Borrower or any Restricted Subsidiary of the Borrower in accordance with the terms of this Agreement, provided that in the case of this clause (ii) immediately after giving effect to such acquisition, amalgamation or merger either (1) the Borrower would be permitted to incur at least $1.00 of additional Indebtedness pursuant to the Adjusted Leverage Ratio set forth in Section 6.08(a) or (2) the Adjusted Leverage Ratio is less than or equal to the Adjusted Leverage Ratio immediately prior to such acquisition, amalgamation or merger; or

(iii) Indebtedness of Persons acquired by the Borrower, directly or indirectly, pursuant to the Verizon Purchase Agreement in existence on both September 25, 2015 and April 1, 2016, plus interest accruing thereon;

(m) Indebtedness (i) arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business, provided that such Indebtedness is extinguished within five Business Days of its incurrence, (ii) in respect of netting, overdraft protection and other arrangements arising under standard business terms of any bank which the Borrower or any of its Restricted Subsidiaries maintains an overdraft, cash pooling or other similar facility or arrangements or (iii) arising in connection with the endorsement of instruments for deposit in the ordinary course of business;
(n) Indebtedness of the Borrower or any of its Restricted Subsidiaries supported by a letter of credit, in a principal amount not in excess of the stated amount of such letter of credit;

(o) (1) any guarantee by the Borrower or any of its Restricted Subsidiaries of Indebtedness or other obligations of any of the Borrower’s Restricted Subsidiaries so long as the incurrence of such Indebtedness incurred by such Restricted Subsidiary is permitted under the terms of this Agreement, or (2) Incremental Equivalent Indebtedness, together with any Refinancing Indebtedness incurred to extend, renew, replace, refund or refinance any Indebtedness incurred pursuant to this clause (o)(2);

(p) Indebtedness of the Borrower or any of its Restricted Subsidiaries consisting of (i) the financing of insurance premiums and (ii) take-or-pay or similar obligations contained in supply arrangements, in each case, incurred in the ordinary course of business; and

(q) Indebtedness of the Borrower or any of its Restricted Subsidiaries attributable to any Sale and Lease-Back Transaction or similar transaction entered into by the Borrower or any of its Restricted Subsidiaries in connection with a Plan Contribution.

“Permitted First Lien Intercreditor Agreement” means, with respect to any Liens on Collateral that are intended to be equal and ratable with the Liens securing the Loans (and other Secured Obligations that are secured by Liens on the Collateral ranking equally and ratably with the Liens securing the Loans), one or more intercreditor agreements, each of which shall be in form and substance reasonably satisfactory to the Administrative Agent. The intercreditor arrangements set forth in the Pledge Agreement and/or the Security Agreement, after execution and delivery thereof, shall constitute a Permitted First Lien Intercreditor Agreement.

“Permitted Investments” means:

(1) any Investment in the Borrower or any of its Restricted Subsidiaries;

(2) any Investment in cash and Cash Equivalents;

(3) any Investment by the Borrower or any Restricted Subsidiary of the Borrower in a Person that is engaged in a Similar Business if as a result of such Investment, such Person, in one transaction or a series of related transactions, (i) becomes a Restricted Subsidiary of the Borrower or (ii) is merged, consolidated or amalgamated with or into, or transfers or conveys substantially all of its assets to, or is liquidated into, the Borrower or a Restricted Subsidiary of the Borrower and, in each case, any Investment held by such Person; provided that, with respect to clause (ii), such Investment was not acquired by such Person in contemplation of such merger, consolidation, amalgamation, transfer, conveyance or liquidation;

(4) any Investment in securities or other assets not constituting cash or Cash Equivalents and received in connection with an asset sale not prohibited under Section 6.03 or any other disposition of assets not constituting an asset sale;

(5) any Investment existing on the Term B-1 Increase Effective Date;

(6) any Investment acquired by the Borrower or any of its Restricted Subsidiaries:

   (a) in compromise or resolution of any other Investment or obligations owed to the Borrower or any such Restricted Subsidiary, including in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of any trade creditor or customer or in satisfaction of litigation, arbitration or other disputes; or
(b) as a result of a foreclosure by the Borrower or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default;

and, in each case, any Investment held by such Person;

(7) Swap Obligations permitted under clause (i)(x) of the definition of “Permitted Debt”;

(8) Investments the payment for which consists of Equity Interests of the Borrower, or any of its direct or indirect parent companies (exclusive of Disqualified Stock); provided, however, that such Equity Interests will not increase the amount available for Restricted Payments under the calculation set forth in the definition of “Applicable Amount”;

(9) guarantees of Indebtedness permitted under Section 6.08(a);

(10) any transaction to the extent it constitutes an investment that is permitted and made in accordance with the provisions of Section 6.06;

(11) Investments consisting of purchases and acquisitions of inventory, supplies, material or equipment;

(12) if no Event of Default has occurred and is continuing, additional Investments having an aggregate fair market value, taken together with all other Investments made pursuant to this clause (12), not to exceed since Term B-1 Increase Effective Date the greater of $750.0 million and 2.5% of Consolidated Total Assets at the time of such Investments (with the fair market value of each Investment being measured at the time made and without giving effect to subsequent changes in value);

(13) advances to employees not in excess of $25.0 million outstanding at any one time, in the aggregate;

(14) loans and advances to officers, directors and employees for business-related travel expenses, moving expenses and other similar expenses, in each case incurred in the ordinary course of business;

(15) receivables owing to the Borrower or any Restricted Subsidiary of the Borrower if created or acquired in the ordinary course of business and payable or dischargeable in accordance with customary trade terms (which trade terms may include such concessionary trade terms as the Borrower or any such Restricted Subsidiary deems reasonable under the circumstances), and other Investments to the extent such Investments consist of prepaid expenses, negotiable instruments held for collection and lease, utility and workers’ compensation, performance and other similar deposits made in the ordinary course of business by the Borrower or any Restricted Subsidiary;

(16) deposits or payments made with the FCC in connection with the auction or licensing of any permit, license, authorization, plan, directive, consent, permission, consent order or consent decree of or from any Governmental Authority; and
any Plan Contribution.

“Permitted Junior Intercreditor Agreement” means, with respect to any Liens on Collateral that are intended to be junior to any Liens securing the Loans (and other Secured Obligations that are secured by Liens on the Collateral ranking equally and ratably with the Liens securing the Loans), an intercreditor agreement substantially in the form of Exhibit G hereto with (i) any immaterial, conforming or technical changes (as determined in the Administrative Agent’s sole discretion) thereto as the Borrower and the Administrative Agent may agree in their respective reasonable discretion and/or (ii) any other changes thereto as the Borrower and the Administrative Agent may agree in their respective reasonable discretion, which changes are posted for review by the Lenders and deemed acceptable if the Required Lenders have not objected thereto within five Business Days following the date on which such changes are posted for review.

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

“Plan” means any pension plan (including a multiemployer plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code which is maintained for or to which contributions are made for employees of the Borrower or any ERISA Affiliate.

“Plan Contribution” means the contribution of real property to the Borrower’s defined benefit pension plan (or any successor plan) in existence on September 25, 2015 in lieu of or in conjunction with cash contributions to such pension plan, including by way of a Sale and Lease-Back Transaction, in a manner consistent with past practice.

“Pledge Agreement” means that certain Second Amended and Restated Pledge Agreement, dated as of July 3, 2018, among the Pledgors party thereto, the Collateral Agent, the Administrative Agent and the other Secured Representatives (as defined in the Pledge Agreement) party thereto, as may be amended, restated, amended and restated, supplemented, re-affirmed or otherwise modified from time to time.

“Pledged Collateral” means all the “Pledged Collateral” as defined in the Pledge Agreement that is subject to any Lien in favor of the Collateral Agent, for the benefit of the Secured Parties, pursuant to the Pledge Agreement.

“Pledged Subsidiary” means any Subsidiary whose issued and outstanding equity interests are pledged pursuant to the Pledge Agreement. After giving effect to the post closing actions described in Section 5.09, the Pledged Subsidiaries shall be those entities listed on Schedule 5.

“Pledgor” means (i) the Borrower and each Subsidiary of the Borrower that has pledged Pledged Collateral pursuant to the Pledge Agreement and (ii) each Subsidiary of the Borrower party to the Security Agreement. As of the Amendment No. 3-4 Effective Date, the Pledgor shall mean the Borrower and Frontier Video Services Inc.

“Prime Rate” means the per annum rate of interest established from time to time by the Administrative Agent, at its principal office in New York, New York, as its prime lending rate. Any change in the interest rate resulting from a change in the Prime Rate shall become effective as of 12:01 a.m. of the Business Day on which each change in the Prime Rate is announced by the Administrative Agent. The prime lending rate is a reference rate used by the Administrative Agent in determining interest rates on certain loans and is not intended to be the lowest rate of interest charged on any extension of credit to any debtor. The Administrative Agent may make commercial loans or other loans at rates of interest at, above, or below its prime lending rate.
“Principal Subsidiary” means any Subsidiary of the Borrower whose Consolidated Tangible Assets comprise in excess of 10% of the Consolidated Tangible Assets of the Borrower and its consolidated Subsidiaries as of the First Amendment and Restatement Effective Date or thereafter, as of the last day of the four consecutive fiscal quarters most recently then ended for which financial statements have been delivered or are required to have been delivered pursuant to Section 5.02(a) or (b).

“Pro Forma Basis” means, as of any date, that such calculation shall give pro forma effect to all Material Transactions (and the application of the proceeds from any such asset sale or related debt incurrence or repayment) that have occurred during the relevant calculation period and during the period immediately following the applicable date of determination therefor and prior to or simultaneously with the event for which the calculation is made, including pro forma adjustments arising out of events which are attributable to a Material Transaction, including giving effect to those specified in accordance with the definition of “Consolidated EBITDA,” in each case as in good faith determined by a Financial Officer of the Borrower, using historical financial statements of all entities, divisions or lines or assets so acquired or sold and the consolidated financial statements of the Borrower and/or any of its Subsidiaries, calculated as if such Material Transaction, and all other Material Transactions that have been consummated during the relevant period, and any Indebtedness incurred or repaid in connection therewith, had been consummated (and the change in Consolidated EBITDA resulting therefrom realized) and incurred or repaid at the beginning of such period.

Whenever pro forma effect is to be given to a Material Transaction, the pro forma calculations shall be made in good faith by a Financial Officer of the Borrower (including adjustments for costs and charges arising out of or related to the Material Transaction and projected cost savings, operating expense reductions, other operating improvements and initiatives and synergies resulting from such Material Transaction that have been or are reasonably anticipated to be realizable, net of the amount of actual benefits realized during such test period from such actions), and any such adjustments included in the initial pro forma calculations shall continue to apply to subsequent calculations, including during any subsequent periods in which the effects thereof are reasonably expected to be realizable; provided that (i) no amounts shall be added pursuant to this paragraph to the extent duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA for such period and (ii) the amount of cost savings, operating expense reductions, other operating improvements and initiatives and synergies that are not in accordance with Regulation S-X of the SEC shall be subject to the last proviso in clause (iv)(b) of the definition of “Consolidated EBITDA”.

“Pro Rata Extension Offer” has the meaning assigned to such term in Section 2.18(a).

“Public-Sider” means any representative of a Lender that does not want to receive material non-public information within the meaning of federal and state securities laws.

“Purchase Offer” has the meaning assigned to such term in Section 2.20(a).

“Quarterly Dates” means the last Business Day of March, June, September and December in each year.

“Refinance” means any Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund the Indebtedness being Refinanced, and “Refinanced” and “Refinancing” shall have meanings correlative thereto.
“Refinancing Amendment” has the meaning assigned to such term in Section 2.19(d).

“Refinancing Effective Date” has the meaning assigned to such term in Section 2.19(a).

“Refinancing Indebtedness” has the meaning assigned to such term in clause (k) of the definition of “Permitted Debt.”

“Refinancing Notes” means any secured or unsecured notes or loans issued by the Borrower to Refinance all or any portion of any Loans (or Class of Loans) and/or replace any Commitments (whether under an indenture, a credit agreement or otherwise) and the Indebtedness represented thereby (other than any Refinancing Term Loans); provided that (a) 100% of the cash proceeds from the incurrence, issuance or sale by the Borrower of such Refinancing Notes, net of all taxes paid or reasonably estimated to be payable, directly or indirectly, as a result thereof and fees (including investment banking fees, underwriting fees and discounts), commissions, costs and other expenses, in each case incurred in connection with such incurrence, issuance or sale, are used to permanently repay Loans and/or replace Commitments no later than three (3) Business Days after the date on which such Refinancing Notes are issued or incurred; (b) the aggregate principal amount (or accreted value, if applicable) of such Refinancing Notes does not exceed the principal amount (or accreted value, if applicable) of the aggregate portion of the Loans so repaid and/or Commitments so replaced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses); (c) the final maturity date of such Refinancing Notes is at least ninety-one (91) days after the Maturity Date of the Loans so repaid or Commitments so replaced; (d) the Weighted Average Life to Maturity of such Refinancing Notes is greater than or equal to the Weighted Average Life to Maturity of the Loans so repaid; (e) the terms of such Refinancing Notes do not provide for any scheduled repayment, mandatory redemption or sinking fund obligations prior to the Maturity Date of the Loans so repaid (other than (x) in the case of notes, customary offers to repurchase or mandatory prepayment provisions upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default and (y) in the case of loans, customary amortization and mandatory and voluntary prepayment provisions which are (when taken as a whole and as determined by the Borrower in good faith) consistent in all material respects with, or not materially less favorable to the Borrower and its Subsidiaries than, those applicable to the Initial Term Loans or the Term B-1 Loans, with such Indebtedness to provide that any such mandatory prepayments as a result of asset sales, events of loss, or excess cash flow, shall be allocated on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) with the Initial Term Loans and the Term B-1 Loans outstanding pursuant to this Agreement); (f) there shall be no obligor with respect thereto other than the Borrower (unless such other obligor is a Guarantor or provides a Guarantee of the Obligations on terms reasonably acceptable to the Administrative Agent substantially concurrently with the issuance of such Refinancing Notes); (g) if such Refinancing Notes are secured, (i) such Refinancing Notes shall not be secured by any assets that do not constitute Collateral (or become Collateral substantially concurrently with the issuance of such Refinancing Notes), (ii) the related security agreements shall be no more favorable in any material respect to the secured party or parties holding such Refinancing Notes, taken as a whole (determined by the Borrower in good faith), than the Collateral Documents (except as is otherwise reasonably acceptable to the Administrative Agent) and (iii) such Refinancing Notes shall be subject to the provisions of a Permitted First Lien Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable (and in any event shall be subject to a Permitted Junior Intercreditor Agreement if the Indebtedness being refinanced is secured on a junior lien basis to any of the Secured Obligations) and (h) all other terms applicable to such Refinancing Notes (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms (which original issue discount, upfront fees, interest rates and other pricing terms shall not be subject to the provisions set forth in this clause (h)) shall (when taken as a whole and as determined by the Borrower in good faith) be substantially similar to, or not materially less favorable to the Borrower and its Subsidiaries than, the terms, taken as a whole, applicable to the Loans so repaid (except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date or are otherwise reasonably acceptable to the Administrative Agent).
“Refinancing Term Loans” has the meaning assigned to such term in Section 2.19(a).

“Refunding Capital Stock” has the meaning assigned to such term in Section 6.10(b)(ii).

“Register” has the meaning assigned to such term in Section 9.04(c).

“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person’s Affiliates.

“Release” means any spilling, emitting, discharging, depositing, escaping, leaching, dumping or other releasing, including the movement of any Specified Substance through the air, soil, surface water, groundwater or property, and when used as a verb has a like meaning.

“Replacement Revolving Commitment” has the meaning assigned to such term in Section 2.19(b).

“Replacement Revolving Facilities” has the meaning assigned to such term in Section 2.19(b).

“Replacement Revolving Facility Effective Date” has the meaning assigned to such term in Section 2.19(b).

“Replacement Revolving Loans” has the meaning assigned to such term in Section 2.19(b).

“Repricing Event” means each of (a) the prepayment, repayment, refinancing, substitution or replacement of all or a portion of the Term B-1 Loans with the proceeds of any term loans incurred or guaranteed by the Borrower or any Guarantor for the primary purpose of obtaining an All-in Yield that is less than the All-in Yield applicable to such Term B-1 Loans so prepaid, repaid, refinanced, substituted or replaced and (b) any amendment, waiver or other modification to, or consent under, this Agreement that has the primary purpose of reducing the All-in Yield of the Term B-1 Loans; provided that in no event shall any such prepayment, repayment, refinancing, substitution, replacement, amendment, waiver, modification or consent in connection with a Change in Control or an acquisition or investment that is not otherwise permitted hereunder constitute a Repricing Event.

“Required Financial Covenant Lenders” means, at any time, Lenders having Financial Covenant Loans and Financial Covenant Commitments representing more than 50% of the aggregate Financial Covenant Loans and Financial Covenant Commitments; provided that the Loans and Commitments of any Defaulting Lender shall be disregarded for all purposes of this definition for so long as such Lender is a Defaulting Lender.

“Required Lenders” means, at any time, Lenders having Term Loans, Term Commitments and Revolving Commitments (or, if the Revolving Commitments have terminated, Revolving Credit Exposure) representing more than 50% of the aggregate Term Loans, Term Commitments and Revolving Commitments (or, if the Revolving Commitments have terminated, Revolving Credit Exposure); provided that the Loans and Commitments of any Defaulting Lender shall be disregarded for all purposes of this definition for so long as such Lender is a Defaulting Lender.
“Required Percentage” means, with respect to any Excess Cash Flow Period, 50%; provided, that, if the Leverage Ratio as of the end of such Excess Cash Flow Period is (x) less than or equal to 5.25 to 1.00 but greater than 5.00 to 1.00, such percentage shall be 25% and (y) less than or equal to 5.00 to 1.00, such percentage shall be 0%.

“Required Revolving Lenders” means, at any time, Revolving Lenders having Revolving Commitments (or if the Revolving Commitments have terminated, Revolving Credit Exposure) that, taken together, represent more than 50% of the sum of all Revolving Commitments (or, if the Revolving Commitments have terminated, Revolving Credit Exposure) at such time; provided, that the Revolving Commitments and Revolving Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Revolving Lenders at any time.

“Restricted Investment” means an Investment other than a Permitted Investment.

“Restricted Payment” (i) for all purposes other than Section 6.10(c) shall have the meaning set forth in Section 6.10(a) and (ii) for purposes of Section 6.10(c), means any dividend or other distribution (whether in cash, securities or other property) with respect to any capital stock or other equity interest of the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such capital stock or other equity interest, or on account of any return of capital to the Borrower’s stockholders, partners or members (or the equivalent Person thereof).

“Restricted Subsidiary” of a Person means any Subsidiary of the referent Person that is not an Unrestricted Subsidiary.

“Revolving Commitment” means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit hereunder, expressed as an amount representing the maximum aggregate amount of such Lender’s Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 or increased from time to time pursuant to Section 2.21 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender’s Revolving Commitment is set forth on Schedule 1 under the heading “Revolving Commitments” or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The aggregate amount of the Lenders’ Revolving Commitments as of the First Amendment and Restatement Effective Date is $850,000,000; the 2022 Revolving Commitments and the 2024 Revolving Commitments.

“Revolving Credit Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Loans and its LC Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.06 or increased from time to time pursuant to Section 2.21 and (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04.

“Revolving Facility” means the 2022 Revolving Credit Exposure and the 2024 Revolving Credit Exposure at such time.

“Revolving Facility Commitment Termination Date” means February 27, 2022 with respect to the 2022 Revolving Facility and February 27, 2024 with respect to the 2024 Revolving Facility; provided that (a) if the aggregate principal amount of the Borrower’s existing 8.500% Senior Notes due April 2020 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the January 2020 Springing Maturity Date, then the Revolving Facility Commitment Termination Date shall occur on the January 2020 Springing Maturity Date, (b) if the aggregate principal amount of the Borrower’s existing 8.875% Senior Notes due September 2020 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the June 2020 Springing Maturity Date, then the Revolving Facility Commitment Termination Date shall occur on the June 2020 Springing Maturity Date and (c) if the aggregate principal amount of the Borrower’s existing 9.250% Senior Notes due April 2021 and 6.250% Senior Notes due 2021 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the 2021 Springing Maturity Date, then the Revolving Facility Commitment Termination Date shall occur on the 2021 Springing Maturity Date, (d) if the aggregate outstanding principal amount of the Borrower’s existing 8.750% Senior Notes due 2022 and 10.500% Senior Notes due 2022 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the 2022 Springing Maturity Date, then the Revolving Commitment Termination Date shall occur on the 2022 Springing Maturity Date, (e) if the aggregate outstanding principal amount of the Borrower’s existing 7.125% Senior Notes due January 2023 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the October 2022 Springing Maturity Date, then the Revolving Commitment Termination Date shall occur on the October 2022 Springing Maturity Date and (f) if the aggregate outstanding principal amount of the Borrower’s existing 7.625% Senior Notes due April 2024 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the January 2024 Springing Maturity Date, then the Revolving Commitment Termination Date shall occur on the January 2024 Springing Maturity Date.
“Revolving Lender” means a Lender with a Revolving Commitment or with outstanding Revolving Loans.

“Revolving Loans” means Loans made by the 2022 Revolving Lender pursuant to Section 2.01(b) Loans and the 2024 Revolving Loans.

“S&P” means Standard & Poor’s Ratings Services, a Standard & Poor’s Financial Services LLC business.

“Sale and Lease-Back Transaction” means any arrangement with any Person providing for the leasing by the Borrower or any Restricted Subsidiary of any real or tangible personal property, which property has been or is to be sold or transferred by the Borrower or such Restricted Subsidiary to such Person in contemplation of such leasing.

“Sanctioned Country” means, at any time, a country, region or territory which is the subject or target of any Sanctions.

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person controlled by any such Person.

“Sanctions” means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State.

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

“Secured Obligations” means all Obligations owing to one or more Secured Parties.

“Secured Parties” means the holders of the Secured Obligations from time to time and shall include (a) each Lender in respect of its Loans, (b) the Administrative Agent and the Lenders in respect of all other present and future obligations and liabilities of the Borrower and each Subsidiary of every type and description arising under or in connection with this Agreement or any other Loan Document, (c) each Indemnitee under Section 9.03(b) in respect of the obligations and liabilities of the Borrower to such Person hereunder and under the other Loan Documents and (d) their respective successors and (in the case of a Lender, permitted) transferees and assigns.

“Security” or “Securities” means any security or securities, as the case may be, duly authenticated by the trustee under the Senior Notes Indenture.
“Security Agreement” means the New Security Agreement (as defined in Section 4 of Amendment No. 3).

“Senior Notes Indenture” means the indenture dated as of September 25, 2015, by and among the Borrower and the Bank of New York Mellon, as trustee, as amended, restated, amended and restated, modified or otherwise supplemented from time to time.

“Similar Business” means any business conducted or proposed to be conducted by the Borrower and its Subsidiaries on the Term B-1 Increase Effective Date or any business that is similar, reasonably related, incidental or ancillary thereto.

“Solvency Certificate” means the solvency certificate executed and delivered by a Financial Officer of the Borrower on the First Amendment and Restatement Effective Date, substantially in the Form of Exhibit D or any other form reasonably acceptable to the Administrative Agent.

“Solvent” means, with respect to any Person or group of Persons, as of any date of determination:

(a) the fair value of the property of such Person or group of Persons, as applicable, will be greater than the total amount of liabilities, including contingent liabilities, of such Person or group, as applicable;

(b) the present fair saleable value of the assets of such Person or group, as applicable, will be greater than the amount that will be required to pay the probable liability of such Person or group, as applicable, on the debts of such Person or Group, as applicable, as such debts become absolute and matured;

(c) the capital of such Person or group, as applicable, is not unreasonably small in relation to the business of such Person or group, as applicable, as conducted as of such date of determination and as proposed to be conducted following such date of determination; and

(d) such Person or group, as applicable, does not intend to incur, or believe that it will incur, debts, including current obligations, beyond its ability to pay such debts as they become absolute and matured.

For the purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability (irrespective of whether such contingent liabilities meet the criteria for accrual under Statement of Financial Accounting Standard No. 5).

“Senior Notes Indenture” means the indenture dated as of September 25, 2015, by and among the Borrower and the Bank of New York Mellon, as trustee.

“Specified Representations” means those representations and warranties set forth in Sections 3.01(a)(i), 3.01(b), 3.01(c)(ii), 3.08, 3.09, 3.15, 3.16 and 3.17.

“Specified Subsidiary” means each Pledged Subsidiary immediately prior to the Amendment No. 3 Effective Date.

“Specified Substance” means (i) any chemical, material or substance defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “extremely hazardous waste,” “restricted hazardous waste” or “toxic substances” or words of similar import under any applicable Environmental Laws; (ii) any (A) oil, natural gas, petroleum or petroleum derived substance, any drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal fluid, any flammable substances or explosives, any radioactive materials, any hazardous wastes or substances, any toxic wastes or substances or (B) other materials or pollutants that, in the case of both (A) and (B), (1) pose a hazard to the property of the Borrower or any of its Subsidiaries or any part thereof or to persons on or about such property or to any other property that may be affected by the Release of such materials or pollutants from such property or any part thereof or to persons on or about such other property or (2) cause such property or such other property to be in violation of any Environmental Law; (iii) asbestos, urea formaldehyde foam insulation, toluene, polychlorinated biphenyls and any electrical equipment which contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty parts per million; and (iv) any sound, vibration, heat, radiation or other form of energy and any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority.
“Statutory Reserve Rate” means a fraction (expressed as a decimal) the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve, liquid asset, fees or similar requirements (including any marginal, special, emergency or supplemental reserves) established by any central bank, monetary authority, the Board, the Financial Conduct Authority, the Prudential Regulation Authority, the European Central Bank or other Governmental Authority for any category of deposits or liabilities customarily used to fund loans in the applicable currency, expressed in the case of each such requirement as a decimal. Such reserve, liquid asset, fees or similar requirements shall include those imposed pursuant to Regulation D of the Board. Eurodollar Loans shall be deemed to be subject to such reserve, liquid asset, fee or similar requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under any applicable law, rule or regulation, including Regulation D of the Board. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

“Subordinated Indebtedness” means any Indebtedness of the Borrower which is by its terms subordinated in right of payment to a Class of Loans.

