

**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): May 2, 2016

Mercury Systems, Inc.
(Exact Name of Registrant as Specified in Charter)

Massachusetts
(State or Other Jurisdiction
of Incorporation)

000-23599
(Commission
File Number)

04-2741391
(IRS Employer
Identification No.)

201 Riverneck Road, Chelmsford, Massachusetts 01824
(Address of Principal Executive Offices) (Zip Code)

Registrant's telephone number, including area code: (978) 256-1300

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 (see General Instruction A.2. below):

- 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))

Item 1.01 Entry Into a Material Definitive Agreement

On May 2, 2016, Mercury Systems, Inc. (the “Company”) and certain of the Company’s subsidiaries, as guarantors, entered into a Credit Agreement (the “Credit Agreement”) with a syndicate of commercial banks and Bank of America, N.A acting as the administrative agent. The Credit Agreement provides for a \$200 million term loan facility and a \$100 million revolving credit facility.

Maturity

The revolving credit facility will have a five year maturity. Subject to the amortization payments described below, the term loan facility will have a five year maturity.

Interest Rates and Fees

Borrowings under the Credit Agreement bear interest, at the Company’s option, at floating rates tied to LIBOR or the prime rate plus an applicable percentage. The applicable percentage has initially been set at 2.00% and in future fiscal quarters will be established pursuant to a pricing grid based on the Company’s total net leverage ratio.

In addition to interest on the aggregate outstanding principal amounts of any borrowings, the Company will also pay a quarterly commitment fee on the unutilized commitments under the revolving credit facility, which fee has initially been set at 0.30% per annum and in future fiscal quarters will be established pursuant to a pricing grid based on the Company’s total net leverage ratio. The Company will also pay customary letter of credit and agency fees.

Prepayments

The Credit Agreement provides for quarterly amortization payments on the term loans, beginning with 5% per annum amortization and increasing to 12.5% per annum amortization over the five year term of the term loan facility. The Company is required to make mandatory prepayments of the term loans with the proceeds of certain non-ordinary course asset sales or the proceeds of certain debt issuances. Subject to minimum notice requirements, borrowings under the Credit Agreement may be voluntarily prepaid at any time without premium or penalty.

Covenants and Events of Default

The Credit Agreement provides for customary negative covenants, including, among other things and subject to certain significant exceptions, restrictions on the incurrence of debt or guarantees, the creation of liens, the making of certain investments, loans and acquisitions, mergers and dissolutions, the sale of assets including capital stock of subsidiaries, the payment of dividends, the repayment or amending of junior debt, altering the business conducted, engaging in transactions with affiliates and entering into agreements limiting subsidiary dividends and distributions. The Credit Agreement also requires the Company to comply with certain financial covenants, including a quarterly minimum consolidated cash interest charge ratio test and a quarterly maximum consolidated total net leverage ratio test.

The Credit Agreement also provides for customary representations and warranties, affirmative covenants and events of default (including, among others, the failure to make required payments of principal and interest, certain insolvency events an event of default upon a change of control). If an event of default occurs, the lenders under the Credit Agreement will be entitled to take various actions, including the acceleration of amounts due under the Credit Agreement and all actions permitted to be taken by a secured creditor.

Guarantees and Security

The Company's obligations under the Credit Agreement are guaranteed by certain of the Company's material domestic wholly-owned restricted subsidiaries (the "Guarantors"). The obligations of both the Company and the Guarantors are secured by a perfected security interest in substantially all of the assets of the Company and the Guarantors, in each case, now owned or later acquired, including a pledge of all of the capital stock of substantially all of the Company's domestic wholly-owned restricted subsidiaries and 65% of the capital stock of certain of its foreign restricted subsidiaries, subject in each case to the exclusion of certain assets and additional exceptions.

The foregoing description of the Credit Agreement does not purport to be complete and is qualified in its entirety by reference to the full text of the Credit Agreement, a copy of which is filed as Exhibit 10.1 to this Current Report on Form 8-K and is incorporated by reference into this Item 1.01.

Item 2.01 Completion of Acquisition or Disposition of Assets

As previously reported, on March 23, 2016, the Company and Microsemi Corporation ("Microsemi") entered into a Stock Purchase Agreement (the "Purchase Agreement"), pursuant to which, subject to the satisfaction or waiver of certain conditions, Microsemi agreed to sell all the membership interests in Microsemi LLC - RF Integrated Solutions ("RF LLC") to Mercury (the "Acquisition") for \$300 million in cash on a cash-free, debt-free basis, subject to a working capital adjustment. RF LLC, directly and through subsidiaries, operates embedded security, RF and microwave, and custom microelectronics businesses of Microsemi (the "Carve-Out Business"). On May 2, 2016, the transaction closed with the Company acquiring all of the membership interests in RF LLC from Mercury and the Carve-Out Business.

The Purchase Agreement was filed as Exhibit 10.1 to Current Report on Form 8-K filed with the Securities and Exchange Commission on April 4, 2016 and is incorporated herein by reference.

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

On May 2, 2016, Mercury Systems, Inc. (the "Company") and certain of the Company's subsidiaries entered into a Credit Agreement (the "Credit Agreement") with a syndicate of commercial banks and Bank of America, N.A acting as the administrative agent.

Reference is made to Item 1.01 of this Current Report on Form 8-K for a summary of the Credit Agreement.

Item 7.01 Regulation FD Disclosure

On May 2, 2016, Mercury issued a press release announcing the closing of the Acquisition and the financing.

The press release is furnished as Exhibit 99.1 hereto. The information provided in Item 7.01 of this Current Report on Form 8-K and in the attached Exhibit 99.1 shall not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, except as shall be expressly set forth by specific reference in such a filing.

Item 9.01 Financial Statements and Exhibits.

(a), (b)

The Company filed the required historical financial information regarding RF LLC and the Carve-Out Business and required *pro forma* condensed consolidated financial information regarding the Company, giving *pro forma* effect to the Acquisition and certain related transactions, as Exhibits 99.2, 99.3 and 99.4 to the Current Report on Form 8-K filed with the Securities and Exchange Commission on April 4, 2016.

Exhibits 99.2, 99.3 and 99.4 to the Current Report on Form 8-K filed with the Securities and Exchange Commission on April 4, 2016 are incorporated herein by reference.

Exhibit No.	Description
10.1	Credit Agreement, dated May 2, 2016, among Mercury Systems, Inc., the Guarantors party thereto, the Lenders party thereto and Bank of America, N.A., as Administrative Agent and Collateral Agent.
99.1	Press Release, dated May 2, 2016, of Mercury Systems, Inc.
99.2	Carve-Out Business audited consolidated balance sheets as of September 27, 2015 and September 28, 2014, and the related consolidated statements of operations and comprehensive income, consolidated statements of changes of invested equity and consolidated statements of cash flows for the years ended September 27, 2015, September 28, 2014 and September 29, 2013 (incorporated by reference to Exhibit 99.2 of the Registrant's Current Report on Form 8-K filed with the Securities Exchange Commission on April 4, 2016).
99.3	Carve-Out Business unaudited interim consolidated balance sheets as of January 3, 2016 and December 28, 2014 and the related unaudited consolidated statements of operations and comprehensive income and consolidated statements of cash flows for three months ended January 3, 2016 and December 28, 2014 (incorporated by reference to Exhibit 99.3 of the Registrant's Current Report on Form 8-K filed with the Securities Exchange Commission on April 4, 2016).
99.4	Mercury Systems, Inc. unaudited pro forma condensed consolidated balance sheet as of December 31, 2015, the unaudited pro forma condensed consolidated statements of operations for the six months ended December 31, 2015 and the unaudited pro forma condensed consolidated statement of operations for the year ended June 30, 2015 (incorporated by reference to Exhibit 99.4 of the Registrant's Current Report on Form 8-K filed with the Securities Exchange Commission on April 4, 2016).

SIGNATURES

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

Dated: May 2, 2016

MERCURY SYSTEMS, INC.

By: /s/ Gerald M. Haines II
Gerald M. Haines II
Executive Vice President, Chief Financial Officer and Treasurer

Exhibit Index

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CREDIT AGREEMENT

dated as of May 2, 2016

among

MERCURY SYSTEMS, INC.,
as the Borrower

and

CERTAIN SUBSIDIARIES OF THE BORROWER,
as Guarantors,

THE LENDERS PARTY HERETO,

BANK OF AMERICA, N.A.,
as Administrative Agent and Collateral Agent

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED,
CITIBANK, N.A.,
KEYBANC CAPITAL MARKETS INC. and
SUNTRUST ROBINSON HUMPHREY, INC.,
as Joint Lead Arrangers and Joint Book Managers,

and

TD BANK, N.A.,
U.S. BANK NATIONAL ASSOCIATION and
WELLS FARGO BANK, N.A.,
as Co-Documentation Agents

36

TABLE OF CONTENTS

37

38

PAGE

39 ARTICLE 1 DEFINITIONS AND ACCOUNTING TERMS 1

40 Section 1.01. Defined Terms 1

41 Section 1.02. Interpretive Provisions 55

42 Section 1.03. Accounting Terms and Provisions 56

43 Section 1.04. Rounding 57

44 Section 1.05. Times of Day 57

45 Section 1.06. Letter of Credit Amounts 57

46 Section 1.07. Pro Forma Calculations 57

47 Section 1.08. Timing of Payment and Performance 61

48 Section 1.09. Currency Generally 61

49 Section 1.10. Exchange Rates; Currency Equivalents 61

50 Section 1.11. Additional Alternative Currencies 61

51 Section 1.12. Cumulative Equity Credit Transactions 61

52 Section 1.13. References to Agreements, Laws, Etc. 61

53

54 ARTICLE 2 COMMITMENTS AND CREDIT EXTENSIONS 62

55 Section 2.01. Commitments 62

56 Section 2.02. Borrowings, Conversions and Continuations 64

57 Section 2.03. Additional Provisions with Respect to Letters of Credit 65

58 Section 2.04. Additional Provisions with Respect to Swingline Loans 75

59 Section 2.05. Repayment of Loans Term Loans 78

60 Section 2.06. Prepayments 79

61 Section 2.07. Termination or Reduction of Commitments 82

62 Section 2.08. Interest 83

63 Section 2.09. Fees 84

64 Section 2.10. Computation of Interest and Fees; Retroactive Adjustments to Applicable

65 Percentage 86

66 Section 2.11. Payments Generally; Administrative Agent’s Clawback 87

67 Section 2.12. Sharing of Payments by Lenders 89

68 Section 2.13. Evidence of Debt 89

69 Section 2.14. [Reserved] 90

70 Section 2.15. [Reserved] 90

71 Section 2.16. Cash Collateral 90

72 Section 2.17. Defaulting Lenders 91

73 Section 2.18. Incremental Facilities 93

74 (a) Incremental Commitments 93

75 Section 2.19. Amend and Extend Transactions 99

76 Section 2.20. Refinancing Facilities 100

77	ARTICLE 3 TAXES, YIELD PROTECTION AND ILLEGALITY	104
78	Section 3.01. Taxes	104
79	Section 3.02. Illegality.....	110
80	Section 3.03. Inability to Determine Rates.....	111
81	Section 3.04. Increased Cost; Capital Adequacy	111
82	Section 3.05. Compensation for Losses	113
83	Section 3.06. Mitigation Obligations; Replacement of Lenders	114
84	Section 3.07. Survival Losses.....	115
85	ARTICLE 4 GUARANTY.....	115
86	Section 4.01. The Guaranty.....	115
87	Section 4.02. Obligations Unconditional	116
88	Section 4.03. Reinstatement	116
89	Section 4.04. Certain Waivers.....	117
90	Section 4.05. Remedies	117
91	Section 4.06. Rights of Contribution.....	117
92	Section 4.07. Guaranty of Payment; Continuing Guarantee	118
93	Section 4.08. Keepwell.....	118
94	Section 4.09. Release of Guarantors	118
95	ARTICLE 5 CONDITIONS PRECEDENT TO CREDIT EXTENSIONS	119
96	Section 5.01. Conditions to the Closing Date	119
97	Section 5.02. Conditions to all Credit Extensions after the Closing Date.....	122
98	ARTICLE 6 REPRESENTATIONS AND WARRANTIES	123
99	Section 6.01. Existence, Qualification and Power	123
100	Section 6.02. Authorization; No Contravention.....	123
101	Section 6.03. Governmental Authorization; Other Consents	123
102	Section 6.04. Binding Effect	124
103	Section 6.05. Financial Statements.....	124
104	Section 6.06. No Material Adverse Effect	124
105	Section 6.07. Litigation	124
106	Section 6.08. Labor Matters	124
107	Section 6.09. Ownership of Property; Liens	124
108	Section 6.10. Environmental Matters	125
109	Section 6.11. [Reserved]	125
110	Section 6.12. Taxes	125
111	Section 6.13. ERISA Compliance	125
112	Section 6.14. Subsidiaries	126
113	Section 6.15. Margin Regulations; Investment Company Act.....	126
114	Section 6.16. Disclosure	127
115	Section 6.17. Compliance with Laws.....	127
116	Section 6.18. Collateral Documents	127

117	Section 6.19.	Intellectual Property	128
118	Section 6.20.	Solvency	128
119	Section 6.21.	Patriot Act; Sanctioned Persons	128
120	Section 6.22.	EEA Financial Institutions	129
121	ARTICLE 7 AFFIRMATIVE COVENANTS		129
122	Section 7.01.	Financial Statements.....	129
123	Section 7.02.	Certificates; Other Information	130
124	Section 7.03.	Notification.....	132
125	Section 7.04.	Payment of Taxes	132
126	Section 7.05.	Preservation of Existence, Etc	132
127	Section 7.06.	Maintenance of Properties.....	133
128	Section 7.07.	Maintenance of Insurance	133
129	Section 7.08.	Compliance with Laws; Environmental Laws	133
130	Section 7.09.	Books and Records.....	134
131	Section 7.10.	Inspection Rights.....	134
132	Section 7.11.	Use of Proceeds	135
133	Section 7.12.	Joinder of Subsidiaries as Guarantors	135
134	Section 7.13.	Further Assurances	137
135	Section 7.14.	Designation of Subsidiaries.....	137
136	Section 7.15.	Post-Closing Obligations.....	137
137	ARTICLE 8 NEGATIVE COVENANTS.....		137
138	Section 8.01.	Liens	138
139	Section 8.02.	Investments.....	141
140	Section 8.03.	Indebtedness	144
141	Section 8.04.	Mergers and Dissolutions.....	148
142	Section 8.05.	Dispositions	150
143	Section 8.06.	Restricted Payments	151
144	Section 8.07.	Change in Nature of Business	153
145	Section 8.08.	Change in Fiscal Year	153
146	Section 8.09.	Transactions with Affiliates	153
147	Section 8.10.	[Reserved]	154
148	Section 8.11.	Financial Covenants	154
149	Section 8.12.	Prepayments etc. of Indebtedness	154
150	Section 8.13.	Burdensome Agreements	155
151	ARTICLE 9 EVENTS OF DEFAULT AND REMEDIES.....		156
152	Section 9.01.	Events of Default.....	156
153	Section 9.02.	Remedies Upon Event of Default.....	158
154	Section 9.03.	Application of Funds	159
155	ARTICLE 10 ADMINISTRATIVE AGENT		160
156	Section 10.01.	Appointment and Authorization of Administrative Agent.....	160

157	Section 10.02. Rights as a Lender	161
158	Section 10.03. Exculpatory Provisions.....	161
159	Section 10.04. Reliance by Administrative Agent	162
160	Section 10.05. Delegation of Duties.....	162
161	Section 10.06. Resignation of the Administrative Agent.....	163
162	Section 10.07. Non-Reliance on Administrative Agent and Other Lenders	164
163	Section 10.08. No Other Duties.....	164
164	Section 10.09. Administrative Agent May File Proofs of Claim; Credit Bidding.....	164
165	Section 10.10. Collateral and Guaranty Matters	166
166	Section 10.11. Swap Contracts and Treasury Management Agreements.....	166
167	ARTICLE 11 MISCELLANEOUS.....	167
168	Section 11.01. Amendments, Etc	167
169	Section 11.02. Notices; Effectiveness; Electronic Communications	171
170	Section 11.03. No Waiver; Cumulative Remedies; Enforcement	173
171	Section 11.04. Expenses; Indemnity; Damage Waiver	174
172	Section 11.05. Payments Set Aside	176
173	Section 11.06. Successors and Assigns	176
174	Section 11.07. Treatment of Certain Information; Confidentiality	184
175	Section 11.08. Right of Setoff.....	185
176	Section 11.09. Interest Rate Limitation.....	185
177	Section 11.10. Counterparts; Integration.....	185
178	Section 11.11. Survival of Representations and Warranties	186
179	Section 11.12. Severability.....	186
180	Section 11.13. Replacement of Lenders.....	186
181	Section 11.14. Governing Law; Jurisdiction; Etc.....	187
182	Section 11.15. Waiver of Jury Trial	188
183	Section 11.16. USA Patriot Act Notice.....	189
184	Section 11.17. Termination	189
185	Section 11.18. No Advisory or Fiduciary Responsibility	189
186	Section 11.19. Electronic Execution	190
187	Section 11.20. Acknowledgment and Consent to Bail-In of EEA Financial Institutions	190
188		

189 SCHEDULES

Schedule I	Guarantors
Schedule 2.01	Lenders and Commitments
Schedule 2.03	Existing Letters of Credit
Schedule 6.14	Subsidiaries
Schedule 7.15	Post-Closing Obligations
Schedule 8.01	Existing Liens
Schedule 8.02	Existing Investments
Schedule 8.03	Existing Indebtedness
Schedule 8.09	Transactions with Affiliates
Schedule 8.13	Burdensome Agreements
Schedule 11.02	Notice Addresses

190 EXHIBITS

Exhibit 1.01-1	Form of Perfection Certificate
Exhibit 1.01-2	Form of Security Agreement
Exhibit 1.01-3	Form of Intercompany Note
Exhibit 2.02	Form of Loan Notice
Exhibit 2.13-1	Form of Revolving Credit Note
Exhibit 2.13-2	Form of Swingline Note
Exhibit 2.13-3	Form of Term Note
Exhibit 5.01(j)	Form of Solvency Certificate
Exhibit 7.02(a)	Form of Compliance Certificate
Exhibit 7.12	Form of Joinder Agreement
Exhibit 11.06(b)	Form of Assignment and Assumption
Exhibit 11.06(i)	Dutch Auction Procedures

191

CREDIT AGREEMENT

192 This CREDIT AGREEMENT (the “**Credit Agreement**” or the “**Agreement**”) is entered
193 into as of May 2, 2016, among MERCURY SYSTEMS, INC., a Massachusetts corporation (the
194 “**Borrower**”), the Guarantors identified herein, each lender from time to time party hereto
195 (collectively, the “**Lenders**” and individually, a “**Lender**”) and BANK OF AMERICA, N.A., as
196 Administrative Agent, Collateral Agent, Swingline Lender and L/C Issuer.

197

PRELIMINARY STATEMENTS

198 The Borrower intends to acquire Microsemi LLC – RF Integrated Solutions, a Delaware
199 limited liability company (the “**Target**”);

200 Pursuant to the Stock Purchase Agreement, dated as of March 23, 2016 (as amended,
201 restated, supplemented or otherwise modified from time to time, the “**Acquisition Agreement**”)
202 among the Borrower and Microsemi Corporation, the Borrower has agreed to acquire all of the
203 Capital Stock of the Target (the “**Microsemi Acquisition**”);

204 The Borrower has requested that, substantially simultaneously with the consummation of
205 the Microsemi Acquisition, the Lenders extend credit to the Borrower in the form of (i) a term A
206 loan facility on the Closing Date (as this and other capitalized terms used in these preliminary
207 statements are defined in Section 1.01 below) in an aggregate principal amount of \$200,000,000
208 and (ii) a revolving credit facility with an initial aggregate principal amount of commitments of
209 \$100,000,000. The revolving credit facility will permit the issuance of one or more Letters of
210 Credit from time to time and the making of one or more Revolving Credit Loans and/or
211 Swingline Loans from time to time.

212 The proceeds of the term A loan facility funded on the Closing Date, together with the
213 proceeds of (i) Revolving Credit Loans made on the Closing Date, (iii) the Pre-Closing Equity
214 Offering and (iv) solely at the option of the Borrower, cash on the balance sheet, in each case,
215 will be used by the Borrower to (1) consummate the Refinancing, (2) finance the Microsemi
216 Acquisition and (3) pay Transaction Expenses in connection with the foregoing.

217 The Lenders have indicated their willingness to lend and the L/C Issuer has indicated its
218 willingness to issue letters of credit, in each case, on the terms and subject to the conditions set
219 forth herein.

220 In consideration of these premises and the mutual covenants and agreements contained
221 herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto
222 covenant and agree as follows:

223

ARTICLE 1

224

DEFINITIONS AND ACCOUNTING TERMS

225

Section 1.01. *Defined Terms.*

226

As used in this Credit Agreement, the following terms have the meanings provided below:

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

228 (a) Indebtedness of any other Person existing at the time such other Person is
229 merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of
230 such specified Person, including Indebtedness incurred in connection with, or in
231 contemplation of, such other Person merging, amalgamating or consolidating with or
232 into, or becoming a Restricted Subsidiary of, such specified Person; and

233 (b) Indebtedness secured by a Lien encumbering any asset acquired by such
234 specified Person.

235 **“Acquisition”** means the purchase or acquisition by any Person of (a) more than 50% of
236 the Capital Stock with ordinary voting power of another Person (including as a result of the
237 purchase by such Person of Capital Stock of an existing joint venture to the extent that after
238 giving effect thereto, such Person owns more than 50% of such Capital Stock) or (b) all or any
239 substantial portion of the property (other than Capital Stock) of, or a business unit, a line of
240 business or division of, another Person, whether or not involving a merger or consolidation with
241 such Person.

242 **“Acquisition Agreement”** has the meaning provided in the preliminary statements hereto.

243 **“Acquisition Agreement Representations”** means the representations made by or with
244 respect to the Target and its Subsidiaries in the Acquisition Agreement as are material to the
245 interests of the Lenders, but only to the extent that the Borrower has (or its applicable affiliate
246 has) the right (taking into account any applicable cure provisions), pursuant to the Acquisition
247 Agreement, to terminate its obligations under the Acquisition Agreement to consummate the
248 Microsemi Acquisition (or the right not to consummate the Microsemi Acquisition pursuant to
249 the Acquisition Agreement) as a result of a breach of such representations and warranties.

250 **“Act”** has the meaning provided in Section 11.16.

251 **“Additional Lender”** means, at any time, any Person that is not an existing Lender and
252 that agrees to provide any portion of any (a) Incremental Loans or Incremental Commitments
253 pursuant to an Incremental Amendment in accordance with Section 2.18 or (b) Refinancing
254 Facilities pursuant to a Refinancing Amendment in accordance with Section 2.20; *provided* that
255 such Additional Lender shall be (x) with respect to Incremental Term Loans, Incremental Term
256 Commitments or Refinancing Term Loans, an Eligible Assignee with respect to Term Loans and
257 (y) with respect to Incremental Revolving Commitments or Refinancing Revolving
258 Commitments, an Eligible Assignee with respect to Revolving Credit Commitments.

259 **“Adequate Assurance”** means (i) with respect to L/C Obligations, such assurance as the
260 L/C Issuer may reasonably require, and (ii) with respect to Swingline Loans, such assurance as
261 the Swingline Lender may reasonably require, in each case, that any Defaulting Lender will be
262 capable of honoring its obligations to fund its portion of L/C Obligations and Swingline Loans,
263 as appropriate, and participation interests therein, including existing and future obligations
264 hereunder and under the other Credit Documents. Adequate Assurance may be in the form of
265 cash collateral, posting of letters of credit or other arrangement, in each case in form, amount and

266 other respects reasonable satisfactory to the L/C Issuer or the Swingline Lender, as applicable, in
267 their discretion.

268 “**Administrative Agent**” means Bank of America in its capacity as administrative agent
269 under any of the Credit Documents, or any successor administrative agent.

270 “**Administrative Agent’s Office**” means the Administrative Agent’s address and, as
271 appropriate, account as set forth on Schedule 11.02 (as may be updated from time to time), or
272 such other address or account as the Administrative Agent may from time to time notify the
273 Borrower and the Lenders.

274 “**Administrative Questionnaire**” means an administrative questionnaire for the Lenders
275 in a form supplied by the Administrative Agent.

276 “**Affiliate**” means, with respect to any Person, another Person that directly, or indirectly
277 through one or more intermediaries, Controls or is Controlled by or is under common Control
278 with the Person specified.

279 “**Agents**” means, collectively, the Administrative Agent, the Collateral Agent and the
280 Arrangers.

281 “**Agent-Related Distress Event**” means, with respect to the Administrative Agent or any
282 Person that directly or indirectly Controls the Administrative Agent (each, a “**Distressed Agent-
283 Related Person**”), a voluntary or involuntary case with respect to such Distressed Agent-Related
284 Person under any Debtor Relief Law, or a custodian, conservator, receiver or similar official is
285 appointed for such Distressed Agent-Related Person or any substantial part of such Distressed
286 Agent-Related Person’s assets, or such Distressed Agent-Related Person makes a general
287 assignment for the benefit of creditors or is otherwise adjudicated as, or determined by any
288 Governmental Authority having regulatory authority over such Distressed Agent-Related Person
289 to be, insolvent or bankrupt; *provided* that an Agent-Related Distress Event shall not be deemed
290 to have occurred solely by virtue of the ownership or acquisition of any Capital Stock in the
291 Administrative Agent or any Person that directly or indirectly Controls the Administrative Agent
292 by a Governmental Authority or an instrumentality thereof.

293 “**Aggregate Commitment Percentage**” means (a) in respect of the Term Loan Facility,
294 with respect to any Term Lender at any time, the percentage (carried out to the ninth decimal
295 place) of the Term Loan Facility represented by (i) on or prior to the Closing Date, such Term
296 Lender’s Term Commitment at such time and (ii) thereafter, the principal amount of such Term
297 Lender’s Term Loans at such time, and (b) in respect of the Revolving Credit Facility, with
298 respect to any Revolving Credit Lender at any time, the percentage (carried out to the ninth
299 decimal place) of the Revolving Credit Facility represented by such Revolving Credit Lender’s
300 Revolving Credit Commitment at such time. If the Revolving Credit Commitments have been
301 terminated pursuant to Section 9.02 or have expired, then the Aggregate Commitment Percentage
302 of each Revolving Credit Lender in respect of the Revolving Credit Facility shall be determined
303 based on the Aggregate Commitment Percentage of such Revolving Credit Lender in respect of
304 the Revolving Credit Facility most recently in effect, giving effect to any subsequent
305 assignments. The initial Aggregate Commitment Percentage of each Lender, as of the Closing

306 Date, in respect of each Facility is set forth opposite the name of such Lender on Schedule 2.01
 307 or in the Assignment and Assumption pursuant to which such Lender becomes a party hereto, as
 308 applicable.

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

310 “**Aggregate Revolving Credit Commitments**” means the Revolving Credit
 311 Commitments of all Revolving Credit Lenders.

312 “**Aggregate Revolving Credit Committed Amount**” has the meaning provided in
 313 Section 2.01(b).

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

315 “**Agreement Currency**” has the meaning specified in Section 11.21.

316
 317 “**Alternative Currency**” means Canadian Dollars, Euros, Francs, Sterling, Rupees and
 318 Yen, together with each other currency (other than Dollars) that is approved in accordance with
 319 Section 1.11.

320 “**Alternative Currency Equivalent**” means, at any time, with respect to any amount
 321 denominated in Dollars, the equivalent amount thereof in the applicable Alternative Currency as
 322 determined by the Administrative Agent or the L/C Issuer, as the case may be, at such time on
 323 the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the
 324 purchase of such Alternative Currency with Dollars.

325 “**Annual Financial Statements**” has the meaning specified in the definition of Historical
 326 Financial Statements.

327 “**Applicable Percentage**” means in respect of the Revolving Credit Facility or the Term
 328 Loan Facility, the following percentages per annum, based on the Consolidated Total Net
 329 Leverage Ratio as set forth in the most recent Compliance Certificate received by the
 330 Administrative Agent pursuant to Section 7.02(a); *provided* that from the Closing Date until the
 331 receipt by the Administrative Agent of the Compliance Certificate with respect to the first full
 332 fiscal quarter of the Borrower following the Closing Date, Pricing Level I shall apply to the
 333 Revolving Credit Loans, the Term Loans, the Letter of Credit Fee and the Commitment Fee:

Pricing Level	Consolidated Total Net Leverage Ratio	Applicable Percentage for			Letter of Credit Fee	Commitment Fee
		Eurocurrency Rate Loans	Base Rate Loans			
I	Less than or equal to 2.00:1.00	2.00%	1.00%	2.00%	0.300%	

Pricing Level	Consolidated Total Net Leverage Ratio	Applicable Percentage for		Letter of Credit Fee	Commitment Fee
		Eurocurrency Rate Loans	Base Rate Loans		
II	Greater than 2.00:1.00 but less than or equal to 2.50:1.00	2.50%	1.50%	2.50%	0.400%
III	Greater than 2.50:1.00	3.00%	2.00%	3.00%	0.500%

334

335 Any increase or decrease in the Applicable Percentage resulting from a change in the
336 Consolidated Total Net Leverage Ratio shall become effective on the date a Compliance
337 Certificate is delivered pursuant to Section 7.02(a); *provided, however*, that if (i) a Compliance
338 Certificate is not delivered when due in accordance therewith, then Pricing Level III shall apply
339 as of the first Business Day after the date on which such Compliance Certificate was required to
340 have been delivered until the first Business Day after the date on which such Compliance
341 Certificate was delivered and (ii) at the option of the Administrative Agent or the Required
342 Lenders, as of the first Business Day after (x) in the case of an Event of Default under Section
343 9.01(a) that has occurred and is continuing, the delivery of written notice to the Borrower or (y)
344 in the case of an Event of Default under Section 9.01(f) that has occurred and is continuing, the
345 date such Event of Default shall have occurred, then in either case Pricing Level III shall apply,
346 and shall continue to so apply to but excluding the date on which such Event of Default is cured,
347 waived or no longer continuing (and thereafter the Pricing Level otherwise determined in
348 accordance with this definition shall apply).

349

350 Notwithstanding the foregoing, (v) the Applicable Percentage in respect of any Class of
351 Extended Revolving Commitments or any Extended Term Loans or Revolving Credit Loans or
352 Swingline Loan made pursuant to any Extended Revolving Commitments shall be the applicable
353 percentages per annum set forth in the relevant Extension Amendment, (w) the Applicable
354 Percentage in respect of any Class of Incremental Commitments, and Class of Incremental Term
355 Loans or any Class of Incremental Revolving Loans shall be the applicable percentages per
356 annum set forth in the relevant Incremental Amendment, (x) the Applicable Percentage in respect
357 of any Class of Replacement Term Loans shall be the applicable percentages per annum set forth
358 in the relevant agreement, (y) the Applicable Percentage in respect of any Class of Refinancing
359 Revolving Commitments, any Class of Refinancing Revolving Loans or any Class of
360 Refinancing Term Loans shall be the applicable percentages per annum set forth in the relevant
361 Refinancing Amendment and (z) in the case of the Term Loans and any Class of Incremental
362 Term Loans, the Applicable Percentage shall be increased as, and to the extent, necessary to
comply with the provisions of Section 2.18.

363

364 “**Applicable Time**” means, with respect to any payments in any Alternative Currency,
365 the local time in the place of settlement for such Alternative Currency as may be reasonably
366 determined by the L/C Issuer and notified to the Borrower at the time such Letter of Credit is
367 issued to be necessary for timely settlement on the relevant date in accordance with normal
banking procedures in the place of payment.

368 **“Appropriate Lender”** means, at any time, (a) with respect to either the Term Loan
369 Facility or the Revolving Credit Facility, a Lender that has a Commitment with respect to such
370 Facility or holds a Term Loan or a Revolving Credit Loan, respectively, at such time, (b) with
371 respect to the L/C Sublimit, (i) the L/C Issuer and (ii) if any Letters of Credit have been issued
372 pursuant to Section 2.03(a), the Revolving Credit Lenders and (c) with respect to the Swingline
373 Sublimit, (i) the Swingline Lender and (ii) if any Swingline Loans are outstanding pursuant to
374 Section 2.04(a), the Revolving Credit Lenders.

375 **“Approved Bank”** means (a) any Lender, (b) any domestic commercial bank of
376 recognized standing having combined capital and surplus in excess of \$250,000,000 or any
377 foreign bank of recognized standing having capital and surplus in excess of \$100,000,000 (or the
378 Dollar Equivalent as of the date of determination) or (c) any bank whose short-term commercial
379 paper rating from S&P is at least A-2 or the equivalent thereof or from Moody’s is at least P-2 or
380 the equivalent thereof.

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

384 **“Arrangers”** means MLPF&S (or any other registered broker-dealer wholly-owned by
385 Bank of America Corporation to which all or substantially all of Bank of America Corporation’s
386 or any of its subsidiaries’ investment banking, commercial lending services or related businesses
387 may be transferred following the date of this Agreement), Citibank, N.A., KeyBanc Capital
388 Markets Inc. and SunTrust Robinson Humphrey, Inc., in their respective capacities as joint lead
389 arrangers and joint book managers.

390 **“Assignees”** has the meaning set forth in Section 11.06(b).

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

393 **“Assignment and Assumption”** means an assignment and assumption entered into by a
394 Lender and an Eligible Assignee (with the consent of any party whose consent is required by
395 Section 11.06 and accepted by the Administrative Agent), in substantially the form of Exhibit
396 11.06(b) or any other form approved by the Administrative Agent.