“Subsidiary” means, with respect to any Person (herein referred to as the “parent”), any corporation, partnership, association, or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, owned, controlled, or held by the parent, or (b) which is, at the time any determination is made, otherwise Controlled by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent. Unless otherwise indicated, all references in this Agreement to “Subsidiaries” shall be construed as references to Subsidiaries of the Borrower.

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

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

“Taxes” means all present or future taxes, levies, impost, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

“Term B-1 Commitment” means, as to any Term B-1 Lender, the obligation of such Term B-1 Lender to make Term B-1 Loans in an aggregate principal amount not to exceed the amount set forth opposite such Lender’s name on Schedule I of Increase Joinder No. 1 or in the Assignment and Assumption pursuant to which such Term B-1 Lender became a party hereto as the same may be changed from time to time pursuant to the terms of this Agreement (including as increased, extended or replaced as provided in Section 2.18, 2.19 and 2.21). The original aggregate amount of all Term B-1 Commitments is $1,500,000,000.

“Term B-1 Facility” means the credit facility constituted by the Term B-1 Commitments and the Term B-1 Loans thereunder.

“Term B-1 Increase Effective Date” has the meaning assigned to such term in Increase Joinder No. 1.

“Term B-1 Lender” means each Lender that has a Term B-1 Commitment or that holds Term B-1 Loans.

“Term B-1 Loan Repayment Date” means the date on which all Term B-1 Loans are no longer outstanding.

“Term B-1 Loans” means the Term Loans made pursuant to the Term B-1 Commitment.

“Term B-1 Maturity Date” means June 15, 2024; provided, that, (a) if the aggregate outstanding principal amount of the Borrower’s existing 8.500% Senior Notes due April 2020 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the January 2020 Springing Maturity Date, then the Term B-1 Maturity Date shall occur on the January 2020 Springing Maturity Date, (b) if the aggregate outstanding principal amount of the Borrower’s existing 8.875% Senior Notes due September 2020 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the June 2020 Springing Maturity Date, then the Term B-1 Maturity Date shall occur on the June 2020 Springing Maturity Date, (c) if the aggregate outstanding principal amount of the Borrower’s existing 9.250% Senior Notes due 2021 and 6.250% Senior Notes due 2021 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the 2021 Springing Maturity Date, then the Term B-1 Maturity Date shall occur on the 2021 Springing Maturity Date, (d) if the aggregate outstanding principal amount of the Borrower’s existing 8.750% Senior Notes due 2022 and 10.500% Senior Notes due 2022 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the January 2024 Springing Maturity Date, then the Term B-1 Maturity Date shall occur on the January 2024 Springing Maturity Date, (e) if the aggregate outstanding principal amount of the Borrower’s existing 7.125% Senior Notes due January 2024 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the January 14, 2024 (the “January 2024 Springing Maturity Date”), then the Term B-1 Maturity Date shall occur on the January 2024 Springing Maturity Date, (f) if the aggregate outstanding principal amount of the Borrower’s existing 7.625% Senior Notes due April 2024 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the October 18, 2024 (the “October 2024 Springing Maturity Date”), then the Term B-1 Maturity Date shall occur on the October 2024 Springing Maturity Date and (g) if the aggregate outstanding principal amount of the Borrower’s existing 7.125% Senior Notes due January 2025 (other than any such Senior Notes constituting Defeased Indebtedness) is greater than $500.0 million on the January 14, 2025 (the “January 2025 Springing Maturity Date”), then the Term B-1 Maturity Date shall occur on the January 2025 Springing Maturity Date.
“Term Commitments” means the commitment of a Term Lender to make Term Loans, including Initial Term Loans, Term B-1 Loans and/or Other Term Loans.

“Term Lender” means a Lender with a Term Commitment or with outstanding Term Loans.

“Term Loans” means the Initial Term Loans, Term B-1 Loans and/or the Other Term Loans.

“Test Period” means, on any date of determination, the period of four consecutive fiscal quarters of the Borrower then most recently ended (taken as one accounting period).

“Total Indebtedness” means, as of any date, the aggregate principal amount of Indebtedness of the Borrower and its consolidated Subsidiaries outstanding as of such date, in the amount and only to the extent that such Indebtedness would be reflected on a balance sheet prepared as of such date on a consolidated basis in accordance with GAAP minus the amount of the cash and Cash Equivalents of the Borrower and its consolidated Subsidiaries in excess of $50,000,000 that would be reflected on such balance sheet.

“Transactions” means the execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents, the borrowing of Loans, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

“Type,” when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“Uniform Commercial Code” or “UCC” means the Uniform Commercial Code as the same may from time to time be in effect in the State of New York; provided that, if creation, perfection or the effect of perfection or non-perfection or the priority of any security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, “UCC” shall mean the Uniform Commercial Code (or similar code or statute) as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such creation, perfection, effect of perfection or non-perfection or priority.

“Unrestricted Subsidiary” means any Subsidiary of the Borrower that is designated as an Unrestricted Subsidiary pursuant to a board resolution, but only to the extent that (a) except as permitted by Section 6.06, such Subsidiary is not party to any agreement, contract, arrangement or understanding with the Borrower or any of its Restricted Subsidiaries unless the terms of such agreement, contract, arrangement or understanding are, taken as a whole, no less favorable to the Borrower or such Restricted Subsidiary than those that might be obtained at the time from Persons who are not Affiliates of the Borrower; (b) such Subsidiary does not hold any Liens on any property of the Borrower or any of its other Restricted Subsidiaries; and (c) such Subsidiary has not guaranteed or otherwise directly or indirectly provided credit support for any Indebtedness of the Borrower or any of its Restricted Subsidiaries, except to the extent that such guarantee or credit support would be released upon such designation.
“Verizon” means Verizon Communications, Inc., a Delaware corporation.

“Verizon Purchase Agreement” means the securities purchase agreement, dated as of February 5, 2015, as amended, between the Borrower and Verizon Communications Inc. to acquire, among other things, Verizon’s wireline business and statewide fiber networks that provide services to residential, commercial and wholesale customers in California, Texas and Florida, along with certain of Verizon’s FIOS customers in those states.

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

“Wholly-Owned Subsidiary” 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) shall at the time be owned by such Person or by one or more Wholly-Owned Subsidiaries of such Person.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

SECTION 1.02 Terms Generally. 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 words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise (a) any definition of or reference to any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, extended, supplemented, replaced, renewed, refinanced, refunded, restated or otherwise modified (subject to any restrictions on the foregoing set forth herein), (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, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (e) any reference to any law or regulation herein shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time (f) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights and (g) all references herein to times of day shall be references to New York City time.

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SECTION 1.03  Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature in the Loan Documents shall be construed, and all computations and determinations as to accounting or financial matters pursuant to any Loan Document shall be made and prepared, in accordance with GAAP as in effect from time to time; provided that (a) the effects of any changes to FASB ASC 840 after the First Amendment and Restatement Effective Date shall be disregarded, (b) any obligations relating to a lease that was accounted for by any Person as an operating lease as of the First Amendment and Restatement Effective Date and any similar lease entered into after the First Amendment and Restatement Effective Date by such Person shall be accounted for as obligations relating to an operating lease and not as Capital Lease Obligations and (c) other than in respect of any change to FASB ASC 840 after the First Amendment and Restatement Effective Date, if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the First Amendment and Restatement Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, 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. To enable the ready and consistent determination of compliance with the covenants set forth in Article VI, the Borrower will not change the last day of its fiscal year from December 31, or the last days of the first three fiscal quarters in each of its fiscal years from March 31, June 30 and September 30, respectively.

ARTICLE II

THE CREDITS

SECTION 2.01  The Commitments.

(a)  Initial Term Loans. Subject to the terms and conditions set forth herein, certain Term Lenders made Initial Term Loans to the Borrower on the Initial Term Loan Borrowing Date. Amounts repaid or prepaid in respect of Initial Term Loans may not be reborrowed.

(b)  Revolving Facility. At the Amendment No. 4 Effective Date, (i) the Existing Revolving Commitments and any Existing Revolving Loan of each Extending Revolving Lender outstanding on such date shall continue hereunder and be reclassified as a 2024 Revolving Commitment and a 2024 Revolving Loan, respectively on such date and (ii) the Existing Revolving Commitments and any Existing Revolving Loan of each Non-Extending Revolving Lender outstanding on such date shall continue hereunder and be reclassified as a 2022 Revolving Commitment and a 2022 Revolving Loan, respectively on such date. Subject to the terms and conditions set forth herein, each Revolving Lender agrees to make Revolving Loans to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (a) such Lender’s Revolving Credit Exposure exceeding such Lender’s Revolving Commitment or (b) the total Revolving Credit Exposures exceeding the total Revolving Commitments. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

(c)  Subject to the terms and conditions hereof and in Increase Joinder No. 1, each Term B-1 Lender agrees to make to the Borrower Term B-1 Loans denominated in Dollars on the Term B-1 Increase Effective Date in an amount equal to such Term B-1 Lender’s Term B-1 Commitment. Amounts repaid or prepaid in respect of Term B-1 Loans may not be reborrowed.

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SECTION 2.02 Loans and Borrowings.

(a) Obligations of Lenders. Each Loan shall be made as part of a Borrowing consisting of Loans made by the Lenders ratably in accordance with their respective Commitments. From the Amendment No. 4 Effective Date until the Maturity Date of the 2022 Revolving Facility, all Revolving Loans shall be made on a pro rata basis between the 2022 Revolving Facility and the 2024 Revolving Facility. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender’s failure to make Loans as required.

(b) Type of Loans. Subject to Section 2.11, each Borrowing shall be comprised entirely of ABR Loans or of Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) Minimum Amounts; Limitation on Number of Borrowings. At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of $1,000,000 and not less than (x) with respect to a Revolving Loan, $10,000,000 and (y) with respect to a Term Loan, $5,000,000. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of $500,000 and not less than (x) with respect to a Revolving Loan, $10,000,000 and (y) with respect to a Term Loan, $1,000,000 (or, if less, an amount equal to (x) with respect to Term Loans, the entire remaining principal amount of outstanding Loans under the applicable Class or (y) with respect to Revolving Loans, the entire unused balance of the total Revolving Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.22(f)). Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of fifteen (15) Eurodollar Borrowings outstanding.

(d) Limitations on Interest Periods. Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request (or to elect to convert to or continue as a Eurodollar Borrowing) any Borrowing if the Interest Period requested therefor would end after the applicable Maturity Date.
SECTION 2.03 Requests for Borrowings.

(a) Notice by the Borrower. To request a Borrowing, the Borrower shall notify the Administrative Agent of such request (i) in the case of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of the proposed Borrowing, or (ii) in the case of an ABR Borrowing, not later than 12:00 noon, New York City time, on the date of the proposed Borrowing (or, in each case, such shorter period as may be agreed to by the Administrative Agent in consultation with the applicable Lenders). Each such Borrowing Request shall be irrevocable.

(b) Content of Borrowing Requests. Each Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) the aggregate amount of the requested Borrowing;
(ii) the date of such Borrowing, which shall be a Business Day;
(iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;
(iv) whether such Borrowing is to be a Borrowing of 2022 Revolving Loans, 2024 Revolving Loans, Initial Term Loans, Term B-1 Loans or Other Term Loans;
(v) in the case of a Eurodollar Borrowing, the Interest Period therefor, which shall be a period contemplated by the definition of the term “Interest Period” and permitted under Section 2.02(d); and
(vi) the location and number of the Borrower’s account to which funds are to be disbursed, which shall comply with the requirements of Section 2.04.

(c) Notice by the Administrative Agent to the Lenders. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender’s Loan to be made as part of the requested Borrowing.

(d) Failure to Elect. If no election as to the Type of a Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, the Borrower shall be deemed to have selected an Interest Period of one month’s duration.

SECTION 2.04 Funding of Borrowings.

(a) Funding by Lenders. Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by (i) 12:00 noon, New York City time, in the case of a Eurodollar Borrowing, and (ii) 3:00 p.m., New York City time, in the case of an ABR Borrowing, in each case to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower agreed between the Borrower and the Administrative Agent; provided that ABR Borrowings made to finance the reimbursement of an LC Disbursement as provided in Section 2.22(f) shall be remitted by the Administrative Agent to the applicable Issuing Bank.
(b) **Presumption by the Administrative Agent.** Unless the Administrative Agent shall have received notice from a Lender prior to (i) the proposed date of any Eurodollar Borrowing or (ii) in the case of any proposed ABR Borrowing, 3:00 p.m., New York City time, on the proposed date of such ABR Borrowing, that such Lender will not make available to the Administrative Agent such Lender’s share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (ii) in the case of a payment to be made by the Borrower, the interest rate applicable to ABR Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender’s Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

SECTION 2.05 Interest Elections.

(a) **Elections by the Borrower.** The Loans comprising each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Borrowing, shall have the Interest Period specified in such Borrowing Request. Thereafter, the Borrower may elect to convert such Borrowing to a Borrowing of a different Type or to continue such Borrowing as a Borrowing of the same Type and, in the case of a Eurodollar Borrowing, may elect the Interest Period therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) **Notice of Elections.** To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such Interest Election Request shall be irrevocable.

(c) **Content of Interest Election Requests.** Each Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);
(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and

(iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period therefor after giving effect to such election, which shall be a period contemplated by the definition of the term “Interest Period” and permitted under Section 2.02(d).

(d) Notice by the Administrative Agent to the Lenders. Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender’s portion of each resulting Borrowing.

(e) Failure to Elect; Events of Default. If the Borrower fails to deliver a timely and complete Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period therefor, then, unless such Eurodollar Borrowing is repaid as provided herein, the Borrower shall be deemed to have selected an Interest Period of one month’s duration.

Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period therefor.

SECTION 2.06 Termination and Reduction of Commitments

(a) Scheduled Termination. Unless previously terminated, the Revolving Commitments shall terminate on the applicable Revolving Facility Commitment Termination Date.

(b) Voluntary Termination or Reduction. The Borrower may at any time terminate, or from time to time reduce, the Commitments; provided that (i) each partial reduction of the Commitments shall be in an amount that is $10,000,000 or a larger multiple of $1,000,000 (or, if less, the remaining amount of any Commitments) and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.08, the total Revolving Credit Exposures would exceed the total Revolving Commitments.

(c) Notice of Voluntary Termination or Reduction. The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the effectiveness of other credit facilities or another transaction (such as a change of control transaction) or other incurrence of Indebtedness, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.
(d) **Effect of Termination or Reduction.** Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments. **Notwithstanding anything to the contrary in this Agreement, the Borrower may terminate 2022 Revolving Commitments and repay 2022 Revolving Loans on a non-pro rata basis and without terminating 2024 Revolving Commitments or repaying 2024 Revolving Loans.**

**SECTION 2.07 Repayment and Amortization of Loans; Evidence of Debt.**

(a) **Repayment.** The Borrower hereby unconditionally promises to pay to the Administrative Agent for account of the Lenders the outstanding principal amount of the Loans on the applicable Maturity Date.

(b) **Amortization.** The Borrower shall make principal payments on (i) the Initial Term Loans in equal installments on each Quarterly Date, commencing with the Quarterly Date of the first full fiscal quarter following the Initial Term Loan Borrowing Date, in an aggregate amount equal to (x) for the first (1st) through twelfth (12th) full fiscal quarters following the Initial Term Loan Borrowing Date, 1.25% of the aggregate principal amount of Initial Term Loans made on the Initial Term Loan Borrowing Date and (y) for each fiscal quarter thereafter, 2.50% of the aggregate principal amount of Initial Term Loans made on the Initial Term Loan Borrowing Date, in the case of each of clauses (x) and (y), per fiscal quarter with final payment to be made no later than the applicable Maturity Date and (ii) the Term B-1 Loans in equal installments on each Quarterly Date, commencing with the Quarterly Date of the first full fiscal quarter following the Term B-1 Increase Effective Date, in an aggregate amount equal to 0.25% of the aggregate principal amount of Term B-1 Loans made on the Term B-1 Increase Effective Date. In the event that any Other Loans are made, the Borrower shall repay such Other Loans on the dates and in the amounts set forth in the related Increase Joinder, Refinancing Amendment or Extension Amendment, as applicable.

(c) **Maintenance of Records by Lenders.** Each Lender shall maintain in accordance with its usual practice records evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(d) **Maintenance of Records by the Administrative Agent.** The Administrative Agent shall maintain records (including the Register maintained pursuant to Section 9.04(c)) in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and each Interest Period therefor, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for account of the Lenders and each Lender’s share thereof.

(e) **Effect of Entries.** The entries made in the records maintained pursuant to paragraph (c) or (d) of this Section (including the Register maintained pursuant to Section 9.04(c)) shall be **prima facie evidence** of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such records or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(f) **Promissory Notes.** Any Lender may request that Loans made by it be evidenced by a promissory note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender and its registered assigns, in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the payee named therein and its registered assigns.
SECTION 2.08  Prepayment of Loans

(a)  The Borrower shall have the right at any time and from time to time to prepay Loans (or one or more Classes of Loans) in whole or in part, without premium or penalty (except as specifically provided in the last sentence of this Section 2.08(a)), but subject to the break funding payments required by Section 2.13 and subject to prior notice in accordance with the provisions of Section 2.08(e); provided that each such prepayment shall be in an amount that is an integral multiple of $1,000,000 and with respect to Revolving Loans, in a minimum amount of $5,000,000 (or, if less, the remaining amount of any Loan). Any such prepayment made with the proceeds from any issuance or incurrence of Refinancing Notes or Refinancing Term Loans shall be made no later than three (3) Business Days after the date on which such Refinancing Notes or Refinancing Term Loans, as the case may be, are issued or incurred. If any Repricing Event occurs on or prior to the date occurring 6 months after the Term B-1 Increase Effective Date, the Borrower agrees to pay to the Administrative Agent, for the ratable account of each Lender with Term B-1 Loans that are subject to such Repricing Event, a fee in an amount equal to 1.00% of the aggregate principal amount of the Term B-1 Loans subject to such Repricing Event. Such fees shall be earned, due and payable upon the date of the occurrence of such Repricing Event.

(b)  Beginning on the Term B-1 Increase Effective Date, the Borrower shall apply all Net Proceeds within ten (10) Business Days after receipt thereof to prepay Initial Term Loans and Term B-1 Loans in accordance with clauses (c) and (e) of Section 2.08.

(c)  Except as otherwise provided in any Extension Amendment, Refinancing Amendment or Increase Joinder and subject to the terms of any Intercreditor Agreement, mandatory prepayments pursuant to Section 2.08(b) shall be applied to reduce scheduled repayments required under Section 2.07(b), first, in direct order to such scheduled repayments due on the next eight Quarterly Dates occurring following such prepayment and, second, on a pro rata basis among the repayments remaining to be made on each other Quarterly Date; provided that any mandatory prepayment contemplated by Section 2.08(b) (x) shall be shared with the Term B-1 Lenders so that the Term B-1 Loans are prepaid on a pro rata basis and (y) may be shared with other creditors that hold senior Indebtedness of the Borrower or any Subsidiary secured by a Lien on the Collateral that ranks pari passu with the Liens that secure the Obligations (solely to the extent a mandatory prepayment, redemption or offer to redeem is required for such senior Indebtedness pursuant to the applicable financing agreements governing such senior Indebtedness) so that the Loans and any such senior secured Indebtedness requiring such prepayment or redemption are prepaid or redeemed on a pro rata basis. Any prepayments of Term Loans pursuant to Section 2.08(a) shall be applied to the remaining installments of the Term Loans (or applicable Class(es) of Term Loans) being prepaid as the Borrower may direct.

(d)  Not later than five (5) Business Days after the date on which the annual financial statements are, or are required to be, delivered under Section 5.02(a) with respect to each Excess Cash Flow Period, if and to the extent the amount of such Excess Cash Flow is greater than $0, the Borrower shall apply an amount to prepay Term B-1 Loans equal to (i) the Required Percentage of such Excess Cash Flow minus (ii) the sum of (x) prepayments of Loans pursuant to Section 2.08(a) during such fiscal year, (y) purchases of Loans pursuant to Section 2.20 and Section 9.04(b)(v) by the Borrower during such fiscal year (determined by the actual cash purchase price paid by the Borrower for any such purchase and not the par value of the Loans purchased by Borrower) and (z) voluntary prepayments of Indebtedness of the Borrower or any Subsidiary secured by a Lien on the Collateral that ranks pari passu with the Liens that secure the Obligations during such fiscal year, in each case, except to the extent financed with the proceeds of long-term Indebtedness and, in the case of any prepayment of Revolving Loans pursuant to Section 2.08(a), only to the extent accompanied by a permanent reduction of Revolving Commitments on a dollar-for-dollar basis.
The Borrower shall notify the Administrative Agent by telephone (as confirmed by telecopy) of any prepayment of a Borrowing hereunder (i) in the case of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three (3) Business Days before the date of such prepayment, and (ii) in the case of an ABR Borrowing, not later than 12:00 noon, New York City time, on the date of such prepayment. Each such notice shall be irrevocable; provided that a notice of prepayment delivered by the Borrower may state that such notice is conditioned upon the effectiveness of another credit facility, the closing of a securities offering or other transaction or (in the case of a prepayment pursuant to Section 2.08(b)) receipt (or deemed receipt in accordance with the definition thereof) of Net Proceeds, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified prepayment date) if such condition is not satisfied. Each such notice shall specify the prepayment date, the Class of Loans to be prepaid, the principal amount of each Borrowing or portion thereof to be prepaid and, in the case of a mandatory prepayment, a reasonably detailed calculation of the amount of such prepayment. Promptly following receipt of any such notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Borrowing shall be in an amount that would be permitted in the case of a Borrowing of the same Type as provided in Section 2.02, except as necessary to apply fully the required amount of a mandatory prepayment. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing and otherwise in accordance with this Section 2.08. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.10.

SECTION 2.09 Fees

(a) Commitment Fees. The Borrower agrees to pay to the Administrative Agent for the account of each Revolving Lender a commitment fee, which shall accrue at the Applicable Rate on the average daily unused amount of the Revolving Commitment of such Lender during the period from and including the First Amendment and Restatement Effective Date to but excluding the date such Revolving Commitment terminates. Accrued commitment fees shall be payable in arrears on each Quarterly Date and on the date the Commitments terminate, commencing on the first such date to occur after the First Amendment and Restatement Effective Date. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). For purposes of computing commitment fees, the Revolving Commitment of a Revolving Lender shall be deemed to be used to the extent of the outstanding Revolving Loans and LC Exposure of such Revolving Lender.

(b) Letter of Credit Fees. The Borrower agrees to pay (i) to the Administrative Agent for account of each Revolving Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at a rate per annum equal to the Applicable Rate applicable to interest on Eurodollar Loans on the average daily amount of such Lender’s LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the First Amendment and Restatement Effective Date to but excluding the date such Revolving Commitment terminates. Accrued participation fees shall be payable in arrears on each Quarterly Date and on the date the Commitments terminate, commencing on the first such date to occur after the First Amendment and Restatement Effective Date. All participation fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

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Administrative Agent Fees. The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

Payment of Fees. All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, in the case of ticking fees, to the Lenders entitled thereto. Fees paid shall not be refundable under any circumstances.

SECTION 2.10 Interest.

(a) ABR Loans. The Loans comprising each ABR Borrowing shall bear interest at a rate per annum equal to the Alternate Base Rate plus the Applicable Rate.

(b) Eurodollar Loans. The Loans comprising each Eurodollar Borrowing shall bear interest at a rate per annum equal to the Adjusted LIBO Rate for the Interest Period for such Borrowing plus the Applicable Rate.

(c) Default Interest. Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due (after giving effect to any applicable grace period), whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal amounts, 2% per annum above the interest rate otherwise applicable thereto pursuant to this Section 2.10 and (ii) in the case of other overdue amounts, 2% plus the Alternate Base Rate.

(d) Payment of Interest. Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and on the applicable Maturity Date; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand; (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Borrowing prior to the end of the Interest Period therefor, accrued interest on such Borrowing shall be payable on the effective date of such conversion.

(e) Computation. All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.
SECTION 2.11 Alternate Rate of Interest. If prior to the commencement of the Interest Period for any Eurodollar Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period; or

(b) the Administrative Agent is advised by the Required Lenders that the Adjusted LIBO Rate or the LIBO Rate, as applicable, for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their respective Loans included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or the continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and such Borrowing (unless prepaid) shall be continued as, or converted to, an ABR Borrowing upon the expiration of the Interest Period applicable thereto and, (ii) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

SECTION 2.12 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement reflected in the Adjusted LIBO Rate) or any Issuing Bank;

(ii) result in any increase in Tax to any Lender or any Issuing Bank (except for Indemnified Taxes or Other Taxes covered by Section 2.14 and any Excluded Taxes); or

(iii) impose on any Lender or any Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or such Issuing Bank of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or such Issuing Bank hereunder (whether of principal, interest or any other amount), in each case by an amount reasonably deemed by such Lender to be material, then, upon request of such Lender or such Issuing Bank, the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or any Issuing Bank determines that any Change in Law affecting such Lender or such Issuing Bank or any lending office of such Lender or such Lender’s or such Issuing Bank’s holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender’s or such Issuing Bank’s capital or on the capital of such Lender’s or such Issuing Bank’s holding company, if any, as a consequence of this Agreement, the Commitment of such Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender’s or such Issuing Bank’s holding company, if any, could have achieved but for such Change in Law (taking into consideration such Lender’s or such Issuing Bank’s policies and the policies of such Lender’s or such Issuing Bank’s holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender’s or such Issuing Bank’s holding company for any such reduction suffered.
(c) **Certificates for Reimbursement.** A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Bank, as the case may be, the amount due hereunder within 15 days after receipt of any such certificate.

(d) **Delay in Requests.** Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender’s or such Issuing Bank’s right to demand such compensation, provided that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs incurred or reductions suffered more than 120 days prior to the date that such Lender or such Issuing Bank, as the case may be, notifies the Borrower in writing of the Change in Law giving rise to such increased costs or reductions and of such Lender’s or such Issuing Bank’s intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 120-day period referred to above shall be extended to include the period of retroactive effect thereof).

(e) **Termination.** If any Lender shall have delivered a notice or certificate pursuant to paragraph (c) above, the Borrower shall have the right, at its own expense, upon notice to such Lender and the Administrative Agent, to require such Lender to terminate its Commitment (if outstanding) and to pay such Lender in immediately available funds the principal of and interest accrued to the day of payment on the Loans made by such Lender hereunder and all other amounts accrued for its account or owed to it hereunder (including under Section 2.13); provided that no such termination shall conflict with any law, rule, or regulation or order of any Governmental Authority.

**SECTION 2.13 Break Funding Payments.** In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of the Interest Period therefor (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period therefor, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified by the Borrower in any notice delivered pursuant hereto (regardless of whether such notice is permitted to be revocable under Section 2.08(e) and is revoked in accordance herewith), or (d) the assignment as a result of a request by the Borrower pursuant to Section 2.16(b) or Section 2.12(e) of any Eurodollar Loan other than on the last day of the Interest Period therefor, then, in any such event, the Borrower shall compensate each Lender for its loss, cost and expense (excluding lost profits) attributable to such event. In the case of a Eurodollar Loan, the loss to any Lender attributable to any such event shall be deemed to include an amount reasonably determined by such Lender to be equal to the excess, if any, of (i) the amount of interest that such Lender would pay for a deposit equal to the principal amount of such Loan for the period from the date of such payment, conversion, failure or assignment to the last day of the Interest Period for such Loan (or, in the case of a failure to borrow, convert or continue, the duration of the Interest Period that would have resulted from such borrowing, conversion or continuation) if the interest rate payable on such deposit were equal to the Adjusted LIBO Rate for such Interest Period, over (ii) the amount of interest that such Lender would earn on such principal amount for such period if such Lender were to invest such principal amount for such period at the interest rate that would be bid by such Lender (or an affiliate of such Lender) for Dollar deposits from other banks in the eurodollar market at the commencement of such period. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount due hereunder within 15 days after receipt of any such certificate.
SECTION 2.14 Taxes.

(a) Any and all payments by or on account of any obligation of the Borrower hereunder or under any other Loan Document shall be made free and clear of and without reduction or withholding for any Taxes; provided that, if the Borrower or other applicable withholding agent shall be required by applicable law (as determined in the good faith discretion of the applicable withholding agent) to deduct and withhold any Taxes, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax or an Other Tax, then the sum payable shall be increased by the Borrower as necessary so that after all required deductions have been made (including deductions applicable to additional sums payable under this Section 2.14) each Lender or Issuing Bank, as the case may be (or, in the case of a payment made to the Administrative Agent for its own account, the Administrative Agent) receives an amount equal to the sum it would have received had no such deductions or withholdings been made.

(b) Without limiting the provisions of paragraph (a) above, the Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) The Borrower shall indemnify the Administrative Agent, each Lender and each Issuing Bank, within 10 days after demand therefor, for the full amount of any Indemnified Taxes payable by the Administrative Agent, such Lender or such Issuing Bank, as the case may be, on or with respect to any payment by or on account of any obligation of the Borrower hereunder or under any other Loan Document and any Other Taxes payable by the Administrative Agent, such Lender or such Issuing Bank (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.14) and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other 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 the Borrower by a Lender or an Issuing Bank (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender or an Issuing Bank, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) (i) Each Lender or Issuing Bank that is entitled to an exemption from or reduction of any applicable withholding Tax (including backup withholding Tax), with respect to any payment under any Loan Document shall deliver to the Borrower and the Administrative Agent at any time or times reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation as may be prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent to permit such payments to be made without such withholding Tax or at a reduced rate. Each Lender or Issuing Bank hereby authorizes the Administrative Agent to deliver to the Borrower and to any successor Administrative Agent any documentation provided to the Administrative Agent pursuant to this Section 2.14(e).
(ii) Without limiting the generality of the foregoing, any Foreign Lender or Issuing Bank shall deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender or Issuing Bank becomes a party under this Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender or Issuing Bank is legally eligible to do so), whichever of the following is applicable:

(I) duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable (or any successor forms) claiming eligibility for benefits of an income tax treaty to which the United States is a party,

(II) duly completed copies of Internal Revenue Service Form W-8ECI (or any successor forms),

(III) in the case of a Foreign Lender or Issuing Bank claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate, in substantially the form of Exhibit F-1, or any other form approved by the Administrative Agent, to the effect that such Foreign Lender or Issuing Bank is not (A) a “bank” within the meaning of Section 881(c)(3)(A) of the Code, (B) a “10 percent shareholder” of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, or (C) a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code, and that no payments in connection with the Loan Documents are effectively connected with such Foreign Lender’s or Issuing Bank’s conduct of a U.S. trade or business and (y) duly completed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E, as applicable (or any successor forms),

(IV) to the extent a Foreign Lender or Issuing Bank is not the beneficial owner (for example, where the Foreign Lender or Issuing Bank is a partnership, or a participating Lender granting a typical participation), an Internal Revenue Service Form W-8IMY (or any successor form), accompanied by a Form W-8ECI, W-8BEN, W-8BEN-E, a certificate in substantially the form of Exhibit F-2, Exhibit F-3 or Exhibit F-4, as applicable, Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that, if the Foreign Lender or Issuing Bank is a partnership (and not a participating Lender) and one or more direct or indirect partners of such Foreign Lender or Issuing Bank are claiming the portfolio interest exemption, such Foreign Lender or Issuing Bank shall provide a certificate, in substantially the form of Exhibit F-3, on behalf of such beneficial owner(s) (in lieu of requiring each beneficial owner to provide such certificate); and

(V) any other form prescribed by applicable laws as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax duly completed together with such supplementary documentation as may be prescribed by applicable requirements of law to permit the Borrower and the Administrative Agent to determine the withholding or deduction required to be made.
(iii) If a payment made to a Lender or Issuing Bank under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender or Issuing Bank were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender or Issuing Bank shall deliver to the Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower or the Administrative Agent as may be necessary for the Borrower and the Administrative Agent to comply with their obligations under FATCA, determine whether such Lender or Issuing Bank has complied with such Lender’s or Issuing Bank’s obligations under FATCA and to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (iii), “FATCA” shall include any amendments made to FATCA after the First Amendment and Restatement Effective Date.

(iv) Any Lender or Issuing Bank that is a “United States person” (within the meaning of Section 7701(a)(30) of the Code) shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a party to this Agreement (and from time to time thereafter as prescribed by applicable law or upon the request of the Borrower or the Administrative Agent), duly executed and properly completed copies of Internal Revenue Service Form W-9 certifying that it is not subject to U.S. federal backup withholding.

Each Lender or Issuing Bank shall, whenever a lapse in time or change in such Lender’s or Issuing Bank’s circumstances renders any such forms, certificates or other documentation so delivered pursuant to this Section 2.14(e) obsolete, expired or inaccurate in any respect, promptly (1) deliver to the Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) renewals, amendments or additional or successor documentation (including any new documentation reasonably requested by the Borrower or the Administrative Agent), properly completed and duly executed by such Lender or Issuing Bank, together with any other certificate or statement of exemption required in order to confirm or establish such Lender’s or Issuing Bank’s status or that such Lender or Issuing Bank is entitled to an exemption from or reduction in any applicable withholding Tax or (2) notify Administrative Agent and the Borrower of its legal ineligibility to deliver any such forms, certificates or other documentation.

Notwithstanding any other provision of this Section 2.14(e), a Lender or Issuing Bank shall not be required to deliver any documentation that such Lender or Issuing Bank is not legally eligible to deliver.

(f) If the Administrative Agent, a Lender or an Issuing Bank determines, in its sole discretion, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.14, it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 2.14 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of the Administrative Agent, interest paid by the relevant Governmental Authority with respect to such refund, provided that the Borrower, upon the request of the Administrative Agent, agrees to repay the amount paid over to the Borrower (plus any other charges imposed by the relevant Governmental Authority) to the Administrative Agent, such Lender or such Issuing Bank in the event the Administrative Agent, such Lender or such Issuing Bank is required to repay such refund to such Governmental Authority. This Section 2.14(f) shall not be construed to require the Administrative Agent, any Lender or any Issuing Bank to make available its Tax returns (or any other information relating to its Taxes that it deems confidential in its reasonable discretion) to the Borrower or any other Person.
(g) Solely for purposes of FATCA, this Agreement and all Loans made hereunder (including any Revolving Loans) have, at all times, not qualified as “grandfathered obligations” within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

(h) For the avoidance of doubt, the term “applicable law” in this Section 2.14 includes FATCA.

SECTION 2.15 Payments Generally; Pro Rata Treatment; Sharing of Setoffs.

(a) Payments by the Borrower. The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.12, Section 2.13 or Section 2.14, or otherwise), or under any other Loan Document (except to the extent otherwise provided therein), prior to 2:00 pm, New York City time, on the date when due, in immediately available funds, without setoff or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at the address provided pursuant to Section 9.01, except as otherwise expressly provided in the relevant Loan Document and except payments to be made directly to an Issuing Bank as expressly provided herein and payments pursuant to Section 2.12, Section 2.13, Section 2.14 and Section 9.03, which shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder or other action to be taken by the Borrower hereunder or under any other Loan Document shall be due on a day that is not a Business Day, the date for payment or action shall be extended to the next succeeding Business Day and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder or under any other Loan Document (except to the extent otherwise provided therein) shall be made in Dollars.

(b) Application of Insufficient Payments. Any payments received by the Administrative Agent (i) not constituting (A) a specific payment of principal, unreimbursed LC Disbursements, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrower), (B) a mandatory prepayment (which shall be applied in accordance with Section 2.08), or (C) proceeds of any Collateral, or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct to exercise remedies in accordance with the terms of the Loan Documents, shall be applied, subject to any applicable Intercreditor Agreement, (i) first, to pay interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, to pay principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties. For the avoidance of doubt, for purposes of this Section 2.15(b), unreimbursed LC Disbursements shall be treated the same as principal then due hereunder.

(c) Pro Rata Treatment. Except to the extent otherwise provided herein (including, without limitation, pursuant to transactions contemplated by Section 2.18, 2.19, 2.20, 2.21 or 9.04(b)(v)): (i) each Borrowing shall be made from the Lenders, each payment of commitment fee under Section 2.09 shall be made for account of the Revolving Lenders, and each termination or reduction of the amount of the Revolving Commitments under Section 2.06 shall be applied to the respective Revolving Commitments of the Revolving Lenders, pro rata according to the amounts of their respective Revolving Commitments of the applicable Class; (ii) each Borrowing of a Class shall be allocated pro rata among the Lenders according to the amounts of their respective Commitments of such Class (in the case of the making of Loans) or their respective Loans of such Class that are to be included in such Borrowing (in the case of conversions and continuations of Loans); (iii) each payment or prepayment of principal of Loans of a Class by the Borrower shall be made for account of the Lenders pro rata in accordance with the respective unpaid principal amounts of the Loans of such Class held by them; and (iv) each payment of interest on Loans of a Class by the Borrower shall be made for account of the Lenders pro rata in accordance with the amounts of interest on such Loans of such Class then due and payable to the respective Lenders. Notwithstanding anything to the contrary in this Agreement, the Borrower may terminate 2022 Revolving Commitments and repay 2022 Revolving Loans on a non-pro rata basis and without terminating 2024 Revolving Commitments or repaying 2024 Revolving Loans.
(d) **Sharing of Payments by Lenders.** If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender’s receiving payment of a proportion of the aggregate amount of its Loans and accrued interest thereon or other such obligations greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (A) notify the Administrative Agent of such fact and (B) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them; provided that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this paragraph shall not be construed to apply to (x) any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (including, without limitation, pursuant to transactions contemplated by Section 2.18, 2.19, 2.20 or 9.04(b)(v) and including the application of funds arising from the existence of a Defaulting Lender) or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary thereof (as to which the provisions of this Section 2.15(d) shall apply, unless pursuant to Section 2.20 or 9.04(b)(v)).

The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(e) **Payments by the Borrower; Presumptions by the Administrative Agent.** Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Banks hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Banks, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the Issuing Banks, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.
(f) **Certain Deductions by the Administrative Agent.** If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04, Section 2.15(e) or 2.22(e), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the Administrative Agent for account of such Lender to satisfy such Lender’s obligations under such Sections until all such unsatisfied obligations are fully paid.

**SECTION 2.16 Mitigation Obligations; Replacement of Lenders.**

(a) **Designation of a Different Lending Office.** If any Lender requests compensation under Section 2.12, or requires the Borrower to indemnify or pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.12 or Section 2.14, 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. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) **Replacement of Lenders.** If any Lender requests compensation under Section 2.12, or if the Borrower is required to indemnify or pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14, or if any Lender becomes a Defaulting Lender, or if any Lender shall withhold its consent (any such Lender, a "Non-Consenting Lender") to any amendment, waiver or other modification to this Agreement or any other Loan Document that requires the consent of all the Lenders or each affected Lender and that has been consented to by the Required Lenders, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 9.04), all of its interests, rights and obligations under this Agreement and the related Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that:

(i) the Borrower or applicable assignee shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 9.04;

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 2.13) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);
A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Each Lender agrees that, if the Borrower elects to replace such Lender in accordance with this Section 2.16, it shall promptly execute and deliver to the Administrative Agent an Assignment and Assumption to evidence the assignment and shall deliver to the Administrative Agent any promissory notes issued in respect of such Lender’s Loans; provided that the failure of any such Lender to execute an Assignment and Assumption shall not render such assignment invalid and such assignment shall be recorded in the Register.

SECTION 2.17 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) commitment fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.09(a);

(b) the Commitments and Revolving Credit Exposure of such Defaulting Lender shall not be included in determining whether all Lenders or the Required Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 9.02), provided that any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender which affects such Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender;

(c) if any LC Exposure exists at the time a Revolving Lender becomes a Defaulting Lender then:

(i) all or any part of such LC Exposure shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages but only to the extent (x) the sum of all non-Defaulting Lenders’ Revolving Credit Exposures and LC Exposure does not exceed the total of all non-Defaulting Lenders’ Revolving Commitments and (y) the conditions set forth in Section 4.02 are satisfied at such time;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, the Borrower shall within three Business Days following notice by the Administrative Agent, without prejudice to any rights or remedies of the Borrower against such Defaulting Lender, cash collateralize such Defaulting Lender’s LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) in accordance with the procedures set forth in Section 2.22(k) for so long as such LC Exposure is outstanding;
(iii) if the Borrower cash collateralizes any portion of such Defaulting Lender’s LC Exposure pursuant to Section 2.17(c), the Borrower shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.09(b) with respect to such Defaulting Lender’s LC Exposure during the period such Defaulting Lender’s LC Exposure is cash collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to Section 2.17(c), then the fees otherwise payable to the Defaulting Lender pursuant to Section 2.09(b) shall be allocated among the non-Defaulting Lenders in accordance with such non-Defaulting Lenders’ Applicable Percentages of the applicable Revolving Facility; and

(v) if any Defaulting Lender’s LC Exposure is neither cash collateralized nor reallocated pursuant to Section 2.17(c), then, without prejudice to any rights or remedies of any Issuing Bank or any Revolving Lender hereunder, all commitment fees that otherwise would have been payable to such Defaulting Lender (solely with respect to the portion of such Defaulting Lender’s Commitment that was utilized by such LC Exposure) and letter of credit fees payable under Section 2.09(b) with respect to such Defaulting Lender’s LC Exposure shall be payable to the applicable Issuing Bank until such LC Exposure is cash collateralized and/or reallocated;

(d) so long as any Revolving Lender is a Defaulting Lender, the applicable Issuing Bank shall not be required to issue, amend or increase any Letter of Credit, unless the related exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrower in accordance with Section 2.17(c), and participating interests in any such newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.17(c)(i) (and Defaulting Lenders shall not participate therein); and

(e) any amount payable to such Defaulting Lender hereunder (whether on account of principal, interest, fees or otherwise and including any amount that would otherwise be payable to such Defaulting Lender pursuant to Section 2.15(d) but excluding Section 2.16(b)) shall, in lieu of being distributed to such Defaulting Lender, be retained by the Administrative Agent in a segregated account and, subject to any applicable requirements of law, be applied at such time or times as may be determined by the Administrative Agent (i) first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder, (ii) second, pro rata, to the payment of any amounts owing by such Defaulting Lender to such Issuing Bank hereunder, (iii) third, if so determined by the Administrative Agent or requested by an Issuing Bank, to be held in such account as cash collateral for future funding obligations of the Defaulting Lender of any participating interest in any Letter of Credit, (iv) fourth, 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 the Administrative Agent, (v) fifth, if so determined by the Administrative Agent and the Borrower, held in such account as cash collateral for future funding obligations of the Defaulting Lender of any Loans under this Agreement, (vi) sixth, to the payment of any amounts owing to the Lenders or an Issuing Bank as a result of any judgment of a court of competent jurisdiction obtained by any Lender or such Issuing Bank against such Defaulting Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender or such Issuing Bank against such Defaulting Lender as a result of such Defaulting Lender’s breach of its obligations under this Agreement, (vii) seventh, to the payment of any amounts owing to the Borrower as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Lender as a result of such Defaulting Lender’s breach of its obligations under this Agreement, and (viii) eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if such payment is (x) a prepayment of the principal amount of any Loans or reimbursement obligations in respect of LC Disbursements for which a Defaulting Lender has funded its participation obligations and (y) made at a time when the conditions set forth in Section 4.02 are satisfied, such payment shall be applied solely to prepay the Loans of, and reimbursement obligations owed to, all non-Defaulting Lenders pro rata prior to being applied to the prepayment of any Loans, or reimbursement obligations owed to, any Defaulting Lender.
In the event that the Administrative Agent, the Borrower and each Issuing Bank each agrees that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the LC Exposure of the Revolving Lenders shall be readjusted to reflect the inclusion of such Lender’s Revolving Commitment and on such date such Lender shall purchase at par such of the Loans of the other Lenders as the Administrative shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage.

Subject to Section 9.15, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a non-Defaulting Lender as a result of such non-Defaulting Lender’s increased exposure following such reallocation.

SECTION 2.18 Extensions of Loans.

(a) Notwithstanding anything to the contrary in this Agreement, pursuant to one or more offers made from time to time by the Borrower to all Lenders of any Class of Loans or Commitments on a pro rata basis (based on the aggregate outstanding Loans or Commitments of such Class), and on the same terms to each such Lender (“Pro Rata Extension Offers”), the Borrower is hereby permitted to consummate transactions with individual Lenders that agree to such transactions from time to time to extend the maturity date of such Lender’s Loans or Commitments of such Class and to otherwise modify the terms of such Lender’s Loans or Commitments of such Class pursuant to the terms of the relevant Pro Rata Extension Offer (including, without limitation, increasing the interest rate or fees payable in respect of such Lender’s Loans and/or, with respect to Term Loans, modifying the amortization schedule in respect of such Term Loans). For the avoidance of doubt, the reference to “on the same terms” in the preceding sentence shall mean that all of the Loans or Commitments of such Class are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same. Any such extension (an “Extension”) agreed to between the Borrower and any such Lender (an “Extending Lender”) will be established under this Agreement by implementing an Other Loan for such Lender (such extended Loan, an “Extended Loan”) or another Class of commitments for such Lender (such extended Commitment, an “Extended Commitment”). Each Pro Rata Extension Offer shall specify the date on which the Borrower proposes that the Extended Loan shall be made, which shall be a date not earlier than ten (10) Business Days after the date on which notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion).

(b) The Borrower and each Extending Lender shall execute and deliver to the Administrative Agent an amendment to this Agreement (an “Extension Amendment”) and such other documentation as the Administrative Agent shall reasonably specify to evidence the Extended Commitments or Extended Loans of such Extending Lender. Each Extension Amendment shall specify the terms of the applicable Extended Commitments or Extended Loans; provided that (i) the terms applicable to such Extended Loans (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms and, subject to clauses (ii) and (iii) of this proviso, optional prepayment, mandatory prepayment (with respect to Term Loans), amortization (with respect to Term Loans) or redemption terms or final maturity date, which shall be as agreed between the Borrower and the Lenders providing such Extended Loans) shall (when taken as a whole and as determined by the Borrower in good faith) be substantially similar to, or not materially less favorable to the Borrower than, the terms, taken as a whole, applicable to the existing Class of Loans or Commitments being extended (except to the extent such covenants and other terms apply solely to any period after the Maturity Date then in effect of the existing Class of Loans being extended or are otherwise reasonably acceptable to the Administrative Agent), (ii) the final maturity date of any Extended Loans and Extended Commitments shall be no earlier than ninety-one (91) days after the Latest Maturity Date in effect with respect to such Class as such offer relates on the date of incurrence, (iii) the Weighted Average Life to Maturity of any Extended Loans and Extended Commitments shall be no shorter than the remaining Weighted Average Life to Maturity of the Class of Loans to which such offer relates, (iv) any Extended Loans in the form of Term Loans may participate on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) than the Initial Term Loans and the Term B-1 Loans in any mandatory prepayment hereunder, and (v) before and after giving effect to the Extension Amendment, no Event of Default shall have occurred and be continuing. Upon the effectiveness of any Extension Amendment, this Agreement shall be amended without the consent of any other Lenders to the extent (but only to the extent) necessary to reflect the existence and terms of the Extended Loans or Extended Commitments evidenced thereby as provided for in Section 9.02. Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrower’s consent (not to be unreasonably withheld) and furnished to the other parties hereto.
Upon the effectiveness of any such Extension, the applicable Extending Lender’s Loan or Commitments will be automatically designated an Extended Loan or Extended Commitments.

Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.18), (i) no Extended Loan is required to be in any minimum amount or any minimum increment, (ii) any Extending Lender may extend all or any portion of its Loans or Commitments pursuant to one or more Pro Rata Extension Offers (subject to applicable proration in the case of over participation) (including the extension of any Extended Loan or Extended Commitments), (iii) there shall be no condition to any Extension of any Loan or Commitments at any time or from time to time other than notice to the Administrative Agent of such Extension and the terms of the Extended Loan implemented thereby, (iv) all Extended Loans and Extended Commitments and all obligations in respect thereof shall be Obligations of the Borrower under this Agreement and the other Loan Documents that rank equally and ratably in right of security with all other Obligations of the Class being extended, and (v) there shall be no borrower (other than the Borrowers) and no guarantors (other than the Guarantors) in respect of any such Extended Loans or Extended Commitments.

Each Extension shall be consummated pursuant to procedures set forth in the associated Pro Rata Extension Offer; provided, that the Borrower shall cooperate with the Administrative Agent prior to making any Pro Rata Extension Offer to establish reasonable procedures with respect to mechanical provisions relating to such Extension, including, without limitation, timing, rounding and other adjustments.

SECTION 2.19 Refinancing Amendments.

Notwithstanding anything to the contrary in this Agreement, the Borrower may by written notice to the Administrative Agent establish one or more additional tranches of term loans under this Agreement (such loans, “Refinancing Term Loans”), all cash proceeds from the incurrence, issuance or sale by the Borrower of which Refinancing Term Loans, net of all taxes paid or reasonably estimated to be payable, directly or indirectly, as a result thereof and fees (including investment banking fees, underwriting fees and discounts), commissions, costs and other expenses, in each case incurred in connection with such incurrence, issuance or sale, are used to Refinance in whole or in part any Loans (or one or more Class(es) of Loans). Each such notice shall specify the applicable Class(es) of Loans being refinanced and the date (each, a “Refinancing Effective Date”) on which the Borrower proposes that the Refinancing Term Loans shall be made, which shall be a date not earlier than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its sole discretion); provided that:

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(i) before and after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date:

(A) the representations and warranties of Borrower set forth in this Agreement and the other Loan Documents shall be true and correct in all material respects (except in the case of any such representations and warranty that expressly relates to an earlier given date or period, in which case such representation and warranty shall be true and correct in all material respects as of the respective earlier date or respective period, as the case may be); and

(B) no Default shall have occurred and be continuing;

(ii) the final maturity date of the Refinancing Term Loans shall be no earlier than the Maturity Date of the refinanced Loans;

(iii) the Weighted Average Life to Maturity of such Refinancing Term Loans shall be no shorter than the then-remaining Weighted Average Life to Maturity of the refinanced Loans;

(iv) the aggregate principal amount of the Refinancing Term Loans shall not exceed the outstanding principal amount of the refinanced Loans plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith;

(v) all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms and optional prepayment, mandatory prepayment, amortization or redemption terms, which shall be as agreed between the Borrower and the Lenders providing such Refinancing Term Loans) shall (when taken as a whole and as determined by the Borrower in good faith) be substantially similar to, or not materially less favorable to the Borrower than, the terms (taken as a whole) applicable to the Term Loans being refinanced (except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date then in effect or are otherwise reasonably acceptable to the Administrative Agent); provided that any Refinancing Term Loans that are unsecured or rank junior in right of security to the Initial Term Loans and the Term B-1 Loans shall not have scheduled amortization commencing prior to the Latest Maturity Date other than at a nominal rate;

(vi) with respect to Refinancing Term Loans secured by Liens on the Collateral that rank junior in right of security to the Initial Term Loans and Term B-1 Loans, such Liens will be subject to a Permitted Junior Intercreditor Agreement;
(vii) there shall be no borrower (other than the Borrower) and no guarantors (other than the Guarantors) in respect of such Refinancing Term Loans (unless such other borrower or guarantor provides a Guarantee of the Obligations on terms reasonably acceptable to the Administrative Agent substantially concurrently with the making of such Refinancing Term Loans);

(viii) Refinancing Term Loans shall not be secured by any asset of the Borrower and its Subsidiaries other than the Collateral (or assets that become Collateral substantially concurrently with the making of such Refinancing Term Loans); and

(ix) Refinancing Term Loans may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any mandatory prepayments hereunder, as specified in the applicable Refinancing Amendment.