397 **“Attributable Indebtedness”** means, subject to the second sentence of Section 1.03(a),
398 on any date, in respect of any Capitalized Lease of any Person, the capitalized amount thereof
399 that would appear on a balance sheet of such Person prepared as of such date in accordance with
400 GAAP.

401 **“Auction”** has the meaning provided in Section 11.06(i).

402 **“Auction Manager”** means the Administrative Agent.

403 **“Auction Procedures”** means the Dutch Auction Procedures set forth on Exhibit 11.06(i).

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

406 **“Bail-In Legislation”** means, with respect to any EEA Member Country implementing
407 Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the
408 European Union, the implementing law for such EEA Member Country from time to time which
409 is described in the EU Bail-In Legislation Schedule.

410 **“Bank of America”** means Bank of America, N.A., together with its successors.

411 **“Base Rate”** means for any day a fluctuating rate per annum equal to the highest of
412 (a) the Federal Funds Rate *plus* one-half of one percent (0.5%), (b) the Prime Rate and (c) except
413 during a Eurocurrency Unavailability Period, the Eurocurrency Rate *plus* one percent (1.00%)
414 and if the Base Rate shall be less than 0%, such rate shall be deemed to be 0% for purposes of
415 this Agreement.

416 **“Base Rate Loan”** means a Revolving Credit Loan or a Term Loan that bears interest
417 based on the Base Rate.

418 **“Borrower”** has the meaning provided in the introductory paragraph hereto.

419 **“Borrower Notice”** has the meaning provided in the definition of Real Estate Collateral
420 Requirements.

421 **“Borrowing”** means a Revolving Credit Borrowing, a Swingline Borrowing or a Term
422 Borrowing, as the context may require.

423 **“Business Day”** means any day other than a Saturday, Sunday or other day on which
424 commercial banks are authorized to close under the Laws of, or are in fact closed in, the State
425 where the Administrative Agent’s office is located, and, if such day relates to any interest rate
426 settings as to a Eurocurrency Rate Loan, any fundings, disbursements, settlements and payments
427 in respect of any such Eurocurrency Rate Loan, or any other dealings to be carried out pursuant
428 to this Credit Agreement in respect of any such Eurocurrency Rate Loan, means any such day on
429 which dealings in deposits in Dollars are conducted by and between banks in the London
430 interbank eurodollar market.

431 **“Canadian Dollars”** means the lawful currency of Canada.

432 **“Capital Stock”** means (a) in the case of a corporation, capital stock, (b) in the case of an
433 association or business entity, any and all shares, interests, participations, rights or other
434 equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership
435 interests (whether general or limited), (d) in the case of a limited liability company, membership
436 interests and (e) any other interest or participation that confers on a Person the right to receive a
437 share of the profits and losses of, or distributions of assets of, the issuing Person.

438 **“Capitalized Leases”** means, subject to the second sentence of the first paragraph of
439 Section 1.03, all leases that have been or should be, in accordance with GAAP, recorded as
440 capitalized leases.

441 **“Capitalized Software Expenditures”** means, for any period, the aggregate of all
442 expenditures (whether paid in cash or accrued as liabilities) by the Borrower and the Restricted
443 Subsidiaries during such period in respect of purchased software or internally developed
444 software and software enhancements that, in conformity with GAAP, are or are required to be
445 reflected as capitalized costs on the consolidated balance sheet of the Borrower and the
446 Restricted Subsidiaries.

447 **“Cash Collateral”** has the meaning provided in the definition of Cash Collateralize.

448 **“Cash Collateralize”** means to pledge and deposit with or deliver to the Administrative
449 Agent, for the benefit of the Administrative Agent, the L/C Issuer or the Swingline Lender (as
450 applicable) and the Revolving Credit Lenders, as collateral for L/C Obligations, Obligations in
451 respect of Swingline Loans, or obligations of Revolving Credit Lenders to fund participations in
452 respect of either thereof (as the context may require), cash or deposit account balances or, if the
453 L/C Issuer or the Swingline Lender benefitting from such collateral shall agree in its sole
454 discretion, other credit support (**“Cash Collateral”**), in each case pursuant to documentation in
455 form and substance reasonable satisfactory to (a) the Administrative Agent and (b) the L/C Issuer
456 or the Swingline Lender (as applicable). Derivatives of such term have corresponding meanings.

457 **“Cash Equivalents”** means to the extent owned by the Borrower or any Restricted
458 Subsidiary: (a) securities issued or directly and fully guaranteed or insured by the United States
459 or any agency or instrumentality thereof (*provided* that the full faith and credit of the United
460 States is pledged in support thereof) having maturities of not more than twenty four (24) months
461 from the date of acquisition, (b) time deposits or eurodollar time deposits with, insured
462 certificates of deposit, bankers’ acceptances or overnight bank deposits of, or letters of credit
463 issued by, any Approved Bank, in each case with maturities of not more than twenty four (24)
464 months from the date of acquisition, (c) commercial paper and variable or fixed rate notes issued
465 by any Approved Bank (or by the parent company thereof) or any variable rate notes issued by,
466 or guaranteed by, any domestic corporation rated A-2 (or the equivalent thereof) or better by
467 S&P or P-2 (or the equivalent thereof) or better by Moody’s, and maturing within twelve months
468 of the date of acquisition, (d) repurchase agreements entered into by any Person with a bank or
469 trust company (including any of the Lenders) or recognized securities dealer having capital and
470 surplus in excess of \$250,000,000 for direct obligations issued by or fully guaranteed by the
471 United States in which such Person shall have a perfected first priority security interest (subject
472 to no other Liens) and having, on the date of purchase thereof, a fair market value of at least one
473 hundred percent (100%) of the amount of the repurchase obligations, (e) Investments (classified
474 in accordance with GAAP as current assets) in money market investment programs registered
475 under the Investment Company Act of 1940 that are administered by reputable financial
476 institutions having capital of at least \$250,000,000 and the portfolios of which are limited to
477 Investments of the character described in the foregoing subclauses hereof, (f) securities with
478 average maturities of twenty four (24) months or less from the date of acquisition issued or fully
479 guaranteed (1) by any state, commonwealth or territory of the United States, by any political
480 subdivision or taxing authority of any such state, commonwealth or territory or by (2) any
481 foreign government, in each case, having an investment grade rating from either S&P or
482 Moody’s (or the equivalent thereof), (g) Investments (other than in structured investment
483 vehicles and structured financing transactions) with average maturities of twelve (12) months or
484 less from the date of acquisition in money market funds rated AAA- (or the equivalent thereof)

485 or better by S&P or Aaa3 (or the equivalent thereof) or better by Moody's, (h) other short-term
486 investments utilized by Foreign Subsidiaries in accordance with normal investment practices for
487 cash management in investments of a type analogous to the foregoing and local currencies held
488 by them from time to time in the ordinary course of business and not for speculation, (i)
489 securities with maturities of twelve (12) months or less from the date of acquisition backed by
490 standby letters of credit issued by an Approved Bank and (j) investment funds investing at least
491 90% of their assets in securities of the types described in clauses (a) through (i) above.

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

494 "CFC Holdco" means any Domestic Subsidiary that has no material assets other than
495 Capital Stock (or Capital Stock and indebtedness) of one or more Foreign Subsidiaries that are
496 CFCs or any other Domestic Subsidiary that itself is a CFC Holdco.

497 "Change in Law" means the occurrence, after the Closing Date, of any of the following:
498 (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law,
499 rule, regulation or treaty or in the administration, interpretation, implementation or application
500 thereof by any Governmental Authority or (c) the making or issuance of any request, rule,
501 guideline or directive (whether or not having the force of law) by any Governmental Authority;
502 *provided* that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street
503 Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder
504 or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated
505 by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any
506 successor or similar authority) or the United States or foreign regulatory authorities, in each case
507 pursuant to Basel III, shall in each case be deemed to be a "Change in Law," regardless of the
508 date enacted, adopted or issued; *provided* that a Lender shall be entitled to compensation with
509 respect to any such adoption taking effect, making or issuance becoming effective after the date
510 of this Agreement only if it is the applicable Lender's general policy or practice to demand
511 compensation in similar circumstances under comparable provisions of other financing
512 agreements.

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

514 (a) any person or persons constituting a "group" (as such term is used in
515 Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended, but
516 excluding any employee benefit plan of such person and its subsidiaries, and any person
517 or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any
518 such plan), becomes the "beneficial owner" (as defined in Rules 13(d)-3 and 13(d)-5
519 under such Act), directly or indirectly, of equity interests representing more than thirty-
520 five (35%) of the aggregate ordinary voting power represented by the issued and
521 outstanding equity interests of the Borrower;

522 (b) the first day on which a majority of the members of the Board of Directors
523 of the Borrower are not Continuing Directors; or

524 (c) a “change of control” (or similar event) shall occur in any document
525 pertaining to the Incremental Equivalent Debt, Refinancing Equivalent Debt, Ratio Debt
526 or any refinancing thereof; *provided* that such debt is in an aggregate outstanding
527 principal amount in excess of \$15,000,000.

528 “**Class**” means (i) with respect to Commitments or Loans, those of such Commitments or
529 Loans that have the same terms and conditions (without regard to differences in the Type of
530 Loan, Interest Period, upfront fees, OID or similar fees paid or payable in connection with such
531 Commitments or Loans, or differences in tax treatment (*e.g.*, “fungibility”)); *provided* that such
532 Commitments or Loans may be designated in writing by the Borrower and Lenders holding such
533 Commitments or Loans as a separate Class from other Commitments or Loans that have the
534 same terms and conditions and (ii) with respect to Lenders, those of such Lenders that have
535 Commitments or Loans of a particular Class.

536 “**Closing Date**” means May 2, 2016.

537 “**Collateral**” means the collateral identified in, and at any time covered by, the Collateral
538 Documents.

539 “**Collateral Agent**” means Bank of America, in its capacity as collateral agent under any
540 of the Credit Documents, or any successor collateral agent.

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

542 (a) the Administrative Agent shall have received each Collateral Document
543 required to be delivered (i) on the Closing Date, pursuant to Section 5.01(a) and (ii) at
544 such time as may be designated therein, pursuant to the Collateral Documents,
545 Section 7.12, 7.13 or 7.15, subject, in each case, to the limitations and exceptions of this
546 Credit Agreement and the Collateral Documents, duly executed by each Credit Party
547 thereto;

548 (b) all Obligations (other than, with respect to any Guarantor, any Excluded
549 Swap Obligations of such Guarantor) shall have been unconditionally guaranteed by each
550 Restricted Subsidiary of the Borrower that is a wholly owned Material Domestic
551 Subsidiary (other than any Excluded Subsidiary) including those that are listed on
552 Schedule I hereto (each, a “**Guarantor**”);

553 (c) the Obligations and the Guaranty shall have been secured by a first-
554 priority security interest (subject to Permitted Liens) in (i) all Capital Stock of each
555 Restricted Subsidiary that is a Domestic Subsidiary (other than a Domestic Subsidiary
556 described in the following clause (ii)(A)) that is directly owned by the Borrower or any
557 Guarantor and (iii) 65% of the issued and outstanding Capital Stock directly owned by
558 the Borrower or any Guarantor of (A) each Restricted Subsidiary that is a CFC Holdco
559 and (B) each Restricted Subsidiary that is a Foreign Subsidiary;

560 (d) except to the extent otherwise provided hereunder, or under any Collateral
561 Document, the Obligations and the Guaranty shall, subject to Permitted Liens, have been
562 secured by a perfected first-priority security interest (to the extent such security interest

563 may be perfected by delivering certificated securities or instruments, filing financing
564 statements under the Uniform Commercial Code or making any necessary filings with the
565 United States Patent and Trademark Office or United States Copyright Office or to the
566 extent required in the Security Agreement or this Agreement) in substantially all tangible
567 and intangible assets of the Borrower and each Guarantor (including accounts receivable,
568 inventory, equipment, investment property, contract rights, applications and registrations
569 of intellectual property filed in the United States, other general intangibles, Specified
570 Real Property, intercompany notes and proceeds of the foregoing), in each case, with the
571 priority required by the Collateral Documents, and in each case subject to exceptions and
572 limitations otherwise set forth in this Credit Agreement and the Collateral Documents;
573 and

574 (e) the Real Estate Collateral Requirements shall have been satisfied;

575 *provided, however*, that the foregoing definition shall not require and the Credit Documents shall
576 not contain any requirements as to the creation or perfection of pledges of, security interests in,
577 Mortgages on, or the obtaining of title insurance, surveys, abstracts or appraisals or taking other
578 actions with respect to any Excluded Property.

579 The Administrative Agent may grant extensions of time for the perfection of security
580 interests in, or the delivery of the Mortgages and the obtaining of title insurance and surveys with
581 respect to, particular assets and the delivery of assets (including extensions beyond the Closing
582 Date for the perfection of security interests in the assets of the Credit Parties on such date) where
583 it reasonably determines, in consultation with the Borrower, that perfection cannot be
584 accomplished without undue effort or expense by the time or times at which it would otherwise
585 be required by this Credit Agreement or the Collateral Documents. Notwithstanding any
586 provision of any Credit Document to the contrary, if a mortgage tax or any similar tax or charge
587 would otherwise be owed on the entire amount of the Obligations evidenced hereby, then the
588 amount secured by the applicable Mortgage shall be limited to 100% of the fair market value of
589 the Mortgaged Property at the time the Mortgage is entered into if such limitation results in such
590 mortgage tax or similar tax or charge being calculated based upon such fair market value.

591 No actions in any non-U.S. jurisdiction or required by the Laws of any non-U.S.
592 jurisdiction shall be required in order to create any security interests in assets located or titled
593 outside of the U.S. or to perfect such security interests, including any intellectual property
594 registered in any non-U.S. jurisdiction (it being understood that there shall be no security
595 agreements or pledge agreements governed under the Laws of any non-U.S. jurisdiction). No
596 actions shall be required with respect to Collateral requiring perfection through control
597 agreements or perfection by "control" (as defined in the UCC) (including deposit accounts or
598 other bank accounts or securities accounts) or possession, other than in respect of (i) certificated
599 Capital Stock of wholly owned Restricted Subsidiaries directly owned by the Borrower or by any
600 Guarantor otherwise required to be pledged pursuant to the provisions of clause (c) of this
601 definition of "Collateral and Guarantee Requirement" and not otherwise constituting Excluded
602 Property and (ii) Pledged Debt (as defined in the Security Agreement) to the extent required to
603 be delivered to the Administrative Agent pursuant to the terms of the Security Agreement.

604 “**Collateral Documents**” means the Security Agreement, the Intellectual Property
605 Security Agreements, the Mortgages and any other documents executed and delivered by the
606 Credit Parties in order to grant to the Collateral Agent a security interest in the Collateral as
607 security for the Obligations.

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

610 “**Commitment Fee**” has the meaning set forth in Section 2.09(a)(i).

611 “**Commitment Period**” means, in respect of the Revolving Credit Facility, the period
612 from and including the Closing Date to the earlier of (a)(i) in the case of Revolving Credit Loans
613 and Swingline Loans, the Revolving Termination Date or (ii) in the case of the Letters of Credit,
614 the L/C Expiration Date, or (b) the date on which the Revolving Credit Commitments shall have
615 been terminated as provided herein.

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

618 “**Compliance Certificate**” means a certificate substantially in the form of Exhibit 7.02(a).

619 “**Connection Income Taxes**” means Taxes as described in clause (a)(ii) of “Excluded
620 Taxes” that are imposed on or measured by net income (however denominated) or that are
621 franchise Taxes or branch profits Taxes.

622 “**Consolidated Cash Interest Coverage Ratio**” means, with respect to any Test Period,
623 the ratio of (a) Consolidated EBITDA for such Test Period to (b) Consolidated Interest Expense
624 for such Test Period.

625 “**Consolidated EBITDA**” means, for any period, the Consolidated Net Income for such
626 period, *plus* (a) without duplication, and except with respect to clauses (vii) and (ix) below, to
627 the extent deducted (and not added back or excluded) in arriving at such Consolidated Net
628 Income, the sum of the following amounts for such period with respect to the Borrower and its
629 Restricted Subsidiaries:

630 (i) total interest expense determined in accordance with GAAP and, to the
631 extent not reflected in such total interest expense, any expense or loss on hedging
632 obligations or other derivative instruments entered into for the purpose of hedging
633 interest rate risk and not for speculative purposes, net of interest income and gains on
634 such hedging obligations, and costs of surety bonds in connection with financing
635 activities (whether amortized or immediately expensed),

636 (ii) provision for taxes based on income, profits or capital gains of the
637 Borrower and the Restricted Subsidiaries, including federal, state, local, franchise and
638 similar taxes and foreign withholding taxes paid or accrued during such period including
639 penalties and interest related to such taxes or arising from any tax examinations and the
640 net tax expense associated with any adjustments made pursuant to the definition of
641 “Consolidated Net Income,”

642 (iii) depreciation and amortization (including amortization of intangible assets,
643 deferred financing fees and Capitalized Software Expenditures) for such period,

644 (iv) [reserved],

645 (v) (A) restructuring charges or reserves, severance, relocation costs or
646 expenses, integration costs, transition costs, pre-opening, opening, closing and
647 consolidation costs for facilities and one-time compensation charges (including signing,
648 retention and completion bonuses), other costs relating to the closure of facilities or
649 impairment of facilities, costs incurred in connection with acquisitions, other business
650 optimization expenses (including costs and expenses relating to business optimization
651 programs and new systems design, retention charges, systems establishment costs
652 (including information technology systems) and implementation costs), production line
653 start-up costs, severance and other restructuring charges representing cash items
654 (including restructuring costs related to acquisitions and to closure of facilities, and
655 excess pension charges) and (B) earn-out and contingent consideration obligations
656 (including to the extent accounted for as bonuses, compensation or otherwise) and
657 adjustments thereof and purchase price adjustments, in each case in connection with
658 acquisitions, and (C) Transaction Expenses.

659 (vi) the amount of any expense or reduction of Consolidated Net Income
660 consisting of Restricted Subsidiary income attributable to minority interests or non-
661 controlling interests of third parties in any non-wholly owned Restricted Subsidiary,

662 (vii) (A) cost savings, operating expense reductions and synergies related to the
663 Transactions that are reasonably identifiable and factually supportable and projected by
664 the Borrower in good faith to result from actions that have been taken or with respect to
665 which substantial steps have been taken or are expected to be taken (in the good faith
666 determination of the Borrower) within 12 months after the Closing Date (calculated on a
667 pro forma basis as though such cost savings, operating expense reductions and synergies
668 had been realized on the first day of such period and as if such cost savings, operating
669 expense reductions and synergies were realized during the entirety of such period), net of
670 the amount of actual benefits realized during such period from such actions; and (B) cost
671 savings, operating expense reductions and synergies related to mergers and other business
672 combinations, acquisitions, divestitures, restructurings, cost savings initiatives and other
673 similar initiatives and actions that are reasonably identifiable and factually supportable
674 and projected by the Borrower in good faith to result from actions that have been taken or
675 with respect to which substantial steps have been taken or are expected to be taken (in the
676 good faith determination of the Borrower) within 12 months after a merger or other
677 business combination, acquisition or divestiture is consummated or any other
678 restructuring, cost savings initiative or other initiative or action (calculated on a pro
679 forma basis as though such cost savings, operating expense reductions and synergies had
680 been realized on the first day of such period and as if such cost savings, operating
681 expense reductions and synergies were realized during the entirety of such period), net of
682 the amount of actual benefits realized during such period from such actions; *provided* that
683 no cost savings, operating expense reductions and synergies shall be added back pursuant
684 to this clause (vii) to the extent duplicative of any expenses or charges otherwise added

685 back to Consolidated EBITDA, whether through a pro forma adjustment or otherwise, for
686 such period; *provided, further*, that the amount of adjustments made pursuant to clause
687 (B) above for any Test Period, when added to the aggregate amount of add backs made
688 pursuant to Section 1.07(c), shall not exceed 15% of Consolidated EBITDA (prior to
689 giving effect to such clause (B) or Section 1.07(c) but, for the avoidance of doubt, after
690 giving effect to other pro forma adjustments) for such Test Period,

691 (viii) any net loss from disposed, abandoned or discontinued operations
692 (excluding held-for-sale discontinued operations until actually disposed of),

693 (ix) cash receipts (or any netting arrangements resulting in reduced cash
694 expenditures) not representing Consolidated EBITDA or Consolidated Net Income in any
695 period to the extent non-cash gains relating to such income or netting arrangement were
696 deducted in the calculation of Consolidated EBITDA pursuant to paragraph (b) below for
697 any previous period and not added back,

698 (x) non-cash expenses, charges and losses (including reserves, impairment
699 charges or asset write-offs, write-offs of deferred financing fees, losses from investments
700 recorded using the equity method, stock-based awards compensation expense), in each
701 case other than (A) any non-cash charge representing amortization of a prepaid cash item
702 that was paid and not expensed in a prior period and (B) any non-cash charge relating to
703 write-offs, write-downs or reserves with respect to accounts receivable in the normal
704 course or inventory; *provided* that if any non-cash charges referred to in this clause (x)
705 represents an accrual or reserve for potential cash items in any future period, (1) the
706 Borrower may elect not to add back such non-cash charge in the current period and (2) to
707 the extent the Borrower elects to add back such non-cash charge, the cash payment in
708 respect thereof in such future period shall be subtracted from Consolidated EBITDA in
709 such future period to such extent paid,

710 (xi) any fees and expenses incurred during such period (including any
711 premiums, make-whole or penalty payments), or any amortization thereof for such
712 period, in connection with any acquisition, investment, asset disposition, issuance or
713 repayment of debt, issuance of equity securities, refinancing transaction or amendment or
714 other modification of any debt instrument (in each case, including any such transaction
715 consummated on or prior to the Closing Date and any such transaction undertaken but not
716 completed) and any charges or non-recurring merger costs incurred during such period as
717 a result of any such transaction, in each case whether or not successful (including, for the
718 avoidance of doubt the effects of expensing all transaction related expenses in accordance
719 with FASB ASC 805 and gains or losses associated with FASB ASC 460),

720 (xii) any non-cash compensation charge or expense, including any such charge
721 or expense arising from the grants of stock appreciation or similar rights, stock options,
722 restricted stock or other rights or equity incentive programs or any other equity-based
723 compensation,

724 (xiii) any expenses, charges or losses that are covered by indemnification or
725 other reimbursement provisions in connection with any Investment, Acquisition or any

726 sale, conveyance, transfer or other disposition of assets permitted under this Credit
727 Agreement, to the extent actually reimbursed, or, so long as the Borrower has made a
728 determination that a reasonable basis exists for indemnification or reimbursement and
729 only to the extent that such amount is in fact indemnified or reimbursed within 365 days
730 of such determination (with a deduction in the applicable future period for any amount so
731 added back to the extent not so indemnified or reimbursed within such 365 day period),

732 (xiv) to the extent covered by insurance and actually reimbursed, or, so long as
733 the Borrower has made a determination that there exists reasonable evidence that such
734 amount will in fact be reimbursed by the insurer and only to the extent that such amount
735 is in fact reimbursed within 365 days of the date of such determination (with a deduction
736 in the applicable future period for any amount so added back to the extent not so
737 reimbursed within such 365 days), expenses, charges or losses with respect to liability or
738 casualty events or business interruption,

739 *minus* (b) without duplication and to the extent included in arriving at such Consolidated Net
740 Income, (i) non-cash gains (excluding any non-cash gain to the extent it represents the reversal of
741 an accrual or reserve for a potential cash item that reduced Consolidated EBITDA in any prior
742 period), (ii) any net income from disposed, abandoned or discontinued operations (excluding
743 held-for-sale discontinued operations until actually disposed of) and (iii) the amount of any
744 minority interest income consisting of Restricted Subsidiary losses attributable to minority
745 interests or non-controlling interests of third parties in any non-wholly owned Restricted
746 Subsidiary; *provided* that, for the avoidance of doubt, any gain representing the reversal of any
747 non-cash charge referred to in clause (a)(x)(B) above for a prior period shall be added (together
748 with, without duplication, any amounts received in respect thereof to the extent not increasing
749 Consolidated Net Income) to Consolidated EBITDA in any subsequent period to such extent so
750 reversed (or received);

751 *provided, further*, that:

752 (A) to the extent included in Consolidated Net Income, there shall be excluded
753 in determining Consolidated EBITDA (x) currency translation or transaction gains and
754 losses related to currency remeasurements of Indebtedness (including the net loss or gain
755 (i) resulting from Swap Contracts for currency exchange risk and (ii) resulting from
756 intercompany indebtedness) and (y) all other foreign currency translation or transaction
757 gains or losses to the extent such gains or losses are non-cash items,

758 (B) to the extent included in Consolidated Net Income, there shall be excluded
759 in determining Consolidated EBITDA for any period any adjustments resulting from the
760 application of FASB ASC 815 and International Accounting Standard No. 39 and their
761 respective related pronouncements and interpretations,

762 (C) to the extent included in Consolidated Net Income, there shall be excluded
763 in determining Consolidated EBITDA for any period any income (loss or expenses) for
764 such period attributable to the early extinguishment of (i) Indebtedness, (ii) obligations
765 under any Swap Contracts or (iii) other derivative instruments.

766 Notwithstanding anything to the contrary contained herein, for purposes of determining
767 Consolidated EBITDA under this Credit Agreement (A) for any period that includes the fiscal
768 quarter ended June 30, 2016, Consolidated EBITDA shall be calculated assuming that the
769 portion of Consolidated EBITDA attributable to the Target and its Subsidiaries for the fiscal
770 month of April is \$3,061,000, and (B) for any period that includes any of the fiscal quarters
771 ended June 30, 2015, September 30, 2015, December 31, 2015 and March 31, 2016,
772 Consolidated EBITDA for such fiscal quarters shall be \$22,031,000, \$20,580,000, \$21,764,000
773 and \$23,054,000, respectively, as may be subject in the case of the stipulated numbers set forth
774 in clauses (A) and (B) to addbacks and adjustments (without duplication) pursuant to clauses
775 (a)(v)(A) and (a)(vii) above and, with respect to adjustments pursuant to Section 1.07 for
776 transactions occurring after the Closing Date, Section 1.07 for the applicable Test Period. For
777 the avoidance of doubt, Consolidated EBITDA shall be calculated, including pro forma
778 adjustments, in accordance with Section 1.07.

779 **“Consolidated Interest Expense”** means, for any period, the cash interest expense
780 (including that attributable to Capitalized Leases), net of cash interest income, of the Borrower
781 and its Restricted Subsidiaries, determined on a consolidated basis in accordance with GAAP,
782 with respect to all outstanding Indebtedness of the Borrower and its Restricted Subsidiaries,
783 including all commissions, discounts and other fees and charges owed with respect to letters of
784 credit and bankers’ acceptance financing and net cash costs under Swap Contracts; *provided* that
785 there shall be excluded from Consolidated Interest Expense for any period:

786 (a) deferred financing costs, debt issuance costs, commissions, fees (including
787 amendment and contract fees) and expenses and, in each case, the amortization thereof,
788 and any other amounts of non-cash interest,

789 (b) the accretion or accrual of discounted liabilities and any prepayment
790 premium or penalty during such period,

791 (c) non-cash interest expense attributable to the movement of the mark-to-
792 market valuation of obligations under Swap Contracts or other derivative instruments
793 pursuant to FASB ASC 815.

794 (d) any cash costs associated with early termination in respect of hedging
795 agreements for interest rates,

796 (e) Transaction Expenses,

797 (f) annual agency fees paid to the Administrative Agent,

798 (g) costs associated with obtaining Swap Contracts,

799 (h) any expense resulting from the discounting of any Indebtedness in
800 connection with the application of recapitalization accounting or, if applicable,
801 acquisition accounting in connection with the Transactions or any acquisition, and

802 (i) the cash interest expense (or income) of all Unrestricted Subsidiaries for
803 such period to the extent otherwise included in Consolidated Interest Expense.

804 Notwithstanding anything to the contrary contained herein, for purposes of determining
805 Consolidated Interest Expense (i) for any period ending prior to the first anniversary of the
806 Closing Date, Consolidated Interest Expense shall be an amount equal to actual Consolidated
807 Interest Expense from the Closing Date through the date of determination multiplied by a
808 fraction the numerator of which is 365 and the denominator of which is the number of days from
809 the Closing Date through the date of determination and (ii) shall exclude the acquisition
810 accounting effects described in the last sentence of the definition of Consolidated Net Income.

811 **“Consolidated Net Income”** means, for any period, net income (or loss) of the Borrower
812 and the Restricted Subsidiaries for such period determined on a consolidated basis in accordance
813 with GAAP, but excluding

814 (i) any after-tax effect of extraordinary, non-recurring or unusual items
815 (including gains or losses and all fees and expenses relating thereto) for such period,

816 (ii) the cumulative effect of a change in accounting principles during such
817 period to the extent included in Consolidated Net Income,

818 (iii) any net after-tax effect of gains or losses (less all fees, expenses and
819 charges relating thereto) on discontinued operations or asset dispositions, abandonments
820 or the sale or other disposition of Capital Stock of any Person, in each case other than in
821 the ordinary course of business (as determined in good faith by the Borrower),

822 (iv) the net income (loss) for such period of any Person that is not a Subsidiary
823 of the Borrower, or is an Unrestricted Subsidiary, or that is accounted for by the equity
824 method of accounting; *provided* that Consolidated Net Income of the Borrower shall be
825 increased by the amount of dividends or distributions or other payments that are actually
826 paid in cash or Cash Equivalents (or to the extent subsequently converted into cash or
827 Cash Equivalents) to the Borrower or a Restricted Subsidiary thereof in respect of such
828 period,

829 (v) any impairment charge or asset write-off or write-down, including
830 impairment charges or asset write-offs or write-downs related to intangible assets, long-
831 lived assets, investments in debt and equity securities or as a result of a Change in Law,
832 in each case, pursuant to GAAP, and the amortization of intangibles arising pursuant to
833 GAAP, and

834 (vi) the income (or loss) of any Person accrued prior to the date it becomes a
835 Restricted Subsidiary of Borrower or is merged into or consolidated with Borrower or
836 any of its Subsidiaries or that Person’s assets are acquired by Borrower or any of its
837 Restricted Subsidiaries shall be excluded (except to the extent required for any
838 calculation of Consolidated EBITDA on a Pro Forma Basis in accordance with
839 Section 1.07).

840 There shall be excluded from Consolidated Net Income for any period the acquisition
841 accounting effects of adjustments in component amounts required or permitted by GAAP
842 pursuant to FASB ASC 805 (including in the inventory, property and equipment, fair value of
843 leased property, software, goodwill, intangible assets, in-process research and development,

844 deferred revenue, deferred rent, contingent considerations and debt line items thereof) and
845 related authoritative pronouncements (including the effects of such adjustments pushed down to
846 the Borrower and the Restricted Subsidiaries), as a result of the Transactions, any acquisition
847 constituting an Investment permitted under this Agreement consummated prior to or after the
848 Closing Date, or the amortization or write-off of any amounts thereof.

849 **“Consolidated Total Net Debt”** means, as of any date of determination, (a) the
850 aggregate principal amount of Indebtedness of the Borrower and its Restricted Subsidiaries
851 outstanding on such date, in an amount that would be reflected on a balance sheet prepared as of
852 such date on a consolidated basis in accordance with GAAP (but excluding the effects of any
853 discounting of Indebtedness resulting from the application of acquisition accounting in
854 connection with the Transactions or any acquisition constituting an Investment permitted under
855 this Agreement) consisting of Indebtedness for borrowed money, Attributable Indebtedness, and
856 debt obligations evidenced by promissory notes or similar instruments (including purchase
857 money debt) and all guarantees of Indebtedness of such type that is owed by a Person that is not
858 the Borrower or a Restricted Subsidiary, minus (b) the aggregate amount not to exceed for
859 purposes of this clause (b) \$62,500,000 of cash and Cash Equivalents (other than Restricted
860 Cash), in each case, included on the consolidated balance sheet of the Borrower and the
861 Restricted Subsidiaries as of such date, free and clear of all Liens (other than Liens permitted by
862 clauses (a), (b), (c), (e), (f), (j), (l), (m), (p), (t) and (w) of Section 8.01 (to the extent, with
863 respect to such clauses (m), (t) and (w) of Section 8.01, such Liens are not first priority Liens or
864 the obligations secured by such Lien are subordinated to the Obligations); *provided* that (A)
865 Consolidated Total Net Debt shall not include Indebtedness in respect of (i) letters of credit,
866 except to the extent of unreimbursed amounts thereunder and (which unreimbursed amount
867 under commercial letters of credit shall not be counted as Consolidated Total Net Debt until
868 three Business Days after such amount is drawn) and (ii) Unrestricted Subsidiaries and (B) for
869 the avoidance of doubt, it is understood and agreed that obligations under Swap Contracts do not
870 constitute Consolidated Total Net Debt.

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

874 **“Continuing Directors”** means, as of any date of determination, any director or manager
875 (or their equivalent) of the Borrower:

876 (a) who was a director or manager (or their equivalent) on the Closing Date;
877 or

878 (b) whose nomination for election to the board of directors or managers (or
879 their equivalent) of the Borrower is recommended by, or is otherwise elected to the board
880 of directors or managers (or their equivalent) with the approval of, a majority of the then
881 Continuing Directors at the time of such nomination or election.

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

885 “**Control**” means the possession, directly or indirectly, of the power to direct or cause the
886 direction of the management or policies of a Person, whether through the ability to exercise
887 voting power, by contract or otherwise. “**Controlling**” and “**Controlled**” have meanings
888 correlative thereto. Without limiting the generality of the foregoing, a Person shall be deemed to
889 be Controlled by another Person if such other Person possesses, directly or indirectly, power to
890 vote 10% or more of the securities having ordinary voting power for the election of directors,
891 managing general partners or the equivalent.

892 “**Credit Agreement**” has the meaning provided in the introductory paragraph hereto.

893 “**Credit Documents**” means this Credit Agreement, the Notes, the Issuer Documents, the
894 Collateral Documents, the Guaranties, each Request for Credit Extension, any agreement
895 creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.16 of this
896 Credit Agreement and the Joinder Agreements.

897 “**Credit Extension**” means each of the following: (a) a Borrowing, (b) the conversion or
898 continuation of a Borrowing and (c) an L/C Credit Extension.

899 “**Credit Parties**” means, collectively, the Borrower and the Guarantors.

900 “**Credit Party Materials**” has the meaning provided in Section 7.02.

901 “**Cumulative Equity Credit**” means, at any date, an amount determined on a cumulative
902 basis equal to, without duplication:

903 (a) the cumulative amount of cash and Cash Equivalent proceeds from the
904 sale of Qualified Stock of the Borrower after the Closing Date and on or prior to such
905 time (including upon exercise of warrants or options) (other than any amount used to
906 incur Indebtedness pursuant to Section 8.03(o), make Restricted Payments pursuant to
907 Section 8.06(d) or make prepayments of Junior Debt pursuant to Section 8.12(a)) which
908 proceeds have been contributed as common equity to the capital of the Borrower, plus

909 (b) 100% of the aggregate amount of contributions to the common capital of
910 the Borrower received in cash and Cash Equivalents after the Closing Date (other than
911 any amount used to incur Indebtedness pursuant to Section 8.03(o), make Restricted
912 Payments pursuant to Section 8.06(d) or make prepayments of Junior Debt pursuant to
913 Section 8.12(a)), plus

914 (c) an amount equal to any returns in cash and Cash Equivalents (including
915 dividends, interest, distributions, returns of principal, profits on sale, repayments, income
916 and similar amounts) actually received by the Borrower or any Restricted Subsidiary in
917 respect of any Investments made pursuant to Section 8.02(m)(y), minus

918 (d) any amount of the Cumulative Equity Credit used to make Investments
919 pursuant to Section 8.02(m)(y), make Restricted Payments pursuant to Section 8.06(h)(y)
920 or make payments or distributions in respect of Junior Debt pursuant to Section
921 8.12(a)(iii)(y) after the Closing Date and prior to such time.

922 **“Debtor Relief Laws”** means the Bankruptcy Code of the United States, and all other
923 liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium,
924 rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the
925 United States or other applicable jurisdictions from time to time in effect and affecting the rights
926 of creditors generally.

927 **“Default”** means any event, act or condition that constitutes an Event of Default or that,
928 with the giving of notice, the passage of time, or both, would constitute an Event of Default.

929 **“Default Rate”** means,

930 (a) in the case of the Letter of Credit Fee, an interest rate equal to the sum of
931 (i) the Applicable Percentage for Revolving Credit Loans that are Base Rate Loans, *plus*
932 (ii) two percent (2.0%) per annum;

933 (b) in the case of Eurocurrency Rate Loans under any Facility, an interest rate
934 equal to the sum of (i) the Eurocurrency Rate therefor, *plus* (ii) the Applicable Percentage
935 in respect of Eurocurrency Rate Loans under such Facility, *plus* (iii) two percent (2.0%)
936 per annum;

937 (c) in the case of Base Rate Loans under any Facility, an interest rate equal to
938 the sum of (i) the Base Rate, *plus* (ii) the Applicable Percentage in respect of Base Rate
939 Loans under such Facility, *plus* (iii) two percent (2.0%) per annum; and

940 (d) in all other cases, an interest rate equal to the sum of (i) the Base Rate,
941 *plus* (ii) the Applicable Percentage in respect of Revolving Loans that are Base Rate
942 Loans, *plus* (iii) two percent (2.0%) per annum.

943 **“Defaulting Lender”** means any Lender that (a) has failed to (i) fund all or any portion
944 of its Loans within two Business Days of the date such Loans were required to be funded
945 hereunder unless such Lender notifies the Administrative Agent and the Borrower in writing that
946 such failure is the result of such Lender’s determination that one or more conditions precedent to
947 funding (each of which conditions precedent, together with any applicable Default, shall be
948 specifically identified in such writing) has not been satisfied or (ii) pay to the Administrative
949 Agent, the L/C Issuer, the Swingline Lender or any other Lender any other amount required to be
950 paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline
951 Loans) within two Business Days of the date when due, (b) has notified the Borrower, the
952 Administrative Agent, the L/C Issuer or the Swingline Lender in writing that it does not intend to
953 comply with its funding obligations hereunder, or has made a public statement to that effect
954 (unless such writing or public statement relates to such Lender’s obligation to fund a Loan
955 hereunder and states that such position is based on such Lender’s determination that a condition
956 precedent to funding (which condition precedent, together with any applicable Default, shall be
957 specifically identified in such writing or public statement) cannot be satisfied), (c) has failed,
958 within three Business Days after written request by the Administrative Agent or the Borrower, to
959 confirm in writing to the Administrative Agent and the Borrower that it will comply with its
960 prospective funding obligations hereunder (*provided* that such Lender shall cease to be a
961 Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the

962 Administrative Agent and the Borrower) or (d) has, or has a direct or indirect parent company
963 that has, (i) become the subject of a proceeding under any Debtor Relief Law, or (ii) had
964 appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit
965 of creditors or similar Person charged with reorganization or liquidation of its business or assets,
966 including the Federal Deposit Insurance Corporation or any other state or federal regulatory
967 authority acting in such a capacity or (iii) became the subject of a Bail-in Action; *provided* that a
968 Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any
969 equity interest in that Lender or any direct or indirect parent company thereof by a Governmental
970 Authority so long as such ownership interest does not result in or provide such Lender with
971 immunity from the jurisdiction of courts within the United States or from the enforcement of
972 judgments or writs of attachment on its assets or permit such Lender (or such Governmental
973 Authority or instrumentality) to reject, repudiate, disavow or disaffirm any contracts or
974 agreements made with such Lender. Any determination by the Administrative Agent that a
975 Lender is a Defaulting Lender under clauses (a) through (d) above shall be conclusive and
976 binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender upon
977 delivery of written notice of such determination to the Borrower, the L/C Issuer, the Swingline
978 Lender and the Lenders.

979 **“Defaulting Lender Account”** has the meaning provided in Section 2.17(a).

980 **“Disposition”** or **“Dispose”** means the sale, transfer, license, lease, abandonment or other
981 disposition of any Property by any Person, including any sale, assignment, transfer or other
982 disposal, with or without recourse, of any notes or accounts receivable or any rights and claims
983 associated therewith, but excluding, for purposes hereof, (a) Dispositions of obsolete, worn out,
984 surplus or no longer used or useful property, whether now owned or hereafter acquired, (b)
985 Dispositions of inventory and goods held for sale in the ordinary course of business in the
986 ordinary course of business, (c) Dispositions of equipment or real property to the extent that (i)
987 such property is exchanged for credit against the purchase price of similar replacement property
988 or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of
989 such replacement property, (d) Dispositions or discounts without recourse of accounts receivable
990 in connection with the compromise or collection thereof in the ordinary course of business, (e)
991 any Involuntary Disposition and (f) the unwinding of any Swap Contract.

992 **“Disqualified Institutions”** means those Persons (the list of all such Persons, the
993 **“Disqualified Institutions List”**) that are (i) identified in writing by the Borrower to the
994 Administrative Agent prior to March 23, 2016, (ii) competitors of the Borrower and its
995 Subsidiaries that are identified in writing by the Borrower to the Administrative Agent from time
996 to time or (iii) Affiliates of such Persons set forth in clauses (i) and (ii) above (in the case of
997 Affiliates of such Persons set forth in clause (ii) above, other than bona fide fixed income
998 investors or debt funds) that are either (a) identified in writing by the Borrower to the
999 Administrative Agent from time to time or (b) clearly identifiable on the basis of such Affiliate’s
1000 name; *provided* that to the extent Persons are identified as Disqualified Institutions in writing by
1001 the Borrower to the Administrative Agent after the Closing Date pursuant to clauses (ii) or
1002 (iii)(a), the inclusion of such Persons as Disqualified Institutions shall not retroactively apply to
1003 prior assignments or participations in respect of any Loan under this Credit Agreement. Until the
1004 disclosure of the identity of a Disqualified Institution to the Lenders generally by the
1005 Administrative Agent, such Person shall not constitute a Disqualified Institution for purposes of

1006 a sale of a participation in a Loan or an assignment of a Loan by a Lender; *provided* that no
1007 disclosure of the Disqualified Institutions List (or the identity of any Person that constitutes a
1008 Disqualified Institution) to the Lenders shall be made by the Administrative Agent without the
1009 prior written consent of the Borrower. Notwithstanding the foregoing, the Borrower, by written
1010 notice to the Administrative Agent, may from time to time in its sole discretion remove any
1011 entity from the Disqualified Institutions List (or otherwise modify such list to remove any
1012 particular entity), and such entity removed from the Disqualified Institutions List shall no longer
1013 be a Disqualified Institution for any purpose under this Credit Agreement or any other Credit
1014 Document.

1015 **“Disqualified Institutions List”** has the meaning as set forth in the definition of
1016 Disqualified Institutions.

1017 **“Disqualified Stock”** means any Capital Stock that, by its terms (or by the terms of any
1018 security into which it is convertible, or for which it is exchangeable, in each case at the option of
1019 the holder of the Capital Stock), or upon the happening of an event or condition (a) matures or is
1020 mandatorily redeemable (other than solely for Qualified Stock), pursuant to a sinking fund
1021 obligation or otherwise (except as a result of a change of control or asset sale so long as any
1022 rights of the holders thereof upon the occurrence of a change of control or asset sale event shall
1023 be subject to the prior repayment in full of the Loans and all other Obligations (other than (i)
1024 contingent indemnification obligations as to which no claim has been asserted, (ii) Obligations
1025 described in clauses (b) and (c) of the definition thereof and (iii) any Letter of Credit that has
1026 been Cash Collateralized or back-stopped by a letter of credit reasonably satisfactory to the L/C
1027 Issuer or such Letter of Credit has been deemed reissued under another agreement reasonably
1028 acceptable to the L/C Issuer) that are accrued and payable and the termination of the
1029 Commitments and the termination of all outstanding Letters of Credit (unless the Outstanding
1030 Amount of the L/C Obligations related thereto has been Cash Collateralized, back-stopped by a
1031 letter of credit reasonably satisfactory to the L/C Issuer or deemed reissued under another
1032 agreement reasonably acceptable to the L/C Issuer)), (b) is redeemable at the option of the holder
1033 thereof (other than solely for Qualified Stock and other than as a result of a change of control or
1034 asset sale event shall be subject to the prior repayment in full of the Loans and all other
1035 Obligations (other than (i) contingent indemnification obligations as to which no claim has been
1036 asserted, (ii) Obligations described in clauses (b) and (c) of the definition thereof and (iii) any
1037 Letter of Credit that has been Cash Collateralized or back-stopped by a letter of credit reasonably
1038 satisfactory to the L/C Issuer or such Letter of Credit has been deemed reissued under another
1039 agreement reasonably acceptable to the L/C Issuer) that are accrued and payable and the
1040 termination of the Commitments and the termination of all outstanding Letters of Credit (unless
1041 the Outstanding Amount of the L/C Obligations related thereto has been Cash Collateralized,
1042 back-stopped by a letter of credit reasonably satisfactory to the L/C Issuer or deemed reissued
1043 under another agreement reasonably acceptable to the L/C Issuer)), in whole or in part or (c) is or
1044 becomes convertible into or exchangeable for Indebtedness or any other Capital Stock that would
1045 constitute Disqualified Stock, in each case, prior to the date that is 91 days after the Latest
1046 Maturity Date at the time of issuance of such Capital Stock; *provided* that if such Capital Stock
1047 is issued pursuant to a plan for the benefit of future, current or former employees, directors,
1048 officers, members of management or consultants of the Borrower or the Restricted Subsidiaries
1049 or by any such plan to such employees, directors, officers, members of management or
1050 consultants, such Capital Stock shall not constitute Disqualified Stock solely because they may

1051 be permitted to be repurchased by the Borrower or its Restricted Subsidiaries in order to satisfy
1052 applicable statutory or regulatory obligations or as a result of such employee's, director's,
1053 officer's, management member's or consultant's termination of employment or service, as
1054 applicable, death or disability.

1055 **"Distressed Agent-Related Person"** has the meaning provided in the definition of
1056 Agent-Related Distress Event.

1057 **"Dollar"** or **"\$"** means the lawful currency of the United States.

1058 **"Dollar Equivalent"** means, at any time, (a) with respect to any amount denominated in
1059 Dollars, such amount, and (b) with respect to any amount denominated in any Alternative
1060 Currency, the equivalent amount thereof in Dollars as determined by the L/C Issuer at such time
1061 on the basis of the Spot Rate (determined in respect of the most recent Revaluation Date) for the
1062 purchase of Dollars with such Alternative Currency.

1063
1064 **"Domestic Subsidiary"** means any Subsidiary that is organized under the Laws of any
1065 state of the United States or the District of Columbia.

1066 **"EEA Financial Institution"** means (a) any credit institution or investment firm
1067 established in any EEA Member Country which is subject to the supervision of an EEA
1068 Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of
1069 an institution described in clause (a) of this definition, or (c) any financial institution established
1070 in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b)
1071 of this definition and is subject to consolidated supervision with its parent;

1072 **"EEA Member Country"** means any of the member states of the European Union,
1073 Iceland, Liechtenstein, and Norway.

1074 **"EEA Resolution Authority"** means any public administrative authority or any person
1075 entrusted with public administrative authority of any EEA Member Country (including any
1076 delegate) having responsibility for the resolution of any EEA Financial Institution.

1077 **"Eligible Assignee"** has the meaning set forth in Section 11.06(a)(i). For the avoidance
1078 of doubt, "Eligible Assignee" shall not include any Disqualified Institution.

1079 **"Environment"** shall mean ambient air, indoor air, surface water, groundwater, drinking
1080 water, land surface, sediments, and subsurface strata & natural resources such as wetlands, flora
1081 and fauna.

1082 **"Environmental Laws"** means any and all applicable federal, state, local, and foreign
1083 statutes, laws (including the common law), regulations, ordinances, rules, judgments, orders,
1084 decrees, permits, concessions, grants, franchises, licenses, agreements or governmental
1085 restrictions relating to pollution, the protection of the Environment or the Release of any
1086 Hazardous Materials into the Environment.

1087 **"Environmental Liability"** means any liability, contingent or otherwise (including any
1088 liability for damages, costs of environmental remediation, fines, penalties or indemnities), of or

1089 relating to the Borrower, any other Credit Party or any of their respective Subsidiaries directly or
1090 indirectly resulting from or based upon (a) any Environmental Law, including a violation of any
1091 Environmental Law, (b) the generation, use, handling, transportation, storage or treatment of any
1092 Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the Release or threatened
1093 Release of any Hazardous Materials into the Environment or (e) any contract, agreement or other
1094 consensual arrangement pursuant to which liability is assumed or imposed with respect to any of
1095 the foregoing.

1096 **“Environmental Permit”** means any permit, approval, identification number, license or
1097 other authorization required under any Environmental Law.

1098 **“Equity Offering”** means the issuance by the Borrower of any Capital Stock in an
1099 underwritten public offering (other than a public offering pursuant to a registration statement on
1100 Form S-8) pursuant to an effective registration statement filed with the U.S. Securities and
1101 Exchange Commission in accordance with the Securities Act or in a private placement pursuant
1102 to an exemption from the Securities Act.

1103 **“ERISA”** means the Employee Retirement Income Security Act of 1974.

1104 **“ERISA Affiliate”** means any trade or business (whether or not incorporated) that
1105 together with the Borrower or any other Credit Party is treated as a single employer under
1106 Section 414(b) or (c) of the Internal Revenue Code (and Sections 414(m) and (o) of the Internal
1107 Revenue Code for purposes of provisions relating to Section 412 of the Internal Revenue Code).

1108 **“ERISA Event”** means (a) a Reportable Event with respect to a Pension Plan; (b) a
1109 withdrawal by a Credit Party or any ERISA Affiliate from a Pension Plan subject to Section
1110 4063 of ERISA during a plan year in which it was a substantial employer (as defined in Section
1111 4001(a)(2) of ERISA) or a cessation of operations that is treated as such a withdrawal under
1112 Section 4062(e) of ERISA; (c) a complete or partial withdrawal by a Credit Party or any ERISA
1113 Affiliate from a Multiemployer Plan or notification that a Multiemployer Plan is in
1114 reorganization; (d) the filing of a notice of intent to terminate, the treatment of a plan amendment
1115 as a termination under Sections 4041 or 4041A of ERISA, or the commencement of proceedings
1116 by the PBGC to terminate a Pension Plan or Multiemployer Plan; (e) an event or condition that
1117 would reasonably be expected to constitute grounds under Section 4042 of ERISA for the
1118 termination by the PBGC of, or the appointment of a trustee to administer, any Pension Plan or
1119 Multiemployer Plan; (f) the failure by a Credit Party or any ERISA Affiliate to satisfy the
1120 minimum funding standard applicable to a Pension Plan for any plan year under Section 412 of
1121 the Internal Revenue Code or Section 303 of ERISA; (g) the determination that any Pension Plan
1122 is considered an at-risk plan within the meaning of Section 430 of the Internal Revenue Code or
1123 Section 303 of ERISA; (h) receipt by a Credit Party or any ERISA Affiliate of any notice that
1124 any Multiemployer Plan is in “endangered” or “critical” status within the meaning of Sections
1125 431 and 432 of the Internal Revenue Code and Sections 304 and 305 of ERISA; or (i) the
1126 imposition of any liability under Title IV of ERISA, other than for PBGC premiums due but not
1127 delinquent under Section 4007 of ERISA by the PBGC, upon a Credit Party or any ERISA
1128 Affiliate.

1129 **“Escrow Assumption”** means with respect to any Incremental Term Loan that is initially
1130 established as an Escrow Incremental Term Loan, the assumption of the Escrow Borrower’s
1131 obligations with respect thereto by the Borrower pursuant to an assumption agreement in form
1132 reasonably satisfactory to the Administrative Agent.

1133 **“Escrow Borrower”** means a Person that is a U.S. entity and is not the Borrower
1134 established to (i) borrow Escrow Incremental Term Loans pending assumption of such
1135 Incremental Term Loans by the Borrower or (ii) assume the obligations of the Borrower with
1136 respect to previously incurred Incremental Term Loans, in each case, that is designated in the
1137 applicable Incremental Amendment or assumption agreement as an Escrow Borrower and that is
1138 not engaged in any material operations and does not have any other material assets other than in
1139 connection therewith.

1140 **“Escrow Funding Assignment”** means the assignment by the Borrower to an Escrow
1141 Borrower and the assumption by such Escrow Borrower, in each case, of the obligations of the
1142 Borrower with respect to previously incurred Incremental Term Loans.

1143 **“Escrow Incremental Term Loan”**: any Incremental Term Loan that either (x) is
1144 initially borrowed by an Escrow Borrower or (y) is initially borrowed by the Borrower but was
1145 subsequently converted to an Escrow Incremental Term Loans in accordance with Section 2.18,
1146 in each case, for so long as the Escrow Assumption with respect to such Incremental Term Loan
1147 has not occurred.

1148 **“EU Bail-In Legislation Schedule”** means the EU Bail-In Legislation Schedule
1149 published by the Loan Market Association (or any successor person), as in effect from time to
1150 time.

1151 **“Eurocurrency Rate”** means:

1152 (a) for any Interest Period with respect to a Eurocurrency Rate Loan, the rate per
1153 annum equal to the London Interbank Offered Rate (“**LIBOR**”) or a comparable or successor
1154 rate, which rate is approved by the Administrative Agent, as published on the applicable
1155 Bloomberg screen page (or such other commercially available source providing such quotations
1156 as may be designated by the Administrative Agent from time to time) at approximately 11:00
1157 a.m., London time, two Business Days prior to the commencement of such Interest Period, for
1158 Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to
1159 such Interest Period;

1160 (b) for any interest calculation with respect to a Base Rate Loan on any date, the rate
1161 per annum equal to LIBOR, at or about 11:00 a.m., London time determined two Business Days
1162 prior to such date for U.S. Dollar deposits with a term of one month commencing that day; and

1163 (c) if the Eurocurrency Rate shall be less than zero, such rate shall be deemed zero for
1164 purposes of this Agreement;

1165 *provided* that to the extent a comparable or successor rate is approved by the
1166 Administrative Agent in connection herewith, the approved rate shall be applied in a manner
1167 consistent with market practice; *provided, further*, that to the extent such market practice is not

1168 administratively feasible for the Administrative Agent, such approved rate shall be applied in a
1169 manner as otherwise reasonably determined by the Administrative Agent in consultation with the
1170 Borrower.

1171 **“Eurocurrency Rate Loan”** means a Revolving Credit Loan or a Term Loan that bears
1172 interest at a rate based on clause (a) of the definition of “Eurocurrency Rate.”

1173 **“Eurocurrency Reserve Percentage”** means, for any day, the reserve percentage
1174 (expressed as a decimal, carried out to five decimal places) in effect on such day, whether or not
1175 applicable to any Lender, under regulations issued from time to time by the FRB for determining
1176 the maximum reserve requirement (including any emergency, supplemental or other marginal
1177 reserve requirement) with respect to Eurocurrency funding (currently referred to as
1178 **“Eurocurrency liabilities”**). The Eurocurrency Rate for each outstanding Eurocurrency Rate
1179 Loan and for each outstanding Base Rate Loan bearing interest at a rate based on the
1180 Eurocurrency Rate shall be adjusted automatically as of the effective date of any change in the
1181 Eurocurrency Reserve Percentage.

1182 **“Eurocurrency Unavailability Period”** means any period of time during which a notice
1183 delivered to the Borrower in accordance with Section 3.03 shall remain in force and effect.

1184 **“Euros”** means the lawful currency of the Participating Member States.

1185 **“Event of Default”** has the meaning provided in Section 9.01.

1186 **“Evidence of Flood Insurance”** has the meaning provided in the definition of Real
1187 Estate Collateral Requirements.

1188 **“Exchange Act”** means the Securities Exchange Act of 1934.

1189 **“Excluded Property”** means (i) any fee-owned real property (other than Specified Real
1190 Property) and any leasehold rights and interests in real property (it being understood that there
1191 shall be no requirement to obtain landlord waivers, estoppels and collateral access letters), (ii)
1192 motor vehicles, aircraft and other assets subject to certificates of title, except to the extent a
1193 security interest therein can be perfected by the filing of a UCC financing statement, (iii)
1194 Commercial Tort Claims (as defined in the Security Agreement) where the amount of damages
1195 claimed by the applicable Credit Party is less than \$5,000,000, (iv) governmental licenses or
1196 state or local franchises, charters and authorizations and any other property and assets to the
1197 extent that the Collateral Agent may not validly possess a security interest therein under
1198 applicable Laws (including rules and regulations of any Governmental Authority or agency) or
1199 the pledge or creation of a security interest in which would require governmental consent,
1200 approval, license or authorization, other than to the extent such prohibition or limitation is
1201 rendered ineffective under the UCC or other applicable Law notwithstanding such prohibition or
1202 to the extent such consent has been obtained, (v) any particular asset or right under contract, if
1203 the pledge thereof or the security interest therein is prohibited or restricted by applicable Law,
1204 rule or regulation (including any rules or regulations of any Governmental Authority or agency),
1205 or any third party (so long as any agreement with such third party that provides for such
1206 prohibition or restriction was not entered into in contemplation of the acquisition of such assets
1207 or entering into of such contract for the purpose of creating such prohibition or restriction), other

1208 than to the extent any such prohibition or restriction is rendered ineffective under the UCC or
1209 other applicable Law notwithstanding such prohibition or restriction, (vi) (A) margin stock, (B)
1210 Capital Stock in any Unrestricted Subsidiaries and (C) Capital Stock in any non-wholly owned
1211 Restricted Subsidiaries and any entities which do not constitute Subsidiaries, but only to the
1212 extent that (x) the Organization Documents or other agreements with equity holders (other than
1213 the Borrower and its Restricted Subsidiaries) of such non-wholly owned Restricted Subsidiary or
1214 other entity do not permit or restrict the pledge of such Capital Stock (to the extent such
1215 restriction existed on the Closing Date or on the date of acquisition of such non-wholly owned
1216 Restricted Subsidiary), or (y) the pledge of such Capital Stock (including any exercise of
1217 remedies) would result in a change of control, repurchase obligation or other adverse
1218 consequence to any of the Credit Parties or such non-wholly owned Restricted Subsidiary or
1219 other entity, (vii) any lease, license or agreement or any property subject to a purchase money
1220 security interest, Capitalized Lease obligations or similar arrangement permitted hereunder, in
1221 each case permitted hereunder, to the extent the grant of a security interest therein would violate
1222 or invalidate such lease, license or agreement or purchase money or similar arrangement or
1223 create a right of termination in favor of any other party thereto (other than the Borrower or any of
1224 its Restricted Subsidiaries) after giving effect to the applicable anti-assignment provisions of the
1225 UCC or other applicable Law, other than proceeds and receivables thereof, the assignment of
1226 which is expressly deemed effective under the UCC or other applicable Law notwithstanding
1227 such prohibition, (viii) any property or assets for which the creation or perfection of pledges of,
1228 or security interests in, such property or assets pursuant to the Collateral Documents would result
1229 in material adverse tax consequences to the Borrower or any of its Subsidiaries, as reasonably
1230 determined by the Borrower in consultation with the Administrative Agent, (ix) letter-of-credit
1231 rights, except to the extent the security interest therein may be perfected by the filing of a UCC
1232 financing statement, (x) (A) payroll and other employee wage and benefit accounts, (B) tax
1233 accounts, including sales tax accounts, (C) escrow accounts and (D) fiduciary or trust accounts
1234 and, in the case of clauses (A) through (D), the funds or other property held in or maintained in
1235 any such account (as long as the accounts described in clauses (A) through (D) are used solely
1236 for such purposes), (xi) any intent-to-use trademark application prior to the filing of a “Statement
1237 of Use” or “Amendment to Allege Use” with respect thereto, to the extent, if any, that, and solely
1238 during the period, if any, in which the grant of a security interest therein would impair the
1239 validity or enforceability of such intent-to-use trademark application under applicable federal
1240 Law and (xii) assets in circumstances where the cost of obtaining a security interest in such
1241 assets, including the cost of title insurance, surveys or flood insurance (if necessary), would be
1242 excessive in light of the practical benefit to the Lenders afforded thereby as reasonably
1243 determined together by the Borrower and the Administrative Agent; *provided, however*, that
1244 Excluded Property shall not include any proceeds, substitutions or replacements of any Excluded
1245 Property referred to in clause (i) through (xii) (unless such proceeds, substitutions or
1246 replacements would independently constitute Excluded Property referred to in clauses (i) through
1247 (xii)).

1248 **“Excluded Subsidiary”** means (a) any Subsidiary that is not a Wholly Owned Subsidiary
1249 of the Borrower or a Guarantor, (b) any Subsidiary that is prohibited by applicable Law or by
1250 Contractual Obligations existing on the Closing Date (or, in the case of any newly acquired
1251 Subsidiary, in existence at the time of acquisition but not entered into in contemplation thereof)
1252 from guaranteeing the Obligations or if guaranteeing the Obligations would require
1253 governmental (including regulatory) consent, approval, license or authorization, (c) any

1254 Subsidiary where the Administrative Agent and the Borrower agree that the cost of obtaining a
1255 Guaranty by such Subsidiary would be excessive in light of the practical benefit to the Lenders
1256 afforded thereby, (d) any Foreign Subsidiary, (e) any not-for-profit Subsidiaries, (f) any
1257 Unrestricted Subsidiaries, (g) any special purpose securitization vehicle (or similar entity), (h)
1258 any CFC Holdco, (i) any Domestic Subsidiary that is a direct or indirect Subsidiary of a Foreign
1259 Subsidiary that is a CFC, and (j) any Subsidiary, the obtaining of a Guaranty with respect to
1260 which would result in material adverse tax consequences as reasonably determined by the
1261 Borrower in consultation with the Administrative Agent.

1262 **“Excluded Swap Obligation”** means, with respect to any Guarantor, any Swap
1263 Obligation if, and to the extent that, all or a portion of the guaranty of such Guarantor of, or the
1264 grant by such Guarantor of a security interest to secure, such Swap Obligation (or any guaranty
1265 thereof) (after giving effect to any keepwell, support or other agreement provided by the
1266 Borrower or any of its Subsidiaries with respect to the obligations of such Guarantor) is or
1267 becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the
1268 Commodity Futures Trading Commission (or the application or official interpretation of any
1269 thereof) by virtue of such Guarantor’s failure for any reason to constitute an “eligible contract
1270 participant” as defined in the Commodity Exchange Act and the regulations thereunder at the
1271 time the guaranty of such Guarantor or the grant of such security interest becomes effective with
1272 respect to such Swap Obligation. If a Swap Obligation arises under a master agreement
1273 governing more than one swap, such exclusion shall apply only to the portion of such Swap
1274 Obligation that is attributable to swaps for which such guaranty or security interest is or becomes
1275 illegal.

1276 **“Excluded Taxes”** means, with respect to the Administrative Agent, any Lender, the L/C
1277 Issuer or any other recipient of any payment to be made by or on account of any obligation of
1278 any Credit Party hereunder, (a) Taxes imposed on or measured by its overall net income
1279 (however denominated), and franchise taxes imposed on it (in lieu of net income taxes), in each
1280 case (i) by the jurisdiction (or any political subdivision thereof) under the Laws of which such
1281 recipient is organized or in which its principal office is located or, in the case of any Lender, in
1282 which its applicable Lending Office is located, or (ii) as the result of any other present or former
1283 connection between such recipient and the jurisdiction imposing such Tax (other than any
1284 connection arising solely from such recipient having executed, delivered, become a party to,
1285 performed its obligations under, received payments under, received or perfected a security
1286 interest under, or engaged in any other transaction pursuant to or enforced any Credit Documents,
1287 or sold or assigned an interest in any Loan or Credit Document), (b) any branch profits taxes
1288 imposed by the United States or any similar tax imposed by any other jurisdiction in which a
1289 Lender is located, (c) any U.S. federal withholding Taxes required to be withheld from amounts
1290 payable to a Lender that has failed to comply with clause (A) of Section 3.01(e)(ii), (d) in the
1291 case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under
1292 Section 11.13), any United States federal withholding tax that (i) is required to be imposed on
1293 amounts payable to such Foreign Lender pursuant to the Laws in force at the time such Foreign
1294 Lender becomes a party hereto (or designates a new Lending Office, other than in the case of a
1295 designation under Section 3.06(a)), except to the extent that such Foreign Lender (or its assignor,
1296 if any) was entitled, at the time of designation of a new Lending Office (or assignment), to
1297 receive additional amounts from the applicable Credit Party with respect to such withholding tax

1298 pursuant to Section 3.01(a)(ii) or (c), (e) U.S. federal backup withholding Taxes, and (f) any
1299 Taxes imposed under FATCA.

1300 “**Existing Letters of Credit**” means the letters of credit outstanding on the Closing Date
1301 and identified on Schedule 2.03.

1302 “**Extended Revolving Commitment**” means any Class of Revolving Credit
1303 Commitments the maturity of which shall have been extended pursuant to Section 2.19.

1304 “**Extended Revolving Loans**” means any Revolving Credit Loans made pursuant to the
1305 Extended Revolving Commitments.

1306 “**Extended Term Loans**” means any Class of Term Loans the maturity of which shall
1307 have been extended pursuant to Section 2.19.

1308 “**Extension**” has the meaning provided in Section 2.19(a).

1309 “**Extension Amendment**” has the meaning provided in Section 2.19(d).

1310 “**Extension Offer**” has the meaning provided in Section 2.19(a).

1311 “**Facility**” means the Term Loan Facility or the Revolving Credit Facility, as the context
1312 may require.

1313 “**FASB ASC**” means the Accounting Standards Codification of the Financial Accounting
1314 Standards Board.

1315 “**FATCA**” means Sections 1471 through 1474 of the Internal Revenue Code as of the
1316 Closing Date (or any amended or successor version to the extent substantively comparable and
1317 not materially more onerous to comply with), any current or future regulations or official
1318 interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the
1319 Internal Revenue Code, including any intergovernmental agreements and any rules or official
1320 guidance implementing such intergovernmental agreements.

1321 “**FCPA**” has the meaning provided in Section 6.21(a).

1322 “**Federal Funds Rate**” means, for any day, the rate per annum equal to the weighted
1323 average of the rates on overnight federal funds transactions with members of the Federal Reserve
1324 System arranged by federal funds brokers on such day, as published by the Federal Reserve Bank
1325 of New York on the Business Day next succeeding such day; *provided* that (a) if such day is not
1326 a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on
1327 the next preceding Business Day as so published on the next succeeding Business Day, and (b) if
1328 no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for
1329 such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100th
1330 of 1%) charged to Bank of America on such day on such transactions as determined by the
1331 Administrative Agent.

1332 **“Fee Letter”** means the Fee Letter addressed to the Borrower, dated as of March 23,
1333 2016, from Bank of America, Citibank, N.A., KeyBank National Association, SunTrust Bank
1334 and the Arrangers.

1335 **“Financial Covenants”** means the covenants set forth in Section 8.11.

1336 **“Flood Determination Form”** has the meaning provided in the definition of Real Estate
1337 Collateral Requirements.

1338 **“Flood Documents”** has the meaning provided in the definition of Real Estate Collateral
1339 Requirements.

1340 **“Flood Laws”** shall mean, collectively, (i) the National Flood Insurance Reform Act of
1341 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood
1342 Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii)
1343 the Flood Insurance Reform Act of 2004 as now or hereafter in effect or any successor statute
1344 thereto and (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in
1345 effect or any successor statute thereto.