(b) Notwithstanding anything to the contrary in this Agreement, the Borrower may by written notice to the Administrative Agent establish one or more additional facilities (“Replacement Revolving Facilities”) providing for revolving commitments (“Replacement Revolving Commitments” and the revolving loans thereunder, “Replacement Revolving Loans”), which replace in whole or in part any Class of Revolving Commitments under this Agreement. Each such notice shall specify the date (each, a “Replacement Revolving Facility Effective Date”) on which the Borrower proposes that the Replacement Revolving Commitments shall become effective, which shall be a date not less than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its sole discretion); provided, that: (i) before and after giving effect to the establishment of such Replacement Revolving Commitments on the Replacement Revolving Facility Effective Date, each of the conditions set forth in Section 4.02 shall be satisfied; (ii) after giving effect to the establishment of any Replacement Revolving Commitments and any concurrent reduction in the aggregate amount of any other Revolving Commitments, the aggregate amount of Revolving Commitments shall not exceed the aggregate amount of the Revolving Commitments outstanding immediately prior to the applicable Replacement Revolving Facility Effective Date plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith; (iii) no Replacement Revolving Commitments shall have a final maturity date (or require commitment reductions or amortizations) prior to the applicable Revolving Facility Commitment Termination Date for the Revolving Commitments being replaced; (iv) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the applicable Borrower and the Lenders providing such Replacement Revolving Commitments and (y) the amount of any letter of credit sublimit under such Replacement Revolving Facility, which shall be as agreed between the applicable Borrower, the Lenders providing such Replacement Revolving Commitments, the Administrative Agent and the replacement issuing bank, if any, under such Replacement Revolving Commitments) taken as a whole shall (as determined by the applicable Borrower in good faith) be substantially similar to, or no more restrictive to the Borrower and the Subsidiaries than, those applicable to the Revolving Commitments so replaced (except to the extent such covenants and other terms apply solely to any period after the latest Maturity Date with respect to the Revolving Commitments in effect at the time of incurrence or are otherwise reasonably acceptable to the Administrative Agent); and (v) there shall be no borrower (other than the Borrowers) and no guarantors (other than the Guarantors) in respect of such Replacement Revolving Facility; and (vi) Replacement Revolving Commitments and extensions of credit thereunder shall not be secured by any asset of Borrower and its Subsidiaries other than the Collateral. Solely to the extent that an Issuing Bank is not a replacement issuing bank under a Replacement Revolving Facility, it is understood and agreed that such Issuing Bank shall not be required to issue any letters of credit under such Replacement Revolving Facility and, to the extent it is necessary for such Issuing Bank to withdraw as an Issuing Bank, as the case may be, at the time of the establishment of such Replacement Revolving Facility, such withdrawal shall be on terms and conditions reasonably satisfactory to such Issuing Bank in its sole discretion. The Borrower agrees to reimburse each Issuing Bank in full upon demand, for any reasonable and documented out-of-pocket cost or expense attributable to such withdrawal.
(c) The Borrower may approach any Lender or any other person that would be a permitted assignee pursuant to Section 9.04 to provide all or a portion of the Refinancing Term Loans or Replacement Revolving Commitments; provided, that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans or Replacement Revolving Commitments may elect or decline, in its sole discretion, to provide a Refinancing Loan or Replacement Revolving Commitments. Any Refinancing Term Loans or Replacement Revolving Commitments made on any Refinancing Effective Date shall be designated an additional Class of Loans for all purposes of this Agreement; provided, further, that any Refinancing Term Loans or Replacement Revolving Commitments may, to the extent provided in the applicable Refinancing Amendment governing such Refinancing Term Loans or Replacement Revolving Commitments, be designated as an increase in any previously established Class of Loans made to the Borrower.

(d) Any Borrower and each Lender providing the applicable Refinancing Term Loans and/or Replacement Revolving Commitments (as applicable) shall execute and deliver to the Administrative Agent an amendment to this Agreement (a “Refinancing Amendment”) and such other documentation as the Administrative Agent shall reasonably specify to evidence such Refinancing Term Loans and/or Replacement Revolving Commitments (as applicable). For purposes of this Agreement and the other Loan Documents, if a Lender is providing a Refinancing Term Loan, such Lender will be deemed to have an Other Term Loan having the terms of such Refinancing Term Loan. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.19), (i) no Refinancing Term Loan or Replacement Revolving Commitment is required to be in any minimum amount or any minimum increment, (ii) there shall be no condition to any incurrence of any Refinancing Term Loan or Replacement Revolving Commitment at any time or from time to time other than those set forth in clauses (a) or (b) above, as applicable, and (iii) all Refinancing Term Loans, Replacement Revolving Commitments and all obligations in respect thereof shall be Obligations under this Agreement and the other Loan Documents that rank equally and ratably in right of security with the Initial Term Loans, the Term B-1 Loans and other Obligations (other than Refinancing Term Loans or Replacement Revolving Commitments that rank junior in right of security, and except to the extent any such Refinancing Term Loans or Replacement Revolving Commitments are secured by the Collateral on a junior lien basis in accordance with the provisions above). Upon the effectiveness of any Refinancing Amendment, this Agreement shall be amended without the consent of any other Lenders to the extent (but only to the extent) necessary to reflect the existence and terms of the Refinancing Term Loans or Replacement Revolving Commitments evidenced thereby as provided for in Section 9.02. Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Borrower’s consent (not to be unreasonably withheld) and furnished to the other parties hereto.

SECTION 2.20 Loan Repurchases.

(a) Subject to the terms and conditions set forth or referred to below, the Borrower may from time to time, at its discretion, conduct modified Dutch auctions in order to purchase its Term Loans of one or more Classes (as determined by the Borrower) (each, a “Purchase Offer”), each such Purchase Offer to be managed exclusively by the Administrative Agent (or such other financial institution chosen by the Borrower and reasonably acceptable to the Administrative Agent) (in such capacity, the “Auction Manager”), so long as the following conditions are satisfied:
(i) each Purchase Offer shall be conducted in accordance with the procedures, terms and conditions set forth in this Section 2.20 and the Auction Procedures;

(ii) no Event of Default shall have occurred and be continuing on the date of the delivery of each notice of an auction and at the time of (and immediately after giving effect to) the purchase of any Term Loans in connection with any Purchase Offer;

(iii) the principal amount (calculated on the face amount thereof) of each and all Classes of Term Loans that the Borrower offers to purchase in any such Purchase Offer shall be no less than $50,000,000 (unless another amount is agreed to by the Administrative Agent) (across all such Classes);

(iv) the aggregate principal amount (calculated on the face amount thereof) of all Term Loans of the applicable Class or Classes so purchased by the Borrower shall automatically be cancelled and retired by the Borrower on the settlement date of the relevant purchase (and may not be resold) (without any increase to Consolidated EBITDA as a result of any gains associated with cancellation of debt), and in no event shall the Borrower be entitled to any vote hereunder in connection with such Term Loans;

(v) no more than one Purchase Offer with respect to any Class may be ongoing at any one time;

(vi) no Purchase Offer may be made with the proceeds of the Revolving Facility and at the time of each purchase of Term Loans through a Purchase Offer, there must be at least $500,000,000 of unborrowed commitments under the Revolving Facility; provided that this clause (vi) shall not be applicable if, immediately after giving effect to the consummation of such Purchase Offer, all Obligations (other than contingent indemnification obligations not yet accrued and payable) shall have been paid in full and any commitment of any Lender hereunder to extend credit to the Borrower shall have terminated or expired;

(vii) at the time of each purchase of Term Loans through a Purchase Offer, the Borrower shall have delivered to the Auction Manager an officer’s certificate of a Financial Officer certifying as to compliance with the preceding clause (vi); and

(viii) any Purchase Offer with respect to any Class shall be offered to all Lenders holding Term Loans of such Class on a pro rata basis.

(b) The Borrower must terminate any Purchase Offer if it fails to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of purchase of Term Loans pursuant to such Purchase Offer. If the Borrower commences any Purchase Offer (and all relevant requirements set forth above which are required to be satisfied at the time of the commencement of such Purchase Offer have in fact been satisfied), and if at such time of commencement the Borrower reasonably believes that all required conditions set forth above which are required to be satisfied at the time of the consummation of such Purchase Offer shall be satisfied, then the Borrower shall have no liability to any Lender for any termination of such Purchase Offer as a result of its failure to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of consummation of such Purchase Offer, and any such failure shall not result in any Default or Event of Default hereunder. With respect to all purchases of Term Loans of any Class or Classes made by the Borrower pursuant to this Section 2.20, (x) the Borrower shall pay on the settlement date of each such purchase all accrued and unpaid interest (except to the extent otherwise set forth in the relevant offering documents), if any, on the purchased Loans of the applicable Class or Classes up to the settlement date of such purchase and (y) such purchases (and the payments made by the Borrower and the cancellation of the purchased Loans, in each case in connection therewith) shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.08 hereof.

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(c) The Administrative Agent and the Lenders hereby consent to the Purchase Offers and the other transactions effected pursuant to and in accordance with the terms of this Section 2.20; provided, that notwithstanding anything to the contrary contained herein, no Lender shall have an obligation to participate in any such Purchase Offer. For the avoidance of doubt, it is understood and agreed that the provisions of Sections 2.13 and 9.04 will not apply to the purchases of Term Loans pursuant to Purchase Offers made pursuant to and in accordance with the provisions of this Section 2.20. The Auction Manager acting in its capacity as such hereunder shall be entitled to the benefits of the provisions of Article VIII and Section 9.03 to the same extent as if each reference therein to the “Administrative Agent” were a reference to the Auction Manager, and the Administrative Agent shall cooperate with the Auction Manager as reasonably requested by the Auction Manager in order to enable it to perform its responsibilities and duties in connection with each Purchase Offer.

SECTION 2.21 Increase in Commitments.

(a) Borrower Request. Borrower may by written notice to the Administrative Agent elect to request the establishment of one or more new Term Commitments (each an “Incremental Term Loan Commitment”) or, prior to the Revolving Facility Commitment Termination Date in respect of the 2024 Revolving Commitments, one or more increases in the 2024 Revolving Commitments (any such increase, an “Incremental Revolving Commitment” and, together with the Incremental Term Loan Commitments, the “Incremental Loan Commitments”); provided that, on the date on which such Incremental Term Loan Commitment is established, the aggregate outstanding principal amount of Incremental Equivalent Indebtedness, Incremental Term Loans and Incremental Loan Commitments incurred from and after the Amendment No. 2 Effective Date shall not exceed the Incremental Amount. Each such notice shall specify (i) the date (each, an “Increase Effective Date”) on which the Borrower proposes that the increased or new Commitments shall be effective, which shall be a date not less than 10 Business Days after the date on which such notice is delivered to the Administrative Agent and (ii) the identity of each person (which much be a person to whom Loans are permitted to be assigned pursuant to Section 9.04(b)) to whom the Borrower proposes any portion of such increased or new Commitments be allocated and the amounts of such allocations; provided that any existing Lender approached to provide all or a portion of the increased or new Commitments may elect or decline, in its sole discretion, to provide such increased or new Commitment.

(b) Conditions. The increased or new Commitments shall become effective, as of such Increase Effective Date; provided that:

(i) The Administrative Agent shall have received a Borrowing Request as required by Section 2.03;

(ii) each of the representations and warranties made by the Borrower set forth in Article III hereof or in any other Loan Document shall be true and correct in all material respects on and as of Increase Effective Date (except to the extent such representations and 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, and, to the extent such representations and warranties are qualified as to materiality, Material Adverse Effect or similar language, such representations shall be true and correct in all respects); provided, that, in the case of Incremental Term Loans incurred to make an acquisition or other investment permitted to be made hereunder, such representations and warranties to be made on the Increase Effective Date shall be limited to the Specified Representations and the “acquisition agreement representations” (or similar representations) conformed as appropriate for such transaction;
The terms of Loans made pursuant to Incremental Term Loan Commitments shall be, except as otherwise set forth herein or in the Increase Joinder, identical to (i) the Term B-1 Loans (“Incremental Term B Loans”) or (ii) the Initial Term Loans (“Incremental Term A Loans,” and, together with any Incremental Term B Loan, the “Incremental Term Loans”) (it being understood that Incremental Term Loans may be part of an existing Class of Term Loans); provided that (i) the final maturity date of (x) all Incremental Term B Loans shall not be earlier than the latest Maturity Date with respect to the Term B-1 Loans then in effect and (y) all Incremental Term Loans shall not be earlier than the latest Maturity Date with respect to the Initial Term Loans then in effect, (ii) the Weighted Average Life to Maturity of all (x) Incremental Term B Loans shall not be shorter than the remaining Weighted Average Life to Maturity of the existing Term B-1 Loans and (y) Incremental Term Loans shall be no shorter than the Weighted Average Life to Maturity of all existing Initial Term Loans, (iii) Incremental Term Loans shall not participate on a greater than pro rata basis with the Term Loans in any mandatory prepayments hereunder (other than scheduled amortization payments), (iv) the All-in Yield for (x) the new Incremental Term A Loans shall be determined by the Borrower and the applicable new Lenders and (y) the new Incremental Term B Loans shall be determined by the Borrower and the applicable new Lenders, except that the All-in Yield in respect of any such Incremental Term B Loans may exceed the All-in Yield in respect of the Term B-1 Loans by no more than 0.50%, or if it does so exceed such All-in Yield (such difference, the “Term Yield Differential”) then the Applicable Rate (or the “Adjusted LIBO Rate floor” as provided in the following proviso) applicable to such Term B-1 Loans shall be increased such that after giving effect to such increase, the Term Yield Differential shall not exceed 0.50%; provided that to the extent any portion of the Term Yield Differential is attributable to a higher “Adjusted LIBO Rate floor” being applicable to such Incremental Term B Loans, such floor shall only be included in the calculation of the Term Yield Differential to the extent such floor is greater than the Adjusted LIBO Rate in effect for an Interest Period of three months’ duration at such time, and, with respect to such excess, the “Adjusted LIBO Rate floor” applicable to the outstanding Term B-1 Loans shall be increased to an amount not to exceed the “Adjusted LIBO Rate floor” applicable to such Incremental Term B Loans prior to any increase in the Applicable Rate applicable to such Term B-1 Loans then outstanding, and (v) all other terms applicable to such Incremental Term Loans (other than those specified in clauses (i) through (v) above) shall not be more restrictive (taken as a whole) than those applicable to the any Revolving Facility, Initial Term Loans or Term B-1 Loans, except to the extent (a) this Agreement shall be modified to grant the each Revolving Facility, Initial Term Loans and Term B-1 Loans the benefit of such more restrictive provisions, (b) applicable solely to periods after the Latest Maturity Date in effect at the time of incurrence or issuance of such Incremental Term Loans or (c) as otherwise agreed by the Administrative Agent in its reasonable discretion. The terms of any Incremental Revolving Commitment shall be the same as those of the 2024 Revolving Commitment or any Extended Commitment; provided that any Replacement Revolving Commitment may have a later maturity date than, and pricing and fees different from, those applicable to the 2024 Revolving Commitment and Extended Commitment.
The increased or new Commitments shall be effected by a joinder agreement (the “Increase Joinder”) executed by the Borrower, the Administrative Agent and each Lender making such increased or new Commitment, in form and substance satisfactory to each of them. For purposes of this Agreement and the other Loan Documents, if a Lender is providing an Incremental Term Loan, such Lender will be deemed to have an Other Loan having the terms of such Incremental Term Loan. The Increase Joinder may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of the Administrative Agent, to effect the provisions of this Section 2.21. In addition, unless otherwise specifically provided herein, all references in Loan Documents to Loans shall be deemed, unless the context otherwise requires, to include references to Incremental Term Loans and Loans under any Incremental Revolving Commitment, made pursuant to this Agreement.

(d) **Adjustment of Revolving Loans.** If any Revolving Loan or Letter of Credit shall be outstanding on the relevant Increase Effective Date, the Borrower shall have borrowed Revolving Loans from each of the Lenders providing Incremental Revolving Commitments on the Increase Effective Date, and such Lenders shall have made Revolving Loans to the Borrower (in the case of Eurodollar Loans, with Interest Period(s) ending on the date(s) of any then outstanding Interest Period(s)) and shall be deemed to have acquired participations in any outstanding Letters of Credit, and (notwithstanding the provisions of Section 2.15 requiring that borrowings and prepayments be made ratably in accordance with the principal amounts of the Loans held by the Lenders) the Borrower in coordination with the Administrative Agent shall have taken such actions, including, if necessary, prepaying Loans held by the other Revolving Lenders (together with accrued interest thereon and any amounts owing pursuant to Section 2.13 as a result of such payment) in such amounts as may be necessary so that after giving effect to such Revolving Loans, purchases and prepayments the Revolving Loans (and Interest Period(s) of Eurodollar Loan(s)) and the LC Exposure shall be held by the Revolving Lenders pro rata in accordance with the respective amounts of their Revolving Commitments (as so increased) and, in that connection, the applicable Issuing Bank shall be deemed to have released any Revolving Lenders so deemed to have sold participations in outstanding Letters of Credit on the date of such replacement from such sold participation. If there is a new borrowing of Revolving Loans on such Increase Effective Date, the Revolving Lenders after giving effect to such Increase Effective Date shall make such Revolving Loans in accordance with Section 2.01 (b).

(e) **Equal and Ratable Benefit.** The Loans and Commitments established pursuant to this paragraph shall constitute Loans and Commitments under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from the Guarantees and security interests created by the Collateral Documents, except that the new Loans may be subordinated in right of payment or the Liens securing the new Loans may be subordinated, in each case, as set forth in the Increase Joinder. The Loan Parties and Pledgors shall take any actions reasonably required by the Administrative Agent to ensure and/or demonstrate that the Lien and security interests granted by the Collateral Documents continue to be perfected under the UCC or otherwise after giving effect to the establishment of any such Class of Loans or any such new Commitments.
SECTION 2.22 Letters of Credit.

(a) General. Subject to the terms and conditions set forth herein, in addition to the Revolving Loans provided for in Section 2.01(b), the Borrower may request an Issuing Bank to issue, at any time and from time to time during the Availability Period, Letters of Credit for its own account in such form as is acceptable to the Administrative Agent and the applicable Issuing Bank in its reasonable determination. Letters of Credit issued hereunder shall constitute utilization of the Revolving Commitments.

(b) Notice of Issuance, Amendment, Renewal or Extension. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to an Issuing Bank and the Administrative Agent (at least three (3) Business Days in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (d) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable Issuing Bank, the Borrower also shall submit a letter of credit application on the applicable Issuing Bank’s standard form in connection with any request for a Letter of Credit. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, the applicable Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control. No Issuing Bank shall be under any obligation to issue any Letter of Credit if the issuance of such Letter of Credit would violate one or more policies of such Issuing Bank now or hereafter applicable to letters of credit generally (including, for the avoidance of doubt, with respect to whether such Issuing Bank may issue trade and commercial letters of credit).

(c) Limitations on Amounts. A Letter of Credit shall be issued, amended, renewed or extended only if (A) (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that) immediately after giving effect to such issuance, amendment, renewal or extension (i) the aggregate LC Exposure shall not exceed $150,000,000, (ii) the LC Exposure in respect of Letters of Credit issued by such Issuing Bank does not exceed its Letter of Credit Sublimit (unless such Issuing Bank agrees to do so in its sole discretion) and (iii) the total Revolving Credit Exposures shall not exceed the total Revolving Commitments, and (B) the Issuing Bank shall not have received written notice from the Administrative Agent (at the request of the Required Lenders) at least one Business Day prior to the requested date of issuance, amendment, renewal or extension that one or more of the conditions contained in Section 4.02 shall not be satisfied with respect thereto.

(d) Expiration Date. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date twelve months after the date of the issuance of such Letter of Credit and (ii) the date that is five Business Days prior to the applicable Revolving Facility Commitment Termination Date; provided, that a Letter of Credit may provide for the automatic renewal thereof for additional one-year periods (but shall in no event extend beyond the date referred to in clause (ii) above).

(e) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) by an Issuing Bank, and without any further action on the part of an Issuing Bank or the Revolving Lenders, the Issuing Bank hereby grants to each Revolving Lender, and each Revolving Lender hereby acquires from the applicable Issuing Bank, a participation in such Letter of Credit equal to such Revolving Lender’s Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit provided that notwithstanding the foregoing, participations in any new Letters of Credit that have any expiry date after the Maturity Date of the 2022 Revolving Facility, shall be allocated to the Extending Revolving Lenders ratably in accordance with their Applicable Percentage of the 2024 Revolving Commitments. On the Maturity Date of the 2024 Revolving Facility, the participations in outstanding Letters of Credit of the Non-Extending Revolving Lenders shall be reallocated to the Extending Revolving Lenders ratably in accordance with their Applicable Percentage of the 2024 Revolving Commitments but in any case only to the extent it would not cause the 2024 Revolving Credit Exposure to exceed the 2024 Revolving Commitments. Each Revolving Lender acknowledges and agrees that its obligation to acquire participations and fund ABR Loans pursuant to this sentence of this clause (e) and the next sentence hereof in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Revolving Commitments.
In consideration and in furtherance of the foregoing, each Revolving Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Issuing Bank, such Revolving Lender’s Applicable Percentage of each LC Disbursement made by the applicable Issuing Bank promptly upon the request of the applicable Issuing Bank at any time from the time of such LC Disbursement until such LC Disbursement is reimbursed by the Borrower or at any time after any reimbursement payment is required to be refunded to the Borrower for any reason. Each such payment shall be deemed to be an ABR Loan by such Revolving Lender and shall be made without any offset, abatement, withholding or reduction whatsoever. Each such payment shall be made in the same manner as provided in Section 2.04 with respect to Loans made by such Revolving Lender (and Section 2.04 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Revolving Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to the next following paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that the Revolving Lenders have made payments pursuant to this paragraph to reimburse the applicable Issuing Bank, then to such Revolving Lenders and the applicable Issuing Bank as their interests may appear.

(f) **Reimbursement.** If an Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse the applicable Issuing Bank in respect of such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 3:00 p.m., New York City time, on (i) the Business Day that the Borrower receives notice of such LC Disbursement, if such notice is received prior to 10:00 a.m., New York City time, or (ii) the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Revolving Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Revolving Lender’s Applicable Percentage thereof. The Borrower’s obligations under this clause (f) shall be satisfied to the extent of the making of ABR Loans under clause (e) above.

(g) **Obligations Absolute.** The Borrower’s obligation to reimburse LC Disbursements as provided in paragraph (f) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit, or any term or provision thereof, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by an Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply strictly with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower’s obligations hereunder.
Neither the Administrative Agent, the Revolving Lenders nor any Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit by any Issuing Bank 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 an Issuing Bank; provided that the foregoing shall not be construed to excuse an Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by any Issuing Bank’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 on the part of an Issuing Bank (as finally determined by a court of competent jurisdiction), the applicable Issuing Bank shall be deemed to have exercised care in each such determination, and that:

(i) The applicable Issuing Bank may accept documents that appear on their face to be in substantial compliance with the terms of a Letter of Credit without responsibility for further investigation, regardless of any notice or information to the contrary, and may make payment upon presentation of documents that appear on their face to be in substantial compliance with the terms of such Letter of Credit;

(ii) The applicable Issuing Bank shall have the right, in its sole discretion, to decline to accept such documents and to make such payment if such documents are not in strict compliance with the terms of such Letter of Credit; and

(iii) this sentence shall establish the standard of care to be exercised by the applicable Issuing Bank when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof (and the parties hereto hereby waive, to the extent permitted by applicable law, any standard of care inconsistent with the foregoing).

(h) Disbursement Procedures. The applicable Issuing Bank shall, within a reasonable time following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The applicable Issuing Bank shall promptly after such examination notify the Administrative Agent and the Borrower of such demand for payment and whether the applicable Issuing Bank has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the applicable Issuing Bank and the Revolving Lenders with respect to any such LC Disbursement.

(i) Interim Interest. If the applicable Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Loans; provided that, if the Borrower fails to reimburse such LC Disbursement (including through the making of ABR Loans as contemplated above), when due pursuant to paragraph (f) of this Section, then Section 2.10(c) shall apply. Interest accrued pursuant to this paragraph shall be for account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Revolving Lender pursuant to paragraph (f) of this Section to reimburse the applicable Issuing Bank shall be for account of such Revolving Lender to the extent of such payment.
(j) **Replacement of an Issuing Bank.** An Issuing Bank may be replaced at any time by written agreement between the Borrower, the Administrative Agent, the replaced Issuing Bank and the successor Issuing Bank. The Administrative Agent shall notify the Revolving Lenders of any such replacement of the Issuing Bank. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of the replaced Issuing Bank pursuant to Section 2.09(b). From and after the effective date of any such replacement, (i) the successor Issuing Bank shall have all the rights and obligations of the Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term “Issuing Bank” shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(k) **Cash Collateralization.** If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Revolving Lenders (or, if the maturity of the Loans has been accelerated, Revolving Lenders with LC Exposure representing more than 50% of the total LC Exposure) demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall immediately deposit into an account established and maintained on the books and records of the Administrative Agent, which account may be a “securities account” (within the meaning of Section 8-501 of the Uniform Commercial Code as in effect in the State of New York), in the name of the Administrative Agent and for the benefit of the Lenders, an amount in cash equal to the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Section 7.01. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement.

The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower’s risk and expense (provided that absent the Borrower’s express written agreement, the only such investments will be in cash equivalent investments), such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse the applicable Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with LC Exposure representing 100% of the total LC Exposure), be applied to satisfy other obligations of the Borrower under this Agreement. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower (together with all interest or profits, if any, thereon) within three Business Days after all Events of Default have been cured or waived.
(l) **Resignation.** Subject to the consent of the Borrower, any Issuing Bank may resign at any time by giving 30 days’ prior notice to the Administrative Agent, the Lenders and the Borrower. After the resignation of an Issuing Bank hereunder, the retiring Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank 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.