1346 **“Foreign Disposition”** has the meaning provided in Section 2.06(b)(ii)(D).

1347 **“Foreign Lender”** means any Lender that is not a United States person for U.S. federal
1348 income tax purposes.

1349 **“Foreign Subsidiary”** means any Subsidiary that is not a Domestic Subsidiary.

1350 **“Francs”** means the lawful currency of Switzerland.

1351 **“FRB”** means the Board of Governors of the Federal Reserve System of the United
1352 States.

1353 **“Fronting Exposure”** means, at any time there is a Defaulting Lender, (a) with respect to
1354 the L/C Issuer, such Defaulting Lender’s Aggregate Commitment Percentage of the outstanding
1355 L/C Obligations other than L/C Obligations as to which such Defaulting Lender’s participation
1356 obligation has been reallocated to other Revolving Credit Lenders or Cash Collateralized in
1357 accordance with the terms hereof, and (b) with respect to the Swingline Lender, such Defaulting
1358 Lender’s Aggregate Commitment Percentage of Swingline Loans other than Swingline Loans as
1359 to which such Defaulting Lender’s participation obligation has been reallocated to other
1360 Revolving Credit Lenders or Cash Collateralized in accordance with the terms hereof.

1361 **“Fund”** means any Person (other than a natural person) that is (or will be) engaged in
1362 making, purchasing, holding or otherwise investing in commercial loans and similar extensions
1363 of credit in the ordinary course of its activities.

1364 **“GAAP”** means generally accepted accounting principles in the United States set forth in
1365 the opinions and pronouncements of the Accounting Principles Board and the American Institute
1366 of Certified Public Accountants and statements and pronouncements of the Financial Accounting
1367 Standards Board in the United States, that are applicable to the circumstances as of the date of

1368 determination, or on adoption of the International Financial Reporting Standards (the “IFRS”),
1369 the IFRS, in either case, consistently applied and subject to the provisions of Section 1.03.

1370 “**Governmental Authority**” means the government of the United States or any other
1371 nation, or of any political subdivision thereof, whether state or local, and any agency, authority,
1372 instrumentality, regulatory body, court, central bank or other entity exercising executive,
1373 legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to
1374 government (including any supra-national bodies such as the European Union or the European
1375 Central Bank) and any group or body charged with setting financial accounting or regulatory
1376 capital rules or standards (including the Financial Accounting Standards Board, the Bank for
1377 International Settlements or the Basel Committee on Banking Supervision or any successor or
1378 similar authority to any of the foregoing).

1379 “**Guarantors**” has the meaning set forth in the definition of “Collateral and Guarantee
1380 Requirement” and shall include each Restricted Subsidiary who after the Closing Date becomes
1381 a Guarantor pursuant to a Joinder Agreement or other documentation in form and substance
1382 reasonably acceptable to the Administrative Agent, in each case together with their respective
1383 successors and permitted assigns. For avoidance of doubt, and notwithstanding any limitations
1384 to the requirement to provide a Guaranty or grant security interests in the assets of any
1385 Subsidiary to the contrary, the Borrower with the consent of the Administrative Agent (not to be
1386 unreasonably withheld, conditioned or delayed) may cause any Restricted Subsidiary that is not a
1387 Guarantor to guarantee the Obligations and comply with the provisions of Section 7.12
1388 (including in the case of any Foreign Subsidiary by delivering, within time frames and subject to
1389 extensions as agreed with the Administrative Agent, such Collateral Documents, as determined
1390 as reasonably necessary by the Administrative Agent in consultation with the Borrower, to grant
1391 and perfect security interests in such Foreign Subsidiary’s relevant assets for which security
1392 interests are customarily granted in such Subsidiary’s jurisdiction of organization but with
1393 exclusions consistent as applicable with the definition of Excluded Property) by causing such
1394 Restricted Subsidiary to execute a joinder to this Agreement in form and substance reasonably
1395 satisfactory to the Administrative Agent, and any such Restricted Subsidiary shall be a Guarantor
1396 and Credit Party hereunder for all purposes. In addition, the Borrower shall be a Guarantor in
1397 respect of Swap Obligations and Treasury Management Obligations to which the Borrower is not
1398 party.

1399 “**Guaranty**” means (a) the guaranty provided pursuant to Article 4 hereof and/or (b) any
1400 other guaranty agreement given by any Person pursuant to the terms hereof.

1401 “**Hazardous Materials**” means petroleum or petroleum distillates, asbestos or asbestos-
1402 containing materials, polychlorinated biphenyls, radon gas and all other substances, materials or
1403 wastes of any nature regulated pursuant to any Environmental Law.

1404 “**Historical Financial Statements**” means (a) the audited consolidated balance sheets
1405 and related statements of comprehensive income, shareholders’ equity and cash flows of the
1406 Borrower for the fiscal years ended June 30, 2013, June 30, 2014 and June 30, 2015, (b) the
1407 audited consolidated balance sheet of the Target as of September 27, 2015 and September 28,
1408 2014 and consolidated statement of profit and loss of the Target for the fiscal years ended
1409 September 27, 2015, September 28, 2014 and September 29, 2013 (together with the financial

1410 statements referred to in clause (a), the “**Annual Financial Statements**”), (c) the unaudited
1411 consolidated balance sheets and related consolidated statements of comprehensive income and
1412 cash flows for the Borrower for the fiscal quarters of the Borrower ended September 30, 2015
1413 and December 31, 2015 and (d) the consolidated unaudited balance sheet and related
1414 consolidated statement of profit and loss and cash flows of the Target, reviewed by
1415 PricewaterhouseCoopers LLP in accordance with the Statements on Standards for Accounting
1416 and Review Services issued by the American Institute of Certified Public Accountants, for the
1417 fiscal quarter of the Target ended January 3, 2016 (together with the financial statements referred
1418 to in clause (a), the “**Quarterly Financial Statements**”).

1419 “**IFRS**” has the meaning specified in the definition of GAAP.

1420 “**Incremental Amendment Date**” has the meaning provided in Section 2.18(c).

1421 “**Incremental Commitment**” means an Incremental Revolving Commitment or an
1422 Incremental Term Commitment, as applicable.

1423 “**Incremental Equivalent Debt**” has the meaning provided in Section 8.03(q).

1424 “**Incremental Facility**” means an Incremental Term Commitment or an Incremental
1425 Revolving Commitment, as applicable.

1426 “**Incremental Facility Closing Date**” has the meaning provided in Section 2.18(b).

1427 “**Incremental Increase**” means a Term Loan Increase or a Revolving Commitment
1428 Increase, as applicable.

1429 “**Incremental Lender**” means an Incremental Revolving Lender or an Incremental Term
1430 Lender, as applicable.

1431 “**Incremental Loans**” means the Incremental Term Loans or the Incremental Revolving
1432 Loans, as applicable.

1433 “**Incremental Revolving Commitment**” means the commitment of any Lender,
1434 established pursuant to Section 2.18, to make Incremental Revolving Loans to the Borrower.

1435 “**Incremental Revolving Lender**” means a Revolving Credit Lender with an Incremental
1436 Revolving Commitment or an outstanding Incremental Revolving Loan.

1437 “**Incremental Revolving Loan**” means Revolving Credit Loans made by one or more
1438 Revolving Credit Lenders to the Borrower pursuant to their Incremental Revolving
1439 Commitments. Incremental Revolving Loans may only be made in the form of additional
1440 Revolving Credit Loans.

1441 “**Incremental Term Commitment**” means the commitment of any Lender, established
1442 pursuant to Section 2.18, to make Incremental Term Loans to the Borrower.

1443 **“Incremental Term Lender”** means a Lender with an Incremental Term Commitment or
1444 an outstanding Incremental Term Loan.

1445 **“Incremental Term Loans”** means additional Term Loans made by one or more Lenders
1446 to the Borrower pursuant to their Incremental Term Commitments.

1447 **“Indebtedness”** means, as to any Person at a particular time, without duplication, all of
1448 the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

1449 (a) all obligations of such Person for borrowed money and all obligations of
1450 such Person evidenced by bonds, debentures, notes, loan agreements or other similar
1451 instruments;

1452 (b) all indebtedness and obligations in respect of the deferred purchase price
1453 of property or services (other than (i) trade accounts payable incurred in the ordinary
1454 course of business, (ii) any bona fide deferred purchase price arrangement, earn-out or
1455 similar obligation, unless such obligation has not been paid after becoming due and
1456 payable in accordance with its terms and (iii) accruals for payroll and other liabilities
1457 accrued in the ordinary course of business);

1458 (c) all obligations under letters of credit (including standby and commercial),
1459 bankers’ acceptances and similar instruments (including bank guaranties, surety bonds,
1460 comfort letters, keep-well agreements and capital maintenance agreements) to the extent
1461 such instruments or agreements support financial, rather than performance, obligations;

1462 (d) indebtedness (excluding prepaid interest thereon) secured by a Lien on
1463 property owned or being purchased by such Person (including indebtedness arising under
1464 conditional sales or other title retention agreements and mortgage, industrial revenue
1465 bond, industrial development bond and similar financings), whether or not such
1466 indebtedness shall have been assumed by such Person or is limited in recourse;

1467 (e) all Attributable Indebtedness;

1468 (f) all obligations of such Person in respect of Disqualified Stock;

1469 (g) net obligations of such Person under any Swap Contract; and

1470 (h) to the extent not otherwise included above, all Support Obligations of such
1471 Person in respect of any of the foregoing.

1472 For all purposes hereof, the Indebtedness of any Person shall (A) include the
1473 Indebtedness of any partnership or joint venture (other than a joint venture that is itself a
1474 corporation or limited liability company) or other similar entity in which such Person is a general
1475 partner or joint venturer, except to the extent such Person’s liability for such obligation is
1476 expressly made non-recourse or otherwise limited and (B) in the case of the Borrower and its
1477 Restricted Subsidiaries, exclude all intercompany Indebtedness so long as such intercompany
1478 Indebtedness (i) has a term not exceeding 364 days (inclusive of any roll-over or extensions of
1479 terms) and (ii) is made in the ordinary course of business. The amount of Indebtedness shall be

1480 determined (i) based on Swap Termination Value in the case of net obligations under Swap
1481 Contracts under clause (g), and (ii) based on the outstanding principal amount of the
1482 Indebtedness that is the subject of the Support Obligations in the case of Support Obligations
1483 under clause (h). The amount of Indebtedness of any Person for purposes of clause (d) (unless
1484 such Indebtedness has been assumed by such Person or is otherwise recourse to such Person)
1485 shall be deemed to be equal to the lesser of (i) the aggregate unpaid amount of such Indebtedness
1486 and (ii) the fair market value of the property encumbered thereby.

1487 **“Indemnified Taxes”** means (a) Taxes, other than Excluded Taxes, imposed on or with
1488 respect to any payment made by or on account of any obligation of the Borrower under any
1489 Credit Document and (b) to the extent not otherwise described in clause (a), Other Taxes.

1490 **“Indemnitee”** has the meaning provided in Section 11.04(b).

1491 **“Information”** has the meaning provided in Section 11.07.

1492 **“Initial Revolving Credit Commitments”** means the Revolving Credit Commitments of
1493 the Revolving Credit Lenders on the Closing Date pursuant to Section 2.01(b).

1494 **“Initial Term Loans”** means the Term Loans made by the Term Lenders to the Borrower
1495 on the Closing Date pursuant to Section 2.01(a).

1496 **“Intellectual Property Security Agreements”** means the Intellectual Property Security
1497 Agreements as such term is defined in the Security Agreement.

1498 **“Intercompany Note”** means a promissory note substantially in the form of Exhibit
1499 1.01-3.

1500 **“Interest Payment Date”** means, (a) as to any Base Rate Loan (including Swingline
1501 Loans), the last Business Day of each March, June, September and December, and the Revolving
1502 Termination Date (in the case of Revolving Credit Loans) or the applicable Maturity Date (in the
1503 case of Term Loans) and, in the case of any Swingline Loan, any other dates as may be mutually
1504 agreed upon by the Borrower and the Swingline Lender, and (b) as to any Eurocurrency Rate
1505 Loan, the last Business Day of each Interest Period for such Loan, the date of repayment of
1506 principal of such Loan, and the Revolving Termination Date (in the case of Revolving Credit
1507 Loans) or the applicable Maturity Date (in the case of Term Loans), and in addition, where the
1508 applicable Interest Period exceeds three months, the date every three months after the beginning
1509 of such Interest Period. If an Interest Payment Date falls on a date that is not a Business Day,
1510 such Interest Payment Date shall be deemed to be the next succeeding Business Day.

1511 **“Interest Period”** means, as to each Eurocurrency Rate Loan, the period commencing on
1512 the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a
1513 Eurocurrency Rate Loan and ending on the date one, two, three or six months thereafter, as
1514 selected by the Borrower in the applicable Loan Notice or, in the case of Eurocurrency Rate
1515 Loans, a period that is twelve months or less if requested by the Borrower and consented to by
1516 all of the Appropriate Lenders; *provided that*:

1517 (a) any Interest Period that would otherwise end on a day that is not a
1518 Business Day shall be extended to the next succeeding Business Day unless such
1519 Business Day falls in another calendar month, in which case such Interest Period shall
1520 end on the next preceding Business Day;

1521 (b) any Interest Period that begins on the last Business Day of a calendar
1522 month (or on a day for which there is no numerically corresponding day in the calendar
1523 month at the end of such Interest Period) shall end on the last Business Day of the
1524 calendar month at the end of such Interest Period; and

1525 (c) no Interest Period with respect to (i) any Revolving Credit Loan shall
1526 extend beyond the Revolving Termination Date or (ii) any Term Loans shall extend
1527 beyond the applicable Maturity Date.

1528 **“Internal Revenue Code”** means the Internal Revenue Code of 1986, as amended.

1529 **“Investment”** means, as to any Person, any direct or indirect acquisition or investment by
1530 such Person, whether by means of (a) the purchase or other acquisition of Capital Stock of
1531 another Person, (b) a loan, advance or capital contribution to, guaranty or assumption of debt of,
1532 or purchase or other acquisition of any other debt or equity participation or interest in, another
1533 Person, including any partnership or joint venture interest in such other Person (excluding, in the
1534 case of the Borrower and its Restricted Subsidiaries, intercompany loans, advances or
1535 Indebtedness having a term not exceeding 364 days (inclusive of any roll over or extensions of
1536 terms) and made in the ordinary course of business) and any arrangement pursuant to which the
1537 investor undertakes any Support Obligation with respect to Indebtedness or other obligation of
1538 such other Person, or (c) the purchase or other acquisition (in one transaction or a series of
1539 transactions) of assets of another Person that constitute a business unit, a line of business or
1540 division of such Person. For purposes of covenant compliance, the amount of any Investment
1541 shall be the amount actually invested, without adjustment for subsequent increases or decreases
1542 in the value of such Investment, but in any event reduced by any dividend, distribution, interest
1543 payment, return of capital, repayment or other amount received in cash by the Borrower or a
1544 Restricted Subsidiary in respect of, but in no event exceeding the original amount of, such
1545 Investment.

1546 For purposes of the definition of “Unrestricted Subsidiary” and the covenants described
1547 under Sections 7.14 and 8.02:

1548 (1) “Investments” shall include the portion (proportionate to the Borrower’s
1549 Capital Stock in such Subsidiary) of the fair market value of the net assets of a Subsidiary
1550 of the Borrower at the time that such Subsidiary is designated an Unrestricted Subsidiary;
1551 *provided* that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the
1552 Borrower shall be deemed to continue to have a permanent “Investment” in an
1553 Unrestricted Subsidiary in an amount (if positive) equal to:

1554 (a) the Borrower’s “Investment” in such Subsidiary at the time of such
1555 redesignation; less

1556 (b) the portion (proportionate to the Borrower's Capital Stock in such
1557 Subsidiary) of the fair market value of the net assets of such Subsidiary at the
1558 time of such redesignation; and

1559 (2) any property transferred to or from an Unrestricted Subsidiary shall be
1560 valued at its fair market value at the time of such transfer.

1561 **"Involuntary Disposition"** means the receipt by the Borrower or any Restricted
1562 Subsidiary of any cash insurance proceeds or condemnation awards payable by reason of theft,
1563 loss, physical destruction or damage, taking or similar event with respect to any of its Property.

1564 **"IP Rights"** has the meaning provided in Section 6.19.

1565 **"IRS"** means the United States Internal Revenue Service.

1566 **"ISP"** means, with respect to any Letter of Credit, the "International Standby Practices
1567 1998" published by the Institute of International Banking Law & Practice (or such later version
1568 thereof as may be in effect at the time of issuance of such Letter of Credit).

1569 **"Issuer Documents"** means, with respect to any Letter of Credit, the L/C Application
1570 and any other document, agreement or instrument (including such Letter of Credit) entered into
1571 by the Borrower (or any other Credit Party) and the L/C Issuer (or in favor of the L/C Issuer),
1572 relating to such Letter of Credit.

1573 **"Joinder Agreement"** means with respect to any Guarantor, a joinder agreement
1574 substantially in the form of Exhibit 7.12 executed and delivered in accordance with the
1575 provisions of Section 7.12.

1576 **"Judgment Currency"** has the meaning specified in Section 11.21.

1577

1578 **"Junior Debt"** has the meaning provided in Section 8.12.

1579 **"Latest Maturity Date"** means at any time, the latest maturity or expiration date
1580 applicable to any Loan or Commitment (or, if so specified, applicable to the specified Loans or
1581 Commitments or the Class thereof) hereunder at such time.

1582 **"Laws"** means, collectively, all international, foreign, federal, state and local statutes,
1583 treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial
1584 precedents or authorities, including the interpretation or administration thereof by any
1585 Governmental Authority charged with the enforcement, interpretation or administration thereof,
1586 and all applicable administrative orders, directed duties, licenses, authorizations and permits of,
1587 and agreements with, any Governmental Authority.

1588 **"L/C Advance"** means, with respect to each Revolving Credit Lender, such Revolving
1589 Credit Lender's funding of its participation in any L/C Borrowing.

1590 **"L/C Application"** means an application and agreement for the issuance or amendment
1591 of a Letter of Credit in the form from time to time in use by the L/C Issuer.

1592 **“L/C Borrowing”** means any extension of credit resulting from a drawing under any
1593 Letter of Credit that has not been reimbursed or refinanced as a Borrowing of Revolving Credit
1594 Loans.

1595 **“L/C Credit Extension”** means, with respect to any Letter of Credit, the issuance thereof
1596 or extension of the expiry date thereof, or the increase of the amount thereof.

1597 **“L/C Expiration Date”** means the day that is five Business Days prior to the Revolving
1598 Termination Date then in effect (or, if such day is not a Business Day, the immediately preceding
1599 Business Day).

1600 **“L/C Honor Date”** has the meaning provided in Section 2.03(c)(i).

1601 **“L/C Issuer”** means (a) as to Existing Letters of Credit, KeyBank National Association
1602 and (b) Bank of America, through itself or through one of its designated Affiliates or branch
1603 offices, in its capacity as issuer of Letters of Credit hereunder, together with its successors in
1604 such capacity. For the avoidance of doubt, KeyBank National Association will be the L/C Issuer
1605 only with respect to the Existing Letters of Credit referred to in the prior sentence.

1606 **“L/C Obligations”** means, at any time, the sum of (a) the maximum amount available to
1607 be drawn under Letters of Credit then outstanding, assuming compliance with all requirements
1608 for drawings referenced therein, *plus* (b) the aggregate amount of all L/C Unreimbursed
1609 Amounts, including L/C Borrowings. For purposes of computing the amount available to be
1610 drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in
1611 accordance with Section 1.06. For all purposes of this Credit Agreement, if on any date of
1612 determination a Letter of Credit has expired by its terms but any amount may still be drawn
1613 thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be
1614 deemed to be “outstanding” in the amount so remaining available to be drawn.

1615 **“L/C Submit”** has the meaning provided in Section 2.01(c).

1616 **“L/C Unreimbursed Amount”** has the meaning provided in Section 2.03(c)(i).

1617 **“LCT Election”** has the meaning provided in Section 1.07(e).

1618 **“LCT Test Date”** has the meaning provided in Section 1.07(e).

1619 **“Lender”** means each of the Persons identified as a “**Lender**” on the signature pages
1620 hereto (and, as appropriate, includes the Swingline Lender), each other Person that becomes a
1621 “**Lender**” in accordance with this Credit Agreement and their respective successors and assigns.

1622 **“Lending Office”** means, as to any Lender, the office or offices of such Lender set forth
1623 in such Lender’s Administrative Questionnaire or such other office or offices as a Lender may
1624 from time to time notify the Borrower and the Administrative Agent.

1625 **“Letter of Credit”** means each Existing Letter of Credit and each letter of credit issued
1626 hereunder. A Letter of Credit may be a commercial letter of credit or a standby letter of credit.
1627 Letters of Credit may be issued in Dollars or in any Alternative Currency.

1628 **“Letter of Credit Fees”** has the meaning provided in Section 2.09(b)(i).

1629 **“LIBOR”** has the meaning provided in the definition of “Eurocurrency Rate.”

1630 **“Lien”** means any mortgage, pledge, hypothecation, assignment, deposit arrangement,
1631 encumbrance, lien (statutory or other), charge, priority or other security interest in the nature of a
1632 security interest of any kind or nature whatsoever (including any conditional sale or other title
1633 retention agreement, any easement, right of way or other encumbrance on title to real property
1634 and any Capitalized Lease having substantially the same economic effect as any of the
1635 foregoing); *provided* that in no event shall an operating lease in and of itself be deemed a Lien.

1636 **“Limited Condition Transaction”** means any acquisition permitted by Section 8.02 the
1637 consummation of which is not conditioned on the availability of, or on obtaining, third party
1638 financing.

1639 **“Liquidity”** means, as of any date of determination, an amount equal to the sum of (a)
1640 amounts available at such time to be drawn under the Revolving Credit Commitments and (b) the
1641 amount of cash and Cash Equivalents of the Borrower and its Restricted Subsidiaries on a
1642 consolidated basis.

1643 **“Loan”** means any Term Loan, Revolving Credit Loan or Swingline Loan, and Base Rate
1644 Loans and Eurocurrency Rate Loans comprising such Loans.

1645 **“Loan Notice”** means a notice of (a) a Term Borrowing, (b) a Revolving Credit
1646 Borrowing, (c) a Swingline Borrowing, (d) a conversion of Loans from one Type to the other, or
1647 (e) a continuation of Eurocurrency Rate Loans, which, if in writing, shall be substantially in the
1648 form of Exhibit 2.02 or such other form as may be approved by the Administrative Agent
1649 (including any form on an electronic platform or electronic transmission system as shall be
1650 approved by the Administrative Agent), appropriately completed and signed by a Responsible
1651 Officer of the Borrower.

1652 **“Loan Obligations”** has the meaning provided in the definition of “Obligations.”

1653 **“Mandatory Prepayment Declined Proceeds”** has the meaning provided in Section
1654 2.06(b)(ii)(F).

1655 **“Mandatory Prepayment Rejection Notice”** has the meaning provided in Section
1656 2.06(b)(ii)(F).

1657 **“Material Adverse Effect”** means (a) a material adverse change in, or a material adverse
1658 effect upon, the operations, business, assets, properties, liabilities (actual or contingent) or
1659 financial condition of the Borrower and its Restricted Subsidiaries, taken as a whole; (b) a
1660 material adverse effect of the ability of the Credit Parties, as a whole, to perform their payment
1661 obligations under the Credit Documents; or (c) a material adverse effect upon the rights and
1662 remedies available to the Lenders or the Administrative Agent under any Credit Document.

1663 **“Material Domestic Subsidiary”** means, at any date of determination, each of the
1664 Borrower’s Domestic Subsidiaries (a) whose total assets (when combined with the assets of such

1665 Subsidiary's Subsidiaries after eliminating intercompany obligations) at the last day of the most
1666 recent Test Period were equal to or greater than 2.5% of Total Assets at such date or (b) whose
1667 gross revenues (when combined with the revenues of such Subsidiary's Subsidiaries after
1668 eliminating intercompany obligations) for such Test Period were equal to or greater than 2.5% of
1669 the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period,
1670 in each case determined in accordance with GAAP; *provided* that if, at any time and from time to
1671 time after the Closing Date, Domestic Subsidiaries that are not Guarantors solely because they
1672 do not meet the thresholds set forth in clauses (a) or (b) comprise in the aggregate more than 5.0%
1673 of Total Assets as of the end of the most recently ended fiscal quarter of the Borrower for which
1674 financial statements have been delivered pursuant to Section 7.01 or more than 5.0% of the
1675 consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such Test Period,
1676 then the Borrower shall, not later than forty-five (45) days after the date by which financial
1677 statements for such quarter are required to be delivered pursuant to this Agreement (or such
1678 longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate
1679 in writing to the Administrative Agent one or more of such Domestic Subsidiaries as "Material
1680 Domestic Subsidiaries" to the extent required such that the foregoing condition ceases to be true
1681 and (ii) comply with the provisions of Section 7.12 applicable to such Subsidiary.

1682 "Material Foreign Subsidiary" means, at any date of determination, each of the
1683 Borrower's Foreign Subsidiaries (a) whose total assets (when combined with the assets of such
1684 Subsidiary's Subsidiaries after eliminating intercompany obligations) at the last day of the most
1685 recent Test Period were equal to or greater than 2.5% of Total Assets at such date or (b) whose
1686 gross revenues (when combined with the revenues of such Subsidiary's Subsidiaries after
1687 eliminating intercompany obligations) for such Test Period were equal to or greater than 2.5% of
1688 the consolidated gross revenues of the Borrower and the Restricted Subsidiaries for such period,
1689 in each case determined in accordance with GAAP; *provided* that if, at any time and from time to
1690 time after the Closing Date, Foreign Subsidiaries not meeting the thresholds set forth in clauses
1691 (a) or (b) comprise in the aggregate more than 5.0% of Total Assets as of the end of the most
1692 recently ended fiscal quarter of the Borrower for which financial statements have been delivered
1693 pursuant to Section 7.01 or more than 5.0% of the consolidated gross revenues of the Borrower
1694 and the Restricted Subsidiaries for such Test Period, then the Borrower shall, not later than forty-
1695 five (45) days after the date by which financial statements for such quarter are required to be
1696 delivered pursuant to this Agreement (or such longer period as the Administrative Agent may
1697 agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or
1698 more of such Foreign Subsidiaries as "Material Foreign Subsidiaries" to the extent required such
1699 that the foregoing condition ceases to be true and (ii) comply with the provisions of the definition
1700 of "Collateral and Guarantee Requirement."

1701 "Material Subsidiary" means any Material Domestic Subsidiary or any Material Foreign
1702 Subsidiary.

1703 "Maturity Date" means the date that is five years following the Closing Date; *provided*
1704 that if such date is not a Business Day, the Maturity Date shall be the immediately preceding
1705 Business Day.

1706 "Maximum Rate" has the meaning provided in Section 11.09.

1707 “**Microsemi Acquisition**” has the meaning provided in the preliminary statements hereto.

1708 “**MLPF&S**” means Merrill Lynch, Pierce, Fenner & Smith Incorporated, together with
1709 its successors.

1710 “**Moody’s**” means Moody’s Investors Service, Inc. and any successor thereto.

1711 “**Mortgage Policies**” has the meaning provided in the definition of Real Estate Collateral
1712 Requirements.

1713 “**Mortgaged Properties**” means each Specified Real Property.

1714 “**Mortgages**” means the mortgages, deeds of trust, deeds to secure debt and other similar
1715 security documents delivered pursuant to the Collateral and Guarantee Requirement or otherwise,
1716 each in such form as reasonably agreed between the Borrower and the Administrative Agent,
1717 including all changes as may be required to account for local Law matters, as the same may be
1718 amended, amended and restated, supplemented or otherwise modified from time to time.

1719 “**Multiemployer Plan**” means a “multiemployer plan” within the meaning of
1720 Section 4001(a)(3) of ERISA and subject to ERISA, to which a Credit Party or any ERISA
1721 Affiliate makes or is obligated to make contributions, or during the preceding six plan years, has
1722 made or been obligated to make contributions.

1723 “**Net Cash Proceeds**” means:

1724 (a) with respect to any Disposition or Involuntary Disposition, the aggregate
1725 proceeds paid in cash or Cash Equivalents received by the Borrower or any Restricted
1726 Subsidiary in connection with any Disposition or Involuntary Disposition, net of (i) direct
1727 costs (including legal, accounting and investment banking fees, sales commissions and
1728 underwriting discounts, consultant fees, and other customary fees and expenses incurred
1729 in connection therewith), (ii) estimated taxes paid or payable as a result thereof, (iii)
1730 amounts required to be applied to the repayment of Indebtedness (other than the
1731 Indebtedness hereunder, Incremental Equivalent Debt and Refinancing Equivalent Debt)
1732 secured by a Lien on the asset or assets the subject of such Disposition or Involuntary
1733 Disposition (or, in the case of Net Cash Proceeds of any Foreign Disposition, amounts
1734 applied during such period to the permanent repayment of any Indebtedness of the
1735 Foreign Subsidiaries to the extent required by the terms of such Indebtedness), (iv) in the
1736 case of any Disposition or Involuntary Disposition by a non-wholly owned Restricted
1737 Subsidiary, the pro rata portion of the Net Cash Proceeds thereof (calculated without
1738 regard to this clause (iv)) attributable to minority interests and not available for
1739 distribution to or for the account of the Borrower or a wholly-owned Restricted
1740 Subsidiary as a result thereof and (v) the amount of any reserve established in accordance
1741 with GAAP against any adjustment to the sale price or any liabilities (other than any
1742 taxes deducted pursuant to clause (ii) above) (x) related to any of the applicable assets
1743 and (y) retained by the Borrower or any of the Restricted Subsidiaries including pension
1744 and other post-employment benefit liabilities and liabilities related to environmental
1745 matters or against any indemnification obligations (*provided, however*, the amount of any
1746 subsequent reduction of such reserve or reversal (other than in connection with a payment

1747 in respect of any such liability) shall be deemed to be Net Cash Proceeds of such
1748 Disposition or Involuntary Disposition occurring on the date of such reduction or
1749 reversal); *provided, further*, that no proceeds realized in a single transaction or series of
1750 related transactions shall constitute Net Cash Proceeds unless (x) such proceeds shall
1751 exceed \$7,500,000 or (y) the aggregate net proceeds exceed \$15,000,000 in any fiscal
1752 year (and thereafter only net cash proceeds in excess of such amount shall constitute Net
1753 Cash Proceeds under this clause (a)); and

1754 (b) with respect to any incurrence or issuance of Indebtedness, the aggregate
1755 principal amount actually received in cash by the Borrower or any Restricted Subsidiary
1756 in connection therewith, net of direct costs (including legal, accounting and investment
1757 banking fees, sales commissions and underwriting discounts). For purposes hereof, "Net
1758 Cash Proceeds" includes any cash or Cash Equivalents received upon the disposition of
1759 any non-cash consideration received by the Borrower or any Restricted Subsidiary in any
1760 Disposition or Involuntary Disposition.

1761 "NFIP" has the meaning provided in the definition of Real Estate Collateral
1762 Requirements.

1763 "Non-Consenting Lender" has the meaning provided in Section 11.13.

1764 "Notes" means the Term Notes, the Revolving Credit Notes and the Swingline Notes.

1765 "Obligations" means, without duplication, (a) all advances to, and debts, liabilities,
1766 obligations, covenants and duties of, any Credit Party arising under any Credit Document or
1767 otherwise with respect to any Loan or Letter of Credit, whether direct or indirect (including those
1768 acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter
1769 arising and including interest and fees that accrue after the commencement by or against any
1770 Credit Party of any proceeding under any Debtor Relief Laws naming such Person as the debtor
1771 in such proceeding, regardless of whether such interest and fees are allowed claims in such
1772 proceeding (the "Loan Obligations"), (b) all obligations under any Swap Contract between the
1773 Borrower or any Restricted Subsidiary, on the one hand, and any Agent, Lender or Affiliate of an
1774 Agent or Lender or any Person that was an Agent, a Lender or an Affiliate of an Agent or Lender
1775 on the date such transaction was entered into, on the other hand, to the extent such Swap
1776 Contract is permitted hereunder, including the Swap Obligations between such parties but
1777 excluding the Excluded Swap Obligations (the "Swap Contract Obligations") and (c) all
1778 obligations under any Treasury Management Agreement between the Borrower or any Restricted
1779 Subsidiary, on the one hand, and any Agent, Lender or Affiliate of an Agent or Lender or any
1780 Person that was an Agent, a Lender or an Affiliate of an Agent or Lender on the date such
1781 transaction was entered into, on the other hand (the "Treasury Management Obligations").

1782 "OID" means original issue discount.

1783 "Organization Documents" means, (a) with respect to any corporation, the certificate or
1784 articles of incorporation and the bylaws (or equivalent or comparable constitutive documents
1785 with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the
1786 certificate or articles of formation or organization and the operating agreement; and (c) with

1787 respect to any partnership, joint venture, trust or other form of business entity, the partnership,
1788 joint venture or other applicable agreement of formation or organization and any agreement,
1789 instrument, filing or notice with respect thereto filed in connection with its formation or
1790 organization with the applicable Governmental Authority in the jurisdiction of its formation or
1791 organization and, if applicable, any certificate or articles of formation or organization of such
1792 entity.

1793 **“Other Taxes”** means all present or future stamp, court, documentary, intangible,
1794 recording, filing or similar Taxes arising from any payment made hereunder or under any other
1795 Credit Document or from the execution, delivery or enforcement of, or otherwise with respect to,
1796 this Credit Agreement or any other Credit Document, except any such Taxes imposed by a
1797 jurisdiction with which the Lender has a connection described in clause (a)(ii) of the definition of
1798 Excluded Taxes with respect to an assignment or grant of participation (other than assignment or
1799 designation of a new office made pursuant to Section 3.06 or Section 11.13).