**ARTICLE III**

**REPRESENTATIONS AND WARRANTIES**

The Borrower represents and warrants to the Administrative Agent, each Issuing Bank and each of the Lenders that:

**SECTION 3.01 Organization; Powers; Governmental Approvals.**

(a) The Borrower and each Principal Subsidiary (i) is duly organized, validly existing and in good standing (to the extent the concept is applicable in such jurisdiction) under the laws of the jurisdiction of its organization, (ii) has all requisite power and authority to own its property and assets and to carry on its business as now conducted and (iii) is qualified to do business in every jurisdiction where such qualification is required, except where the failure so to qualify would not have a Material Adverse Effect.

(b) Each Loan Party’s and each Pledgor’s execution, delivery and performance of the Loan Documents to which it is a party are within its corporate powers and have been duly authorized by all necessary action. Each of the Loan Documents to which such Loan Party or Pledgor is a party constitutes the legal, valid and binding obligation of such Loan Party or Pledgor, enforceable against such Loan Party or Pledgor in accordance with its terms (except as such enforceability may be limited by (i) applicable bankruptcy, reorganization, insolvency, moratorium and other laws affecting the rights of creditors generally, (ii) general principles of equity (regardless of whether considered in a proceeding in equity or at law), and (iii) requirements of reasonableness, good faith and fair dealing).

(c) Each Loan Party’s and each Pledgor’s execution, delivery and performance of the Loan Documents to which it is a party do not violate or create a default under (i) applicable law, (ii) its constituent documents, or (iii) any contractual provision binding upon it, except to the extent (in the case of violations or defaults described under clauses (i) or (iii)) such violation or default would not reasonably be expected to result in a Material Adverse Effect and would not have an adverse effect on the validity, binding effect or enforceability of this Agreement or any other Loan Document and would not materially adversely affect any of the rights of the Administrative Agent or any Lender under or in connection with this Agreement or any other Loan Document.

(d) Except for (i) any Governmental Approvals required in connection with any Borrowing (such approvals being “Borrowing Approvals”) and (ii) any Governmental Approvals the failure to obtain which could not reasonably be expected to result in a Material Adverse Effect or affect the validity or enforceability of this Agreement or any other Loan Document, all Governmental Approvals required in connection with the execution and delivery by the Loan Parties and the Pledgors of this Agreement and the other Loan Documents to which each is a party and the performance by the Loan Parties and the Pledgors of their respective obligations hereunder and thereunder have been, and, prior to the time of any Borrowing, all Borrowing Approvals will be, duly obtained, are (or, in the case of Borrowing Approvals, will be) in full force and effect without having been amended or modified in any manner that may impair the ability of the Loan Parties or the Pledgors to perform their respective obligations under this Agreement and the other Loan Documents, and are not (or, in the case of Borrowing Approvals, will not be) the subject of any pending appeal, stay or other challenge.
SECTION 3.02 Financial Statements. The Borrower has furnished its most recent filings with the SEC on Forms 10-K and 10-Q. Such Forms 10-K and 10-Q do not, as of the dates specified therein or for the periods covered thereby, as applicable, contain any untrue statement of a material fact or omit to state a material fact necessary to make any statement therein, in light of the circumstances under which it was made, not materially misleading as of such dates or for such periods, as applicable, in light of the circumstances under which such statements were made. Each of the financial statements in such Forms 10-K and 10-Q has been, and each of the most recent financial statements to be furnished pursuant to Section 5.02 will be, prepared in accordance with GAAP applied consistently with prior periods (subject, in the case of any such unaudited financial statements, to the absence of footnotes and normal year-end audit adjustments), except as therein noted and except for changes in FASB ASC 840, and fairly presents or will fairly present in all material respects the consolidated financial position of the Borrower and its Subsidiaries as of the date thereof and the results of the operations of the Borrower and its Subsidiaries for the period then ended.

SECTION 3.03 No Material Adverse Change. Since the date of the Borrower’s most recent financial statements contained in its Annual Report on Form 10-K for the fiscal year ended December 31, 2015, there has been no material adverse change in, and there has occurred no event or condition which is likely to result in a material adverse change in, the financial condition, results of operations, business, assets or operations of the Borrower and the Subsidiaries taken as a whole (it being understood that the consummation of an Asset Exchange shall not constitute such a material adverse change).

SECTION 3.04 Titles to Properties; Possession Under Leases.

(a) Each of the Borrower and the Principal Subsidiaries has good and marketable title to, or valid leasehold interests in, or other rights to use or occupy, all its properties and assets, except for minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes and except as would not reasonably be expected to have a Material Adverse Effect. All such material properties and assets are free and clear of Liens securing Indebtedness, other than Liens expressly permitted by Section 6.01.

(b) Each of the Borrower and the Principal Subsidiaries has complied with all obligations under all material leases to which it is a party and all such leases are in full force and effect, except where such failure to comply or maintain such leases in full force and effect would not have a Material Adverse Effect. Each of the Borrower and the Subsidiaries enjoys peaceful and undisturbed possession under all such material leases except where such failure would not have a Material Adverse Effect.

SECTION 3.05 Ownership of Subsidiaries. The Borrower owns, directly or indirectly, free and clear of any Lien (other than Liens expressly permitted by Section 6.01 or 6.02), all of the issued and outstanding shares of common stock of each of the Principal Subsidiaries.

SECTION 3.06 Litigation; Compliance with Laws.

(a) There is no action, suit, or proceeding, or any governmental investigation or any arbitration, in each case pending or, to the knowledge of the Borrower, threatened against the Borrower or any of the Subsidiaries or any material property of any thereof before any court or arbitrator or any governmental or administrative body, agency, or official which (i) challenges the validity of this Agreement or any other Loan Document, (ii) may reasonably be expected to have a material adverse effect on the ability of the Loan Parties or Pledgors to perform any of their respective obligations under this Agreement or any other Loan Document or on the rights of or benefits available to the Lenders under this Agreement or any other Loan Document or (iii) except with respect to Disclosed Matters, may reasonably be expected to have a Material Adverse Effect.
Neither the Borrower nor any of the Subsidiaries is in violation of any law, rule, or regulation, or in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default could reasonably be expected to result in a Material Adverse Effect.

Except with respect to Disclosed Matters, (i) the Borrower and each of its Subsidiaries have complied with all Environmental Laws, except to the extent that failure to so comply is not reasonably likely to have a Material Adverse Effect, (ii) neither the Borrower nor any of its Subsidiaries has failed to obtain, maintain or comply with any permit, license or other approval under any Environmental Law, except where such failure is not reasonably likely to have a Material Adverse Effect, (iii) neither the Borrower nor any of its Subsidiaries has received notice of any failure to comply with any Environmental Law or become subject to any liability under any Environmental Law, except where such failure or liability is not reasonably likely to have a Material Adverse Effect, (iv) no facilities of the Borrower or any of its Subsidiaries are used to manage any Specified Substance in violation of any law, except to the extent that such violations, individually or in the aggregate, are not reasonably likely to have a Material Adverse Effect, and (v) the Borrower is aware of no events, conditions or circumstances involving any Release of a Specified Substance that is reasonably likely to have a Material Adverse Effect.

SECTION 3.07 Agreements. None of the Borrower nor any of the Subsidiaries is in default in any manner under any provision of any indenture or other agreement or instrument evidencing Indebtedness, or any other material agreement or instrument to which it is a party or by which it or any of its properties or assets are or may be bound, where such default could reasonably be expected to result in a Material Adverse Effect.

SECTION 3.08 Federal Reserve Regulations. No part of the proceeds of the Loans will be used, whether directly or indirectly, for any purpose which entails a violation of, or which is inconsistent with, the provisions of the Margin Regulations.

SECTION 3.09 Investment Company Act. None of the Borrower nor any of the Subsidiaries is an “investment company” as defined in, or subject to regulation as an “investment company” under, the Investment Company Act of 1940.

SECTION 3.10 Use of Proceeds. The Borrower will use the proceeds of (i) the Term B-1 Loans for general corporate purposes, including to repurchase, redeem or defease any of the Borrower’s and its Subsidiaries’ existing indebtedness and to pay the fees, premiums, expenses and other transaction costs incurred in connection therewith and in connection with Increase Joinder No. 1 and the arrangement and funding of the Term B-1 Loans thereunder (the transactions in this clause (i), the “Increase Joinder Transactions”), (ii) any Incremental Term Loans for the purposes specified in the Increase Joinder and (iii) the Revolving Loans for general corporate purposes, including working capital and one or more acquisitions or Asset Exchanges; provided that in the case of this clause (iii) no such proceeds of Revolving Loans shall be used (x) directly or indirectly in connection with any Hostile Acquisition or (y) if the aggregate undrawn amount of Revolving Commitments at such time is less than $250,000,000, to make any Restricted Payments.
SECTION 3.11 Tax Returns. Each of the Borrower and each of the Subsidiaries has filed or caused to be filed all Federal, state and local and non-U.S. Tax returns required to have been filed by it and has paid or caused to be paid all Taxes required to be paid by it (whether or not shown in such Tax returns) and satisfied all of its withholding Tax obligations, except (i) Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower or applicable Subsidiary shall have set aside on its books adequate reserves in accordance with GAAP or (ii) where such failure to file, pay or satisfy would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.12 No Material Misstatements. All information (other than any projections, estimates, forecasts, other information of a forward-looking nature and information of a general economic or industry-specific nature) furnished in writing or formally presented at a general meeting of the Lenders by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the syndication or negotiation of or otherwise pursuant to this Agreement or any other Loan Document, when taken as a whole (giving effect to all supplements and updates thereto and the information in the periodic and other reports of the Borrower filed with the SEC), does not (when furnished) contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein (when taken as a whole) not materially misleading in light of the circumstances under which such statements were made.

SECTION 3.13 Employee Benefit Plans.

(a) Each Plan is in compliance with ERISA, except for such noncompliance that has not resulted, and could not reasonably be expected to result, in a Material Adverse Effect.

(b) No Plan has an accumulated or waived funding deficiency within the meaning of Section 412 or Section 418B of the Code and no failure to satisfy the minimum funding standard under Section 412 of the Code has occurred, whether or not waived, with respect to any Plan, except for any such deficiency or failure that has not resulted, and could not reasonably be expected to result, in a Material Adverse Effect.

(c) No proceedings have been instituted to terminate any Plan, except for such proceedings where the termination of a Plan has not resulted, and could not reasonably be expected to result, in a Material Adverse Effect.

(d) Neither the Borrower nor any Subsidiary or ERISA Affiliate has incurred any liability to or on account of a Plan under ERISA (other than obligations to make contributions in accordance with such Plan), and no condition exists which presents a material risk to the Borrower or any Subsidiary of incurring such a liability, except for such liabilities that have not resulted, and could not reasonably be expected to result, in a Material Adverse Effect.

SECTION 3.14 Insurance. Each of the Borrower and the Principal Subsidiaries maintains insurance with financially sound and reputable insurers, or self-insurance, with respect to its properties and business against loss or damage of the kind customarily insured against by reputable companies in the same or similar business and of such types and in such amounts (with such deductible amounts) as is customary for such companies under similar circumstances.

SECTION 3.15 Patriot Act; FCPA; Sanctions.

(a) Each of the Borrower and its Subsidiaries is in compliance in all material respects with the Patriot Act.
(b) Each of the Borrower and its Subsidiaries has implemented and maintains in effect policies and procedures reasonably designed to achieve compliance by the Borrower, its Subsidiaries and their respective directors, officers and employees with Anti-Corruption Laws, the FCPA and applicable Sanctions, and the Borrower and its Subsidiaries, and to the knowledge of the Borrower or such Subsidiary, its respective officers, employees and directors, are in compliance with Anti-Corruption Laws, the FCPA and applicable Sanctions in all material respects. None of the Borrower, any Subsidiary or, to the knowledge of the Borrower or such Subsidiary, any of their respective directors, officers or employees is a Sanctioned Person. No Borrowing, use of proceeds, or other transaction contemplated by the Transactions will violate Anti-Corruption Laws, the FCPA or applicable Sanctions.

SECTION 3.16 Collateral Documents. The Pledge Agreement is effective to create in favor of the Collateral Agent, for the benefit of the Secured Parties, a legal, valid and enforceable security interest in the Pledged Collateral described therein. As of the Amendment No. 3 Effective Date, in the case of the issued and outstanding equity interests of the Pledged Subsidiaries described in the Pledge Agreement as of the Amendment No. 3 Effective Date, when certificates representing such equity interests and required to be delivered under the Pledge Agreement are delivered to the Collateral Agent, and in the case of the other Collateral described in the Pledge Agreement, when a financing statement in appropriate form is filed in the office specified in the Pledge Agreement, the Collateral Agent, for the benefit of the Secured Parties, shall have a fully perfected Lien (subject to all Liens permitted pursuant to Section 6.01) on, and security interest in, all right, title and interest of Pledgors in such Pledged Collateral as security for the Secured Obligations to the extent perfection of such Lien can be obtained by filing Uniform Commercial Code financing statements or possession, in each case prior and superior in right to the Lien of any other Person (except for all Liens permitted pursuant to Section 6.01).

SECTION 3.17 Solvency. As of the First Amendment and Restatement Effective Date, the Borrower and its Subsidiaries, on a consolidated basis, are Solvent.

ARTICLE IV

CONDITIONS

SECTION 4.01 First Amendment and Restatement Effective Date. Each of the following conditions shall be satisfied on the First Amendment and Restatement Effective Date (or waived in accordance with Section 9.02):

(a) Executed Counterparts. The Administrative Agent shall have received from the Borrower, Administrative Agent, the Required Lenders (as defined in the Existing Term Loan Credit Agreement) and each Revolving Lender either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence reasonably satisfactory to the Administrative Agent (which may include electronic transmission of a signed signature page to this Agreement) that such party has signed a counterpart of this Agreement.

(b) Opinion of General Counsel to the Borrower. The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the First Amendment and Restatement Effective Date) of Mark D. Nielsen, Esq., General Counsel to the Borrower, covering such matters relating to the Borrower and this Agreement as the Administrative Agent shall reasonably request (and the Borrower hereby instructs such counsel to deliver such opinion to the Lenders and the Administrative Agent).

(c) Opinion of Special New York Counsel to the Borrower. The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the First Amendment and Restatement Effective Date) of Mayer Brown LLP, special New York Counsel to the Borrower, covering such matters relating to the Borrower and this Agreement as the Administrative Agent shall reasonably request (and the Borrower hereby instructs such counsel to deliver such opinion to the Lenders and the Administrative Agent).

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(d) **Corporate Documents.** The Administrative Agent shall have received (i) a recently dated certificate as to the good standing of the Borrower under the laws of its jurisdiction of incorporation, and (ii) a certificate of the secretary or assistant secretary of the Borrower certifying (x) that attached thereto are true and complete copies of (1) the certificate of incorporation, certificate of formation or equivalent formation document of the Borrower, and all amendments thereto, certified as of a recent date by the appropriate Governmental Authority in its jurisdiction of incorporation, (2) the bylaws, operation agreement, limited liability company agreement or equivalent document of the Borrower as in effect on the First Amendment and Restatement Effective Date, and (3) the resolutions of the board of directors (or other appropriate governing body) of the Borrower, authorizing the borrowings contemplated hereunder, the execution, delivery and performance of this Agreement and the other Loan Documents to which the Borrower are contemplated to be a party, and (y) as to the incumbency and genuineness of the signature of each officer of the Borrower executing Loan Documents.

(e) **Fees.** The Administrative Agent and the Joint Lead Arrangers shall have received payment of all fees as the Borrower shall have agreed to pay on or prior to the First Amendment and Restatement Effective Date to the Administrative Agent or any Joint Lead Arranger in connection herewith, including the reasonable and documented fees and expenses of Cahill Gordon & Reindel LLP, special New York counsel to JPMorgan Chase Bank, N.A., in connection with the negotiation, preparation, execution and delivery of this Agreement and the other Loan Documents (to the extent that statements in reasonable detail for such fees and expenses have been delivered to the Borrower at least two (2) Business Days prior to the First Amendment and Restatement Effective Date).

(f) **Patriot Act.** The Administrative Agent shall have received, at least three (3) Business Days prior to the First Amendment and Restatement Effective Date, all documentation and other information with respect to the Borrower that is 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 requested at least ten (10) Business Days prior to the First Amendment and Restatement Effective Date.

(g) **Collateral and Guarantee Requirement.**

(i) The Administrative Agent shall have received a duly executed and delivered Reaffirmation of the Pledge Agreement from Frontier Communications ILEC, the Borrower and Frontier North in form and substance reasonably satisfactory to the Administrative Agent;

(ii) the Collateral Agent shall have received all certificates or instruments evidencing the issued and outstanding equity interests of each Pledged Subsidiary required to be pledged on the First Amendment and Restatement Effective Date, accompanied by stock powers undated and endorsed in blank (or arrangements reasonably satisfactory to the Administrative Agent and the Collateral Agent shall have been made for the foregoing);
the Administrative Agent shall have received a UCC financing statement identifying each Pledgor required to be party to the Pledge Agreement on the First Amendment and Restatement Effective Date as the debtor and the Collateral Agent as the secured party, in appropriate form for filing under the UCC;

the Administrative Agent shall have received the results of recent UCC, tax and judgment Lien searches with respect to the Borrower, each Pledgor and each Pledged Subsidiary, and such searches shall reveal no Liens except for Liens permitted hereunder or to be discharged on the First Amendment and Restatement Effective Date (or with respect to which arrangements reasonably satisfactory to the Administrative Agent shall have been made to discharge such Liens); and

the Collateral Agent shall have a valid and perfected security interest, for the benefit of the Secured Parties, in the Pledged Collateral pursuant to the Pledge Agreement to the extent perfection of such security interest can be obtained by filing a Uniform Commercial Code financing statement or possession;

provided that the foregoing requirement shall not be required to be satisfied until the date required pursuant to Section 5.09.

(h)  Officer’s Certificate. The Administrative Agent shall have received a certificate of a Financial Officer of the Borrower confirming compliance with the conditions set forth in Sections 4.01(j), (k) and (l).

(i)  Solvency Certificate. The Administrative Agent shall have received a Solvency Certificate.

(j)  No Material Adverse Effect. Since December 31, 2015, there shall not have occurred any event, occurrence, development, state of facts, effect, condition or change that, individually or in the aggregate, has had or is reasonably likely to have, a Material Adverse Effect.

(k)  Representations and Warranties. The representations and warranties in Article III shall be true and correct in all material respects as of the First Amendment and Restatement Effective Date (except in the case of any such representations and warranty that expressly relates to an earlier given date or period, in which case such representation and warranty shall be true and correct in all material respects as of the respective earlier date or respective period, as the case may be, and, to the extent such representations and warranties are qualified as to materiality, Material Adverse Effect or similar language, such representations shall be true and correct in all respects).

(l)  No Default. No Default shall have occurred and be continuing.

The Administrative Agent shall notify the Borrower and the Lenders of the First Amendment and Restatement Effective Date, and such notice shall be conclusive and binding.

SECTION 4.02 Each Credit Event. The obligation of each Lender to make any Loan, including any Loans on the First Amendment and Restatement Effective Date (but not a conversion or continuation of Loans that does not increase the principal amount of such Loans), and of each Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:
(a) the representations and warranties of each Loan Party set forth in this Agreement and in the other Loan Documents, as applicable, shall be true and correct in all material respects on and as of the date of such Loan or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable (except to the extent such representations and 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, and, to the extent such representations and warranties are qualified as to materiality, Material Adverse Effect or similar language, such representations shall be true and correct in all respects);

(b) at the time of and immediately after giving effect to such Loan or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing; and

(c) the Administrative Agent shall have received a Borrowing Request with respect to such credit event;

provided that in the case of Incremental Term Loans incurred to make an acquisition or other investment permitted to be made hereunder, the requirements pursuant to clauses (a) and (b) above shall be replaced by the requirements set forth in Section 2.21(b).

Each Borrowing and each issuance or amendment increasing the amount of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in clauses (a) and (b) of the preceding sentence.

ARTICLE V

AFFIRMATIVE COVENANTS

The Borrower covenants and agrees with the Administrative Agent, each Issuing Bank and each Lender that, so long as this Agreement shall remain in effect or the principal of or interest on any Loan (or any portion thereof), or any other expenses or amounts payable hereunder (other than contingent obligations in respect of which no claim has been made), shall be unpaid, or any Letter of Credit shall remain outstanding, the Borrower will:

SECTION 5.01 Existence; Businesses and Properties.

(a) Preserve and maintain, cause each of the Principal Subsidiaries to preserve and maintain, and cause each other Subsidiary to preserve and maintain, (i) its legal existence (except, with respect to any Subsidiary other than a Principal Subsidiary, to the extent failure to do so would not be reasonably expected to result in a Material Adverse Effect) and (ii) rights and franchises (except to the extent failure to do so would not be reasonably expected to result in a Material Adverse Effect); provided that the legal existence of any Principal Subsidiary may be terminated if such termination is not disadvantageous to the Administrative Agent or any Lender;

(b) continue to own (directly or indirectly) all of the outstanding shares of common stock of each Principal Subsidiary, except in connection with an Asset Exchange or pursuant to any sale of shares of common stock of such Principal Subsidiary not prohibited hereunder;

(c) comply, and cause each of the Subsidiaries to comply with all applicable laws, rules, regulations and orders, including all Environmental Laws, except where the failure to do so would not reasonably be expected to result in a Material Adverse Effect;
(d) maintain in effect and enforce policies and procedures reasonably designed to achieve compliance by the Borrower, its Subsidiaries and their respective directors, officers and employees with Anti-Corruption Laws, the FCPA and applicable Sanctions;

(e) pay, and cause each of the Subsidiaries to pay, before any such amounts become delinquent, (i) all Taxes imposed upon it or upon its property, and (ii) all claims (including claims for labor, materials, supplies, or services) that would, if unpaid, become a Lien upon its property, in each case, except to the extent (x) the validity or amount thereof is being disputed in good faith, and the Borrower or applicable Subsidiary has maintained adequate reserves with respect thereto, or (y) the failure to so pay would not be reasonably expected to cause a Material Adverse Effect;

(f) keep, and cause each of the Subsidiaries to keep, proper books of record and account, containing complete and accurate entries of all material financial and business transactions of the Borrower and such Subsidiary in all material respects;

(g) continue to carry on, and cause each Principal Subsidiary to continue to carry on (so long as such Principal Subsidiary is a Principal Subsidiary), substantially the same type of business as the Borrower or such Principal Subsidiary conducted as of the First Amendment and Restatement Effective Date or other business reasonably related ancillary, similar, complementary or synergistic thereto or a reasonable extension, development or expansion thereof, except for changes in such business that result from an Asset Exchange; and

(h) maintain or cause to be maintained insurance with financially sound and reputable insurers, or self-insurance, with respect to its properties and business and the properties and business of the Subsidiaries against loss or damage of the kinds customarily insured against by reputable companies in the same or similar businesses, such insurance to be of such types and in such amounts (with such deductible amounts) as is customary for such companies under similar circumstances;

provided that the foregoing shall not limit the right of the Borrower or any of its Subsidiaries to engage in any transaction not otherwise prohibited by Section 6.02, 6.03 or 6.04.

SECTION 5.02 Financial Statements, Reports, Etc. In the case of the Borrower, furnish to the Administrative Agent:

(a) as soon as available and in any event within 110 days after the end of each fiscal year, consolidated balance sheets and the related statements of income and cash flows of the Borrower and its Subsidiaries (the Borrower and its Subsidiaries being collectively referred to as the “Companies”) as of the close of such fiscal year (which requirement shall be deemed satisfied by the delivery of the Borrower’s Annual Report on Form 10-K (or any successor form) for such year), all audited by KPMG LLP or other independent public accountants of recognized national standing and accompanied by an opinion of such accountants to the effect that such consolidated financial statements fairly present in all material respects the financial condition and results of operations of the Companies on a consolidated basis in accordance with GAAP consistently applied;

(b) within 65 days after the end of each of the first three fiscal quarters of each fiscal year, consolidated balance sheets and related statements of income and cash flows of the Companies as of the close of such fiscal quarter and the then elapsed portion of the fiscal year (which requirement shall be deemed satisfied by the delivery of the Borrower’s Quarterly Report on Form 10-Q (or any successor form) for such quarter), each certified by a Financial Officer as fairly presenting in all material respects the financial condition and results of operations of the Companies on a consolidated basis in accordance with GAAP consistently applied, subject to the absence of footnotes and normal year-end audit adjustments;
(c) concurrently with any delivery of financial statements under paragraph (a) or (b) of this Section 5.02, a certificate of a Financial Officer of the Borrower (x) certifying as to whether a Default has occurred that is continuing, specifying the details thereof and any action taken or proposed to be taken with respect thereto and (y) so long as any Financial Covenant Loans are outstanding or Financial Covenant Commitments are in effect, setting forth reasonably detailed calculations (including with respect to any pro forma effect given to a Material Transaction) demonstrating compliance with Section 6.07 as of the last day of the most recent fiscal quarter covered by such financial statements and (ii) concurrently with any delivery of financial statements under paragraph (a) of this Section 5.02, solely to the extent that the Required Percentage for the relevant Excess Cash Flow Period would be greater than 0%, a certificate of a Financial Officer of the Borrower setting forth (x) the amount, if any, of Excess Cash Flow for such Excess Cash Flow Period, (y) the amount of any required prepayment in respect thereof and (z) reasonably detailed calculations thereof;

(d) promptly after the same become publicly available, copies of all financial statements, reports and proxy statements mailed to the Borrower’s public shareholders generally, and copies of all registration statements (other than those on Form S-8) and Form 8-K’s (to the extent that such Form 8-K’s disclose actual or potential adverse developments with respect to the Borrower or any of its Subsidiaries that constitute, or would reasonably be expected to constitute, a Material Adverse Effect) filed with the SEC or any national securities exchange;

(e) promptly after (i) the occurrence thereof, notice of any ERISA Termination Event or “prohibited transaction,” as such term is defined in Section 4975 of the Code, with respect to any Plan that results, or would reasonably be expected to result, in a Material Adverse Effect, which notice shall specify (in reasonable detail) the nature thereof and the Borrower’s proposed response thereto, and (ii) actual knowledge thereof, copies of any notice of PBGC’s intention to terminate or to have a trustee appointed to administer any Plan; and

(f) promptly following any request therefor from time to time, such other information regarding its operations, business affairs and financial condition, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender (through the Administrative Agent) may reasonably request.