1800 **“Outstanding Amount”** means (i) with respect to any Loans on any date, the aggregate
1801 outstanding principal amount thereof after giving effect to any borrowings and prepayments or
1802 repayments of such Loans occurring on such date; and (ii) with respect to any L/C Obligations
1803 on any date, the Dollar Equivalent of the aggregate outstanding amount of such L/C Obligations
1804 on such date after giving effect to any L/C Credit Extension occurring on such date and any other
1805 changes in the aggregate amount of the L/C Obligations as of such date, including as a result of
1806 any reimbursements by the Borrower of L/C Unreimbursed Amounts.

1807 **“Overnight Rate”** means, for any day, (a) with respect to any amount denominated in
1808 Dollars, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the
1809 Administrative Agent, the L/C Issuer, or the Swingline Lender, as the case may be, in
1810 accordance with banking industry rules on interbank compensation, and (b) with respect to any
1811 amount denominated in an Alternative Currency, an overnight rate determined by the L/C Issuer,
1812 as the case may be, in accordance with banking industry rules on interbank compensation.

1813 **“Participant”** has the meaning provided in Section 11.06(d).

1814 **“Participant Register”** has the meaning provided in Section 11.06(e).

1815 **“Participating Member State”** means any member state of the European Union that
1816 adopts or has adopted the Euro as its lawful currency in accordance with legislation of the
1817 European Union relating to Economic and Monetary Union.

1818
1819 **“Payment Conditions”** means, at any time of determination, calculated on a Pro Forma
1820 Basis giving effect to the transactions for which Payment Conditions need to be satisfied (and
1821 including any transactions contemplated in connection therewith), (i) the Consolidated Total Net
1822 Leverage Ratio does not exceed 2.50:1.00, (ii) the Borrower has minimum pro forma Liquidity
1823 of at least \$25,000,000 and (iii) no Event of Default has occurred and is continuing or would
1824 result from such transactions.

1825 **“PBGC”** means the Pension Benefit Guaranty Corporation.

1826 **“Pension Plan”** means any “employee pension benefit plan” (as such term is defined in
1827 Section 3(2) of ERISA), other than a Multiemployer Plan, that is subject to Title IV of ERISA
1828 and is sponsored or maintained by a Credit Party or any ERISA Affiliate or to which a Credit
1829 Party or any ERISA Affiliate contributes or has an obligation to contribute, or in the case of a
1830 multiple employer or other plan described in Section 4064(a) of ERISA, has made contributions
1831 at any time during the immediately preceding five plan years.

1832 **“Perfection Certificate”** means the perfection certificate substantially in the form of
1833 Exhibit 1.01-1.

1834 **“Permitted Acquisition”** means any Investment of the type described in Section 8.02(f).

1835 **“Permitted Liens”** means Liens permitted pursuant to Section 8.01

1836 **“Permitted Refinancing”** means, with respect to any Person, any modification,
1837 refinancing, refunding, renewal or extension of any Indebtedness of such Person; *provided that* (i)
1838 the principal amount (or accreted value, if applicable) thereof does not exceed the principal
1839 amount (or accreted value, if applicable) of the Indebtedness so modified, refinanced, refunded,
1840 renewed or extended except by an amount equal to any interest capitalized, any premium or other
1841 reasonable amount paid, and fees and expenses reasonably incurred, in connection with such
1842 modification, refinancing, refunding, renewal or extension; (ii) such modification, refinancing,
1843 refunding, renewal or extension has a final maturity date equal to or later than the final maturity
1844 date of, and has a weighted average life to maturity equal to or longer than the weighted average
1845 life to maturity of, the Indebtedness being modified, refinanced, refunded, renewed or extended;
1846 (iii) if the Indebtedness being modified, refinanced, refunded, renewed or extended is
1847 subordinated in right of payment to the Obligations, such modification, refinancing, refunding,
1848 renewal or extension is subordinated in right of payment to the Obligations on terms at least as
1849 favorable, taken as a whole, to the Lenders as those contained in the documentation governing
1850 the Indebtedness being modified, refinanced, refunded, renewed or extended; (iv) at the time of
1851 such modification, refinancing, refunding, renewal or extension, no Event of Default shall have
1852 occurred and be continuing; (v) if such Indebtedness being modified, refinanced, refunded,
1853 renewed or extended is secured, the terms and conditions relating to collateral of any such
1854 modified, refinanced, refunded, renewed or extended Indebtedness, taken as a whole, are not
1855 materially less favorable to the Credit Parties or the Lenders than the terms and conditions with
1856 respect to the collateral for the Indebtedness being modified, refinanced, refunded, renewed or
1857 extended, taken as a whole (and the Liens on any Collateral securing any such modified,
1858 refinanced, refunded, renewed or extended Indebtedness shall have the same (or lesser) priority
1859 as the Indebtedness being modified, refinanced, refunded, renewed or extended relative to the
1860 Liens on the Collateral securing the Obligations; (vi) the terms and conditions (excluding any
1861 subordination, pricing, fees, rate floors, discounts, premiums and optional prepayment or
1862 redemption terms) of any such modified, refinanced, refunded, renewed or extended
1863 Indebtedness, taken as a whole, shall not be materially less favorable to the Credit Parties than
1864 the Indebtedness being modified, refinanced, refunded, renewed or extended, except for
1865 covenants or other provisions applicable only to periods after the Latest Maturity Date; and (vii)
1866 such modification, refinancing, refunding, renewal or extension is incurred by the Person who is
1867 the obligor on the Indebtedness being modified, refinanced, refunded, renewed or extended. Any
1868 reference to a Permitted Refinancing in this Agreement or any other Credit Document shall be

1869 interpreted to mean (a) a Permitted Refinancing of the subject Indebtedness and (b) any further
1870 refinancing constituting a Permitted Refinancing of the Indebtedness resulting from a prior
1871 Permitted Refinancing.

1872 **“Person”** means any natural person, corporation, limited liability company, trust, joint
1873 venture, association, company, partnership, Governmental Authority or other entity.

1874 **“Plan”** means any “employee benefit plan” (as such term is defined in Section 3(3) of
1875 ERISA), including any Pension Plan (but excluding any Multiemployer Plan), that is subject to
1876 ERISA and that is maintained or sponsored by a Credit Party or, with respect to any such plan
1877 that is subject to Section 412 of the Internal Revenue Code or Title IV of ERISA, is maintained
1878 or sponsored by any ERISA Affiliate.

1879 **“Platform”** has the meaning provided in Section 7.02.

1880 **“Pre-Closing Equity Offering”** means the public offering and sale by the Borrower of
1881 Capital Stock consummated on April 13, 2016.

1882 **“Prime Rate”** means the rate of interest in effect for such day as publicly announced
1883 from time to time by Bank of America as its “prime rate.” The “prime rate” is a rate set by Bank
1884 of America based upon various factors including Bank of America’s costs and desired return,
1885 general economic conditions and other factors, and is used as a reference point for pricing some
1886 loans, which may be priced at, above, or below such announced rate. Any change in the “prime
1887 rate” announced by Bank of America shall take effect at the opening of business on the day
1888 specified in the public announcement of such change.

1889 **“Pro Forma Basis,” “pro forma basis,” “Pro Forma Effect” and “pro forma effect”**
1890 means, for purposes of calculating compliance with the Financial Covenants or any other
1891 financial ratio or tests (including in connection with Specified Transactions), such calculation
1892 shall be made in accordance with Section 1.07.

1893 **“Pro Forma Financial Statements”** means the pro forma balance sheet and related pro
1894 forma statement of income of the Borrower and its Subsidiaries (including the Target) as of and
1895 for the twelve-month period ending on the last day of the most recently completed four-fiscal
1896 quarter period of the Borrower ended at least 45 days prior to the Closing Date, prepared after
1897 giving effect to the Transactions as if the Transactions had occurred as of such date (in the case
1898 of such balance sheet) or at the beginning of such period (in the case of the statement of income).

1899 **“Projections”** has the meaning provided in Section 7.02(b).

1900 **“Property”** means an interest of any kind in any property or asset, whether real, personal
1901 or mixed, and whether tangible or intangible.

1902 **“Public Lender”** has the meaning provided in Section 7.02.

1903 **“Qualified ECP Guarantor”** means, in respect of any Swap Obligation, the Borrower
1904 and each Guarantor that has total assets exceeding \$10,000,000 at the time the relevant guaranty
1905 or grant of the relevant security interest becomes effective with respect to such Swap Obligation

1906 or such other person as constitutes an “eligible contract participant” under the Commodity
1907 Exchange Act or any regulations promulgated thereunder and can cause another person to
1908 qualify as an “eligible contract participant” at such time by entering into a keepwell under
1909 Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

1910 “**Qualified Stock**” means any Capital Stock that is not Disqualified Stock.

1911 “**Quarterly Financial Statements**” has the meaning specified in the definition of
1912 Historical Financial Statements.

1913 “**Ratio Debt**” has the meaning provided in Section 8.03(g).

1914 “**Real Estate Collateral Requirements**” means the requirements that the Borrower shall,
1915 and shall cause each other Credit Party to, deliver to the Administrative Agent:

1916 (a) a Mortgage with respect to each Mortgaged Property together with
1917 evidence such Mortgage has been duly executed, acknowledged and delivered by a duly
1918 authorized officer of the applicable Credit Party thereto on or before such date and is in
1919 form suitable for filing and recording in all filing or recording offices that the
1920 Administrative Agent may deem necessary in order to create a valid and subsisting
1921 perfected Lien, excepting only Permitted Liens, on the property described therein in favor
1922 of the Administrative Agent and that all filing and recording taxes and fees have been
1923 paid or otherwise provided for in a manner reasonably satisfactory to the Administrative
1924 Agent (notwithstanding any provision in this Credit Agreement to the contrary, if a
1925 mortgage tax would otherwise be owed on the entire amount of the indebtedness
1926 evidenced thereby, then the amount secured by the Mortgage shall be limited to the fair
1927 market value of the Mortgaged Property at the time the Mortgage is entered into if such
1928 limitation results in such mortgage tax being calculated based upon such fair market
1929 value);

1930 (b) fully paid American Land Title Association Lender’s title insurance
1931 policies (the “**Mortgage Policies**”), in form and substance and in amounts reasonably
1932 acceptable to the Administrative Agent, with endorsements to be agreed upon by the
1933 Administrative Agent and the Borrower, and coinsurance or direct access reinsurance
1934 (only to the extent required by the Title Agent), issued, coinsured or reinsured by First
1935 American Title Insurance Company, Chicago Title Insurance Company or another title
1936 insurer reasonably acceptable to the Administrative Agent (the “**Title Agent**”) but only to
1937 the extent such endorsements are (i) available in the relevant jurisdiction and (ii)
1938 available at commercially reasonable rates, insuring the Mortgages for the Mortgaged
1939 Property to be valid and subsisting perfected Liens on the property described therein, free
1940 and clear of all Liens, excepting only Permitted Liens;

1941 (c) a zoning report in lieu of a zoning endorsement with respect to each of the
1942 Mortgaged Properties.

1943 (d) An ALTA survey in a form and substance reasonably acceptable to the
1944 Administrative Agent or such existing survey together with a no-change affidavit
1945 sufficient for the Title Agent to remove all standard survey exceptions from the Mortgage

1946 Policy related to such Mortgaged Property and issue the endorsements required in (b)
1947 above.

1948 (e) the Administrative Agent shall have received the following documents
1949 (collectively, the "**Flood Documents**"): (i) a completed standard "life of loan" flood
1950 hazard determination form (a "**Flood Determination Form**"), (ii) if the improvement(s)
1951 to the applicable improved Mortgaged Property is located in a special flood hazard area, a
1952 notification to the Borrower ("**Borrower Notice**") and (if applicable) notification to the
1953 Borrower that flood insurance coverage under the National Flood Insurance Program
1954 ("**NFIP**") is not available because the community does not participate in the NFIP, (iii)
1955 documentation evidencing the Borrower's receipt of the Borrower Notice (*e.g.*, a
1956 countersigned Borrower Notice, return receipt of certified U.S. Mail, or overnight
1957 delivery), and (iv) if the Borrower Notice is required to be given and flood insurance is
1958 available in the community in which the property is located, a copy of one of the
1959 following: the flood insurance policy, the applicable Credit Party's application for a
1960 flood insurance policy plus proof of premium payment, a declaration page confirming
1961 that flood insurance has been issued, or such other evidence of flood insurance as
1962 required by the applicable Flood Laws and otherwise reasonably satisfactory to the
1963 Administrative Agent (any of the foregoing being "**Evidence of Flood Insurance**");

1964 (f) favorable customary opinions of local counsel to the Credit Parties in
1965 states in which the Mortgaged Property is located, with respect to the power and authority
1966 of the applicable Credit Parties to execute the Mortgages, the due execution and delivery
1967 of the Mortgages, enforceability and perfection of the Mortgages and any related fixture
1968 filings, in form and substance reasonably satisfactory to the Administrative Agent;

1969 (g) if requested by the Administrative Agent and required to comply with the
1970 Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, as
1971 amended, an appraisal of each of the properties described in the Mortgages;

1972 (h) evidence that all other actions or documents reasonably requested by the
1973 Administrative Agent, that are necessary in order to create valid and subsisting Liens on
1974 the property described in the Mortgage for the applicable Mortgaged Property, have been
1975 taken or delivered, as applicable; and

1976 (i) evidence that all reasonable and documented fees, costs and expenses have
1977 been paid in connection with the preparation, execution, filing and recordation of the
1978 Mortgages for the Mortgaged Properties, including reasonable and documented attorneys'
1979 fees, filing and recording fees, title insurance company coordination fees, documentary
1980 stamp, mortgage and intangible taxes and title search charges and other charges incurred
1981 in connection with the recordation of the Mortgages and the other matters discussed in
1982 the definition of Real Estate Collateral Requirements.

1983 "**Refinanced Debt**" has the meaning provided in Section 2.20(a).

1984 "**Refinancing**" has the meaning provided in Section 5.01(l).

1985 "**Refinancing Amendment**" has the meaning provided in Section 2.20(d).

- 1986 **“Refinancing Commitments”** means, collectively, the Refinancing Revolving
1987 Commitments and the Refinancing Term Commitments.
- 1988 **“Refinancing Equivalent Debt”** has the meaning provided in Section 8.03(r).
- 1989 **“Refinancing Facilities”** means (a) with respect to any Class of Revolving Credit
1990 Commitments or Revolving Credit Loans, Refinancing Revolving Commitments or Refinancing
1991 Revolving Loans and (b) with respect to any Class of Term Loans, Refinancing Term Loans.
- 1992 **“Refinancing Facility Closing Date”** has the meaning provided in Section 2.20(c).
- 1993 **“Refinancing Lender”** means a Refinancing Revolving Lender or a Refinancing Term
1994 Lender, as applicable.
- 1995 **“Refinancing Loans”** has the meaning provided in Section 2.20(b).
- 1996 **“Refinancing Revolving Commitments”** means one or more new Classes of Revolving
1997 Credit Commitments established pursuant to a Refinancing Amendment in accordance with
1998 Section 2.20.
- 1999 **“Refinancing Revolving Lender”** means any Lender providing a Refinancing Revolving
2000 Loan or a Refinancing Revolving Commitment in accordance with Section 2.20.
- 2001 **“Refinancing Revolving Loan”** has the meaning provided in Section 2.20(b).
- 2002 **“Refinancing Term Commitment”** means the commitment of any Lender to provide
2003 one or more new Classes of Refinancing Term Loans established pursuant to a Refinancing
2004 Amendment in accordance with Section 2.20.
- 2005 **“Refinancing Term Lender”** means any Lender providing a Refinancing Term Loan in
2006 accordance with Section 2.20.
- 2007 **“Refinancing Term Loans”** has the meaning provided in Section 2.20(b).
- 2008 **“Register”** has the meaning provided in Section 11.06(c).
- 2009 **“Related Parties”** means, with respect to any Person, such Person’s Affiliates and the
2010 partners, directors, officers, employees, agents, trustees and advisors of such Person and of such
2011 Person’s Affiliates.
- 2012 **“Release”** means any release, spill, emission, leaking, dumping, injection, pouring,
2013 deposit, disposal, discharge, dispersal, leaching or migration into or through the Environment or
2014 within, from or into any building, structure, facility or fixture.
- 2015 **“Reorganization Plan”** has the meaning set forth in Section 11.06(k).
- 2016 **“Replaced Term Loans”** has the meaning provided in Section 11.01.
- 2017 **“Replacement Term Loans”** has the meaning provided in Section 11.01.

2018 **“Reportable Event”** means any of the events set forth in Section 4043(c) of ERISA,
2019 other than events for which the notice period has been waived under applicable regulations.

2020 **“Request for Credit Extension”** means (a) with respect to a Borrowing of Loans
2021 (including Swingline Loans) or the conversion or continuation of Loans, a Loan Notice and (b)
2022 with respect to an L/C Credit Extension, an L/C Application.

2023 **“Required Facility Lenders”** means (a) with respect to the Term Loan Facility, the
2024 Required Term Lenders and (ii) with respect to the Revolving Credit Facility, the Required
2025 Revolving Credit Lenders.

2026 **“Required Lenders”** means, as of any date of determination, Lenders having more than
2027 50% of the Aggregate Commitments or, if the Commitments shall have expired or been
2028 terminated, Lenders holding more than 50% of the aggregate principal amount of Loan
2029 Obligations (including, in each case, the aggregate principal amount of each Revolving Credit
2030 Lender’s risk participation and funded participation in L/C Obligations and Swingline Loans);
2031 *provided* that the Commitments of, and the portion of the Loan Obligations held by, any
2032 Defaulting Lender shall be excluded for purposes of making a determination of Required
2033 Lenders.

2034 **“Required Revolving Credit Lenders”** means, as of any date of determination,
2035 Revolving Credit Lenders having more than 50% of the Aggregate Revolving Credit
2036 Commitments or, if the Revolving Credit Commitments shall have expired or been terminated,
2037 Revolving Credit Lenders holding more than 50% of the aggregate principal amount of
2038 Revolving Credit Obligations (including, in each case, the aggregate principal amount of each
2039 Revolving Credit Lender’s risk participation and funded participation in L/C Obligations and
2040 Swingline Loans); *provided* that the Revolving Credit Commitments of, and the portion of
2041 Revolving Credit Obligations held by, any Defaulting Lender shall be excluded for purposes of
2042 making a determination of Required Revolving Credit Lenders.

2043 **“Required Term Lenders”** means, as of any date of determination, Term Lenders
2044 holding more than 50% of the Term Loan Facility on such date; *provided* that the portion of the
2045 Term Loan Facility held by any Defaulting Lender shall be excluded for purposes of making a
2046 determination of Required Term Lenders.

2047 **“Resignation Effective Date”** shall have the meaning provided in Section 10.06(a).

2048 **“Responsible Officer”** means an officer functioning as the chief executive officer, chief
2049 operating officer, president, vice president, chief financial officer, chief accounting officer, chief
2050 legal officer, treasurer, assistant treasurer, controller or secretary of a Credit Party or such other
2051 Person as is authorized in writing to act on behalf of such Credit Party or, solely for purposes of
2052 notices given pursuant to Article II, any other officer or employee of the applicable Credit Party
2053 designated in or pursuant to an agreement between the applicable Credit Party and the
2054 Administrative Agent. Any document delivered hereunder that is signed by a Responsible
2055 Officer of a Credit Party shall be conclusively presumed to have been authorized by all necessary
2056 corporate, partnership and/or other action on the part of such Credit Party and such Responsible
2057 Officer shall be conclusively presumed to have acted on behalf of such Credit Party. All

2058 references to a “Responsible Officer” hereunder shall refer to a Responsible Officer of the
2059 Borrower unless the context otherwise requires.

2060 **“Restricted Cash”** means cash and Cash Equivalents which are listed as “Restricted” on
2061 the consolidated balance sheet of the Borrower and its Restricted Subsidiaries.

2062 **“Restricted Payment”** means any dividend or other distribution (whether in cash,
2063 securities or other property) by the Borrower in respect of its Capital Stock, or any payment
2064 (whether in cash, securities or other property) including any sinking fund payment or similar
2065 deposit, for or on account of the purchase, redemption, retirement, defeasance, acquisition,
2066 cancellation or termination of any Capital Stock of the Borrower or its Restricted Subsidiaries or
2067 any option, warrant or other right to acquire any such Capital Stock of the Borrower or its
2068 Restricted Subsidiaries; *provided* that a transaction with an Affiliate shall not be a Restricted
2069 Payment pursuant to this definition solely because such transaction involves such Affiliate.

2070 **“Restricted Subsidiary”** means any Subsidiary of the Borrower other than an
2071 Unrestricted Subsidiary.

2072 **“Revaluation Date”** means with respect to any Letter of Credit, each of the following:
2073 (i) each date of issuance, amendment and/or extension of a Letter of Credit denominated in an
2074 Alternative Currency, (ii) each date of any payment by the L/C Issuer under any Letter of Credit
2075 denominated in an Alternative Currency, (iii) in the case of all Existing Letters of Credit
2076 denominated in Alternative Currencies, the Closing Date, and (iv) such additional dates as the
2077 Administrative Agent or the L/C Issuer shall determine. Once the Spot Rate is revalued by the
2078 L/C Issuer it will advise the Borrower of the new Spot Rate.
2079

2080 **“Revolving Credit Borrowing”** means a borrowing consisting of Revolving Credit
2081 Loans of the same Type and, in the case of Eurocurrency Rate Loans, having the same Interest
2082 Period made by each of the Revolving Credit Lenders pursuant to Section 2.01(b).

2083 **“Revolving Credit Commitment”** means, for each Revolving Credit Lender, the
2084 commitment of such Revolving Credit Lender to make Revolving Credit Loans (and to share in
2085 Revolving Credit Obligations) hereunder pursuant to Section 2.01(b) in an aggregate principal
2086 amount at any one time outstanding not to exceed the amount set forth opposite such Revolving
2087 Credit Lender’s name on Schedule 2.01 under the caption “Revolving Credit Commitment” or
2088 opposite such caption in the Assignment and Assumption pursuant to which such Revolving
2089 Credit Lender becomes a party hereto, as applicable, as such amount may be adjusted from time
2090 to time in accordance with this Credit Agreement.

2091 **“Revolving Credit Facility”** means, at any time, the aggregate amount of Revolving
2092 Credit Commitments at such time.

2093 **“Revolving Credit Lender”** means, at any time, any Lender that has a Revolving Credit
2094 Commitment at such time.

2095 **“Revolving Credit Loan”** has the meaning provided in Section 2.01(b).

2096 “**Revolving Credit Note**” means a promissory note made by the Borrower in favor of a
2097 Revolving Credit Lender evidencing Revolving Credit Loans made by such Revolving Credit
2098 Lender, substantially in the form of Exhibit 2.13-1.

2099 “**Revolving Credit Obligations**” means the Revolving Credit Loans, the L/C Obligations
2100 and the Swingline Loans.

2101 “**Revolving Termination Date**” means the date that is five years following the Closing
2102 Date; *provided* that if such date is not a Business Day, the Revolving Termination Date shall be
2103 the immediately preceding Business Day.

2104 “**Rupees**” means the lawful currency of India.

2105 “**S&P**” means Standard & Poor’s Financial Services LLC, a subsidiary of The McGraw-
2106 Hill Companies, Inc., and any successor thereto.

2107 “**SEC**” means the Securities and Exchange Commission, or any Governmental Authority
2108 succeeding to any of its principal functions.

2109 “**Secured Obligations**” has the meaning provided in the Security Agreement.

2110 “**Secured Parties**” has the meaning provided in the Security Agreement.

2111 “**Securities Act**” means the Securities Act of 1933, as amended.

2112 “**Security Agreement**” means, collectively, (a) the security agreement dated as of the
2113 Closing Date given by the Credit Parties party thereto, as grantors, to the Collateral Agent to
2114 secure the Obligations substantially in the form of Exhibit 1.01-2 and (b) any other security
2115 agreement in favor of the Collateral Agent to secure all or some portion of the Obligations that
2116 may be given by any Person pursuant to the terms hereof.

2117 “**Solvency Certificate**” means a Solvency Certificate substantially in the form of Exhibit
2118 5.01(j).

2119 “**Solvent**” means with respect to the Borrower and its Restricted Subsidiaries that
2120 (a) after giving effect to the Transactions on or prior to the Closing Date both (i) the fair value of
2121 the assets of the Borrower and its Restricted Subsidiaries, on a consolidated basis, exceeds, on a
2122 consolidated basis, their debts and liabilities, subordinated, contingent or otherwise and (ii) the
2123 present fair salable value of the property of the Borrower and its Restricted Subsidiaries, on a
2124 consolidated basis, is greater than the amount that will be required to pay the probable liability,
2125 on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise,
2126 as such debts and other liabilities become absolute and matured, (b) after giving effect to the
2127 incurrence of the initial Credit Extension under this Credit Agreement on the Closing Date and
2128 the consummation of the Transactions on the Closing Date, the Borrower and its Restricted
2129 Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated,
2130 contingent or otherwise, as such liabilities become absolute and matured, and (c) the incurrence
2131 of the initial Credit Extension under this Credit Agreement on the Closing Date and the
2132 consummation of the Transactions on the Closing Date, on a Pro Forma Basis, the Borrower and

2133 its Restricted Subsidiaries, on a consolidated basis, are not engaged in, and are not about to
2134 engage in, business for which they have unreasonably small capital. For purposes of this
2135 definition, the amount of any contingent liability at any time shall be computed as the amount
2136 that would reasonably be expected to become an actual and matured liability.

2137 “**Specified Real Property**” means any fee interest of a Credit Party in owned real
2138 property acquired after the Closing Date and located in the United States with a fair market value
2139 (as determined by the Borrower (acting reasonably and in good faith)) in excess of \$5,000,000 at
2140 the time of such acquisition.

2141 “**Specified Representations**” means the representations with respect to the Borrower and
2142 the Guarantors set forth in Section 6.01(a), Section 6.01(b)(ii), Section 6.02(a) and (b), Section
2143 6.04, Section 6.20, Sections 6.21(a)(ii), 6.21(a)(iii) (only with respect to the use of proceeds of
2144 the Loans made on the Closing Date) and 6.21(b) (only with respect to the use of proceeds of the
2145 Loans made on the Closing Date), Section 6.15, and Section 6.18 (subject to Permitted Liens and
2146 the proviso at the end of Section 5.01(d)).

2147 “**Specified Transaction**” means (v) any Investment that results in a Person becoming a
2148 Restricted Subsidiary, (w) any designation of a Subsidiary as a Restricted Subsidiary or an
2149 Unrestricted Subsidiary, (x) any Permitted Acquisition or other Acquisition constituting an
2150 Investment permitted under Section 8.02, (y) any Disposition that results in a Restricted
2151 Subsidiary ceasing to be a Subsidiary of the Borrower and any Disposition of a business unit,
2152 line of business or division of the Borrower or a Restricted Subsidiary, in each case whether by
2153 merger, consolidation, amalgamation or otherwise or (z) any incurrence or repayment of
2154 Indebtedness, Restricted Payment, Incremental Revolving Commitment, Incremental Revolving
2155 Loan or Incremental Term Loan, in each case, that by the terms of this Agreement requires a
2156 financial ratio or test to be calculated on a “Pro Forma Basis” or after giving “Pro Forma Effect.”

2157 “**Spot Rate**” for a currency means the rate determined by the L/C Issuer to be the rate
2158 quoted by the L/C Issuer as the spot rate for the purchase by the L/C Issuer of such currency with
2159 another currency through its principal foreign exchange trading office at approximately 11:00
2160 a.m. on the date two (2) Business Days prior to the date as of which the foreign exchange
2161 computation is made; provided that the L/C Issuer may obtain such spot rate from another
2162 financial institution designated by the L/C Issuer if the L/C Issuer does not have as of the date of
2163 determination a spot buying rate for any such currency; and provided, further, that the L/C Issuer
2164 may use such spot rate quoted on the date as of which the foreign exchange computation is made
2165 in the case of any Letter of Credit denominated in an Alternative Currency.

2166 “**Sterling**” means the lawful currency of the United Kingdom.

2167 “**Subsequent Transaction**” has the meaning provided in Section 1.07(e).

2168 “**Subsidiary**” of a Person means a corporation, partnership, joint venture, limited liability
2169 company or other business entity (i) of which a majority of the shares of securities or other
2170 interests having ordinary voting power for the election of directors or other governing body
2171 (other than securities or interests having such power only by reason of the happening of a
2172 contingency) are at the time beneficially owned by such Person or (ii) the management of which

2173 is otherwise controlled, directly or indirectly, through one or more intermediaries, by such
2174 Person, to the extent such entity's financial results are required to be included in such Person's
2175 consolidated financial statements under GAAP. Unless otherwise provided, "Subsidiary" shall
2176 refer to a Subsidiary of the Borrower.

2177 "Successor Company" has the meaning provided in Section 8.04(d).

2178 "Support Obligations" means, as to any Person, (a) any obligation, contingent or
2179 otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any
2180 Indebtedness or other obligation payable or performable by another Person (the "**primary**
2181 **obligor**") in any manner, whether directly or indirectly, and including any obligation of such
2182 Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or
2183 payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or
2184 services for the purpose of assuring the obligee in respect of such Indebtedness or other
2185 obligation of the payment or performance of such Indebtedness or other obligation, (iii) to
2186 maintain working capital, equity capital or any other financial statement condition or liquidity or
2187 level of income or cash flow of the primary obligor so as to enable the primary obligor to pay
2188 such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any
2189 other manner the obligee in respect of such Indebtedness or other obligation of the payment or
2190 performance thereof or to protect such obligee against loss in respect thereof (in whole or in part),
2191 or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any
2192 other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or
2193 any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien).
2194 The amount of any Support Obligations shall be deemed to be an amount equal to the stated or
2195 determinable amount of the related primary obligation, or portion thereof, in respect of which
2196 such Support Obligation is made or, if not stated or determinable, the maximum reasonably
2197 anticipated liability in respect thereof as determined by the guaranteeing Person in good faith.

2198 "Swap Contract" means (a) any and all rate swap transactions, basis swaps, credit
2199 derivative transactions, forward rate transactions, commodity swaps, commodity options,
2200 forward commodity contracts, equity or equity index swaps or options, bond or bond price or
2201 bond index swaps or options or forward bond or forward bond price or forward bond index
2202 transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor
2203 transactions, collar transactions, currency swap transactions, cross-currency rate swap
2204 transactions, currency options, spot contracts, or any other similar transactions or any
2205 combination of any of the foregoing (including any options to enter into any of the foregoing),
2206 whether or not any such transaction is governed by or subject to any master agreement, and (b)
2207 any and all transactions of any kind, and the related confirmations, that are subject to the terms
2208 and conditions of, or governed by, any form of master agreement published by the International
2209 Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement,
2210 or any other master agreement (any such master agreement, together with any related schedules,
2211 a "**Master Agreement**"), including any such obligations or liabilities under any Master
2212 Agreement.

2213 "Swap Obligation" means, with respect to any Guarantor, any obligation to pay or
2214 perform under any agreement, contract or transaction that constitutes a "swap" within the
2215 meaning of section 1a(47) of the Commodity Exchange Act.

2216 “**Swap Termination Value**” means, in respect of any one or more Swap Contracts, after
2217 taking into account the effect of any legally enforceable netting agreement relating to such Swap
2218 Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and
2219 termination values determined in accordance therewith, such termination values, and (b) for any
2220 date prior to the date referenced in clause (a), the amounts determined as the mark-to-market
2221 values for such Swap Contracts, as determined based upon one or more mid-market or other
2222 readily available quotations provided by any recognized dealer in such Swap Contracts (which
2223 may include a Lender or any Affiliate of a Lender).

2224 “**Swingline Borrowing**” means a borrowing of a Swingline Loan pursuant to
2225 Section 2.01(d).

2226 “**Swingline Lender**” means Bank of America, in its capacity as the Swingline Lender,
2227 together with any successor in such capacity.

2228 “**Swingline Loan**” has the meaning provided in Section 2.01(d).

2229 “**Swingline Note**” means the promissory note made by the Borrower in favor of the
2230 Swingline Lender, evidencing Swingline Loans made by the Swingline Lender, substantially in
2231 the form of Exhibit 2.13-2.

2232 “**Swingline Sublimit**” has the meaning provided in Section 2.01(d).

2233 “**Target**” has the meaning provided in the preliminary statements hereto.

2234 “**Target Material Adverse Effect**” means a “Material Adverse Effect” as defined in the
2235 Acquisition Agreement.

2236 “**Taxes**” means all present or future taxes, levies, imposts, duties, deductions,
2237 withholdings (including backup withholding), assessments, fees or other charges imposed by any
2238 Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

2239 “**Term Borrowing**” means a borrowing consisting of simultaneous Term Loans of the
2240 same Type and, in the case of Eurocurrency Rate Loans, having the same Interest Period made
2241 by each of the Term Lenders pursuant to Section 2.01(a).

2242 “**Term Commitment**” means, for each Term Lender, the commitment of such Term
2243 Lender to make Term Loans hereunder pursuant to Section 2.01(a) in an aggregate principal
2244 amount at any one time outstanding not to exceed the amount set forth opposite such Term
2245 Lender’s name on Schedule 2.01 under the caption “Term Commitment” or opposite such
2246 caption in the Assignment and Assumption pursuant to which such Term Lender becomes a party
2247 hereto, as applicable, as such amount may be adjusted from time to time in accordance with the
2248 terms of this Credit Agreement.

2249 “**Term Loan**” means an advance made by any Term Lender under the Term Loan
2250 Facility.

2251 “**Term Loan Facility**” means, (a) at any time on or prior to the Closing Date, the
2252 aggregate principal amount of Term Commitments of all Term Lenders at such time and (b) at
2253 any time after the Closing Date, the aggregate principal amount of the Term Loans of all Term
2254 Lenders outstanding at such time.

2255 “**Term Lender**” means (a) at any time on or prior to the Closing Date, any Lender that
2256 has a Term Commitment at such time and (b) at any time after the Closing Date, any Lender that
2257 holds Term Loans at such time.

2258 “**Term Note**” means a promissory note made by the Borrower in favor of a Term Lender
2259 evidencing Term Loans made by such Term Lender, substantially in the form of Exhibit 2.13-3.

2260 “**Test Period**” means, for any date of determination under this Agreement, the four
2261 consecutive fiscal quarters of the Borrower most recently ended as of such date of determination.

2262 “**Title Agent**” has the meaning provided in the definition of Real Estate Collateral
2263 Requirements.

2264 “**Total Assets**” means the total assets of the Borrower and the Restricted Subsidiaries on
2265 a consolidated basis in accordance with GAAP, as shown on the most recent balance sheet of the
2266 Borrower delivered pursuant to Section 7.01(a) or (b) (and, in the case of any determination
2267 relating to any transaction, on a Pro Forma Basis including any property or assets being acquired
2268 or disposed of in connection therewith) or, for the period prior to the time any such statements
2269 are so delivered pursuant to Section 7.01(a) or (b), the Pro Forma Financial Statements.

2270 “**Transactions**” means, collectively, (a) the Microsemi Acquisition and the other related
2271 transactions contemplated by the Acquisition Agreement, together with, for the avoidance of
2272 doubt, the funding of any ordinary course working capital needs and working capital adjustments
2273 under the Acquisition Agreement, (b) the Pre-Closing Equity Offering, (c) the Refinancing, (d)
2274 the entering into of this Credit Agreement and the making of the Loans and other Credit
2275 Extensions hereunder.

2276 “**Transaction Expenses**” means any fees or expenses incurred or paid by the Borrower
2277 or any of its Subsidiaries in connection with the Transactions (including expenses in connection
2278 with close-out fees in connection with the termination of hedging transactions, if any, and
2279 payments to officers, employees and directors as change of control payments, severance
2280 payments, special or retention bonuses and charges for repurchase or rollover of, or
2281 modifications to, stock options and/or restricted stock), this Agreement and the other Credit
2282 Documents and the transactions contemplated hereby and thereby.

2283 “**Treasury Management Agreement**” means any agreement governing the provision of
2284 treasury or cash management services, including deposit accounts, overnight draft, credit cards,
2285 debit cards, p-cards (including purchasing cards and commercial cards), funds transfer,
2286 automated clearinghouse, zero balance accounts, returned check concentration, controlled
2287 disbursement, lockbox, account reconciliation and reporting and trade finance services and other
2288 cash management services.

2289 “**Type**” means, with respect to any Revolving Credit Loan, its character as a Base Rate
2290 Loan or a Eurocurrency Rate Loan.

2291 “**UCC**” means the Uniform Commercial Code in effect in any applicable jurisdiction
2292 from time to time.

2293 “**Unfunded Pension Liability**” means the excess of a Pension Plan’s benefit liabilities
2294 under Section 4001(a)(16) of ERISA, over the current value of that Pension Plan’s assets,
2295 determined in accordance with the assumptions used for funding the Pension Plan for purposes
2296 of Section 430 of the Internal Revenue Code for the applicable plan year.

2297 “**United States**” or “**U.S.**” means the United States of America.

2298 “**Unrestricted Subsidiary**” means any Subsidiary of the Borrower designated by the
2299 Board of Directors of the Borrower as an Unrestricted Subsidiary pursuant to Section 7.14
2300 subsequent to the Closing Date.

2301 “**Weighted Average Life to Maturity**” means, when applied to any Indebtedness at any
2302 date, the number of years obtained by dividing: (i) the sum of the products obtained by
2303 multiplying (a) the amount of each then remaining scheduled installment, sinking fund, serial
2304 maturity or other required scheduled payments of principal, including payment at final scheduled
2305 maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth)
2306 that will elapse between such date and the making of such payment; by (ii) the then outstanding
2307 principal amount of such Indebtedness; *provided* that the effects of any prepayments made on
2308 such Indebtedness shall be disregarded in making such calculation.

2309 “**Wholly Owned Subsidiary**” means, with respect to any direct or indirect Subsidiary of
2310 any Person, that 100% of the Capital Stock with ordinary voting power issued by such
2311 Subsidiary (other than directors’ qualifying shares and investments by foreign nationals
2312 mandated by applicable Law) is beneficially owned, directly or indirectly, by such Person.

2313 “**Write-Down and Conversion Powers**” means, with respect to any EEA Resolution
2314 Authority, the write-down and conversion powers of such EEA Resolution Authority from time
2315 to time under the Bail-In Legislation for the applicable EEA Member Country, which write-
2316 down and conversion powers are described in the EU Bail-In Legislation Schedule.

2317 “**Yen**” means the lawful currency of Japan.

2318 Section 1.02. *Interpretive Provisions.* With reference to this Credit Agreement and each
2319 other Credit Document, unless otherwise specified herein or in such other Credit Document:

2320 (a) The definitions of terms herein shall apply equally to the singular and
2321 plural forms of the terms defined. Whenever the context may require, any pronoun shall include
2322 the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and
2323 “including” shall be deemed to be followed by the phrase “without limitation.” The word “will”
2324 shall be construed to have the same meaning and effect as the word “shall.” Unless the context
2325 requires otherwise, (i) any definition of or reference to any agreement, instrument or other
2326 document (including any Organization Document) shall be construed as referring to such

2327 agreement, instrument or other document as from time to time amended, supplemented or
2328 otherwise modified (subject to any restrictions on such amendments, supplements or
2329 modifications set forth herein or in any other Credit Document), (ii) any reference herein to any
2330 Person shall be construed to include such Person's successors and assigns, (iii) the words
2331 "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any
2332 Credit Document, shall be construed to refer to such Credit Document in its entirety and not to
2333 any particular provision thereof, (iv) all references in a Credit Document to "Articles,"
2334 "Sections," "Exhibits" and "Schedules" shall be construed to refer to articles and sections of, and
2335 exhibits and schedules to, the Credit Document in which such references appear, (v) any
2336 reference to any law shall include all statutory and regulatory provisions consolidating,
2337 amending, replacing or interpreting such law and any reference to any law or regulation shall,
2338 unless otherwise specified, refer to such law or regulation as amended, modified or
2339 supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to
2340 have the same meaning and effect and to refer to any and all assets and property of whatever
2341 kind, real and personal, tangible and intangible, including cash, securities, accounts and contract
2342 rights.

2343 (b) In the computation of periods of time from a specified date to a later
2344 specified date, the word "from" means "from and including"; the words "to" and "until" each
2345 mean "to but excluding"; and the word "through" means "to and including."

2346 (c) Section headings herein and in the other Credit Documents are included
2347 for convenience of reference only and shall not affect the interpretation of this Credit Agreement
2348 or any other Credit Document.

2349 (d) For purposes of determining compliance with any Section of Article 8 at
2350 any time, in the event that any Lien, Investment, Indebtedness (whether at the time of incurrence
2351 or upon application of all or a portion of the proceeds thereof) (subject to the third to last
2352 paragraph in Section 8.03), Disposition, Restricted Payment, Affiliate transaction, Contractual
2353 Obligation or prepayment of Indebtedness meets the criteria of one or more than one of the
2354 categories of transactions permitted pursuant to any clause of such Sections, such transaction (or
2355 portion thereof) at any time shall be permitted under one or more of such clauses as determined
2356 by the Borrower in its sole discretion at such time.

2357 Section 1.03. *Accounting Terms and Provisions.* All accounting terms not specifically
2358 or completely defined herein shall be construed in conformity with, and all financial data
2359 (including financial ratios and other financial calculations) required to be submitted pursuant to
2360 this Credit Agreement shall be prepared in conformity with, GAAP applied on a consistent basis,
2361 as in effect from time to time. Notwithstanding any changes in GAAP after the Closing Date,
2362 any lease of the Credit Parties and their Subsidiaries that would be characterized as an operating
2363 lease under GAAP in effect on the Closing Date (whether such lease is entered into before or
2364 after the Closing Date) shall not constitute Indebtedness, Attributable Indebtedness or a
2365 Capitalized Lease under this Agreement or any Credit Document as a result of such changes in
2366 GAAP.

2367 (a) Notwithstanding any provision herein to the contrary, determinations of (i)
2368 the applicable pricing level under the definition of “Applicable Percentage” and (ii) compliance
2369 with the Financial Covenants shall be made on a Pro Forma Basis.

2370 (b) If at any time after the Closing Date any change in GAAP or in the
2371 consistent application thereof would affect the operation of any provision set forth in any Credit
2372 Document, and either the Borrower or the Required Lenders requests an amendment to eliminate
2373 the effect of any such change, regardless whether such request is given before or after such
2374 change in GAAP or in the consistent application thereof, then until such request shall have been
2375 withdrawn or such provision amended in accordance herewith, (i) such provision shall continue
2376 to be interpreted in accordance with GAAP prior to such change therein and (ii) the Borrower
2377 will provide, or cause to be provided, to the Administrative Agent and the Lenders, financial
2378 statements and related certificates and documents required hereunder or hereby as reasonably
2379 requested setting forth a reconciliation between calculations of such ratios or requirements made
2380 before and after giving effect to such changes in GAAP.

2381 (c) With respect to any subject transaction that was permitted under any
2382 provision of this Agreement by reference to a basket based on a percentage of Total Assets, the
2383 permissibility of such subject transaction shall not be affected by any subsequent fluctuations in
2384 Total Assets.

2385 Section 1.04. *Rounding.* Any financial ratios required to be maintained pursuant to this
2386 Credit Agreement shall be calculated by dividing the appropriate component by the other
2387 component, carrying the result to one place more than the number of places by which such ratio
2388 is expressed herein and rounding the result up or down to the nearest number (with a rounding-
2389 up if there is no nearest number).

2390 Section 1.05. *Times of Day.* Unless otherwise specified, all references herein to times of
2391 day shall be references to Eastern time (daylight or standard, as applicable).

2392 Section 1.06. *Letter of Credit Amounts.* Unless otherwise specified herein all references
2393 herein to the amount of a Letter of Credit at any time shall be deemed to be the Dollar Equivalent
2394 of the stated amount of such Letter of Credit in effect at such time; provided, however, that with
2395 respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related
2396 thereto, provides for one or more automatic increases in the stated amount thereof, the amount of
2397 such Letter of Credit shall be deemed to be the Dollar Equivalent of the maximum stated amount
2398 of such Letter of Credit after giving effect to all such increases, whether or not such maximum
2399 stated amount is in effect at such time.

2400 Section 1.07. *Pro Forma Calculations.*

2401 (a) Notwithstanding anything to the contrary herein, financial ratios and tests,
2402 including the Consolidated Cash Interest Coverage Ratio and the Consolidated Total Net
2403 Leverage Ratio and compliance with covenants determined by reference to Total Assets, shall be
2404 calculated (whether or not the applicable provision references that such calculation is to be done
2405 on a “Pro Forma Basis” or giving “Pro Forma Effect” or any other similar phrase) in the manner
2406 prescribed by this Section 1.07; provided that notwithstanding anything to the contrary herein,

2407 when calculating (A) any such ratio for the purpose of the definition of Applicable Percentage,
2408 any mandatory prepayment provision hereunder or compliance with Section 8.11, the events set
2409 forth in Sections 1.07(b), 1.07(c), 1.07(d) and 1.07(e) below that occurred subsequent to the end
2410 of the applicable Test Period shall not be given pro forma effect and (B) any such ratio or test for
2411 purposes of the incurrence of any Indebtedness, cash and Cash Equivalents resulting from the
2412 incurrence of any such Indebtedness shall be excluded from the pro forma calculation of any
2413 applicable ratio or test. In addition, whenever a financial ratio or test is to be calculated on a Pro
2414 Forma Basis, the reference to the “Test Period” for purposes of calculating such financial ratio or
2415 test shall be deemed to be a reference to, and shall be based on, the most recently ended Test
2416 Period for which financial statements of the Borrower have been delivered pursuant to Section
2417 7.01(a) or (b) (it being understood that for purposes of determining pro forma compliance with
2418 Section 8.11, if no Test Period with an applicable level cited in Section 8.11 has passed, the
2419 applicable level shall be the level for the first Test Period cited in Section 8.11 with an indicated
2420 level).

2421 (b) For purposes of calculating any financial ratio or test or compliance with
2422 any covenant determined by reference to Total Assets, Specified Transactions (and the
2423 incurrence or repayment of any Indebtedness in connection therewith) that have been
2424 consummated (i) during the applicable Test Period or (ii) if applicable as described in clause (a)
2425 above, subsequent to such Test Period and prior to or simultaneously with the event for which
2426 the calculation of any such ratio is made, in either case, shall be calculated on a pro forma basis
2427 assuming that all such Specified Transactions (and any increase or decrease in Total Assets and
2428 the component financial definitions used therein attributable to any Specified Transaction) had
2429 occurred on the first day of the applicable Test Period (or in the case of Total Assets, on the last
2430 day of the applicable Test Period). If since the beginning of any applicable Test Period any
2431 Person that subsequently became a Restricted Subsidiary or was merged, amalgamated or
2432 consolidated with or into the Borrower or any of its Restricted Subsidiaries since the beginning
2433 of such Test Period shall have made any Specified Transaction that would have required
2434 adjustment pursuant to this Section 1.07, then such financial ratio or test (or Total Assets) shall
2435 be calculated to give pro forma effect thereto in accordance with this Section 1.07.

2436 (c) Whenever pro forma effect is to be given to a Specified Transaction, the
2437 pro forma calculations shall be made in good faith by a responsible financial or accounting
2438 officer of the Borrower and may include, for the avoidance of doubt, the amount of “run-rate”
2439 cost savings, operating expense reductions and synergies resulting from or relating to any
2440 Specified Transaction (including the Transactions) which is being given pro forma effect that
2441 have been realized or are expected to be realized and for which the actions necessary to realize
2442 such cost savings, operating expense reductions and synergies are taken, committed to be taken
2443 or with respect to which substantial steps have been taken or are expected to be taken (in the
2444 good faith determination of the Borrower) (calculated on a pro forma basis as though such cost
2445 savings, operating expense reductions and synergies had been realized on the first day of such
2446 period and as if such cost savings, operating expense reductions and synergies were realized
2447 during the entirety of such period and “run-rate” means the full recurring benefit for a period
2448 that is associated with any action taken, committed to be taken or with respect to which
2449 substantial steps have been taken or are expected to be taken net of the amount of actual benefits
2450 realized during such period from such actions, and any such adjustments shall be included in the
2451 initial pro forma calculations of any financial ratios or tests (and in respect of any subsequent pro

2452 forma calculations in which such Specified Transaction is given pro forma effect) and during any
2453 applicable subsequent Test Period in which the effects thereof are expected to be realized)
2454 relating to such Specified Transaction; *provided* that (A) such amounts are reasonably
2455 identifiable and factually supportable in the good faith judgment of the Borrower, (B) such
2456 actions are taken, committed to be taken or with respect to which substantial steps have been
2457 taken or are expected to be taken no later than twelve (12) months after the date of such
2458 Specified Transaction, and (C) no amounts shall be added pursuant to this clause (c) to the extent
2459 duplicative of any amounts that are otherwise added back in computing Consolidated EBITDA
2460 (or any other components thereof), whether through a pro forma adjustment or otherwise, with
2461 respect to such period; *provided, further*, that any increase to Consolidated EBITDA as a result
2462 of cost savings, operating expense reductions and synergies pursuant to this Section 1.07(c) shall
2463 be subject to the limitations set forth in the final proviso of clause (vii) of the definition of
2464 Consolidated EBITDA.

2465 (d) In the event that the Borrower or any Restricted Subsidiary incurs
2466 (including by assumption or guarantees) or repays (including by redemption, repayment,
2467 retirement or extinguishment) any Indebtedness included in the calculations of the Consolidated
2468 Cash Interest Coverage Ratio, the Consolidated Total Net Leverage Ratio or any other financial
2469 ratio or test subsequent to the end of the applicable Test Period and prior to or simultaneously
2470 with the event for which the calculation of any such ratio or test is made, then the Consolidated
2471 Cash Interest Coverage Ratio, the Consolidated Total Net Leverage Ratio or other financial ratio
2472 or test, as applicable, shall be calculated giving pro forma effect to such incurrence or repayment
2473 of Indebtedness, to the extent required, as if the same had occurred on the last day of the
2474 applicable Test Period (except in the case of the Consolidated Cash Interest Coverage Ratio or
2475 other similar interest or fixed charge test or ratio, in which case such incurrence, assumption,
2476 guarantee, redemption, repayment, retirement or extinguishment will be given effect as if the
2477 same had occurred on the first day of the applicable Test Period); *provided* that Indebtedness
2478 incurred, repaid or prepaid under any revolving credit facility shall be excluded from the
2479 application of this clause (c) unless such incurrence, repayment or prepayment (a) shall be in
2480 connection, or substantially concurrent, with a Specified Transaction or (b) in the case of a
2481 repayment or prepayment, such Indebtedness has been permanently repaid and not replaced.

2482 (e) In connection with any action being taken solely in connection with a
2483 Limited Condition Transaction, for purposes of:

2484 (i) determining compliance with any provision of this Agreement
2485 (other than the Financial Covenants) which requires the calculation of any
2486 financial ratio or test, including the Consolidated Total Net Leverage Ratio and
2487 Consolidated Cash Interest Coverage Ratio; or

2488 (ii) testing availability under baskets set forth in this Agreement
2489 (including baskets measured as a percentage of Total Assets and baskets subject
2490 to Default and Event of Default conditions));

2491 in each case, at the option of the Borrower (the Borrower's election to exercise such option in
2492 connection with any Limited Condition Transaction, an "**LCT Election**"), the date of
2493 determination of whether any such action is permitted hereunder (or any requirement or

2494 condition therefor is complied with or satisfied (including as to the absence of any continuing
2495 Default or Event of Default) shall be deemed to be the date the definitive agreements for such
2496 Limited Condition Transaction are entered into (the “**LCT Test Date**”), and if, after giving Pro
2497 Forma Effect to the Limited Condition Transaction and the other transactions to be entered into
2498 in connection therewith (including any incurrence of Indebtedness and the use of proceeds
2499 thereof) as if they had occurred at the beginning of the most recent Test Period ending prior to
2500 the LCT Test Date, the Borrower or any of its Restricted Subsidiaries would have been permitted
2501 to take such action on the relevant LCT Test Date in compliance with such ratio, test or basket
2502 (and any related requirements and conditions), such ratio, test or basket (and any related
2503 requirements and conditions) shall be deemed to have been complied with (or satisfied). For the
2504 avoidance of doubt, if the Borrower has made an LCT Election and any of the ratios, tests,
2505 baskets or requirements or conditions for which compliance was determined or tested as of the
2506 LCT Test Date are exceeded (or not satisfied) as a result of fluctuations in any such ratio, test or
2507 basket (or due to other intervening events in the case of other requirements or conditions),
2508 including due to fluctuations in Consolidated EBITDA or Total Assets of the Borrower or the
2509 Person subject to such Limited Condition Transaction, at or prior to the consummation of the
2510 relevant transaction or action, such baskets, tests, ratios or requirements or conditions will not be
2511 deemed to have been exceeded (or not satisfied) as a result of such fluctuations (or intervening
2512 events). If the Borrower has made an LCT Election for any Limited Condition Transaction, then
2513 in connection with any calculation of any ratio, test or basket availability with respect to the
2514 incurrence of Indebtedness or Liens, the making of Restricted Payments, the making of any
2515 Investment permitted hereunder, mergers, the conveyance, lease or other transfer of all or
2516 substantially all of the assets of the Borrower, the prepayment, redemption, purchase, defeasance
2517 or other satisfaction of Indebtedness, or the designation of an Unrestricted Subsidiary (a
2518 “**Subsequent Transaction**”) following the relevant LCT Test Date and prior to the earlier of the
2519 date on which such Limited Condition Transaction is consummated or the date that the definitive
2520 agreement or irrevocable notice for such Limited Condition Transaction is terminated or expires
2521 without consummation of such Limited Condition Transaction, for purposes of determining
2522 whether such Subsequent Transaction is permitted under this Agreement, any such ratio, test or
2523 basket shall be required to be satisfied on a Pro Forma Basis (i) assuming such Limited
2524 Condition Transaction and other transactions in connection therewith (including any incurrence
2525 of Indebtedness and the use of proceeds thereof) have been consummated and (ii) assuming such
2526 Limited Condition Transaction and other transactions in connection therewith (including any
2527 incurrence of Indebtedness and the use of proceeds thereof) have not been consummated.

2528 (f) If any Indebtedness bears a floating rate of interest and is being given pro
2529 forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the
2530 date of the event for which the calculation of the Consolidated Cash Interest Coverage Ratio is
2531 made had been the applicable rate for the entire period (taking into account any interest hedging
2532 arrangements applicable to such Indebtedness); *provided* that, in the case of repayment of any
2533 Indebtedness, to the extent actual interest related thereto was included during all or any portion
2534 of the applicable Test Period, the actual interest may be used for the applicable portion of such
2535 Test Period. Interest on a Capitalized Lease shall be deemed to accrue at an interest rate
2536 reasonably determined by a Responsible Officer of the Borrower to be the rate of interest
2537 implicit in such Capitalized Lease in accordance with GAAP. Interest on Indebtedness that may
2538 optionally be determined at an interest rate based upon a factor of a prime or similar rate, a
2539 London interbank offered rate, or other rate, shall be determined to have been based upon the

2540 rate actually chosen, or if none, then based upon such optional rate chosen as the Borrower or
2541 Restricted Subsidiary may designate.

2542 Section 1.08. *Timing of Payment and Performance.* When the payment of any
2543 obligation or the performance of any covenant, duty or obligation is stated to be due or
2544 performance required on a day which is not a Business Day, the date of such payment (other than
2545 as described in the definition of "Interest Period") or performance shall extend to the
2546 immediately succeeding Business Day and such extension shall be reflected in the computation
2547 of interest or fees, as the case may be.

2548 Section 1.09. *Currency Generally.* For purposes of determining compliance with
2549 Sections 8.01, 8.02, 8.03 and 8.06 with respect to any amount of Indebtedness or Investment in a
2550 currency other than Dollars, no Default shall be deemed to have occurred solely as a result of
2551 changes in rates of currency exchange occurring after the time such Indebtedness or Investment
2552 is incurred (so long as such Indebtedness or Investment, at the time incurred, made or acquired,
2553 was permitted hereunder).

2554 For purposes of calculating the Total Net Leverage Ratio or Consolidated Cash Interest
2555 Coverage Ratio in connection with determining compliance with the Financial Covenants, or
2556 otherwise calculating the Consolidated Total Net Leverage Ratio on any date of determination,
2557 amounts denominated in a currency other than Dollars will be translated into Dollars at the
2558 currency exchange rates used in the Borrower's latest financial statements delivered pursuant to
2559 Section 7.01(a) or (b), and will, in the case of Indebtedness, reflect the currency translation
2560 effects, determined in accordance with GAAP, of Swap Contracts permitted hereunder for
2561 currency exchange risks with respect to the applicable currency in effect on the date of
2562 determination of the Dollar Equivalent of such Indebtedness.

2563 Section 1.10. *Exchange Rates; Currency Equivalents.*

2564 (a) The L/C Issuer, as applicable, shall determine the Spot Rates as of each
2565 Revaluation Date to be used for calculating Dollar Equivalent amounts of L/C Credit Extensions
2566 and Outstanding Amounts denominated in Alternative Currencies. Such Spot Rates shall
2567 become effective as of such Revaluation Date and shall be the Spot Rates employed in
2568 converting any amounts between the applicable currencies until the next Revaluation Date to
2569 occur. Except for purposes of financial statements delivered by Credit Parties hereunder or
2570 calculating financial covenants hereunder or except as otherwise provided herein, the applicable
2571 amount of any currency (other than Dollars) for purposes of the Credit Documents shall be such
2572 Dollar Equivalent amount as so determined by the L/C Issuer.

2573 (b) Wherever in this Agreement in the issuance, amendment or extension of a
2574 Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in
2575 Dollars, but such Letter of Credit is denominated in an Alternative Currency, such amount shall
2576 be the relevant Alternative Currency Equivalent of such Dollar amount (rounded to the nearest
2577 unit of such Alternative Currency, with 0.5 of a unit being rounded upward), as determined by
2578 the L/C Issuer, as the case may be.

2579 Section 1.11. *Additional Alternative Currencies.*

2580 (a) The Borrower may from time to time request that Letters of Credit be
2581 issued in a currency other than those specifically listed in the definition of "Alternative
2582 Currency"; provided that such requested currency is a lawful currency (other than Dollars) that is
2583 readily available and freely transferable and convertible into Dollars. In the case of any such
2584 request, such request shall be subject to the approval of the L/C Issuer.

2585 (b) Any such request shall be made to the Administrative Agent not later than
2586 11:00 a.m., ten (10) Business Days prior to the date of the desired L/C Credit Extension (or such
2587 other time or date as may be agreed by the L/C Issuer in its sole discretion). The Administrative
2588 Agent shall promptly notify the L/C Issuer thereof. The L/C Issuer shall notify the
2589 Administrative Agent, not later than 11:00 a.m., five (5) Business Days after receipt of such
2590 request whether it consents, in its sole discretion, to the issuance of Letters of Credit in such
2591 requested currency.

2592 (c) Any failure by the L/C Issuer to respond to such request within the time
2593 period specified in the preceding sentence shall be deemed to be a refusal by the L/C Issuer to
2594 permit the Letters of Credit to be issued in such requested currency. If the L/C Issuer consents to
2595 the issuance of Letters of Credit in such requested currency, the Administrative Agent shall so
2596 notify the Borrower and to the extent the definition of Eurocurrency Rate reflects the appropriate
2597 interest rate for such currency or has been amended to reflect the appropriate rate for such
2598 currency, such currency shall thereupon be deemed for all purposes to be an Alternative
2599 Currency, for purposes of any Letter of Credit issuances. If the Administrative Agent shall fail
2600 to obtain consent to any request for an additional currency under this Section 1.11, the
2601 Administrative Agent shall promptly so notify the Borrower.

2602 Section 1.12. *Cumulative Equity Credit Transactions*. If more than one action occurs on
2603 any given date the permissibility of the taking of which is determined hereunder by reference to
2604 the amount of the Cumulative Equity Credit immediately prior to the taking of such action, the
2605 permissibility of the taking of each such action shall be determined independently and in no
2606 event may any two or more such actions be treated as occurring simultaneously.

2607 Section 1.13. *References to Agreements, Laws, Etc.* Unless otherwise expressly
2608 provided herein, (a) references to Organization Documents, agreements (including the Credit
2609 Documents) and other contractual instruments shall be deemed to include all subsequent
2610 amendments, restatements, amendment and restatements, extensions, supplements and other
2611 modifications thereto, but only to the extent that such amendments, restatements, amendment
2612 and restatements, extensions, supplements and other modifications are permitted by the Credit
2613 Documents; and (b) references to any Law (including by succession of comparable successor
2614 laws) shall include all statutory and regulatory provisions consolidating, amending, replacing,
2615 supplementing or interpreting such Law.

2616 **ARTICLE 2**
2617 **COMMITMENTS AND CREDIT EXTENSIONS**

2618 Section 2.01. *Commitments*. Subject to the terms and conditions set forth herein:

2619 (a) *Term Loans.* Each Term Lender agrees to make a single loan to the
2620 Borrower in Dollars on the Closing Date in an amount not to exceed such Term Lender's Term
2621 Commitment. The Term Borrowing shall consist of Term Loans made simultaneously by the
2622 Term Lenders in accordance with their respective Aggregate Commitment Percentages of the
2623 Term Loan Facility. Amounts borrowed under this Section 2.01(a) and repaid or prepaid may
2624 not be reborrowed. Term Loans may be Base Rate Loans or Eurocurrency Rate Loans as further
2625 provided herein.

2626 (b) *Revolving Credit Loans.* During the Commitment Period, each Revolving
2627 Credit Lender severally agrees to make revolving credit loans (the "**Revolving Credit Loans**")
2628 to the Borrower in Dollars, from time to time, on any Business Day; *provided* that after giving
2629 effect to any such Revolving Credit Loan, (i) with regard to the Revolving Credit Lenders
2630 collectively, the Outstanding Amount of Revolving Credit Obligations shall not exceed
2631 \$100,000,000 (as such amount may be increased or decreased in accordance with the provisions
2632 hereof, the "**Aggregate Revolving Credit Committed Amount**") and (ii) with regard to each
2633 Revolving Credit Lender individually, such Revolving Credit Lender's Aggregate Commitment
2634 Percentage of the Outstanding Amount of Revolving Credit Obligations shall not exceed its
2635 Revolving Credit Commitment; *provided, further*, that on the Closing Date not more than
2636 \$10,000,000 may be borrowed to finance (x) the Transactions, (y) Transaction Expenses
2637 (including OID and upfront fees) and (z) ordinary course working capital needs and working
2638 capital adjustments under the Acquisition Agreement. Revolving Credit Loans may consist of
2639 Base Rate Loans, Eurocurrency Rate Loans, or a combination thereof, as the Borrower may
2640 request, and may be repaid and reborrowed in accordance with the provisions hereof.

2641 (c) *Letters of Credit.* During the Commitment Period, (i) the L/C Issuer
2642 agrees (A) to issue Letters of Credit denominated in Dollars or in one or more Alternative
2643 Currencies for the account of the Borrower or any of its Restricted Subsidiaries on any Business
2644 Day, (B) to amend or extend Letters of Credit previously issued hereunder, and (C) to honor
2645 drawings under Letters of Credit; and (ii) the Revolving Credit Lenders severally agree to
2646 purchase from the L/C Issuer a participation interest in the Existing Letters of Credit and Letters
2647 of Credit issued hereunder in an amount equal to such Revolving Credit Lender's Aggregate
2648 Commitment Percentage thereof; *provided* that (x) the Outstanding Amount of L/C Obligations
2649 shall not exceed \$10,000,000 (as such amount may be decreased in accordance with the
2650 provisions hereof, the "**L/C Sublimit**"), (y) the Outstanding Amount of Revolving Credit
2651 Obligations shall not exceed the Aggregate Revolving Credit Committed Amount, and (z) with
2652 regard to each Revolving Credit Lender individually, such Revolving Credit Lender's Aggregate
2653 Commitment Percentage of the Outstanding Amount of Revolving Credit Obligations shall not
2654 exceed its Revolving Credit Commitment. Subject to the terms and conditions hereof, the
2655 Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly the
2656 Borrower may obtain Letters of Credit to replace Letters of Credit that have expired or that have
2657 been drawn upon and reimbursed. Existing Letters of Credit shall be deemed to have been
2658 issued hereunder and shall be subject to and governed by the terms and conditions hereof.

2659 (d) *Swingline Loans.* During the Commitment Period, the Swingline Lender
2660 agrees to make revolving credit loans (the "**Swingline Loans**") to the Borrower in Dollars on
2661 any Business Day; *provided* that (i) the Outstanding Amount of Swingline Loans shall not
2662 exceed \$10,000,000 (as such amount may be decreased in accordance with the provisions hereof,

2663 the “**Swingline Sublimit**”) and (ii) with respect to the Revolving Credit Lenders collectively, the
2664 Outstanding Amount of Revolving Credit Obligations shall not exceed the Aggregate Revolving
2665 Credit Committed Amount; *provided further* that no Swingline Loans may be made on the
2666 Closing Date. Swingline Loans shall be comprised solely of Base Rate Loans, and may be
2667 repaid and reborrowed in accordance with the provisions hereof. Immediately upon the making
2668 of a Swingline Loan, each Revolving Credit Lender shall be deemed to, and hereby irrevocably
2669 and unconditionally agrees to, purchase from the Swingline Lender a participation interest in
2670 such Swingline Loan in an amount equal to the product of such Revolving Credit Lender’s
2671 Aggregate Commitment Percentage thereof; *provided* that the participation interest shall not be
2672 funded except on demand as provided in Section 2.04(b)(ii).

2673 Section 2.02. *Borrowings, Conversions and Continuations*

2674 (a) Each Borrowing, each conversion of Loans from one Type to the other,
2675 and each continuation of Eurocurrency Rate Loans shall be made upon the Borrower’s
2676 irrevocable notice to the Administrative Agent by (A) telephone, or (B) a Loan Notice; *provided*
2677 that any telephonic notice by the Borrower must be confirmed promptly by delivery to the
2678 Administrative Agent of a Loan Notice; *provided, further*, that the notice in respect of the initial
2679 Credit Extension, or in connection with any Acquisition or other transaction permitted under this
2680 Agreement, may be conditioned on the closing of the Microsemi Acquisition or such Acquisition
2681 or other transaction, as applicable. Each such notice must be received by the Administrative
2682 Agent not later than noon, (A) with respect to Eurocurrency Rate Loans or any conversion of
2683 Eurocurrency Rate Loans to Base Rate Loans, three Business Days prior to the requested date
2684 thereof and (B) with respect to Base Rate Loans, on the requested date of, any Borrowing,
2685 conversion or continuation.