Documents required to be delivered pursuant to Section 5.02(a), (b) or (d) (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) filed for public availability on the SEC’s Electronic Data Gathering and Retrieval System, (ii) on which the Borrower posts such documents, or provides a link thereto on www.frontier.com; (iii) on which such documents are posted on the Borrower’s behalf on an Internet or intranet website, if any, to which the Administrative Agent has access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided that the Borrower shall notify the Administrative Agent (by telecopier, electronic mail or such other manner permitted pursuant to Section 9.01) of the posting of any such documents. The Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrower with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.
The Borrower represents and warrants that either (i) it and any Subsidiary has no registered or publicly traded securities outstanding, or (ii) it files its financial statements with the SEC and/or makes its financial statements available to potential holders of its 144A securities. Accordingly, the Borrower hereby (x) authorizes the Administrative Agent to make available to Public-Siders the financial statements to be provided under Section 5.02(a) and (b) above and, unless the Borrower promptly notifies the Administrative Agent otherwise (provided that such documents have been provided to the Borrower and its counsel for review a reasonable period of time prior thereto), the Loan Documents, and (y) agrees that at the time such financial statements are provided hereunder, they shall already have been made available to holders of its securities. The Borrower will not request that any other material be posted to Public-Siders without expressly representing and warranting to the Administrative Agent in writing that such materials do not constitute material non-public information with respect to any of the Borrower, its Subsidiaries or their respective securities within the meaning of the federal securities laws or that the Borrower has no outstanding publicly traded securities, including 144A securities. In no event shall the Administrative Agent post compliance certificates or budgets to Public-Siders.

SECTION 5.03 Litigation and Other Notices. Furnish to the Administrative Agent prompt written notice of the following upon any Financial Officer of the Borrower becoming aware thereof:

(a) any Event of Default or Default, specifying (in reasonable detail) the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto;

(b) the filing or commencement of, or any written notice of intention of any Person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority, against the Borrower or any of the Subsidiaries that would reasonably be expected to result in a Material Adverse Effect; and

(c) any development with respect to the Borrower or any Subsidiary that has resulted in, or would reasonably be expected to result in, a Material Adverse Effect.

SECTION 5.04 Maintaining Records. Maintain all financial records in accordance with GAAP (or in form permitting financial statements conforming with GAAP to be derived therefrom) and, upon reasonable notice, permit the Administrative Agent and each Lender to visit and inspect the financial records of the Borrower at reasonable times and to make extracts from and copies of such financial records, and permit any representatives designated by the Administrative Agent or any Lender to discuss the affairs, finances and condition of the Borrower with the appropriate officers thereof and, with the Borrower’s consent (which shall not be unreasonably withheld), the independent accountants therefor (and the Borrower shall be afforded the opportunity to participate in such discussion with such independent accountants); provided that, excluding any such visits and inspections during the continuation of an Event of Default, only the Administrative Agent on behalf of the Lenders may exercise rights of the Administrative Agent and the Lenders under this Section 5.04 and the Administrative Agent shall not exercise such rights more than once during any calendar year; provided, further, that, when an Event of Default exists, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing, upon reasonable notice and as often as reasonably requested, at any time during normal business hours. Notwithstanding anything to the contrary in this Section 5.04, neither the Borrower nor any of its Subsidiaries will be required to disclose, permit the inspection, examination or making of extracts, or discussion of, any documents, information or other matters that (i) constitute non-financial trade secrets or non-financial proprietary information, (ii) in respect of which disclosure to the Administrative Agent or applicable Lenders (or any of their respective designated representatives or independent contractors) is then prohibited by law, rule or regulation or any agreement binding on the Borrower or any of its Subsidiaries or (iii) is subject to attorney-client or similar privilege or constitutes attorney work-product.
SECTION 5.05 Use of Proceeds. Use the proceeds of the Loans solely for the purposes described in Section 3.10. No Borrowing, use of proceeds or other transaction contemplated by the Transactions will violate Anti-Corruption Laws, the FCPA or applicable Sanctions.

SECTION 5.06 Collateral Documents; Additional Guarantors.

(a) Execute, and cause the Loan Parties and Pledgors to execute, any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements, and other documents), that the Administrative Agent may reasonably request, to satisfy the Collateral and Guarantee Requirement or in connection with the Security Agreement and to cause the Collateral and Guarantee Requirement to be and remain satisfied and the security interest created under the Security Agreement (upon the execution and delivery thereof) to be and remain a valid and perfected security interest (with respect to any assets that are required to constitute Collateral at the time of such request pursuant to this Agreement), all at the expense of the Borrower and provide to the Administrative Agent, from time to time upon reasonable request, evidence reasonably satisfactory to the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Collateral Documents; provided that the foregoing shall not require the delivery of any document, financing statement or instrument described on Schedule 7 until the date required pursuant to Section 5.09.

(b) If any additional direct or indirect Subsidiary of the Borrower is formed or acquired following the First Amendment and Restatement Effective Date and such Subsidiary is (1) a wholly owned domestic Subsidiary (other than an Excluded Subsidiary) or (2) any other domestic Subsidiary that may be designated by the Borrower in its sole discretion, notify the Administrative Agent thereof and, within sixty (60) days after the date such Subsidiary is formed or acquired or meets such criteria (or first becomes subject to such requirement) or such longer period as the Administrative Agent may agree in its sole discretion, cause such Subsidiary to become a Guarantor and Pledgor and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Subsidiary; provided that the foregoing shall not require the delivery of any document, financing statement, legal opinion or instrument or the taking of any action, in each case in respect of such Subsidiary, of a type described on Schedule 7 until the date required pursuant to Section 5.09. Notwithstanding anything to the contrary herein or in any other Loan Document, (i) in no circumstance shall any Excluded Subsidiary become a Guarantor or a Pledgor unless designated as a Guarantor or Pledgor, as applicable, by Borrower in its sole discretion and (ii) to the extent the holders of any Subsidiary’s equity interests are prohibited from granting Liens on such equity interests to secure the Secured Obligations by any applicable Law, or the grant of any such Lien would require consent, approval, license or authorization of a Governmental Authority (unless such consent, approval, license or authorization has been received), in no circumstance shall such equity interests required to be pledged to secure the Secured Obligations.

SECTION 5.07 CoBank Equity.

(a) So long as CoBank is a Lender hereunder, the Borrower will acquire equity in CoBank in such amounts and at such times as CoBank may require in accordance with CoBank’s Bylaws and Capital Plan (as each may be amended from time to time), except that the maximum amount of equity that the Borrower may be required to purchase in CoBank in connection with the Loans made by CoBank hereunder may not exceed the maximum amount permitted by CoBank’s Bylaws and Capital Plan at the time this Agreement is entered into. The Borrower acknowledges receipt of a copy of (i) CoBank’s most recent annual report available prior to the Original Effective Date, and if more recent, CoBank’s latest quarterly report available prior to the Original Effective Date, (ii) CoBank’s Notice to Prospective Stockholders as in effect prior to the Original Effective Date and (iii) CoBank’s Bylaws and Capital Plan as in effect prior to the Original Effective Date, which describe the nature of all of the Borrower’s stock and other equities in CoBank acquired in connection with its patronage loan from CoBank (the “CoBank Equities”) as well as capitalization requirements, and agrees to be bound by the terms thereof.
(b) Each party hereto acknowledges that CoBank’s Bylaws and Capital Plan (as each may be amended from time to time upon notice to the Borrower) shall govern (x) the rights and obligations of the parties with respect to the CoBank Equities and any patronage refunds or other distributions made on account thereof or on account of the Borrower’s patronage with CoBank, (y) the Borrower’s eligibility for patronage distributions from CoBank (in the form of CoBank Equities and cash) and (z) patronage distributions, if any, in the event of a sale of a participation interest. CoBank reserves the right to assign or sell participations in all or any part of its Loans or Commitments on a non-patronage basis.

(c) Each party hereto acknowledges that CoBank has a statutory first lien pursuant to the Farm Credit Act of 1971 (as amended from time to time) on all CoBank Equities that the Borrower may now own or hereafter acquire, which statutory lien shall be for CoBank’s sole and exclusive benefit. The CoBank Equities shall not constitute security for the Obligations due to any other Lender. To the extent that any of the Loan Documents create a Lien on the CoBank Equities or on patronage accrued by CoBank for the account of the Borrower (including, in each case, proceeds thereof), such Lien shall be for CoBank’s sole and exclusive benefit and shall not be subject to pro rata sharing hereunder. Neither the CoBank Equities nor any accrued patronage shall be offset against the Obligations except that, in the event of an Event of Default, CoBank may elect to apply the cash portion of any patronage distribution or retirement of equity to amounts due under this Agreement. The Borrower acknowledges that any corresponding tax liability associated with such application is the sole responsibility of the Borrower. CoBank shall have no obligation to retire the CoBank Equities upon any Event of Default, Default or any other default by the Borrower or at any other time, either for application to the Obligations or otherwise.

SECTION 5.08 Further Assurances. Promptly upon the reasonable request by the Administrative Agent, or any Lender through the Administrative Agent, the Borrower shall, and shall cause the Loan Parties to, (a) correct any material defect or error that may be discovered in the execution, acknowledgment, filing or recordation of any Loan Document, and (b) do, execute, acknowledge, deliver, record, re-record, file, re-file, register and re-register any and all such further acts, deeds, certificates, assurances and other instruments as the Administrative Agent, or any Lender through the Administrative Agent, may reasonably require from time to time in order to (i) carry out the purposes of the Loan Documents, (ii) to the fullest extent permitted by applicable law, subject any Loan Party’s issued and outstanding equity interests to the Liens granted by the Pledge Agreement to the extent required thereunder and (iii) perfect and maintain the validity, effectiveness and priority of the Pledge Agreement and (upon the execution and delivery thereof) the Security Agreement and any Liens created thereunder.

SECTION 5.09 Post-Closing Actions. The Borrower agrees to deliver or cause to be delivered such documents and instruments, and take or cause to be taken such other actions as set forth on Schedule 7 as soon as commercially reasonable and by no later than the date set forth on Schedule 7, as such time periods may be extended by the Administrative Agent, in its sole discretion; provided that any extension to after the date that is 270 days after the First Amendment and Restatement Effective Date shall require the consent of the Required Lenders.
SECTION 5.10  Ratings. The Borrower shall use commercially reasonable efforts to obtain and to maintain public ratings from Moody’s and Standard & Poor’s for the Term B-1 Loans; provided, however, that the Borrower shall not be required to obtain or maintain any specific rating.

ARTICLE VI

NEGATIVE COVENANTS

The Borrower covenants and agrees with each Lender, each Issuing Bank and the Administrative Agent that, so long as this Agreement shall remain in effect or the principal of or interest on any Loan (or any portion thereof), or any other expenses or amounts payable hereunder (other than contingent obligations in respect of which no claim has been made), shall be unpaid or any Letter of Credit shall remain outstanding, it will not (and in the case of Sections 6.08(a) and 6.10 will not permit any of its Restricted Subsidiaries to):

SECTION 6.01  Liens; Restrictions on Sales of Receivables. Create, incur, assume, or suffer to exist, or permit any of the Subsidiaries to create, incur, assume, or suffer to exist, any Lien on any of its property now owned or hereafter acquired to secure any Indebtedness of the Borrower or any such Subsidiary, or sell or assign any accounts receivable in connection with a financing or factoring transaction (other than in the ordinary course of business), other than: (a) Liens listed on Schedule 2 on the First Amendment and Restatement Effective Date and Liens securing any Indebtedness incurred to refinance, refund, renew or extend any Indebtedness secured by Liens listed on Schedule 2 to the extent not increasing the principal amount thereof except by the amount of accrued and unpaid interest and premium thereon and reasonable fees and expense in connection with such refinancing, refunding, renewal or extension so long as the Liens securing such Indebtedness shall be limited to all or part of the same property that secured the Indebtedness refinanced, refunded, renewed or extended (and improvements on and proceeds from such property); (b) pledges or deposits to secure the utility obligations of the Borrower incurred in the ordinary course of business; (c) Liens upon or in property now owned or hereafter acquired to secure Indebtedness incurred (i) solely for the purpose of financing the acquisition, construction, lease or improvement of such property; provided that such Indebtedness shall not exceed the fair market value of the property being acquired, constructed, leased or improved or (ii) to refinance, refund, renew or extend any Indebtedness described in subclause (i) above to the extent not increasing the principal amount thereof except by the amount of accrued and unpaid interest and premium thereon and reasonable fees and expense in connection with such refinancing, refunding, renewal or extension so long as the Liens securing such Indebtedness shall be limited to all or part of the same property that secured the Indebtedness refinanced, refunded, renewed or extended (and improvements on and proceeds from such property); (d) Liens on the assets of any Person merged or consolidated with or into (in accordance with Section 6.04) or acquired by the Borrower or any Subsidiary that were in effect at the time of such merger, consolidation or acquisition and Liens securing any Indebtedness incurred to refinance, refund, renew or extend any Indebtedness secured by Liens described in this clause (d) to the extent not increasing the principal amount thereof except by the amount of accrued and unpaid interest and premium thereon and reasonable fees and expense in connection with such refinancing, refunding, renewal or extension so long as the Liens securing such Indebtedness shall be limited to all or part of the same property that secured the Indebtedness refinanced, refunded, renewed or extended (and improvements on and proceeds from such property); (e) Liens for Taxes, assessments and governmental charges or levies, which are not yet due or are which are being contested in good faith by appropriate proceedings; (f) Liens securing Indebtedness of the Borrower or any Subsidiary to the Rural Electrification Administration or the Rural Utilities Service (or any successor to any such agency) in an aggregate principal amount outstanding at any time not to exceed $50,000,000; (g) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, suppliers’ or other like Liens arising in the ordinary course of business relating to obligations not overdue for a period of more than 60 days or which are bonded or being contested in good faith by appropriate proceedings; (h) pledges or deposits in connection with workers’ compensation laws or similar legislation or to secure public or statutory obligations; (i) Liens or deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business; (j) easements, rights of way, restrictions and other encumbrances incurred which, in the aggregate, do not materially interfere with the ordinary conduct of business; (k) restrictions by Governmental Authorities on the operations, business or assets of the Borrower or its Subsidiaries that are customary in the Borrower’s and its Subsidiaries’ businesses; (l) [reserved]; (m) Liens securing Refinancing Notes and Refinancing Indebtedness which refinances Refinancing Notes; (n) [reserved]; (o) Liens securing Indebtedness incurred pursuant to the Existing Credit Agreements and Refinancing Indebtedness which refinances Indebtedness incurred pursuant to the Existing Credit Agreements; (p) Liens created under the Loan Documents securing the Secured Obligations; (q) Liens securing any letter of credit facility or similar facility of the Borrower or any of its Subsidiaries in an aggregate principal amount outstanding at any time not to exceed $75,000,000, so long as either (i) such Liens equally and ratably secure the Obligations pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent or (ii) on or prior to the date 90 days after the Amendment No. 2 Effective Date, such Liens are on cash collateral provided to the issuer or lender under such letter of credit facility; (r) Liens on the Collateral that secure Incremental Equivalent Indebtedness and Refinancing Indebtedness which refinances Incremental Equivalent Indebtedness; provided that the Liens securing such Indebtedness shall be subject to the provisions of a Permitted First Lien Intercreditor Agreement or a Permitted Junior Intercreditor Agreement, as applicable; and (s) Liens on the Collateral securing any other Indebtedness permitted to be incurred under this Agreement; provided that the Liens securing any such other Indebtedness shall be junior to the Liens on the Collateral securing the Collateral Revolving Facility and the Term Loans pursuant to a Permitted Junior Intercreditor Agreement. Notwithstanding the foregoing, in no event shall Borrower create, incur, assume, or suffer to exist, or permit any of the Subsidiaries to create, incur, assume or suffer to exist, any Lien on the property or equity interests of any Specified Subsidiary pursuant to clauses (m), (o), (r) or (s) above, unless such property or equity interests of such Specified Subsidiary constitute Collateral securing the Secured Obligations and such Liens are otherwise permitted under this Section 6.01.
SECTION 6.02  Ownership of the Principal Subsidiaries. Sell, assign, pledge, or otherwise transfer or dispose of any shares of common stock, voting stock, or stock convertible into voting or common stock of any Principal Subsidiary, except (a) to another Subsidiary, (b) in connection with an Asset Exchange, (c) pursuant to Section 6.01(o) (to the extent an equal and ratable pledge is required under any Existing Credit Agreement), Section 6.01(r) or Section 6.01(s), (d) pursuant to any Collateral Document, or (e) to the extent that at least 75% of the proceeds thereof consist of cash and Cash Equivalents, in connection with any other sale, transfer or disposition for fair market value so long as the Net Proceeds of such transaction are applied in accordance with Section 2.08: provided that the Borrower may pledge any shares of common stock, voting stock, or stock convertible into voting or common stock of any Principal Subsidiary so long as such pledge equally and ratably secures the Obligations pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent.

SECTION 6.03  Asset Sales. Except in connection with an Asset Exchange, sell or permit any Principal Subsidiary to sell, assign, or otherwise dispose of telecommunications assets (whether in one transaction or a series of transactions), if the net, after-tax proceeds thereof are used by the Borrower or any Subsidiary to prepay (other than a mandatory prepayment in accordance with the terms of the applicable governing documents, including pursuant to any put provision) Indebtedness incurred after the First Amendment and Restatement Effective Date which Indebtedness has a maturity later than the Maturity Date (other than (a) bridge or other financings incurred in connection with an asset purchase or sale, including acquisition indebtedness or indebtedness of an acquired entity, or (b) indebtedness incurred to refinance indebtedness outstanding as of or prior to the Initial Term Loan Borrowing Date).
SECTION 6.04  **Mergers.** Merge or consolidate with, or sell, assign, lease, or otherwise dispose of (whether in one transaction or a series of transactions) all or substantially all of its assets (whether now owned or hereafter acquired), except in connection with an Asset Exchange, to any Person, or permit any Principal Subsidiary to do so, except that (a) any Subsidiary may merge or consolidate with or, subject to Section 6.03, sell, assign, lease, or otherwise dispose of assets to the Borrower or any other Subsidiary, (b) any Subsidiary may merge or consolidate with any other Person so long as the surviving entity is or becomes a Subsidiary and (c) the Borrower may merge or consolidate with any other Person organized or existing under the Laws of the United States, any state thereof, the District of Columbia; provided that, (i) in the case of clause (c) above, (x) immediately after giving effect thereto, no Event of Default or a Default shall have occurred and be continuing and (y) the Administrative Agent shall have received 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 USA PATRIOT Act reasonably requested by the Lenders and (ii) in any such case of any such merger or consolidation to which the Borrower is a party, either the Borrower is the surviving entity or the surviving entity (if not the Borrower) has a consolidated net worth (as determined in accordance with GAAP) immediately subsequent to such merger or consolidation at least equal to the Consolidated Net Worth of the Borrower immediately prior to such merger or consolidation and expressly assumes the obligations of the Borrower hereunder; provided, further, that, notwithstanding the foregoing, the Borrower and any of the Principal Subsidiaries may sell, assign, lease, or otherwise dispose assets in the ordinary course of business and may sell, assign, lease, or otherwise dispose of worn out or obsolete equipment on a basis consistent with good business practices.

SECTION 6.05  **Dividends and Payment Restrictions.** Enter into or permit any Principal Subsidiary to enter into any contract or agreement (other than with a governmental regulatory authority having jurisdiction over the Borrower or such Principal Subsidiary) restricting the ability of such Principal Subsidiary to pay dividends or make distributions to the Borrower in any manner that would impair the ability of the Borrower to meet its present and future obligations hereunder, other than customary restrictions relating to dividends set forth in any Collateral Documents or in the documents evidencing any Indebtedness permitted hereunder that are substantially similar or not more restrictive (taken as a whole) on the Borrower and its Subsidiaries in all material respects to such restrictions set forth in any Collateral Document or that are otherwise reasonably satisfactory to the Administrative Agent.

SECTION 6.06  **Transactions with Affiliates.** Except in connection with an Asset Exchange, sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates (or permit any of its Subsidiaries to do any of the foregoing), except that the Borrower or any Subsidiary may engage in any of the foregoing transactions (to the extent not otherwise prohibited hereunder) (i) on terms and conditions not materially less favorable to the Borrower or such Subsidiary than would reasonably be expected to be obtained on an arm’s-length basis from unrelated third parties for a comparable transaction, (ii) as otherwise may be required by any Federal or state Governmental Authority, (iii) so long as such transactions are not materially disadvantageous to the Borrower, (iv) so long as such transactions are solely among the Borrower and/or one or more of its Subsidiaries (or an entity that becomes a Subsidiary of the Borrower as a result of such transaction) (or any combination thereof), or (v) that are Disclosed Matters.

SECTION 6.07  **Financial Ratio.** Permit the First Lien Leverage Ratio as of the last day of any fiscal quarter to be greater than the applicable ratio set forth opposite such fiscal quarter in the chart below:
SECTION 6.08 Indebtedness; Subsidiary Indebtedness.

(a) Directly or indirectly, create, incur, issue, assume, guarantee or otherwise become directly or indirectly liable, contingently or otherwise with respect to any Indebtedness and the Borrower will not permit any of its Restricted Subsidiaries to issue any shares of preferred stock; provided, however, that the Borrower may incur Indebtedness if as of the date any such Indebtedness is incurred, on a pro forma basis after giving effect to the incurrence and application of the proceeds of such Indebtedness, the Adjusted Leverage Ratio for the Test Period immediately preceding such date shall be less than or equal to 4.50 to 1.00; provided that the foregoing limitations in clause (a) will not apply to Permitted Debt.

For purposes of determining compliance with this Section 6.08(a):

(i) in the event that an item of Indebtedness or preferred stock meets the criteria of more than one of the categories of Permitted Debt described in clauses (a) through (q) of the definition thereof or is entitled to be incurred pursuant to Section 6.08(a), the Borrower, in its sole discretion, will classify or reclassify such item of Indebtedness or preferred stock (or any portion thereof) and will only be required to include the amount and type of such Indebtedness or preferred stock in one of the clauses of the definition of "Permitted Debt" or as having been incurred pursuant to Section 6.08(a); provided, that all Indebtedness in respect of the each Revolving Facility, Initial Term Loans and all Indebtedness outstanding under the 2014 CoBank Credit Agreement will be treated as incurred under clause (a) of the definition of “Permitted Debt” and the Borrower shall not be permitted to reclassify all or any portion of such Indebtedness;

(ii) at the time of incurrence or thereafter, the Borrower will be entitled to divide and classify or reclassify an item of Indebtedness or preferred stock in more than one of the types of Indebtedness or preferred stock described in this clause (a) and in the definition of “Permitted Debt”;

(iii) the Borrower or the applicable Restricted Subsidiary may, but shall not be required to, elect pursuant to a certificate of a Financial Officer of the Borrower delivered to the Administrative Agent to treat all or any portion of the commitment under any Indebtedness (including with respect to any revolving loan commitment) as being incurred at the time of such commitment and thereafter outstanding so long as such commitment remains outstanding, regardless of whether fully drawn, in which case any subsequent incurrence of Indebtedness under such commitment shall not be deemed to be an incurrence at such subsequent time; and

(iv) accrual of interest, the accretion of accreted value, the payment of interest in the form of additional Indebtedness, the payment of dividends on Disqualified Stock in the form of additional shares of Disqualified Stock and the reclassification of preferred stock as Indebtedness due to a change in accounting principles or the application thereof will not be deemed to be an incurrence of Indebtedness.

<table>
<thead>
<tr>
<th>Fiscal Quarter Ending</th>
<th>First Lien Leverage Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 31, 2018 through March 31, 2020</td>
<td>1.50:1.00</td>
</tr>
<tr>
<td>June 30, 2020 and each fiscal quarter ended thereafter</td>
<td>1.35:1.00</td>
</tr>
</tbody>
</table>

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(b) Notwithstanding anything set forth in Section 6.08(a), permit any Subsidiary to enter into, directly or indirectly, issue, incur, assume or Guarantee any Indebtedness, except (i) Indebtedness in effect at the time such Subsidiary becomes a Subsidiary of the Borrower, so long as such Indebtedness was not entered into solely in contemplation of such Person becoming a Subsidiary of the Borrower (and any refinancing, refunding, renewal or extension of such Indebtedness to the extent not increasing the principal amount thereof except by the amount of accrued and unpaid interest and premium thereon and reasonable fees and expenses in connection with such refinancing, refunding, renewal or extension), (ii) any Indebtedness in effect as of the First Amendment and Restatement Effective Date that is listed on Schedule 3 (and any refinancing, refunding, renewal or extension of such Indebtedness to the extent not increasing the principal amount thereof except by the amount of accrued and unpaid interest and premium thereon and reasonable fees and expenses in connection with such refinancing, refunding, renewal or extension), (iii) Indebtedness of a type described in clauses (c), (d), (j), (m), (n), (p) or (q) of the definition of Permitted Debt or in clause (k) of the definition of Permitted Debt with respect to Refinancing Indebtedness which refinances Indebtedness of a type described in clause (c) of the definition of Permitted Debt, (iv) Indebtedness of a Subsidiary to the Borrower or another Subsidiary, (v) Guarantees by any Guarantor of Indebtedness incurred pursuant to clause (a) of the definition of Permitted Debt or of Indebtedness incurred pursuant to clause (k) of the definition of Permitted Debt which refinances Indebtedness incurred pursuant to clause (a) of the definition of Permitted Debt, (vi) Guarantees by any Guarantor of Indebtedness in respect of the 2014 CoBank Credit Agreement or the 2016 CoBank Credit Agreement or of Indebtedness incurred pursuant to clause (k) of the definition of Permitted Debt with respect to Refinancing Indebtedness which refinances the 2014 CoBank Credit Agreement or the 2016 CoBank Credit Agreement, (vii) Guarantees by any Guarantor of Incremental Equivalent Indebtedness; provided that if such Incremental Equivalent Indebtedness is secured by a Lien on the Collateral ranking junior to the Lien securing the each Revolving Facility and the Term Loans, such Guarantee shall be subordinate in right of payment to the Guarantee by such Guarantor of the Obligations of the Borrower in respect of the each Revolving Facility and the Term Loans pursuant to the terms of a Permitted Junior Intercreditor Agreement and (viii) Guarantees by any Guarantor of any Indebtedness of the Borrower permitted under this Agreement; provided that any such Guarantee shall be subordinate in right of payment to the Guarantee by such Guarantor of the Obligations of the Borrower in respect of the each Revolving Facility and the Term Loans pursuant to the terms of (x) the definitive documentation governing such Guarantee or (y) a Permitted Junior Intercreditor Agreement.

SECTION 6.09 Use of Proceeds; Anti-Corruption Laws; Sanctions. Request any Borrowing or Letter of Credit or use, or permit its Subsidiaries or its or their respective directors, officers, employees and agents to use, any Letter of Credit, the proceeds of any Borrowing (a) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, (b) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person or in any Sanctioned Country or (c) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

SECTION 6.10 Restricted Payments.

(a) Directly or indirectly:

(i) declare or pay any dividend or make any distribution on account of the Borrower’s or any of its Restricted Subsidiary’s Equity Interests, including any dividend or distribution payable on account of the Borrower’s or any Restricted Subsidiary’s Equity Interests in connection with any merger or consolidation, other than:

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(A) dividends or distributions by the Borrower payable in Equity Interests (other than Disqualified Stock) of the Borrower or in options, warrants or other rights to purchase such Equity Interests, or

(B) dividends or distributions payable to the Borrower or a Restricted Subsidiary of the Borrower 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 of the Borrower other than a Wholly-Owned Subsidiary, the Borrower or a Restricted Subsidiary of the Borrower 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, redeem, defease or otherwise acquire or retire for value any Equity Interests of the Borrower or any direct or indirect parent of the Borrower held by Persons other than the Borrower or any of its Restricted Subsidiaries, including in connection with any merger, amalgamation or consolidation;

(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, sinking fund payment or maturity, any Subordinated Indebtedness or Later Maturing Other Junior Indebtedness (in the case of Later Maturing Other Junior Indebtedness, solely to the extent such principal payment on, or redemption, repurchase, defeasance or otherwise acquisition or retirement for value is above par and in cash), other than (i) Indebtedness of the type incurred pursuant to clause (f) of the definition of “Permitted Debt” or (ii) the purchase, redemption, repurchase or other acquisition of Subordinated Indebtedness or Later Maturing Other 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 purchase, redemption, repurchase or acquisition; 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:

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

(ii) the Borrower can incur at least $1.00 of additional Indebtedness pursuant to the first proviso to Section 6.08(a); and

(iii) such Restricted Payment, together with the aggregate amount of all other Restricted Payments made by the Borrower and its Restricted Subsidiaries after April 1, 2016 (including Restricted Payments permitted by Section 6.10(b)(i) of the next succeeding paragraph, but excluding all other Restricted Payments permitted by the next succeeding paragraph), is less than the Applicable Amount.

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(b) The foregoing provisions of Section 6.10(a) will not prohibit:

(i) the payment of any dividend or distribution within 60 days after the date of declaration thereof, if at the date of declaration such payment would have complied with the provisions of this Agreement;

(ii) Restricted Payments made in exchange for, or out of the proceeds of the substantially concurrent sale (other than to a Restricted Subsidiary) of, Equity Interests of the Borrower (in each case, other than any Disqualified Stock) (“Refunding Capital Stock”);

(iii) the redemption, repurchase, defeasance, exchange or other acquisition or retirement of Subordinated Indebtedness or Later Maturing Other Junior Indebtedness of the Borrower or any Restricted Subsidiary of the Borrower made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of the Borrower or any Restricted Subsidiary of the Borrower which is incurred in compliance with Section 6.08 so long as:

(A) the principal amount (or accreted value, in the case of Indebtedness issued at a discount) of such new Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Subordinated Indebtedness or Later Maturing Other Junior Indebtedness being so redeemed, repurchased, acquired, defeased, exchanged or retired, plus the amount of all accrued interest and any reasonable fees, expenses and premium incurred or paid in connection with such redemption, repurchase, acquisition, defeasance, exchange or retirement and the incurrence of such new Indebtedness;

(B) such new Indebtedness is subordinated to the Obligations at least to the same extent as such Subordinated Indebtedness so redeemed, repurchased, defeased, exchanged, acquired or retired; provided that this subclause (B) need not be satisfied if (i) such new Indebtedness can be incurred pursuant to the first proviso to Section 6.08(a) or (ii) the amount of such new Indebtedness shall not exceed the Applicable Amount (it being understood that if amounts available under the Applicable Amount are used to redeem, repurchase, defease, exchange, acquire or retire such Subordinated Indebtedness, then the Applicable Amount shall be reduced by such amounts);

(C) such new Indebtedness has a Weighted Average Life to Maturity at the time incurred which is not less than the shorter of (i) the remaining Weighted Average Life to Maturity of the Subordinated Indebtedness or Later Maturing Other Junior Indebtedness being so redeemed, repurchased, defeased, exchanged, acquired or retired and (ii) the Weighted Average Life to Maturity that would result if all payments of principal on the Indebtedness being so redeemed, repurchased, defeased, acquired or retired that were due on or after the date one year following the stated maturity date of any Securities of any series then Outstanding (as defined in the Senior Notes Indenture) were instead due on such date one year following the stated maturity date of such Securities; and

(D) the obligor of such new Indebtedness does not include any Restricted Subsidiary that is not an obligor of the Indebtedness being so redeemed, repurchased, defeased, exchanged, acquired or retired;
(iv) a Restricted Payment to pay for the repurchase, redemption or other acquisition or retirement for value of Equity Interests of the Borrower or any of its Restricted Subsidiaries or direct or indirect parent companies held by any future, present or former employee, director or consultant of, or service provider to, the Borrower, any of its Restricted Subsidiaries or any of its direct or indirect parent companies pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement; provided, however, that the aggregate Restricted Payments made under this clause (iv) do not exceed $75.0 million in the aggregate in any calendar year from and after the Term B-1 Increase Effective Date (with unused amounts for any year being carried over to the next succeeding year, but not to any subsequent year, with the permitted amount for each year being used prior to any amount carried over from the previous year and, for purposes of this parenthetical with an amount equal to $150.0 million being deemed carried over to calendar year 2018); provided, further, that such amount may be increased by an amount not to exceed:

(A) the cash proceeds from the sale of Equity Interests of the Borrower and, to the extent contributed to the Borrower, Equity Interests of any of the Borrower’s direct or indirect parent companies, in each case to members of management, directors or consultants of, or service providers to, the Borrower, any of its Restricted Subsidiaries or any of its direct or indirect parent companies that occurs or occurred after September 25, 2015, to the extent the cash proceeds from the sale of such Equity Interests have not otherwise been applied to the payment of Restricted Payments by virtue of clause (B)(1) of the definition of “Applicable Amount”; plus

(B) the cash proceeds of key man life insurance policies received by the Borrower and its Restricted Subsidiaries after September 25, 2015; less

(C) the amount of any Restricted Payments previously made since the Term B-1 Increase Effective Date that would have been incurred pursuant to clauses (A) and (B) of this clause (iv); provided, further, that cancellation of Indebtedness owing to the Borrower, or its Restricted Subsidiaries from members of management of the Borrower, any of its direct or indirect parent companies or any Restricted Subsidiary in connection with a repurchase of Equity Interests of the Borrower, its Restricted Subsidiaries or any of its direct or indirect parent companies will not be deemed to constitute a Restricted Payment for purposes of this Section 6.10 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 the Borrower or any of its Restricted Subsidiaries or preferred stock of any of the Borrower’s Restricted Subsidiaries issued in accordance with Section 6.08(a);

(vi) repurchases of Equity Interests (A) deemed to occur upon exercise of stock options, warrants or similar instruments if such Equity Interests represent a portion of the exercise price or taxes payable in respect of such options, warrants or similar instruments or (B) upon the vesting of restricted stock, restricted stock units, performance shares units or similar equity incentives to satisfy tax withholding or similar tax obligations with respect thereto;
(vii) the repurchase, redemption or other acquisition or retirement for value of any Subordinated Indebtedness or Disqualified Stock pursuant to the provisions similar to those described in Section 6.14 or 6.15 of the Senior Notes Indenture;

(viii) the declaration and payment of dividends by the Borrower to, or the making of loans to, any direct or indirect parent in amounts required for any direct or indirect parent companies to pay:

(A) franchise taxes and other fees, taxes and expenses required to maintain their corporate or other legal existence, and

(B) customary salary, bonus and other benefits payable to officers and employees of any direct or indirect parent company of the Borrower to the extent such salaries, bonuses and other benefits are attributable to the ownership or operation of the Borrower and its Subsidiaries;

(ix) payments to holders of Equity Interests (or to the holders of Indebtedness that is convertible into or exchangeable for Equity Interests upon such conversion or exchange) in lieu of the issuance of fractional shares;

(x) other Restricted Payments; provided that the amount of any such Restricted Payment, when taken together with the amount of all other Restricted Payments made pursuant to this clause (x), does not exceed the greater of (A) $750.0 million and (B) 2.50% of Total Assets; provided, further, that at the time of, and after giving effect to, such Restricted Payment, no Event of Default shall have occurred and be continuing or would occur as a consequence thereof; and

(xi) any Restricted Payments made in connection with the closing of the Verizon Acquisition;

(xii) any principal payment on, or redemption, repurchase, defeasance or other acquisition or retirement for value of any Later Maturing Other Junior Indebtedness if as of the date any such principal payment on, redemption, repurchase, defeasance or other acquisition or retirement for value, on a pro forma basis after giving effect to such principal payment on, redemption, repurchase, defeasance or other acquisition or retirement for value (including any related incurrence of Indebtedness), the Adjusted Leverage Ratio for the Test Period immediately preceding such date shall be less than or equal to 4.50 to 1.00.

The amount of all Restricted Payments (other than cash) will be the fair market value on the date of the Restricted Payment of the asset(s) or securities proposed to be transferred or issued by the Borrower or such Restricted Subsidiary, as the case may be, pursuant to the Restricted Payment. For purposes of determining compliance with this Section 6.10, in the event that a Restricted Payment meets the criteria of more than one of the categories described in Section 6.10(a), clauses (i) through (xi) of Section 6.10(b) or the definition of “Permitted Investments,” the Borrower will be permitted to classify such Restricted Payment and later reclassify all or a portion of such Restricted Payment in any manner that complies with this Section 6.10. In addition, a Restricted Payment need not be permitted solely by reference to one provision permitting such Restricted Payment but may be permitted in part by one such provision and in part by one or more other provisions of this Section 6.10 permitting such Restricted Payment.
(c) In the case of the Borrower only, declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, in each case if any Event of Default has occurred and is continuing at the time of such action or will result therefrom (but excluding the payment of dividends declared and announced by the board of directors of the Borrower at a time when no Event of Default existed).

(d) Notwithstanding anything to the contrary in this Section 6.10, the Borrower shall not:

(i) declare or make any dividend or distribution on account of the Borrower’s common Equity Interests, including any dividend or distribution payable on account of the Borrower’s common Equity Interests in connection with any merger or consolidation, in an amount which, when aggregated with all other such dividends or distributions and any amounts paid pursuant to Section 6.10(d)(ii), exceeds $2.40 per share in any fiscal year (subject to adjustments for any splits and reverse splits or other reductions in the number of outstanding shares of common stock), or

(ii) purchase, redeem, defease or otherwise acquire or retire for value any common Equity Interests of the Borrower or any direct or indirect parent of the Borrower held by Persons other than the Borrower or any of its Restricted Subsidiaries, including in connection with any merger, amalgamation or consolidation, in an amount which, when aggregated with all other such purchases, redemptions, defeasances, acquisitions or retirements and any amounts paid pursuant to Section 6.10(d)(ii), exceeds $2.40 per share in any fiscal year (subject to adjustments for any splits and reverse splits or other reductions in the number of outstanding shares of common stock).

SECTION 6.11 Designation of Restricted and Unrestricted Subsidiaries. The Borrower’s board of directors may designate any Restricted Subsidiary to be an Unrestricted Subsidiary if that designation would not cause a Default. Any designation of a Restricted Subsidiary as an Unrestricted Subsidiary will be deemed to be a designation of each of such entity’s Subsidiaries as Unrestricted Subsidiaries. If a Restricted Subsidiary is designated as an Unrestricted Subsidiary, the aggregate fair market value of all outstanding Investments owned by the Borrower and its Restricted Subsidiaries in the Subsidiary designated an Unrestricted Subsidiary will be deemed to be an Investment made as of the time of such designation and may reduce the amount available for Restricted Payments under Section 6.10 or under one or more of the clauses of the definition of “Permitted Investments,” as determined by the Borrower. That designation will only be permitted if the Investment would be permitted at that time and if the Restricted Subsidiary otherwise meets the definition of an “Unrestricted Subsidiary.” Any designation of a Subsidiary of the Borrower as an Unrestricted Subsidiary will be evidenced to the Administrative Agent by delivery to the Administrative Agent a certified copy of the board resolution giving effect to such designation and a certificate of a Financial Officer certifying that such designation complied with the preceding conditions and was not prohibited by Section 6.10.

ARTICLE VII

EVENTS OF DEFAULT

SECTION 7.01 Events of Default. If any of the following events (“Events of Default”) shall occur:

(a) the Borrower shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable (after giving effect to ABR Loans made pursuant to Section 2.22(e)), whether at the due date thereof or at a date fixed for prepayment thereof or otherwise.

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(b) the Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in Section 7.01(a)) payable by the Borrower under this Agreement or under any other Loan Document, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any of its Subsidiaries in or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, or any waiver hereunder or thereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any other Loan Document or any amendment or modification hereof or thereof, or any waiver hereunder or thereunder, shall prove to have been incorrect when made or deemed made in any material respect;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Section 5.01(a)(i) (with respect to the Borrower only), Section 5.01(g) or Section 5.05 or in Article VI; provided that no breach or default under Section 6.07 will constitute an Event of Default with respect to any Non-Financial Covenant Tranche unless and until the Required Financial Covenant Lenders have accelerated their loans and terminated their commitments;

(e) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in Section 7.01(a), (b) or (d)) or any other Loan Document and such failure shall continue unremedied for a period of 30 days after the earlier to occur of (i) the Borrower obtaining knowledge thereof and (ii) the date that notice thereof shall have been given to the Borrower by the Administrative Agent or the Required Lenders;

(f) the Borrower or any Principal Subsidiary shall fail to make any payment of any amount in respect of Indebtedness of the Borrower or such Principal Subsidiary in an aggregate principal amount of $150,000,000 or more, when and as the same shall become due and payable after giving effect to any applicable grace periods;

(g) any breach by the Borrower or any of its Principal Subsidiaries of any agreement or instrument relating to Indebtedness occurs that results in any Indebtedness of any one or more of the Borrower and its Principal Subsidiaries in an aggregate principal amount exceeding $150,000,000 becoming due prior to its scheduled maturity or that enables or permits the holder or holders of any such Indebtedness or any trustee or agent on its or their behalf to cause such Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity, in each case after giving effect to any applicable grace period and delivery of any applicable required notice; or, as a result of any such breach, any such Indebtedness shall be required to be prepaid (other than by a regularly scheduled required prepayment, pursuant to any put right (or similar right) of the holder thereof, or by the exercise by the Borrower or any Principal Subsidiary of its right to make a voluntary prepayment) in whole or in part prior to its stated maturity; or there occurs under any Swap Contract an Early Termination Date (as defined in such Swap Contract) resulting from (A) any event of default under such Swap Contract as to which the Borrower or any Principal Subsidiary is the Defaulting Party (as defined in such Swap Contract) or (B) any Termination Event (as defined in such Swap Contract) under such Swap Contract as to which the Borrower or any Principal Subsidiary is an Affected Party (as defined in such Swap Contract) and, in either event, the Swap Termination Value owed by the Borrower or such Subsidiary as a result thereof is greater than $150,000,000; provided that this Section 7.01(g) shall not apply to any (x) Indebtedness that becomes due as a result of a voluntary redemption, repayment or refinancing of such Indebtedness in accordance with the terms of the agreement governing such Indebtedness and which is not prohibited by this Agreement, or (y) Indebtedness that is mandatorily prepayable or redeemable prior to the scheduled maturity thereof with the proceeds of the issuance of capital stock, the incurrence of other Indebtedness or the sale or other disposition of any assets, so long as such Indebtedness that has become due is so prepaid or redeemed with such net proceeds required to be used to prepay such Indebtedness when due (or within any applicable grace period) and such event shall not have otherwise resulted in an event of default with respect to such Indebtedness;
(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any of its Principal Subsidiaries or its debts, or of a substantial part of its assets, under any Federal or state bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any of its Principal Subsidiaries or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed, undischarged or unstayed for a period of 60 or more days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any of its Principal Subsidiaries shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal or state bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in Section 7.01(h), (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any of its Principal Subsidiaries or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) one or more judgments for the payment of money in an aggregate amount in excess of $150,000,000 (to the extent not paid, fully bonded or covered by insurance or a third party indemnity) shall be rendered against the Borrower or any of its Subsidiaries or any combination thereof and the same shall remain undischarged, unvacated or undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed (by reason of pending appeal or otherwise), or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any of its Subsidiaries to enforce any such judgment and such action shall not have been stayed;

(k) a Plan shall fail to maintain the minimum funding standard required by Section 412(a) of the Code for any plan year or a waiver of such standard is sought or granted under Section 412(c), or a Plan is or shall have been terminated or the subject of termination proceedings under ERISA, or the Borrower or an ERISA Affiliate has incurred a liability to or on account of a Plan under Section 4062, 4063, 4064, 4201 or 4204 of ERISA, and there shall result from any such event or events a Material Adverse Effect;

(l) a Change in Control shall occur; or
(m) after execution thereof, (i) any material provisions of any Collateral Document shall cease to be in full force and effect, or the Borrower or any Pledgor shall so assert in writing, (ii) any Lien required hereby that is created by any Collateral Document shall cease to be enforceable and of the same effect and priority purported to be created thereby, or the Borrower or any Pledgor shall so assert in writing, in each case, for any reason other than (x) pursuant to the terms hereof and thereof including as a result of a transaction not prohibited under this Agreement or (y) the failure of the Administrative Agent or the Collateral Agent to maintain possession of any certificates representing or evidencing the Collateral actually delivered to it or (iii) all or substantially all of the value of the Guarantees under the Guaranty Agreement shall cease to be in full force and effect, or Guarantors in respect thereof shall so assert in writing, for any reason other than pursuant to the terms hereof and thereof including as a result of a transaction not prohibited under this Agreement;

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Section 7.01), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders (or, in the case of an Event of Default under clause (d) above resulting from a breach or default under Section 6.07 prior to such Event of Default constituting an Event of Default in respect of any Non-Financial Covenant Tranche, at the request of the Required Financial Covenant Lenders only (and in such case only with respect to the Financial Covenant Commitments and Financial Covenant Loans)) shall, by notice to the Borrower, take any or all of the following actions, at the same or different times: (i) terminate the Revolving Commitments, and thereupon the Revolving Commitments shall terminate immediately, (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower, and (iii) require that the Borrower cash collateralize the LC Exposure pursuant to Section 2.22(k); and in case of any event with respect to the Borrower described in clause (h) or (i) of this Section 7.01, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable and the Borrower shall automatically be required to provide such cash collateral, without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower.

ARTICLE VIII

AGENCY

SECTION 8.01 Administrative Agent and Collateral Agent. Each of the Lenders hereby irrevocably appoints JPMorgan Chase Bank, N.A. to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. Each of the Secured Parties hereby irrevocably appoints and authorizes the Collateral Agent to act as the agent of (and to hold any security interest created by the Collateral Documents for and on behalf of or on trust for) such Secured Party for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by the Borrower or any of its Subsidiaries to secure any of the Obligations and to take such actions on its behalf and to exercise such powers as are delegated to the Collateral Agent by the terms of any Loan Document, together with such powers and discretion as are reasonably incidental thereto. Without limiting the generality of the foregoing, the Lenders hereby expressly authorize the Administrative Agent and the Collateral Agent to (i) exercise any and all documents (including releases) with respect to the Collateral and the rights of the Secured Parties with respect thereto, as contemplated by and in accordance with the provisions of this Agreement and the Collateral Documents and (ii) negotiate, enforce or settle any claim, action or proceeding affecting the Lenders in their capacity as such and, in each case, acknowledge and agree that any such action by the Administrative Agent and/or Collateral Agent shall bind the Lenders.
The provisions of this Article are solely for the benefit of the Administrative Agent, the Collateral Agent and the Lenders, and the Borrower shall not have rights as a third party beneficiary of any of such provisions except with respect to a successor Administrative Agent and/or Collateral Agent and the terms of Section 8.03. The Person serving as the Administrative Agent and the Collateral Agent hereunder shall have the same rights and powers and obligations in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and/or the Collateral Agent. The term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent and/or the Collateral Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent and/or the Collateral Agent hereunder and without any duty to account therefor to the Lenders.

Each of the Administrative Agent and the Collateral Agent shall not have any duties or obligations in its capacity as such except those expressly set forth herein and in the other Loan Documents. Without limiting the generality of the foregoing, neither the Administrative Agent nor the Collateral Agent:

(a) shall be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(b) shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any discretionary action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law; and

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

Neither the Administrative Agent nor the Collateral Agent shall be liable to the Lenders for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent and/or the Collateral Agent, as applicable, shall believe in good faith shall be necessary, under the circumstances as provided in Section 9.02) or (ii) in the absence of its own gross negligence or willful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent by the Borrower or a Lender.
The Administrative Agent and/or the Collateral Agent shall not be responsible to the Lenders or Issuing Banks for or have any
duty to the Lenders or Issuing Banks to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this
Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in
connection herewith or therewith, (iii) the performance or observance by any other party hereto of any of the covenants, agreements or other terms
or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this
Agreement, any other Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of Liens on the
Collateral or the existence, value or sufficiency of the Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein,
other than to confirm receipt of items expressly required to be delivered to the Administrative Agent and/or the Collateral Agent.

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

The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or
enforce, compliance with the provisions hereof relating to Disqualified Lenders. Without limiting the generality of the foregoing, the Administrative
Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a
Disqualified Lender or (y) have any liability with respect to or arising out of any assignment or participation of Loans and/or Commitments, or
disclosure of confidential information, to any Disqualified Lender.

Each of the Administrative Agent and the Collateral Agent may perform any and all of its duties and exercise its rights and
powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Administrative Agent or the
Collateral Agent, as applicable. The Administrative Agent, the Collateral Agent and any such sub-agent may perform any and all of their respective
duties and exercise their respective rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall
apply to any such sub-agent and to the Related Parties of the Administrative Agent, the Collateral Agent and any such sub-agent, and shall apply
to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative
Agent and the Collateral Agent.
Each of the Administrative Agent and the Collateral Agent may at any time give notice of its resignation to the Lenders, the Issuing Banks and the Borrower. Upon receipt of any such notice of resignation, the Required Lenders shall have the right to appoint a successor, which shall be a bank with an office in New York, New York, or an Affiliate of any such bank with an office in New York, New York and which shall be reasonably acceptable to the Borrower. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent and/or Collateral Agent gives notice of its resignation, then the retiring Administrative Agent and/or Collateral Agent may, on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent and/or Collateral Agent meeting the qualifications set forth above; provided that, if the Administrative Agent and/or the Collateral Agent shall notify the Borrower and the Lenders that no qualifying Person has accepted such appointment, then such resignation shall nonetheless become effective in accordance with such notice and (1) the retiring Administrative Agent and/or Collateral Agent, as applicable, shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Collateral Agent on behalf of any of the Secured Parties under any of the Loan Documents, the retiring Collateral Agent shall continue to hold such collateral security until such time as a successor Collateral Agent is appointed) and (2) all payments, communications and determinations provided to be made by, to or through the Administrative Agent and/or the Collateral Agent shall instead be made by or to each Lender and each Issuing Bank directly, until such time as the Required Lenders appoint a successor Administrative Agent and/or Collateral Agent as provided for above in this paragraph. Upon the acceptance of a successor’s appointment as Administrative Agent and/or Collateral Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or retired) Administrative Agent and/or Collateral Agent, and the retiring Administrative Agent and/or Collateral Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this paragraph). The fees payable by the Borrower to a successor Administrative Agent and/or Collateral Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent and/or Collateral Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the retiring Administrative Agent and/or Collateral Agent’s resignation hereunder and under the other Loan Documents, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent and/or Collateral Agent, their respective sub-agents, as applicable and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring Administrative Agent and/or Collateral Agent was acting as Administrative Agent and/or Collateral Agent.

Each Lender and each Issuing Bank acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender and each Issuing Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrower and its Affiliates and their respective securities) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.