2686 (b) Each telephonic notice by the Borrower pursuant to this Section 2.02 must
2687 be confirmed promptly by delivery to the Administrative Agent of a written Loan Notice,
2688 appropriately completed and signed by a Responsible Officer of the Borrower. Except as
2689 provided in Sections 2.03(c) and 2.04(b) each Borrowing, conversion or continuation shall be in
2690 a principal amount of (x) with respect to Eurocurrency Rate Loans, \$1,000,000 or a whole
2691 multiple of \$1,000,000 in excess thereof or (y) with respect to Base Rate Loans, \$500,000 or a
2692 whole multiple of \$100,000 in excess thereof. Each Loan Notice (whether telephonic or written)
2693 shall specify (i) whether such request is for a Term Borrowing, a Revolving Credit Borrowing, a
2694 conversion or a continuation, (ii) the requested date of such Borrowing, conversion or
2695 continuation (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed,
2696 converted or continued, (iv) the Class and Type of Loans to be borrowed, converted or continued
2697 and (v) if applicable, the duration of the Interest Period with respect thereto. If the Borrower
2698 fails to specify a Type of Loan in a Loan Notice or if the Borrower fails to give a timely notice
2699 requesting a conversion or continuation, then the applicable Loans shall be made as, or converted
2700 to, Eurocurrency Rate Loans with an Interest Period of one month. If the Borrower requests a
2701 Borrowing of, conversion to, or continuation of Eurocurrency Rate Loans in any Loan Notice,
2702 but fails to specify an Interest Period, the Interest Period will be deemed to be one month.

2703 (c) Following its receipt of a Loan Notice, the Administrative Agent shall
2704 promptly notify each Appropriate Lender of the amount of its pro rata share of the applicable
2705 Loans. In the case of a Borrowing, each Appropriate Lender shall make the amount of its Loan

2706 available to the Administrative Agent in immediately available funds at the Administrative
2707 Agent's Office not later than 2:00 p.m., on the Business Day specified in the applicable Loan
2708 Notice. Upon satisfaction of the applicable conditions set forth in Section 5.02 (and, on the
2709 Closing Date, Section 5.01), the Administrative Agent shall make all funds so received available
2710 to the Borrower in like funds as received by the Administrative Agent either by (i) crediting the
2711 account of the Borrower on the books of the Administrative Agent with the amount of such funds
2712 or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and
2713 reasonably acceptable to) the Administrative Agent by the Borrower; *provided, however*, that if,
2714 on the date of any Revolving Credit Borrowing there are Swingline Loans or LC Borrowings
2715 outstanding, then the proceeds of such Borrowing shall be applied, first, to the payment in full of
2716 any such L/C Borrowing, second, to the payment in full of any such Swingline Loans, and third,
2717 to the Borrower as provided above.

2718 (d) Except as otherwise provided herein, without the consent of the applicable
2719 Required Facility Lenders, (i) a Eurocurrency Rate Loan may be continued or converted only on
2720 the last day of an Interest Period for such Eurocurrency Rate Loan and (ii) any conversion into,
2721 or continuation as, a Eurocurrency Rate Loan may be made only if the conditions to Credit
2722 Extensions in Section 5.02 have been satisfied. During the existence of a Default or Event of
2723 Default, (x) no Loan may be requested as, converted to or continued as a Eurocurrency Rate
2724 Loan and (y) at the request of the applicable Required Facility Lenders, any outstanding
2725 Eurocurrency Rate Loan shall be converted to a Base Rate Loan on the last day of the Interest
2726 Period with respect thereto.

2727 (e) The Administrative Agent shall promptly notify the Borrower and the
2728 Appropriate Lenders of the interest rate applicable to any Interest Period for Eurocurrency Rate
2729 Loans upon determination of such interest rate. The determination of the Eurocurrency Rate by
2730 the Administrative Agent shall be conclusive in the absence of manifest error. At any time that
2731 Base Rate Loans are outstanding, the Administrative Agent shall notify the Borrower and the
2732 Appropriate Lenders of any change in Bank of America's prime rate used in determining the
2733 Base Rate promptly following the public announcement of such change.

2734 (f) After giving effect to all Borrowings, all conversions of Loans from one
2735 Type to the other, and all continuations of Loans as the same Type, there shall not be more than
2736 ten Interest Periods in effect with respect to the Facilities; *provided* that after the establishment
2737 of any new Class of Loans pursuant to an Incremental Amendment, Refinancing Amendment or
2738 Extension Amendment, the number of Interest Periods otherwise permitted by this
2739 Section 2.02(f) shall increase by three (3) Interest Periods for each applicable Class so
2740 established.

2741 Section 2.03. *Additional Provisions with Respect to Letters of Credit.*

2742 (a) Obligation to Issue or Amend.

2743 (i) The L/C Issuer shall not issue any Letter of Credit if:

2744 (A) except as otherwise provided in Section 2.03(b)(iii), the
2745 expiry date would occur more than (I) in the case of a standby Letter of

2746 Credit, one year from the date of issuance or (II) in the case of a
2747 commercial Letter of Credit, 180 days from the date of issuance, in each
2748 case unless the Required Revolving Credit Lenders and the L/C Issuer
2749 shall have otherwise given their approval;

2750 (B) the expiry date of any such Letter of Credit would occur
2751 after the L/C Expiration Date, unless the Revolving Credit Lenders and the
2752 L/C Issuer shall have otherwise given their approval or the Outstanding
2753 Amount of L/C Obligations in respect of such requested Letter of Credit
2754 has been Cash Collateralized or back-stopped by a letter of credit
2755 reasonably satisfactory to the applicable L/C Issuer; *provided* that once
2756 such Letter of Credit is fully Cash Collateralized, the other Lenders are
2757 released from liability as a Participant; or

2758 (C) any such Letter of Credit is to be used for purposes other
2759 than those permitted under Section 7.11, unless the Required Lenders shall
2760 have otherwise given their approval.

2761 (ii) The L/C Issuer shall not be under any obligation to issue any Letter
2762 of Credit if:

2763 (A) any order, judgment or decree of any Governmental
2764 Authority or arbitrator shall by its terms purport to enjoin or restrain the
2765 L/C Issuer from issuing such Letter of Credit, or any Law applicable to the
2766 L/C Issuer or any request or directive (whether or not having the force of
2767 law) from any Governmental Authority with jurisdiction over the L/C
2768 Issuer shall prohibit, or request that the L/C Issuer refrain from, the
2769 issuance of letters of credit generally or such Letter of Credit in particular
2770 or shall impose upon the L/C Issuer with respect to such Letter of Credit
2771 any restriction, reserve or capital requirement (for which the L/C Issuer is
2772 not otherwise compensated hereunder) not in effect on the Closing Date,
2773 or shall impose upon the L/C Issuer any unreimbursed loss, cost or
2774 expense that was not applicable on the Closing Date and that the L/C
2775 Issuer in good faith deems material to it;

2776 (B) the issuance of such Letter of Credit would violate any Law
2777 or one or more policies of the L/C Issuer;

2778 (C) except as otherwise agreed by the L/C Issuer and the
2779 Administrative Agent, such Letter of Credit is in an initial stated amount
2780 less than \$100,000, in the case of a commercial Letter of Credit, or
2781 \$200,000, in the case of a standby Letter of Credit;

2782 (D) such Letter of Credit is to be denominated in a currency
2783 other than Dollars or an Alternative Currency;

2784 (E) such Letter of Credit contains provisions for automatic
2785 reinstatement of the stated amount after any drawing thereunder;

2786 (F) any Revolving Credit Lender is at such time a Defaulting
2787 Lender, unless Cash Collateral or other Adequate Assurance shall have
2788 been provided, including arrangements to eliminate the L/C Issuer's actual
2789 or potential Fronting Exposure (after giving effect to Section 2.17(a)(vii))
2790 with respect to the Defaulting Lender arising from either the Letter of
2791 Credit then proposed to be issued or that Letter of Credit and all other L/C
2792 Obligations as to which the L/C Issuer has actual or potential Fronting
2793 Exposure, as it may elect in its sole discretion; or

2794 (G) except with respect to any Letter of Credit to be issued in
2795 Dollars, the L/C Issuer does not as of the issuance date of the requested
2796 Letter of Credit issue Letters of Credit in the requested currency.

2797 (iii) The L/C Issuer shall not amend any Letter of Credit if the L/C
2798 Issuer would not be permitted at such time to issue such Letter of Credit in its
2799 amended form under the terms hereof.

2800 (iv) The L/C Issuer shall not be under any obligation to amend any
2801 Letter of Credit if:

2802 (A) the L/C Issuer would have no obligation at such time to
2803 issue such Letter of Credit in its amended form under the terms hereof; or

2804 (B) the beneficiary of such Letter of Credit does not accept the
2805 proposed amendment to such Letter of Credit.

2806 (v) The L/C Issuer shall act on behalf of the Revolving Credit Lenders
2807 with respect to any Letter of Credit issued by it and the documents associated
2808 therewith. The L/C Issuer shall have all of the benefits and immunities (A)
2809 provided to the Administrative Agent in Article 10 with respect to any acts taken
2810 or omissions suffered by the L/C Issuer in connection with Letters of Credit
2811 issued by them or proposed to be issued by it and Issuer Documents pertaining
2812 to such Letters of Credit as fully as if the term "Administrative Agent" as used in
2813 Article 10 included the L/C Issuer with respect to such acts or omissions, and (B)
2814 as additionally provided herein with respect to the L/C Issuer.

2815 (b) *Procedures for Issuance and Amendment; Auto-Extension Letters of*
2816 *Credit.*

2817 (i) Each Letter of Credit shall be issued or amended, as the case may
2818 be, upon the request of the Borrower delivered to the L/C Issuer (with a copy to
2819 the Administrative Agent) in the form of an L/C Application appropriately
2820 completed and signed by a Responsible Officer of the Borrower. L/C
2821 Applications must be received by the L/C Issuer and the Administrative Agent not
2822 later than 12:00 p.m. at least two Business Days (or, in the case of a Letter of
2823 Credit denominated in an Alternative Currency, three Business Days) prior to the
2824 proposed issuance date or date of amendment, as the case may be, or such later
2825 date and time as the L/C Issuer and the Administrative Agent may agree in a

2826 particular instance in their sole discretion. In the case of a request for an initial
2827 issuance of a Letter of Credit, such L/C Application shall specify in form and
2828 detail reasonable satisfactory to the L/C Issuer: (A) the proposed issuance date of
2829 the requested Letter of Credit (which shall be a Business Day); (B) the amount
2830 and currency thereof and in the absence of specification of currency shall be
2831 deemed a request for a Letter of Credit denominated in Dollars; (C) the expiry
2832 date thereof; (D) the name and address of the beneficiary thereof; (E) the
2833 documents to be presented by such beneficiary in case of any drawing thereunder;
2834 (F) the full text of any certificate to be presented by such beneficiary in case of
2835 any drawing thereunder; and (G) such other matters as the L/C Issuer may
2836 reasonably require. In the case of a request for an amendment of any outstanding
2837 Letter of Credit, such L/C Application shall specify in form and detail reasonable
2838 satisfactory to the L/C Issuer (I) the Letter of Credit to be amended; (II) the
2839 proposed date of amendment thereof (which shall be a Business Day); (III) the
2840 nature of the proposed amendment; and (IV) such other matters as the L/C Issuer
2841 may reasonably require. Additionally, the Borrower shall furnish to the L/C
2842 Issuer and the Administrative Agent such other documents and information
2843 pertaining to such requested Letter of Credit issuance or amendment, including
2844 any Issuer Documents, as the L/C Issuer or the Administrative Agent may
2845 reasonably require.

2846 (ii) Promptly after receipt of any L/C Application, the L/C Issuer will
2847 confirm (by telephone or in writing) with the Administrative Agent that the
2848 Administrative Agent has received a copy of such L/C Application from the
2849 Borrower and, if not, the L/C Issuer will provide the Administrative Agent with a
2850 copy thereof. Unless the L/C Issuer has received written notice from the
2851 Administrative Agent, any Lender or any Credit Party, at least one Business Day
2852 prior to the requested date of issuance or amendment of the applicable Letter of
2853 Credit, that one or more applicable conditions contained in Article 5 shall not then
2854 be satisfied, then, subject to the terms and conditions hereof, the L/C Issuer shall,
2855 on the requested date, issue a Letter of Credit for the account of the Borrower (or
2856 any of its Restricted Subsidiaries) or enter into the applicable amendment, as the
2857 case may be, in each case in accordance with the L/C Issuer's usual and
2858 customary business practices. Immediately upon the issuance of each Letter of
2859 Credit, each Revolving Credit Lender shall be deemed to, and hereby irrevocably
2860 and unconditionally agrees to, purchase from the L/C Issuer a risk participation in
2861 such Letter of Credit in an amount equal to such Revolving Credit Lender's
2862 Aggregate Commitment Percentage thereof.

2863 (iii) If the Borrower so requests in an L/C Application, the L/C Issuer
2864 shall agree to issue a standby Letter of Credit that has automatic extension
2865 provisions (each, an "**Auto-Extension Letter of Credit**"); *provided* that any such
2866 Auto-Extension Letter of Credit must permit the L/C Issuer to prevent any such
2867 extension at least once in each twelve-month period (commencing with the date of
2868 issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof
2869 not later than a day (the "**Non-Extension Notice Date**") in each such twelve-
2870 month period to be agreed upon at the time such Letter of Credit is issued. Unless

2871 otherwise directed by the L/C Issuer, the Borrower shall not be required to make a
2872 specific request to the L/C Issuer for any such extension. Once an Auto-
2873 Extension Letter of Credit has been issued, the Revolving Credit Lenders shall be
2874 deemed to have authorized (but may not require) the L/C Issuer to permit the
2875 extension of such Letter of Credit at any time to an expiry date not later than the
2876 L/C Expiration Date; *provided, however*, that the L/C Issuer shall not permit any
2877 such extension if (1) the L/C Issuer has determined that it would not be permitted
2878 or would have no obligation at such time to issue such Letter of Credit in its
2879 revised form (as extended) under the terms hereof (by reason of the provisions of
2880 Section 2.03(a) or otherwise), or (2) it has received notice (which may be by
2881 telephone or in writing) on or before the day that is five Business Days before the
2882 Non-Extension Notice Date (x) from the Administrative Agent that the Required
2883 Revolving Credit Lenders have elected not to permit such extension or (y) from
2884 the Administrative Agent, any Revolving Credit Lender or the Borrower that one
2885 or more of the applicable conditions specified in Section 5.02 is not then satisfied,
2886 and in each case directing the L/C Issuer not to permit such extension.

2887 (iv) If the Borrower so requests in any L/C Application, the L/C Issuer
2888 may, in its sole and absolute discretion, agree to issue a Letter of Credit that
2889 permits the automatic reinstatement of all or a portion of the stated amount
2890 thereof after any drawing thereunder (each, an “**Auto-Reinstatement Letter of**
2891 **Credit**”). Unless otherwise directed by the L/C Issuer, the Borrower shall not be
2892 required to make a specific request to the L/C Issuer to permit such reinstatement.
2893 Once an Auto-Reinstatement Letter of Credit has been issued, except as provided
2894 in the following sentence, the Revolving Credit Lenders shall be deemed to have
2895 authorized (but may not require) the L/C Issuer to reinstate all or a portion of the
2896 stated amount thereof in accordance with the provisions of such Letter of Credit.
2897 Notwithstanding the foregoing, if such Auto-Reinstatement Letter of Credit
2898 permits the L/C Issuer to decline to reinstate all or any portion of the stated
2899 amount thereof after a drawing thereunder by giving notice of such non-
2900 reinstatement within a specified number of days after such drawing (the “**Non-**
2901 **Reinstatement Deadline**”), the L/C Issuer shall not permit such reinstatement if
2902 it has received a notice (which may be by telephone or in writing) on or before the
2903 day that is five Business Days before the Non-Reinstatement Deadline (A) from
2904 the Administrative Agent that the Required Facility Lenders have elected not to
2905 permit such reinstatement or (B) from the Administrative Agent, any Revolving
2906 Credit Lender or the Borrower that one or more of the applicable conditions
2907 specified in Section 5.02 is not then satisfied (treating such reinstatement as an
2908 L/C Credit Extension for purposes of this clause) and, in each case, directing the
2909 L/C Issuer not to permit such reinstatement.

2910 (v) Promptly after its delivery of any Letter of Credit or any
2911 amendment to a Letter of Credit to an advising bank with respect thereto or to the
2912 beneficiary thereof, the L/C Issuer will also deliver to the Borrower and the
2913 Administrative Agent a true and complete copy of such Letter of Credit or
2914 amendment.

2915 (vi) The L/C Issuer will provide to the Administrative Agent, at least
2916 quarterly and more frequently upon request of the Administrative Agent, a
2917 summary report on the Letters of Credit it has issued, including, among other
2918 things, on whose account each Letter of Credit is issued and each Letter of
2919 Credit's beneficiary, face amount and expiry date.

2920 (c) *Drawings and Reimbursements; Funding of Participations.*

2921 (i) Upon any drawing under any Letter of Credit, the L/C Issuer shall
2922 notify the Borrower and the Administrative Agent thereof. In the case of a Letter
2923 of Credit denominated in an Alternative Currency, the Borrower shall reimburse
2924 the L/C Issuer in such Alternative Currency, unless (A) the L/C Issuer (at its
2925 option) shall have specified in such notice that it will require reimbursement in
2926 Dollars, or (B) in the absence of any such requirement for reimbursement in
2927 Dollars, the Borrower shall have notified the L/C Issuer promptly following
2928 receipt of the notice of drawing that the Borrower will reimburse the L/C Issuer in
2929 Dollars. In the case of any such reimbursement in Dollars of a drawing under a
2930 Letter of Credit denominated in an Alternative Currency, the L/C Issuer shall
2931 notify the Borrower of the Dollar Equivalent of the amount of the drawing
2932 promptly following the determination thereof. Not later than 12:00 p.m. on the
2933 Business Day following any payment by the L/C Issuer under a Letter of Credit to
2934 be reimbursed in Dollars, or the Applicable Time on the date of any payment by
2935 the L/C Issuer under a Letter of Credit to be reimbursed in an Alternative
2936 Currency (such date, an "**L/C Honor Date**"), the Borrower shall reimburse the
2937 L/C Issuer in Dollars in an amount equal to the amount of such drawing and in the
2938 applicable currency. In the event that (A) a drawing denominated in an
2939 Alternative Currency is to be reimbursed in Dollars pursuant to the second
2940 sentence in this Section 2.03(c)(i) and (B) the Dollar amount paid by the
2941 Borrower, whether on or after the Honor Date, shall not be adequate on the date
2942 of that payment to purchase in accordance with normal banking procedures a sum
2943 denominated in the Alternative Currency equal to the drawing, the Borrower
2944 agrees, as a separate and independent obligation, to indemnify the L/C Issuer for
2945 the loss resulting from its inability on that date to purchase the Alternative
2946 Currency in the full amount of the drawing. The L/C Issuer shall notify the
2947 Administrative Agent of any failure of the Borrower to reimburse a drawn Letter
2948 of Credit. If the Borrower fails to so reimburse the L/C Issuer by such time, the
2949 Administrative Agent shall promptly notify each Revolving Credit Lender of the
2950 L/C Honor Date, the amount of the unreimbursed drawing (expressed in Dollars
2951 in the amount of the Dollar Equivalent thereof in the case of a Letter of Credit
2952 denominated in an Alternative Currency) (the "**L/C Unreimbursed Amount**"),
2953 and the amount of such Revolving Credit Lender's Aggregate Commitment
2954 Percentage thereof. In such event, the Borrower shall be deemed to have
2955 requested a Revolving Credit Borrowing of Base Rate Loans to be disbursed on
2956 the L/C Honor Date in an amount equal to the L/C Unreimbursed Amount,
2957 without regard to the minimum and multiples specified in Section 2.02(b) for the
2958 principal amount of Base Rate Loans, the amount of the unutilized portion of the
2959 Aggregate Revolving Credit Committed Amount or the conditions set forth in

2960 Section 5.02. Any notice given by the L/C Issuer or the Administrative Agent
2961 pursuant to this Section 2.03(c)(i) may be given by telephone if immediately
2962 confirmed in writing; *provided* that the lack of such an immediate confirmation
2963 shall not affect the conclusiveness or binding effect of such notice.

2964 (ii) Each Revolving Credit Lender shall upon any notice pursuant to
2965 Section 2.03(c)(i) make funds available to the Administrative Agent (and the
2966 Administrative Agent shall apply Cash Collateral provided for this purpose) for
2967 the account of the L/C Issuer, in Dollars, at the Administrative Agent's Office for
2968 Dollar-denominated payments in an amount equal to its Aggregate Commitment
2969 Percentage of the L/C Unreimbursed Amount not later than 1:00 p.m. on the
2970 Business Day specified in such notice by the Administrative Agent, whereupon,
2971 subject to the provisions of Section 2.03(c)(iii), each Revolving Credit Lender
2972 that so makes funds available shall be deemed to have made a Revolving Credit
2973 Loan that is a Base Rate Loan to the Borrower in such amount. The
2974 Administrative Agent shall remit the funds so received to the L/C Issuer in
2975 Dollars.

2976 (iii) With respect to any L/C Unreimbursed Amount that is not fully
2977 refinanced by a Revolving Credit Borrowing of Base Rate Loans for any reason,
2978 the Borrower shall be deemed to have incurred from the L/C Issuer an L/C
2979 Borrowing in the amount of the L/C Unreimbursed Amount that is not so
2980 refinanced, which L/C Borrowing shall be due and payable on demand (together
2981 with interest) and shall bear interest at the Default Rate. In such event, each
2982 Revolving Credit Lender's payment to the Administrative Agent for the account
2983 of the L/C Issuer pursuant to Section 2.03(c)(ii) shall be deemed payment in
2984 respect of its participation in such L/C Borrowing and shall constitute an L/C
2985 Advance from such Revolving Credit Lender in satisfaction of its participation
2986 obligation under this Section 2.03(c)(ii).

2987 (iv) Until each Revolving Credit Lender funds its Revolving Credit
2988 Loan or L/C Advance pursuant to this Section 2.03(c) to reimburse the L/C Issuer
2989 for any amount drawn under any Letter of Credit, interest in respect of such
2990 Revolving Credit Lender's Aggregate Commitment Percentage of such amount
2991 shall be solely for the account of the L/C Issuer.

2992 (v) Each Revolving Credit Lender's obligation to make Revolving
2993 Credit Loans or L/C Advances, to reimburse the L/C Issuer for amounts drawn
2994 under Letters of Credit, as contemplated by this Section 2.03(c), shall be absolute
2995 and unconditional and shall not be affected by any circumstance, including (A)
2996 any setoff, counterclaim, recoupment, defense or other right that such Revolving
2997 Credit Lender may have against the L/C Issuer, the Borrower or any other Person
2998 for any reason whatsoever, (B) the occurrence or continuance of a Default or
2999 Event of Default, (C) non-compliance with the conditions set forth in Section
3000 5.02, or (D) any other occurrence, event or condition, whether or not similar to
3001 any of the foregoing; *provided* that the L/C Issuer shall have complied with the
3002 applicable provisions of Section 2.03(b)(ii). No such making of an L/C Advance

3003 shall relieve or otherwise impair the obligation of the Borrower to reimburse the
3004 L/C Issuer for the amount of any payment made by the L/C Issuer under any
3005 Letter of Credit, together with interest as provided herein.

3006 (vi) If any Revolving Credit Lender fails to make available to the
3007 Administrative Agent for the account of the L/C Issuer any amount required to be
3008 paid by such Revolving Credit Lender pursuant to the foregoing provisions of this
3009 Section 2.03(c) by the time specified in Section 2.03(c)(ii), the L/C Issuer shall be
3010 entitled to recover from such Revolving Credit Lender (acting through the
3011 Administrative Agent), on demand, such amount with interest thereon for the
3012 period from the date such payment is required to the date on which such payment
3013 is immediately available to the L/C Issuer at a rate per annum equal to the
3014 applicable Overnight Rate from time to time in effect. A certificate of the L/C
3015 Issuer submitted to any Revolving Credit Lender (through the Administrative
3016 Agent) with respect to any amounts owing under this clause (vi) shall be
3017 conclusive absent manifest error.

3018 (d) *Repayment of Participations.*

3019 (i) At any time after the L/C Issuer has made a payment under any
3020 Letter of Credit and has received from any Revolving Credit Lender such
3021 Revolving Credit Lender's L/C Advance in respect of such payment in
3022 accordance with Section 2.03(c), if the Administrative Agent receives for the
3023 account of the L/C Issuer any payment in respect of the related L/C Unreimbursed
3024 Amount or interest thereon (whether directly from the Borrower or otherwise,
3025 including proceeds of Cash Collateral applied thereto by the Administrative
3026 Agent), the Administrative Agent will distribute to such Revolving Credit Lender
3027 its Aggregate Commitment Percentage thereof (appropriately adjusted, in the case
3028 of interest payments, to reflect the period of time during which such Revolving
3029 Credit Lender's L/C Advance was outstanding) in Dollars or in the same currency
3030 as those received by the Administrative Agent.

3031 (ii) If any payment received by the Administrative Agent for the
3032 account of the L/C Issuer pursuant to Section 2.03(c)(ii) is required to be returned
3033 under any of the circumstances described in Section 11.05 (including pursuant to
3034 any settlement entered into by the L/C Issuer in its discretion), each Revolving
3035 Credit Lender shall pay to the Administrative Agent for the account of the L/C
3036 Issuer its pro rata share thereof on demand of the Administrative Agent, *plus*
3037 interest thereon from the date of such demand to the date such amount is returned
3038 by such Revolving Credit Lender, at a rate per annum equal to the applicable
3039 Overnight Rate from time to time in effect. The obligations of the Lenders under
3040 this clause shall survive the payment in full of the Obligations and the termination
3041 of this Credit Agreement.

3042 (e) *Obligations Absolute.* The obligation of the Borrower to reimburse the
3043 L/C Issuer for each drawing under each Letter of Credit and to repay each L/C Borrowing shall

3044 be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms
3045 of this Credit Agreement under all circumstances, including the following:

3046 (i) any lack of validity or enforceability of such Letter of Credit, this
3047 Credit Agreement or any other Credit Document;

3048 (ii) the existence of any claim, counterclaim, setoff, defense or other
3049 right that the Borrower or any of its Subsidiaries may have at any time against any
3050 beneficiary or any transferee of such Letter of Credit (or any Person for whom
3051 any such beneficiary or any such transferee may be acting), the L/C Issuer or any
3052 other Person, whether in connection with this Credit Agreement, the transactions
3053 contemplated hereby or by such Letter of Credit or any agreement or instrument
3054 relating thereto, or any unrelated transaction;

3055 (iii) any draft, demand, certificate or other document presented under
3056 such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in
3057 any respect or any statement therein being untrue or inaccurate in any respect; or
3058 any loss or delay in the transmission or otherwise of any document required in
3059 order to make a drawing under such Letter of Credit;

3060 (iv) any payment by the L/C Issuer under such Letter of Credit against
3061 presentation of a draft or certificate that does not strictly comply with the terms of
3062 such Letter of Credit; or any payment made by the L/C Issuer under such Letter of
3063 Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-
3064 possession, assignee for the benefit of creditors, liquidator, receiver or other
3065 representative of or successor to any beneficiary or any transferee of such Letter
3066 of Credit, including any arising in connection with any proceeding under any
3067 Debtor Relief Law;

3068 (v) any other circumstance or happening whatsoever, whether or not
3069 similar to any of the foregoing, including any other circumstance that might
3070 otherwise constitute a defense available to, or a discharge of, the Borrower or any
3071 Guarantor; or

3072 (vi) any adverse change in the relevant exchange rates or in the
3073 availability of the relevant Alternative Currency to the Borrower or any
3074 Subsidiary or in the relevant currency markets generally.

3075 The Borrower shall promptly examine a copy of each Letter of Credit and each
3076 amendment thereto that is delivered to the Borrower and, in the event of any claim of non-
3077 compliance with the Borrower's instructions or other irregularity, the Borrower will immediately
3078 notify the L/C Issuer. The Borrower shall be conclusively deemed to have waived any such
3079 claim against the L/C Issuer and its correspondents unless such notice is given as aforesaid.

3080 (f) *Role of the L/C Issuer in such Capacity.* Each Lender and the Borrower
3081 agrees that, in paying any drawing under a Letter of Credit, the L/C Issuer shall not have any
3082 responsibility to obtain any document (other than any sight draft, certificates and documents
3083 expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy

3084 of any such document or the authority of the Person executing or delivering any such document.
3085 None of the L/C Issuer, the Administrative Agent, any of their respective Related Parties nor any
3086 correspondent, participant or assignee of the L/C Issuer shall be liable to any Lender for (i) any
3087 action taken or omitted in connection herewith at the request or with the approval of the
3088 Revolving Credit Lenders or the Required Revolving Credit Lenders, as applicable; (ii) any
3089 action taken or omitted in the absence of gross negligence, bad faith or willful misconduct; or
3090 (iii) the due execution, effectiveness, validity or enforceability of any document or instrument
3091 related to any Letter of Credit or Issuer Document. The Borrower hereby assumes all risks of the
3092 acts or omissions of any beneficiary or transferee with respect to the Borrower's use of any
3093 Letter of Credit; *provided, however*, that this assumption is not intended to, and shall not,
3094 preclude the Borrower's pursuing such rights and remedies as the Borrower may have against the
3095 beneficiary or transferee at law or under any other agreement. None of the L/C Issuer, the
3096 Administrative Agent, any of their respective Related Parties nor any correspondent, participant
3097 or assignee of the L/C Issuer, shall be liable or responsible for any of the matters described in
3098 clauses (i) through (v) of Section 2.03(e); *provided, however*, that anything in such clauses to the
3099 contrary notwithstanding, the L/C Issuer shall be liable to the Borrower, to the extent, but only to
3100 the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the
3101 Borrower that the Borrower proves were caused by the L/C Issuer's willful misconduct, bad faith
3102 or gross negligence as determined by a court of competent jurisdiction by a final and non-
3103 appealable judgment or the L/C Issuer's willful failure to pay under any Letter of Credit after the
3104 presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the
3105 terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing,
3106 the L/C Issuer may accept documents that appear on their face to be in order, without
3107 responsibility for further investigation, regardless of any notice or information to the contrary,
3108 and the L/C Issuer shall not be responsible for the validity or sufficiency of any instrument
3109 transferring or assigning or purporting to transfer or assign a Letter of Credit or the rights or
3110 benefits thereunder or proceeds thereof, in whole or in part, that may prove to be invalid or
3111 ineffective for any reason. The L/C Issuer may send a Letter of Credit or conduct any
3112 communication to or from the beneficiary via the Society for Worldwide Interbank Financial
3113 Telecommunication ("SWIFT") message or overnight courier, or any other commercially
3114 reasonable means of communicating with a beneficiary.

3115 (g) *Applicability of ISP and UCP.* Unless otherwise expressly agreed by the
3116 L/C Issuer and the Borrower when a Letter of Credit is issued (including any such agreement
3117 applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each standby
3118 Letter of Credit, and (ii) the rules of the Uniform Customs and Practice for Documentary Credits,
3119 as most recently published by the International Chamber of Commerce at the time of issuance,
3120 shall apply to each commercial Letter of Credit.

3121 (h) *Letters of Credit Issued for Restricted Subsidiaries.* Notwithstanding that
3122 a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the
3123 account of, any other Restricted Subsidiary, the Borrower shall be obligated to reimburse the L/C
3124 Issuer for any and all drawings under such Letter of Credit. The Borrower hereby acknowledges
3125 that the issuance of Letters of Credit for the account of any other Restricted Subsidiary inures to
3126 the benefit of the Borrower, and that the Borrower's business derives substantial benefits from
3127 the businesses of such other Restricted Subsidiaries.

3128 (i) *Letter of Credit Fees.* The Borrower shall pay Letter of Credit fees as set
3129 forth in Section 2.09(b).

3130 (j) *Conflict with Issuer Documents.* In the event of any conflict between the
3131 terms hereof and the terms of any Issuer Document, the terms hereof shall control.

3132 Section 2.04. *Additional Provisions with Respect to Swingline Loans.*

3133 (a) *Borrowing Procedures.*

3134 (i) *Swingline Loans.* Each Swingline Borrowing shall be made upon
3135 the Borrower's irrevocable notice to the Swingline Lender and the Administrative
3136 Agent (A) telephone, or (B) a Loan Notice; *provided* that any telephonic notice by
3137 the Borrower must be confirmed promptly by delivery to the Administrative
3138 Agent of a Loan Notice. Each such notice must be received by the Swingline
3139 Lender and the Administrative Agent not later than 2:00 p.m. on the requested
3140 borrowing date, and shall specify (a) the amount to be borrowed, which shall be a
3141 minimum of \$100,000, and (b) the requested borrowing date, which shall be a
3142 Business Day. Each such telephonic notice must be confirmed promptly by
3143 delivery to the Swingline Lender and the Administrative Agent of a written Loan
3144 Notice, appropriately completed and signed by a Responsible Officer of the
3145 Borrower. Promptly after receipt by the Swingline Lender of any telephonic Loan
3146 Notice, the Swingline Lender will confirm with the Administrative Agent (by
3147 telephone or in writing) that the Administrative Agent has also received such
3148 Loan Notice and, if not, the Swingline Lender will notify the Administrative
3149 Agent (by telephone or in writing) of the contents thereof. Unless the Swingline
3150 Lender has received notice (by telephone or in writing) from the Administrative
3151 Agent (including at the request of any Lender) prior to 3:00 p.m. on the date of
3152 the proposed Swingline Borrowing (i) directing the Swingline Lender not to make
3153 such Swingline Loan as a result of the limitations set forth in this Article 2, or (ii)
3154 that one or more of the applicable conditions specified in Article 5 is not then
3155 satisfied, then, subject to the terms and conditions hereof, the Swingline Lender
3156 will, not later than 3:00 p.m. on the borrowing date specified in such Loan Notice,
3157 make the amount of its Swingline Loan available to the Borrower at its office by
3158 crediting the account of the Borrower on the books of the Swingline Lender in
3159 immediately available funds. Notwithstanding anything to the contrary contained
3160 in this Section 2.04 or elsewhere in this Agreement, the Swingline Lender shall
3161 not be obligated to make any Swingline Loan at a time when a Revolving Credit
3162 Lender is a Defaulting Lender unless the Swingline Lender has entered into
3163 arrangements reasonably satisfactory to it and the Borrower to eliminate the
3164 Swingline Lender's Fronting Exposure (after giving effect to Section 2.17(a)(vii))
3165 with respect to the Defaulting Lender's or Defaulting Lenders' participation in
3166 such Swingline Loans, including by providing Cash Collateral or other Adequate
3167 Assurance to support such Defaulting Lender's or Defaulting Lenders' Aggregate
3168 Commitment Percentage of the outstanding Swingline Loans or other applicable
3169 share provided for under this Agreement. The Borrower shall repay to the
3170 Swingline Lender each Defaulting Lender's portion (after giving effect to Section

3171 2.17(a)(vii)) of each Swingline Loan promptly following demand by the
3172 Swingline Lender.