Except as otherwise provided in Section 9.02(b) with respect to this Agreement, the Administrative Agent may, with the prior consent of the Required Lenders (but not otherwise), consent to any modification, supplement or waiver under any of the Loan Documents. The Administrative Agent and/or the Collateral Agent may, without any further consent of any Lender, enter into (i) a Permitted First Lien Intercreditor Agreement in connection with any Indebtedness not prohibited hereby that is to be secured by Liens permitted pursuant to Section 6.01 that are contemplated or required to be pari passu with any Liens securing the Obligations and/or (ii) a Permitted Junior Intercreditor Agreement in connection with any Indebtedness not prohibited hereby that is to be secured by Liens permitted pursuant to Section 6.01 that are contemplated or required to be junior to any Liens securing the Obligations. Any Intercreditor Agreement entered into by the Administrative Agent and/or Collateral Agent in accordance with the terms of this Agreement shall be binding on the Secured Parties.
To the extent required by any applicable law (as determined in good faith by the Administrative Agent), the Administrative Agent may withhold from any payment to any Lender under any Loan Document an amount equivalent to any applicable withholding Tax. Without limiting or expanding the provisions of Section 2.14, each Lender shall, and does hereby, indemnify the Administrative Agent against, and shall make payable in respect thereof within 30 days after demand therefor, any and all Taxes and any and all related losses, claims, liabilities and expenses (including fees, charges and disbursements of any counsel for the Administrative Agent) incurred by or asserted against the Administrative Agent by the Internal Revenue Service or any other Governmental Authority as a result of the failure of the Administrative Agent to properly withhold Tax from amounts paid to or for the account of any Lender for any reason (including because the appropriate form was not delivered or not properly executed, or because such Lender failed to notify the Administrative Agent of a change in circumstance that rendered the exemption from, or reduction of withholding Tax ineffective). A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under this Agreement or any other Loan Document against any amount due the Administrative Agent under this paragraph. The agreements in this paragraph shall survive the resignation and/or replacement of the Administrative Agent, any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all other Obligations.

SECTION 8.02 Bookrunners, Etc. Anything herein to the contrary notwithstanding, none of the bookrunners, arrangers, syndication agents or documentation agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.

SECTION 8.03 Collateral and Guaranty Matters; Enforcement. The Lenders irrevocably agree that any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document shall be automatically released (i) upon termination of the Commitments and payment in full in cash of all Obligations (other than (x) contingent indemnification obligations not yet accrued and payable and (y) outstanding Letters of Credit pursuant to which credit support reasonably satisfactory to the applicable Issuing Bank shall have been delivered), (ii) if such Lien is no longer required to be granted to secure the Obligations pursuant to the terms of this Agreement, (iii) subject to the last proviso to Section 9.02(b), if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders or (iv) upon the sale or disposition of any such property to a Person that is not a Loan Party, Pledged Subsidiary, Specified Subsidiary or a Pledgor pursuant to any transaction permitted hereunder. The Lenders irrevocably agree that each of the Administrative Agent and the Collateral Agent is irrevocably authorized to release any Lien on any property granted to or held by the Administrative Agent or the Collateral Agent under any Loan Document in connection with the exercise of remedies hereunder or under any other Loan Document so long as any proceeds thereof are shared in accordance with Section 2.15(b), subject to the Intercreditor Agreements.

In addition, the Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably agree that any Guarantor shall be released from its respective Guarantee (i) automatically upon consummation of any transaction permitted hereunder resulting in such Subsidiary ceasing to constitute a Subsidiary or (ii) if the release of such Guarantor is approved, authorized or ratified by the Required Lenders (or such other percentage of Lenders whose consent is required in accordance with Section 9.02).
Upon request by the Administrative Agent or the Collateral Agent at any time, the Required Lenders will confirm in writing the Administrative Agent’s or the Collateral Agent’s authority to release or, unless this Agreement requires that the Lien securing the Obligations be senior or pari passu, subordinate its interest in particular types or items of property pursuant to this Section 8.03. In each case as specified in this Section 8.03, the Administrative Agent and/or the Collateral Agent will promptly (and each Lender irrevocably authorizes the Administrative Agent and the Collateral Agent to), at the Borrower’s expense, execute and deliver to the Borrower or applicable Subsidiary such documents as the Borrower may reasonably request to evidence the release or subordination of such item of Collateral from the assignment and security interest granted under the Collateral Documents; provided, that prior to any such request, the Borrower shall have in each case delivered to the Administrative Agent a certificate of a Financial Officer of the Borrower providing certifications with respect to such release or subordination as the Administrative Agent or Collateral Agent may reasonably request.

By its acceptance of the benefits of this Agreement and the other Loan Documents, each Lender agrees that no Lender shall have any right individually to enforce or seek to enforce this Agreement or the other Loan Documents or to realize upon any collateral or other security given to secure the payment and performance of any of the Secured Obligations.

ARTICLE IX
MISCELLANEOUS

SECTION 9.01 Notices.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone or as otherwise provided in Section 9.01(b), all notices, requests, demands and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier, as follows:

(i) if to the Borrower, to it at Frontier Communications Corporation, 401 Merritt 7, Norwalk, CT 06851, Attention of Treasurer (Telecopier No. 203-614-4602; Telephone No. 203-614-5708; Electronic Mail: john.gianukakis@ftr.com), with a copy to Frontier Communications Corporation, 401 Merritt 7, Norwalk, CT 06851, Attention of General Counsel (Telecopier No. 203-614-4651; Telephone No. 203-614-5050; Electronic Mail: mark.nielsen@ftr.com); and

(ii) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., 500 Stanton Christiana Road, Ops Building 2, 3rd Floor, Newark, Delaware 19713-2107, Attention of Eugene Tull III (Telephone No: 302-634-5881; Electronic Mail: eugene.h.tulliiii@chase.com; Fax: 302-634-8459)

(iii) if to JPMorgan Chase Bank, N.A., as Issuing Bank, to JPMorgan Chase Bank, N.A., 10420 Highland Manor Drive, Floor 4, Tampa, FL 33610, Attention of Letter of Credit Department (Telecopier No. 813-432-5162; Telephone No. 813-432-6339; Electronic Mail: gts.ib.standby@jpmchase.com); and

(iv) if to a Lender, to it at its address (or telecopier number) set forth in its Administrative Questionnaire.
Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices delivered through electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

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

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

Any notices and other communication to any Lenders, prospective Lenders, Participants or prospective Participants or, to the extent such disclosure is otherwise permitted, to any other Person through an electronic system such as an Internet or intranet website that provides for access to data protected by passcodes or other security system shall be made subject to the acknowledgement and acceptance by such Person that such communication is being disseminated or disclosed on a confidential basis (on terms substantially the same as set forth in Section 9.12 or otherwise reasonably acceptable to the Administrative Agent and the Borrower), which shall in any event require “click through” or other affirmative actions on the part of the recipient to access such communication.

(c) **Change of Address, Etc.** Any party hereto may change its address or telecopier number for notices and other communications hereunder by notice to the other parties hereto (or, in the case of any such change by a Lender, by notice to the Borrower and the Administrative Agent).

**SECTION 9.02 Waivers; Amendments.**

(a) **No Deemed Waivers; Remedies Cumulative.** No failure or delay by the Administrative Agent, an Issuing Bank or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Banks and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank may have had notice or knowledge of such Default at the time.
Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrower or, as applicable, any Subsidiary shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent for the benefit of the Lenders and/or the Collateral Agent for the benefit of the Secured Parties; provided, however, that the foregoing shall not prohibit (i) the Administrative Agent or the Collateral Agent from exercising its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent or Collateral Agent, as applicable) hereunder and under the other Loan Documents, (ii) any Lender from exercising setoff rights in accordance with Section 9.08, or (iii) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to the Borrower or any Subsidiary under any Debtor Relief Law.

(b) **Amendments.** None of this Agreement or any provision hereof or any provision of the other Loan Documents may be waived, amended or modified except (x) as provided in Section 2.18, 2.19 or 2.21 or (y) pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; provided that, without the consent of each Lender directly and adversely affected thereby, no such agreement shall do any of the following (it being understood and agreed that this proviso shall not apply to (1) a waiver, extension, postponement or reduction of any default interest, (2) a waiver or extension of Defaults or Events of Default (other than pursuant to Section 7.01(a) or (b)), (3) a waiver, extension, postponement or reduction of any mandatory prepayment (or modification of any defined term relating thereto) or (4) an amendment, waiver or other modification to any financial covenant hereunder (or any defined term used therein) or Section 5.02(a), (b) or (c) even if the effect of such amendment, waiver or other modification would be to reduce the rate of interest on any Loan or to reduce any fee payable hereunder:

(i) increase the Commitment of any Lender,

(ii) reduce the principal amount of any Loan owed to any Lender or reduce the rate of interest thereon, or reduce any fees payable hereunder to any Lender,

(iii) postpone the scheduled date of payment of the principal amount of any Loan, or any interest thereon, or any fees payable hereunder to any Lender, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment,

(iv) change Section 2.15(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby (it being understood that transactions contemplated pursuant to Section 2.18, 2.19, 2.20, 2.21 or 9.04(b)(v) shall not be deemed to alter such pro rata sharing of payments);

**provided, further,** that no such agreement shall (A) change any of the provisions of this Section 9.02(b) or the percentage in the definition of the term “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender (it being understood that such consent of each Lender shall not be required for amendments as provided in Section 2.18, 2.19 or 2.21), (B) change any of the provisions of Section 2.15(b) relating to the order of payments, without the written consent of each Lender, (C) release all or substantially all of the Collateral required to be subject to a Lien securing the Obligations pursuant to the terms of this Agreement, without the written consent of each Lender (unless such release is in connection with the grant of a Lien on replacement Collateral to secure the Obligations, in which case only the consent of the Required Lenders shall be required) or (D) amend, modify or otherwise affect the rights or duties of the Administrative Agent hereunder (including pursuant to Section 2.17) without the prior written consent of the Administrative Agent. Notwithstanding the foregoing, no consent with respect to any amendment, waiver or other modification of this Agreement or any other Loan Document shall be required of any Defaulting Lender except to the extent required pursuant to Section 2.17(a).
Notwithstanding anything to the contrary herein or in any other Loan Document, without the consent of any Lender, the Borrower and the Administrative Agent may (I) enter into any amendment, supplement or modification of any Loan Document, or enter into any new agreement or instrument, (w) to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties (including entering into and/or modifying any Intercreditor Agreement in connection with other Indebtedness not prohibited hereunder that is or is contemplated to be subject to a Lien permitted by Section 6.01 (subject to any restrictions set forth herein as to the priority of any such Lien relative to any Lien securing, or required to be granted to secure, the Obligations)), (x) as required by local law or to comply with advice from local counsel to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable law or any Loan Document, (y) to otherwise enhance the rights or benefits of any Lender under any Loan Document or (z) in the case of any Collateral Document, to reaffirm or modify any Collateral Document (i) to add a new class of secured creditors in accordance with the terms thereof, (ii) to release any lien securing any other series of Indebtedness in accordance with the terms thereof or (iii) to release any Lien securing the Obligations in accordance with Section 8.03 and (II) enter into any amendment, supplement or modification of any Loan Document to cure any ambiguity, omission, mistake, defect or inconsistency, to correct any typographical error or other manifest error in any Loan Document or to effect administrative changes of a technical or immaterial nature.

(c) **Revolving Facility Amendments.** With respect to the Revolving Facility only, without the consent of each Revolving Lender directly and adversely affected thereby, no such agreement shall do any of the following (it being understood and agreed that this proviso shall not apply to (1) a waiver, extension, postponement or reduction of any default interest, (2) a waiver or extension of Defaults or Events of Default (other than pursuant to Section 7.01(a) or (b)), (3) a waiver, extension, postponement or reduction of any mandatory prepayment (or modification of any defined term relating thereto) or (4) an amendment, waiver or other modification to any financial covenant hereunder (or any defined term used therein) or Section 5.02(a), (b) or (c) even if the effect of such amendment, waiver or other modification would be to reduce the rate of interest on any Loan or to reduce any fee payable hereunder):

(i) reduce the principal amount of any LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Revolving Lender adversely affected thereby,

(ii) postpone the scheduled date of payment of the principal amount of any LC Disbursement, or any interest thereon, or any fees payable hereunder without the written consent of each Revolving Lender affected thereby,
provided, further, that no such agreement shall change any of the provisions of this Section 9.02(c) or the percentage in the definition of the term “Required Revolving Lenders” or any other provision hereof specifying the number or percentage of Revolving Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Revolving Lender.

(d) Financial Covenant Loans and Commitments. Notwithstanding the foregoing, with respect to the Financial Covenant Commitments and Financial Covenant Loans only, solely with the consent of the Required Financial Covenant Lenders (but without the consent of the Required Lenders or any other Lender), any such agreement may waive, amend or modify Section 6.07 (or the definition of “First Lien Leverage Ratio” or any component definition thereof, in each case, as any such definition is used solely for purposes of Section 6.07 for purposes of determining compliance with such Section as a condition to taking any action under this Agreement).

(e) Additional Amendments. Notwithstanding the foregoing, this Agreement may not be amended or modified to:

(i) release all or substantially all of the value of the Guarantees under the Guaranty Agreement without the consent of each Lender directly and adversely affected thereby; or

(ii) amend, modify or otherwise affect the rights or duties of the Issuing Banks hereunder without the prior written consent of each Issuing Bank.

(f) Notwithstanding the foregoing, the Letter of Credit Sublimit of any Issuing Bank listed on Schedule 1 may be modified and technical and conforming modifications to the Loan Documents may be made in connection therewith with the consent of the Borrower, such Issuing Bank and the Administrative Agent (and without the consent of any Lender).

SECTION 9.03 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Borrower shall pay (i) all reasonable documented (in reasonable detail) out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (but limited, in the case of legal fees and expenses, to the reasonable and documented fees, charges and disbursements of a single primary external counsel, and, if necessary, of a single local counsel in each applicable jurisdiction, in each case, selected by the Administrative Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable documented (in reasonable detail) out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable documented (in reasonable detail) out-of-pocket expenses incurred by the Administrative Agent, any Issuing Bank or any Lender (but limited, in the case of legal fees and expenses, to the reasonable and documented fees, charges and disbursements of a single primary external counsel for the Administrative Agent and Lenders, and, if necessary, of a single local counsel in each applicable jurisdiction for the Administrative Agent and Lenders, in each case, selected by the Administrative Agent (plus one additional counsel in the event of an actual or perceived conflict of interest)) (A) in connection with any amendments, modifications or waivers of the provisions of this Agreement or of the other Loan Documents or (B) in connection with the enforcement or protection of its rights (x) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (y) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses (subject to the foregoing limitations with respect to legal fees and expenses) incurred during any workout, restructuring or negotiations in respect of such Loans.

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(b) **Indemnification by the Borrower.** The Borrower shall indemnify the Administrative Agent (and any sub-agent thereof), the Joint Lead Arrangers and each Lender and each Issuing Bank, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and reasonable and documented out-of-pocket expenses (but limited, in the case of legal fees and expenses, to the reasonable and documented fees, charges and disbursements of a single counsel for all such Indemnitees taken as a whole, and, if necessary, of a single local counsel in each applicable jurisdiction for the Indemnitees, in each case, selected by the Administrative Agent (plus one additional counsel in the event of an actual or perceived conflict of interest), incurred by any Indemnitee or asserted against any Indemnitee by any third party or by the Borrower arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the Transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit) or (iii) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower, and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee or any of its Controlled Related Parties or (y) result from a claim brought by the Borrower against an Indemnitee for material breach of such Indemnitee’s obligations hereunder or under any other Loan Document, if the Borrower has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses or damages arising from any non-Tax claim. As used in this Section 9.03, a “Controlled Related Party” of an Indemnitee means (1) any Controlling Person or Controlled Affiliate of such Indemnitee, (2) the respective directors, officers, or employees of such Indemnitee or any of its Controlling Persons or Controlled Affiliates and (3) the respective agents or representatives of such Indemnitee or any of its Controlling Persons or Controlled Affiliates in the case of this clause (3), acting on behalf of or at the instructions of such Indemnitee, Controlling Person or such Controlled Affiliate; provided that each reference to a Controlling Person, Controlled Affiliate, director, officer or employee in this sentence pertains to a Controlling Person, Controlled Affiliate, director, officer or employee involved in the structuring, arrangement, negotiation or syndication of the credit facility evidenced by this Agreement.

(c) **Reimbursement by Lenders.** To the extent that the Borrower for any reason fails to indefeasibly pay any amount required under paragraph (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof) or an Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Issuing Bank or such Related Party, as the case may be, such Lender’s Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or an Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or an Issuing Bank in connection with such capacity. The obligations of the Lenders under this paragraph (c) are several obligations.
Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, no Indemnitee shall assert against the Borrower or its Related Parties and the Borrower shall not assert against any Indemnitee, and each Indemnitee and the Borrower hereby waives, any claim on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof; provided that nothing contained in this sentence shall limit the Borrower’s indemnity obligations to the extent set forth in Section 9.03(b). No Indemnitee referred to in paragraph (b) above 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, other than damages that are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or any of its Controlled Related Parties.

Payments. All amounts due under this Section shall be payable not later than fifteen (15) days after written demand therefor.

SECTION 9.04 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender (except as expressly contemplated by and in accordance with clause (ii) of the first proviso to Section 6.04), and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of paragraph (b) of this Section, (ii) by way of participation in accordance with the provisions of paragraph (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of paragraph (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in paragraph (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) to any Person; provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the Commitments or Loans, as applicable, at the time owing to the assigning Lender or in the case of an assignment to a Lender or an Affiliate of a Lender, no minimum amount need be assigned; and

(B) in any case not described in paragraph (b)(i)(A) of this Section, the principal amount of the Commitment (which for this purpose includes Loans outstanding thereunder) of the assigning Lender or the principal outstanding balance of the Loans of the assigning Lender, as applicable, subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date) shall not be less than (i) with respect to the Revolving Facility, $10,000,000, (ii) with respect to Initial Term Loans and any Other Term Loans that are term A loans, $5,000,000 and (iii) with respect to Term B-1 Loans and any Other Term Loans that are term B loans, $1,000,000, unless each of the Administrative Agent and, so long as no Event of Default pursuant to Section 7.01(a), (b), (h) or (i) has occurred and is continuing, the Borrower otherwise consents (each such consent not to be unreasonably withheld or delayed).
(ii) **Proportionate Amounts.** Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the Commitments or Loan, as applicable, assigned.

(iii) **Required Consents.** No consent shall be required for any assignment except to the extent required by paragraph (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrower (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default pursuant to Section 7.01(a), (b), (h) or (i) has occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender or an Affiliate of a Lender; provided that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required except in the case of an assignment by a Lender to an Affiliate of such Lender; and

(C) the consent of the applicable Issuing Bank shall be required (such consent not to be unreasonably withheld or delayed) 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).

(iv) **Assignment and Assumption.** The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500; provided that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire and any tax forms or documentation required to be delivered under Section 2.14(e).

(v) **Assignment to the Borrower.** Any Lender may assign all or any portion of its Term Loans to the Borrower but only if:

(A) no Event of Default has occurred or is continuing or would result therefrom;

(B) such assignment is made pursuant to open market purchase;
any such Term Loans shall be immediately and permanently cancelled immediately upon acquisition thereof by the Borrower; and

the Borrower may not use proceeds from loans under the any Revolving Facility to purchase Term Loans.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to paragraph (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Section 2.13 and Section 9.03 with respect to facts and circumstances occurring prior to the effective date of such assignment, provided that, except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender’s having been a Defaulting Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this paragraph (b) shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (d) of this Section.

The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices in New York, New York a copy of each Assignment and Assumption delivered to it and a register for the recording of the names and addresses of the Lenders, and the Commitments of, and principal amounts of (and stated interest on) the Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

Any Lender may at any time, without the consent of, or notice to, the Borrower or the Administrative Agent, sell participations to any Person (other than a natural person, a Disqualified Lender (but solely to the extent the Disqualified Lender list has been posted to the Intralinks or another similar electronic system pursuant to Section 9.04(g)) or the Borrower or any of the Borrower’s Affiliates or Subsidiaries) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrower, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement.
Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in the first proviso to Section 9.02(b) that directly and adversely affects such Participant or described in the second proviso to Section 9.02(b) that would require the consent of all Lenders. Subject to paragraph (e) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Section 2.13 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Sections 2.12, 2.14 and 9.08 (subject to the requirements and limitations of those Sections and Section 2.16, and it being understood that the documentation required under Section 2.14(e) shall be delivered solely to the participating Lender) as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amount of (and stated interest on) each Participant’s interest in Commitments and/or the Loans held by it (the “Participant Register”). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of the participation in question for all purposes of this Agreement, notwithstanding notice to the contrary; provided that no Lender shall have the obligation to disclose all or a portion of the Participant Register (including the identity of the Participant or any information relating to a Participant’s interest in any Loans or other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary in connection with a Tax audit or other proceeding to establish that any loans or other obligations are in registered form for U.S. federal income tax purposes.

(e) **Limitations upon Participant Rights.** A Participant shall not be entitled to receive any greater payment under Section 2.12 and Section 2.14 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower’s prior written consent (not to be unreasonably withheld or delayed).

(f) **Certain Pledges.** Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank or other central bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(g) **Disqualified Lenders.** The Administrative Agent shall post the list of Disqualified Lenders provided by the Borrower and any updates thereto from time to time on Intralinks or another similar electronic system to “public siders” and/or “private siders” and/or provide such list to each Lender requesting the same. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions relating to Disqualified Lenders.

SECTION 9.05 **Survival.** All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid (other than contingent obligations in respect of which no claim has been made) or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Section 2.12, Section 2.13, Section 2.14 and Section 9.03 shall survive and remain in full force and effect regardless of the consummation of the Transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

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SECTION 9.06    Counterparts; Integration; Effectiveness; Electronic Execution.

(a)    Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract between and among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page to this Agreement by electronic transmission shall be effective as delivery of an original executed counterpart of this Agreement.

(b)    Electronic Execution of Assignments. The words “execution,” “signed,” “signature” and words of like import in any Assignment and Assumption shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.07    Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08    Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such Issuing Bank or any such Affiliate to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement or any other Loan Document to such Lender or such Issuing Bank, irrespective of whether or not such Lender or such Issuing Bank shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Borrower may be contingent or unmatured or are owed to a branch or office of such Lender or such Issuing Bank different from the branch or office holding such deposit or obligated on such indebtedness; provided that, in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank or their respective Affiliates may have. Each Lender and each Issuing Bank agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

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SECTION 9.09  Governing Law; Jurisdiction; Etc.

(a) **Governing Law.** This Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

(b) **Submission to Jurisdiction.** The parties hereto irrevocably and unconditionally submit, for themselves and their property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Loan Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Borrower or its properties in the courts of any jurisdiction.

(c) **Waiver of Venue.** The parties hereto irrevocably and unconditionally waive, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) **Service of Process.** Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by applicable law.

SECTION 9.10  WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.
SECTION 9.11  Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12  Treatment of Certain Information; Confidentiality. Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its and its Affiliates’ respective partners, directors, officers, employees, agents, advisors and other representatives (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over it (including any self-regulatory authority, such as the National Association of Insurance Commissioners) (and, in the case of any non-ordinary course disclosure under this clause (b), the disclosing party shall use its reasonable efforts to inform the Borrower thereof prior to any such disclosure and, in any event, shall promptly inform the Borrower thereof, in each case to the extent legally permitted to do so; provided that requests from any bank examiner or bank auditor shall not be considered to be non-ordinary course), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process (in which case the disclosing party shall use its reasonable efforts to inform the Borrower thereof prior to any such disclosure and, in any event, shall promptly inform the Borrower thereof, in each case to the extent legally permitted to do so), (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower, (h) with the prior consent of the Borrower, by the Administrative Agent, the Joint Lead Arrangers or any lead arranger in respect of any incremental credit facility to be issued hereunder, in each case on a confidential basis to any rating agency in connection with rating the Borrower or its Subsidiaries or the credit facilities hereunder or (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Issuing Bank or any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrower.

For purposes of this Section, “Information” means all information received from the Borrower or any of its Subsidiaries relating to the Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Issuing Bank or any Lender on a nonconfidential basis prior to disclosure by the Borrower or any of its Subsidiaries and other than information pertaining to this Agreement of the type routinely provided by arrangers to data service providers, including league table providers, that serve the lending industry; provided that, in the case of information received from the Borrower or any of its Subsidiaries after the Original Effective Date, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.
SECTION 9.13 No Fiduciary Duty, etc. The Borrower acknowledges and agrees, and acknowledges its subsidiaries' understanding, that no Secured Party will have any obligations except those obligations expressly set forth herein and in the other Loan Documents and each Secured Party is acting solely in the capacity of an arm's length contractual counterparty to the Borrower with respect to the Loan Documents and the transaction contemplated therein and not as a financial advisor or a fiduciary to, or an agent of, the Borrower or any other person. The Borrower agrees that it will not assert any claim against any Secured Party based on an alleged breach of fiduciary duty by such Secured Party in connection with this Agreement and the transactions contemplated hereby. Additionally, the Borrower acknowledges and agrees that no Secured Party is advising the Borrower as to any legal, tax, investment, accounting, regulatory or any other matters in any jurisdiction. The Borrower shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Loan Parties shall have no responsibility or liability to the Borrower with respect thereto.

The Borrower further acknowledges and agrees, and acknowledges its subsidiaries' understanding, that each Secured Party is a full service securities or banking firm engaged in securities trading and brokerage activities as well as providing investment banking and other financial services. In the ordinary course of business, any Secured Party may provide investment banking and other financial services to, and/or acquire, hold or sell, for its own accounts and the accounts of customers, equity, debt and other securities and financial instruments (including bank loans and other obligations) of, you and other companies with which you may have commercial or other relationships. With respect to any securities and/or financial instruments so held by any Secured Party or any of its customers, all rights in respect of such securities and financial instruments, including any voting rights, will be exercised by the holder of the rights, in its sole discretion.

In addition, the Borrower acknowledges and agrees, and acknowledges its subsidiaries' understanding, that each Secured Party and its affiliates may be providing debt financing, equity capital or other services (including financial advisory services) to other companies in respect of which you may have conflicting interests regarding the transactions described herein and otherwise. No Secured Party will use confidential information obtained from you by virtue of the transactions contemplated by the Loan Documents or its other relationships with you in connection with the performance by such Secured Party of services for other companies, and no Secured Party will furnish any such information to other companies. You also acknowledge that no Secured Party has any obligation to use in connection with the transactions contemplated by the Loan Documents, or to furnish to you, confidential information obtained from other companies.

SECTION 9.14 USA PATRIOT Act. Each Lender hereby notifies the Borrower that pursuant to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Patriot Act”), such Lender may be required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with said Patriot Act.

SECTION 9.15 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:
(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an EEA Financial Institution; and

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

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

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

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

[SIGNATURE PAGES INTENTIONALLY OMITTED]