3173 (b) *Refinancing.*

3174 (i) The Swingline Lender at any time in its sole and absolute
3175 discretion may request, on behalf of the Borrower (which hereby irrevocably
3176 authorizes the Swingline Lender to so request on its behalf), that each Revolving
3177 Credit Lender make a Revolving Credit Loan that is a Base Rate Loan in an
3178 amount equal to such Revolving Credit Lender's Aggregate Commitment
3179 Percentage of Swingline Loans then outstanding. Such request shall be made in
3180 writing (which written request shall be deemed to be a Loan Notice for purposes
3181 hereof) and in accordance with the requirements of Section 2.02(a), without
3182 regard to the minimum and multiples specified in Section 2.02(b) for the principal
3183 amount of Revolving Credit Loans, the unutilized portion of the Aggregate
3184 Revolving Credit Commitments or the conditions set forth in Section 5.02. The
3185 Swingline Lender shall furnish the Borrower with a copy of the applicable Loan
3186 Notice promptly after delivering such notice to the Administrative Agent. Each
3187 Revolving Credit Lender shall make an amount equal to its pro rata share of the
3188 amount specified in such Loan Notice available to the Administrative Agent in
3189 immediately available funds (and the Administrative Agent may apply Cash
3190 Collateral available with respect to the applicable Swingline Loan) for the account
3191 of the Swingline Lender at the Administrative Agent's Office not later than 1:00
3192 p.m. on the day specified in such Loan Notice, whereupon, subject to Section
3193 2.04(b)(ii), each Revolving Credit Lender that so makes funds available shall be
3194 deemed to have made a Revolving Credit Loan that is a Base Rate Loan to the
3195 Borrower in such amount. In such case, the Administrative Agent shall remit the
3196 funds so received to the Swingline Lender.

3197 (ii) If for any reason any Swingline Loan cannot be refinanced by such
3198 a Borrowing of Revolving Credit Loans in accordance with Section 2.04(b)(i), the
3199 request for Revolving Credit Loans submitted by the Swingline Lender as set
3200 forth herein shall be deemed to be a request by the Swingline Lender that each of
3201 the Revolving Credit Lenders fund its risk participation in the relevant Swingline
3202 Loan and each Revolving Credit Lender's payment to the Administrative Agent
3203 for the account of the Swingline Lender pursuant to Section 2.04(b)(i) shall be
3204 deemed payment in respect of such participation.

3205 (iii) If any Revolving Credit Lender fails to make available to the
3206 Administrative Agent for the account of the Swingline Lender any amount
3207 required to be paid by such Revolving Credit Lender pursuant to the foregoing
3208 provisions of this Section 2.04(b) by the applicable time specified in Section
3209 2.04(b)(i) the Swingline Lender shall be entitled to recover from such Revolving
3210 Credit Lender (acting through the Administrative Agent), on demand, such
3211 amount with interest thereon for the period from the date such payment is
3212 required to the date on which such payment is immediately available to the
3213 Swingline Lender at a rate per annum equal to the applicable Overnight Rate from

3214 time to time in effect. A certificate of the Swingline Lender submitted to any
3215 Revolving Credit Lender (through the Administrative Agent) with respect to any
3216 amounts owing under this clause (iii) shall be conclusive absent manifest error.

3217 (iv) Each Revolving Credit Lender's obligation to make Revolving
3218 Credit Loans or to purchase and fund risk participations in Swingline Loans
3219 pursuant to this Section 2.04(b) shall be absolute and unconditional and shall not
3220 be affected by any circumstance, including (A) any setoff, counterclaim,
3221 recoupment, defense or other right that such Lender may have against the
3222 Swingline Lender, the Borrower or any other Person for any reason whatsoever,
3223 (B) the occurrence or continuance of a Default or Event of Default, (C) non-
3224 compliance with the conditions set forth in Section 5.02, or (D) any other
3225 occurrence, event or condition, whether or not similar to any of the foregoing;
3226 *provided* that the Swingline Lender has complied with the provisions of Section
3227 2.04(a). No such purchase or funding of risk participations shall relieve or
3228 otherwise impair the obligation of the Borrower to repay Swingline Loans,
3229 together with interest as provided herein.

3230 (c) *Repayment of Participations.*

3231 (i) At any time after any Revolving Credit Lender has purchased and
3232 funded a risk participation in a Swingline Loan, if the Swingline Lender receives
3233 any payment on account of such Swingline Loan, the Swingline Lender will
3234 distribute to such Revolving Credit Lender its Aggregate Commitment Percentage
3235 of such payment (appropriately adjusted, in the case of interest payments, to
3236 reflect the period of time during which such Revolving Credit Lender's risk
3237 participation was funded) in the same funds as those received by the Swingline
3238 Lender.

3239 (ii) If any payment received by the Swingline Lender in respect of
3240 principal or interest on any Swingline Loan is required to be returned by the
3241 Swingline Lender under any of the circumstances described in Section 11.05
3242 (including pursuant to any settlement entered into by the Swingline Lender in its
3243 discretion), each Revolving Credit Lender shall pay to the Swingline Lender its
3244 Aggregate Commitment Percentage thereof on demand of the Administrative
3245 Agent, *plus* interest thereon from the date of such demand to the date such amount
3246 is returned, at a rate per annum equal to the applicable Overnight Rate. The
3247 Administrative Agent will make such demand upon the request of the Swingline
3248 Lender. The obligations of the Revolving Credit Lenders under this clause shall
3249 survive the payment in full of the Obligations and the termination of this Credit
3250 Agreement.

3251 (d) *Interest for Account of the Swingline Lender.* The Swingline Lender shall
3252 be responsible for invoicing the Borrower for interest on the Swingline Loans. Until each
3253 Revolving Credit Lender funds its Revolving Credit Loan or risk participation pursuant to this
3254 Section 2.04 to refinance such Revolving Credit Lender's Aggregate Commitment Percentage of

3255 any Swingline Loan, interest in respect thereof shall be solely for the account of the Swingline
3256 Lender.

3257 (e) *Payments Directly to Swingline Lender.* The Borrower shall make all
3258 payments of principal and interest in respect of the Swingline Loans, directly to the Swingline
3259 Lender.

3260 Section 2.05. *Repayment of Loans Term Loans.*

3261 (a) The Borrower shall repay to the Term Lenders the aggregate principal
3262 amount of all Term Loans outstanding on the following dates in the respective amounts set forth
3263 opposite such dates (which amounts shall be reduced on a dollar-for-dollar basis as a result of the
3264 application of prepayments of Term Loans in accordance with Section 2.06):

Date	Amount
September 30, 2016	\$2,500,000
December 31, 2016	\$2,500,000
March 31, 2017	\$2,500,000
June 30, 2017	\$2,500,000
September 30, 2017	\$2,500,000
December 31, 2017	\$2,500,000
March 31, 2018	\$2,500,000
June 30, 2018	\$2,500,000
September 30, 2018	\$3,750,000
December 31, 2018	\$3,750,000
March 31, 2019	\$3,750,000
June 30, 2019	\$3,750,000
September 30, 2019	\$5,000,000
December 31, 2019	\$5,000,000
March 31, 2020	\$5,000,000
June 30, 2020	\$5,000,000
September 30, 2020	\$6,250,000
December 31, 2020	\$6,250,000
March 31, 2021	\$6,250,000
Term Loan Maturity Date	\$126,250,000 (or, if different, the entire aggregate principal amount of Term Loans then outstanding)

3265
3266 *provided* that the final principal repayment installment of the Initial Term Loans shall be repaid
3267 on the Maturity Date in respect of the Term Loan Facility and in any event shall be in an amount
3268 equal to the aggregate principal amount of all Initial Term Loans outstanding on such date.

3269 (b) *Revolving Credit Loans.* The Outstanding Amount of Revolving Credit
3270 Loans shall be repaid in full on the Revolving Termination Date.

3271 (c) *Swingline Loans*. The Outstanding Amount of the Swingline Loans shall
3272 be repaid in full on the earlier to occur of (i) the date five (5) Business Days after such Loan is
3273 made and (ii) the Revolving Termination Date.

3274 Section 2.06. *Prepayments*.

3275 (a) *Voluntary Prepayments*. The Loans may be repaid in whole or in part
3276 without premium or penalty (except, (x) in the case of Loans other than Base Rate Loans,
3277 amounts payable pursuant to Section 3.05) and (y) as set forth in Section 2.06(d)); provided that:

3278 (i) in the case of Loans other than Swingline Loans, notice thereof
3279 must be received by 12:00 p.m. by the Administrative Agent (A) at least three
3280 Business Days prior to the date of prepayment, in the case of Eurocurrency Rate
3281 Loans and (B) on the date of prepayment, in the case of Base Rate Loans, and in
3282 each case, any such prepayment shall be a minimum principal amount of
3283 \$1,000,000 and integral multiples of \$1,000,000 in excess thereof, in the case of
3284 Eurocurrency Rate Loans and \$500,000 and integral multiples of \$100,000 in
3285 excess thereof, in the case of Base Rate Loans, or, in each case, the entire
3286 remaining principal amount thereof, if less;

3287 (ii) in the case of Swingline Loans, (A) notice thereof must be received
3288 by the Swingline Lender by 1:00 p.m. on the date of prepayment (with a copy to
3289 the Administrative Agent), and (B) any such prepayment shall be in the same
3290 minimum principal amounts as for advances thereof (or any lesser amount that
3291 may be acceptable to the Swingline Lender).

3292 Each such notice of voluntary prepayment hereunder shall be irrevocable (*provided* that
3293 the notice may be conditional upon any refinancing or other conditional event and may be
3294 rescinded by the Borrower if such refinancing or other conditional event shall not be
3295 consummated or is otherwise delayed) and shall specify the date and amount of prepayment and
3296 the Class and Type(s) of Loans that are being prepaid and, if Eurocurrency Rate Loans are to be
3297 prepaid, the Interest Period(s) of such Loans. The Administrative Agent will give prompt notice
3298 to the Appropriate Lenders of any prepayment on the Loans and the Appropriate Lender's
3299 interest therein. If such notice is given by the Borrower, the Borrower shall make such
3300 prepayment and the payment amount specified in such notice shall be due and payable on the
3301 date specified therein. Prepayments of Eurocurrency Rate Loans hereunder shall be
3302 accompanied by accrued interest on the amount prepaid and breakage or other amounts due, if
3303 any, under Section 3.05.

3304 (b) *Mandatory Prepayments*.

3305 (i) *Revolving Credit Commitments*. If at any time (A) the
3306 Outstanding Amount of Revolving Credit Obligations shall exceed the Aggregate
3307 Revolving Credit Committed Amount, (B) the Outstanding Amount of L/C
3308 Obligations shall exceed the L/C Sublimit or (C) the Outstanding Amount of
3309 Swingline Loans shall exceed the Swingline Sublimit, the Borrower will
3310 immediately prepay the Revolving Credit Obligations in an amount equal to such

3311 excess; provided, however, that L/C Obligations will not be required to be Cash
3312 Collateralized hereunder until the Revolving Credit Loans and Swingline Loans
3313 have been paid in full.

3314 (ii) (A) *Dispositions and Involuntary Dispositions.* Subject to Section
3315 2.06(b)(ii)(D), the Borrower will prepay the Term Loans on the fifth Business
3316 Day following receipt of Net Cash Proceeds in an amount equal to 100% of the
3317 Net Cash Proceeds received from any Disposition pursuant Section 8.05(b) or any
3318 Involuntary Disposition by the Borrower or any Restricted Subsidiary; provided
3319 that if (x) the Borrower delivers, no later than the last day of such five Business
3320 Day period following receipt, a certificate of a Responsible Officer to the
3321 Administrative Agent setting forth the Borrower's intent to reinvest such proceeds
3322 in assets useful in the business of the Borrower or any Restricted Subsidiary and
3323 (y) no Default or Event of Default shall have occurred and be continuing at the
3324 time of such certificate or at the proposed time of the application of such
3325 proceeds, and such proceeds shall not be required to be applied to prepay the
3326 Term Loans except to the extent such proceeds are not so reinvested within (A)
3327 twelve (12) months following receipt of such Net Cash Proceeds or (B) if the
3328 Borrower or any Restricted Subsidiary enters into a legally binding commitment
3329 to reinvest such Net Cash Proceeds within twelve (12) months following receipt
3330 thereof, the later of (I) twelve (12) months following receipt thereof and (II) one
3331 hundred eighty (180) days after the end of such 12-month period.

3332 (B) *Incurrence of Indebtedness.* The Borrower will prepay the
3333 Term Loans on or prior to the fifth Business Day following receipt of Net
3334 Cash Proceeds in an amount equal to 100% of the Net Cash Proceeds
3335 received from any incurrence or issuance of Indebtedness by the Borrower
3336 or any Restricted Subsidiary, other than Indebtedness permitted to be
3337 incurred or issued pursuant to Section 8.03.

3338 (C) *Refinancing Loans and Refinancing Equivalent Debt.* If
3339 the Borrower incurs or issues any Refinancing Term Loans (or
3340 Refinancing Equivalent Debt) resulting in Net Cash Proceeds (as opposed
3341 to such Refinancing Term Loans or Refinancing Equivalent Debt arising
3342 out of an exchange of existing Term Loans for such Refinancing Term
3343 Loans or Refinancing Equivalent Debt), the Borrower shall cause to be
3344 prepaid an aggregate principal amount of Term Loans in an amount equal
3345 to 100% of all Net Cash Proceeds received therefrom on or prior to the
3346 fifth Business Day following receipt of such Net Cash Proceeds.

3347 (D) *Foreign Dispositions and Foreign Involuntary*
3348 *Dispositions.* Notwithstanding anything to the contrary contained in this
3349 Section 2.06(b), mandatory prepayments arising from the receipt of Net
3350 Cash Proceeds from any Disposition or Involuntary Disposition by any
3351 Foreign Subsidiary pursuant to Section 2.06(b)(ii)(A) (each, a "**Foreign**
3352 **Disposition**") shall not be required (1) to the extent the making of any
3353 such mandatory prepayment from the Net Cash Proceeds of such Foreign

3354 Disposition (or the repatriation of funds to effect such payment) would
3355 give rise to a material adverse tax consequence (as reasonably determined
3356 in good faith by the Borrower), (2) without duplication (including with
3357 respect to any reduction set forth in the definitions of Net Cash Proceeds),
3358 to the extent such amounts have been applied to prepay any Indebtedness
3359 of any Foreign Subsidiary or to the extent such Foreign Subsidiary has
3360 reinvested such amounts in assets useful in its business or the business of
3361 the Borrower or its Restricted Subsidiaries, *provided* that no such
3362 reinvestments shall be permitted at the time an Event of Default shall then
3363 be continuing or (3) so long as the applicable local Law will not permit
3364 repatriation thereof to the United States (the Borrower hereby agreeing to
3365 use commercially reasonable efforts to cause the applicable Foreign
3366 Subsidiary to promptly file any required forms, obtain any necessary
3367 consents and take all similar actions reasonably required by the applicable
3368 local Law to permit such repatriation); *provided* that if such repatriation of
3369 any such affected Net Cash Proceeds is later permitted under applicable
3370 Law, unless such amounts have previously been applied to prepayments or
3371 reinvestments to the extent permitted by clause (2) above, such
3372 repatriation will, subject to clause (1) above, be effected as promptly as
3373 practicable and such repatriated Net Cash Proceeds will be promptly after
3374 such repatriation applied pursuant to Section 2.06(b)(ii)(A), deeming such
3375 Net Cash Proceeds as having been received for purposes of such Section
3376 on the date of such repatriation. All mandatory prepayments required to
3377 be made from the Net Cash Proceeds of any Foreign Dispositions shall not
3378 be required until a date which is 65 Business Days following the receipt of
3379 such Net Cash Proceeds.

3380 (E) The Borrower shall deliver to the Administrative Agent, in
3381 connection with each prepayment required under this Section 2.06(b)(ii),
3382 (i) a certificate signed by a Responsible Officer of the Borrower setting
3383 forth in reasonable detail the calculation of the amount of such
3384 prepayment and (ii) at least three (3) Business Days' prior written notice
3385 of such prepayment. Each notice of prepayment shall specify the
3386 prepayment date and the principal amount of each Loan (or portion
3387 thereof) to be prepaid.

3388 (F) Each Term Lender may reject all (but not less than all) of
3389 its applicable share of any mandatory prepayment required to be made by
3390 the Borrower pursuant to clauses (A), (B) and (D) (such declined amounts,
3391 the "**Mandatory Prepayment Declined Proceeds**") of Term Loans
3392 required to be made pursuant to this Section 2.06(b)(ii) by providing
3393 written notice (each, a "**Mandatory Prepayment Rejection Notice**") to
3394 the Administrative Agent and the Borrower not later than 5:00 p.m., New
3395 York City time, one Business Day after the date of such Term Lender's
3396 receipt of notice from the Administrative Agent regarding such
3397 prepayment. If a Term Lender fails to deliver a Mandatory Prepayment
3398 Rejection Notice to the Administrative Agent within the time frame

3399 specified above such failure will be deemed an acceptance of the total
3400 amount of such mandatory prepayment of Term Loans. Any Mandatory
3401 Prepayment Declined Proceeds shall be shall be offered to the Term
3402 Lenders not so declining such prepayment on a pro rata basis in
3403 accordance with the amounts of the Term Loans of such Lender (with such
3404 non-declining Term Lenders having the right to decline any prepayment
3405 with Mandatory Prepayment Declined Proceeds at the time and in the
3406 manner specified by the Administrative Agent). To the extent such non-
3407 declining Term Lenders elect to decline their pro rata share of such
3408 Mandatory Prepayment Declined Proceeds, any Mandatory Prepayment
3409 Declined Proceeds remaining thereafter shall be retained by the Borrower.

3410 (c) *Application.* Within each Class, prepayments will be applied first to Base
3411 Rate Loans, then to Eurocurrency Rate Loans in direct order of Interest Period maturities. In
3412 addition:

3413 (i) *Voluntary Prepayments.* Voluntary prepayments shall be applied
3414 as specified by the Borrower. In the absence of a designation by the Borrower,
3415 any voluntary prepayment of the Term Loans shall be applied within each Class
3416 of Term Loans to reduce the principal repayment installments of such Class of
3417 Term Loans in direct order of maturity. Voluntary prepayments on the Loan
3418 Obligations will be paid by the Administrative Agent to the Lenders ratably in
3419 accordance with their respective Aggregate Commitment Percentage.

3420 (ii) *Mandatory Prepayments.*

3421 (A) Mandatory prepayments in respect of the Revolving Credit
3422 Facility under Section 2.06(b)(i) above shall be applied *first*, to the
3423 Swingline Loans until paid in full, *second*, to the Revolving Credit Loans
3424 until paid in full, and, *third*, to Cash Collateralize outstanding Letters of
3425 Credit.

3426 (B) Mandatory prepayments in respect of Term Loans under
3427 Section 2.06(b)(ii) above shall be applied to scheduled installments of
3428 principal as specified by the Borrower. In the absence of a designation by
3429 the Borrower, any mandatory prepayment of the Term Loans shall be
3430 applied to reduce the principal repayment installments of such Term Loan
3431 Facility in direct order of maturity.

3432 All prepayments under Section 2.06(b), shall be subject to Section 3.05, but otherwise
3433 without premium or penalty, and shall be accompanied by interest on the principal amount
3434 prepaid through the date of prepayment.

3435 Section 2.07. *Termination or Reduction of Commitments.*

3436 (a) *Voluntary Reductions of Revolving Credit Commitments.* The Aggregate
3437 Revolving Credit Commitments hereunder may be permanently reduced in whole or in part by
3438 notice from the Borrower to the Administrative Agent; provided that (i) any such notice thereof

3439 must be received by 12:00 p.m. at least three Business Days prior to the date of reduction or
3440 termination and any such prepayment shall be in a minimum principal amount of \$5,000,000 and
3441 integral multiples of \$1,000,000 in excess thereof; (ii) none of the Aggregate Revolving Credit
3442 Commitments may be reduced to an amount less than the Revolving Credit Obligations then
3443 outstanding thereunder and (iii) if, after giving effect to any reduction of any of the Aggregate
3444 Revolving Credit Commitments, the L/C Sublimit or the Swingline Sublimit exceeds the amount
3445 of applicable Aggregate Revolving Credit Commitments, such sublimit shall be automatically
3446 reduced by the amount of such excess. The Administrative Agent will give prompt notice to the
3447 Revolving Credit Lenders of any such reduction in the Aggregate Revolving Credit
3448 Commitments. Notwithstanding the foregoing, the Borrower may rescind or postpone any notice
3449 of termination of any Revolving Credit Commitments if such termination would have resulted
3450 from a refinancing of all of the applicable Class of Revolving Credit Commitments or other
3451 conditional event, which refinancing or other conditional event shall not be consummated or
3452 shall otherwise be delayed.

3453 (b) *Mandatory Reductions of Revolving Credit Commitments.* The Aggregate
3454 Revolving Credit Committed Amount shall not be permanently reduced upon application of any
3455 mandatory prepayments to the Revolving Credit Obligations.

3456 (c) *Mandatory Reductions of Term Commitments.* The aggregate Term
3457 Commitments with respect to the Initial Term Loans shall be automatically and permanently
3458 reduced to zero on the Closing Date, upon and after giving effect to the funding of the Initial
3459 Term Loans on such date.

3460 (d) *Payment of Fees.* All Commitment Fees or other fees accrued with
3461 respect to such portion of the Aggregate Revolving Credit Commitments terminated or reduced
3462 pursuant to Section 2.07 through the effective date of such termination or reduction shall be paid
3463 on the effective date of such termination or reduction.

3464 Section 2.08. *Interest.*

3465 (a) Subject to the provisions of subsection (b) below, (i) each Eurocurrency
3466 Rate Loan shall bear interest on the outstanding principal amount thereof for each Interest Period
3467 at a rate per annum equal to the Eurocurrency Rate for such Interest Period plus the Applicable
3468 Percentage; (ii) each Loan that is a Base Rate Loan shall bear interest on the outstanding
3469 principal amount thereof from the applicable borrowing date at a rate per annum equal to the
3470 Base Rate plus the Applicable Percentage and (iii) each Swingline Loan shall bear interest on the
3471 outstanding principal amount thereof from the applicable borrowing date at a rate per annum
3472 equal to the Base Rate plus the Applicable Percentage.

3473 (b) (i) If any amount of principal of any Loan is not paid when due (after
3474 giving effect to any applicable grace periods), whether at stated maturity, by acceleration or
3475 otherwise, such overdue amount shall thereafter bear interest at a fluctuating interest rate per
3476 annum at all times equal to the Default Rate to the fullest extent permitted by applicable Law.

3477 (ii) If any amount (other than principal of any Loan) payable under
3478 any Credit Document is not paid when due (after giving effect to any applicable

3479 grace periods), whether at stated maturity, by acceleration or otherwise, such
3480 overdue amount shall thereafter bear interest at a fluctuating interest rate per
3481 annum at all times equal to the Default Rate to the fullest extent permitted by
3482 applicable Law.

3483 (iii) Upon the occurrence and during the continuation of an Event of
3484 Default under Section 9.01(f), the principal amount of all outstanding Obligations
3485 hereunder shall bear interest at a fluctuating interest rate per annum at all times
3486 equal to the Default Rate to the fullest extent permitted by applicable Law.

3487 (iv) Accrued and unpaid interest on past due amounts (including
3488 interest on past due amounts) shall be due and payable upon demand.

3489 (c) Interest on each Loan shall be due and payable in arrears on each Interest
3490 Payment Date applicable thereto and at such other times as may be specified herein. Interest
3491 hereunder shall be due and payable in accordance with the terms hereof before and after
3492 judgment, and before and after the commencement of any proceeding under any Debtor Relief
3493 Law.

3494 Section 2.09. *Fees*

3495 (a) *Commitment Fees.*

3496 (i) *Revolving Credit Commitment.* The Borrower shall pay to the
3497 Administrative Agent for the account of each Revolving Credit Lender (other than
3498 a Defaulting Lender which shall be dealt with as provided in Section 2.17) in
3499 accordance with its Aggregate Commitment Percentage, a commitment fee in
3500 Dollars (the "**Commitment Fee**"), at a rate per annum equal to the product of (A)
3501 the Applicable Percentage *times* (B) the actual daily amount by which the
3502 Aggregate Revolving Credit Commitments exceed the sum of (x) the Outstanding
3503 Amount of Revolving Credit Loans and (y) the Outstanding Amount of L/C
3504 Obligations, subject to adjustment as provided in Section 2.17.

3505 (ii) *Payments.* The Commitment Fee shall accrue at all times during
3506 the Commitment Period, including at any time during which one or more of the
3507 conditions in Article 5 is not met, and shall be due and payable quarterly in
3508 arrears on the last Business Day of each March, June, September and December,
3509 commencing with the first such date to occur after the Closing Date, on the
3510 Revolving Termination Date (and, if applicable, thereafter on demand). The
3511 Commitment Fee shall be calculated quarterly in arrears, and if there is any
3512 change in the Applicable Percentage during any quarter, the actual daily amount
3513 shall be computed and multiplied by the Applicable Percentage separately for
3514 each period during such quarter that such Applicable Percentage was in effect.
3515 For purposes of clarification, Swingline Loans shall not be considered outstanding
3516 for purposes of determining the unused portion of the Aggregate Revolving Credit
3517 Commitments.

3518 (b) *Commercial and Standby Letter of Credit Fees.*

3519 (i) *Letter of Credit Fees.* The Borrower shall pay to the
3520 Administrative Agent for the account of each Revolving Credit Lender in
3521 accordance with its Aggregate Commitment Percentage a Letter of Credit fee in
3522 Dollars for each Letter of Credit equal to the Applicable Percentage *multiplied* by
3523 the Dollar Equivalent of the actual daily maximum amount available to be drawn
3524 under such Letter of Credit (whether or not such maximum amount is then in
3525 effect under such Letter of Credit if such maximum amount increases periodically
3526 pursuant to the terms of such Letter of Credit) (the “**Letter of Credit Fees**”);
3527 *provided, however,* any Letter of Credit Fees otherwise payable for the account of
3528 a Defaulting Lender with respect to any Letter of Credit as to which such
3529 Defaulting Lender has not provided Cash Collateral or other Adequate Assurance
3530 reasonable satisfactory to the L/C Issuer pursuant to Section 2.03(a)(ii) and
3531 Section 2.17 shall be payable into the Defaulting Lender Account or, to the
3532 maximum extent permitted by applicable Law, to the other Revolving Credit
3533 Lenders in accordance with the upward adjustments in their respective Aggregate
3534 Commitment Percentages allocable to such Letter of Credit pursuant to Section
3535 2.17(a)(vii), with the balance of such fee, if any, payable to the L/C Issuer for its
3536 own account. The Letter of Credit Fees shall be computed on a quarterly basis in
3537 arrears, and shall be due and payable on the last Business Day of each March,
3538 June, September and December, commencing with the first such date to occur
3539 after the issuance of such Letter of Credit, on the L/C Expiration Date, and on the
3540 Revolving Termination Date. If there is any change in the Applicable Percentage
3541 during any quarter, the Dollar Equivalent of the daily maximum amount of each
3542 standby Letter of Credit shall be computed and multiplied by the Applicable
3543 Percentage separately for each period during such quarter that such Applicable
3544 Percentage was in effect. Notwithstanding anything to the contrary contained
3545 herein, upon the request of the Required Revolving Credit Lenders, while any
3546 Event of Default exists, all Letter of Credit Fees shall accrue at the Default Rate.

3547 (ii) *Fronting Fee and Documentary and Processing Charges Payable*
3548 *to the L/C Issuer.* The Borrower shall pay directly to the L/C Issuer for its own
3549 account a fronting fee in Dollars equal to 0.125% per annum of the Dollar
3550 Equivalent of the actual daily maximum amount available to be drawn under such
3551 Letter of Credit. In addition, the Borrower shall pay directly to the L/C Issuer for
3552 its own account the customary issuance, presentation, amendment and other
3553 processing fees, and other standard costs and charges, of the L/C Issuer relating to
3554 letters of credit as from time to time in effect. Such customary fees and standard
3555 costs and charges are due and payable on demand and are nonrefundable.

3556 (c) *Other Fees.* The Borrower shall pay to the Agents such fees as shall have
3557 been separately agreed upon in writing in the amounts and at the times so specified. Such fees
3558 shall be fully earned when paid and shall not be refundable for any reason whatsoever (except as
3559 expressly agreed between the Borrower and the applicable Agent).

3560 (d) *Closing Fees.* The Borrower agrees to pay on the Closing Date to each
3561 Lender party to this Agreement on the Closing Date, as fee compensation for the funding of such
3562 Lender’s Term Loan and its Revolving Credit Commitment as in effect on the Closing Date, a

3563 closing fee (the “**Closing Fee**”) in an amount as separately agreed by the Administrative Agent
3564 and the Borrower. Such Closing Fee will be in all respects fully earned, due and payable on the
3565 Closing Date and non-refundable and non-creditable thereafter and, in the case of the portion of
3566 the Closing Fee related to the funding of the Term Loans made by such Lender and the portion of
3567 the Closing Fee related to Revolving Credit Commitments of such Lender, such portion of the
3568 Closing Fee shall be netted against the Term Loans made by such Lender on the Closing Date
3569 and the Revolving Credit Commitments of such Lender on the Closing Date.

3570 Section 2.10. *Computation of Interest and Fees; Retroactive Adjustments to Applicable*
3571 *Percentage.*

3572 (a) All computations of interest for Base Rate Loans (including Base Rate
3573 Loans determined by reference to the Eurocurrency Rate) shall be made on the basis of a year of
3574 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and
3575 interest shall be made on the basis of a 360-day year and actual days elapsed. Interest shall
3576 accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or
3577 any portion thereof, for the day on which the Loan or such portion is paid; provided that any
3578 Loan that is repaid on the same day on which it is made shall, subject to Section 2.11(a), bear
3579 interest for one day. Each determination by the Administrative Agent of an interest rate or fee
3580 hereunder shall be conclusive and binding for all purposes, absent manifest error.

3581 (b) If at any time prior to the termination of the Commitments of all of the
3582 Lenders and the repayment of all other Obligations hereunder (other than (i) contingent
3583 indemnification obligations as to which no claim has been asserted, (ii) Obligations described in
3584 clauses (b) and (c) of the definition thereof and (iii) any Letter of Credit that has been Cash
3585 Collateralized or back-stopped by a letter of credit reasonably satisfactory to the L/C Issuer or
3586 such Letter of Credit has been deemed reissued under another agreement reasonably acceptable
3587 to the L/C Issuer), as a result of any restatement of or other adjustment to the financial statements
3588 of the Borrower or for any other reason, the Borrower or the Lenders determine that (1) the
3589 Consolidated Total Net Leverage Ratio as calculated by the Borrower in any Compliance
3590 Certificate delivered to the Administrative Agent was inaccurate and (2) a proper calculation of
3591 the Consolidated Total Net Leverage Ratio would have resulted in a higher Applicable
3592 Percentage for such period, then the Borrower shall be obligated to pay as immediately due and
3593 payable to the Administrative Agent for the account of the applicable Lenders or the L/C Issuer,
3594 as the case may be, within three (3) Business Days after notice by the Administrative Agent to
3595 the Borrower (or, after the occurrence of an actual or deemed entry of an order for relief with
3596 respect to the Borrower under the Bankruptcy Code of the United States, automatically and
3597 without further action by the Administrative Agent, any Lender or the L/C Issuer), an amount
3598 equal to the excess of the amount of interest and fees that should have been paid for such period
3599 over the amount of interest and fees actually paid for such period. During such three Business
3600 Day period and thereafter, if the preceding sentence is complied with, the failure to previously
3601 pay such shortfall in interest and fees and the delivery of such inaccurate certificate shall not in
3602 and of themselves constitute a Default or Event of Default and no amounts shall be payable at
3603 the Default Rate in respect of any such interest or fees. This paragraph shall not limit the rights
3604 of the Administrative Agent, any Lender or the L/C Issuer, as the case may be, under Section
3605 2.03(c)(iii), 2.03(i) or 2.08(b) or under Article 9.

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Section 2.11. *Payments Generally; Administrative Agent's Clawback.*

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(a) *General.* All payments to be made by any Credit Party shall be made without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by any Credit Party hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. If, for any reason, any Borrower is prohibited by any Law from making any required payment hereunder in an Alternative Currency, such Borrower shall make such payment in Dollars in the Dollar Equivalent of the Alternative Currency payment amount. The Administrative Agent will promptly distribute to each Lender its pro rata share of such payment in like funds as received by wire transfer to such Lender's Lending Office. All payments received by the Administrative Agent (i) after 2:00 p.m., in the case of payments in Dollars, or (ii) after the Applicable Time related to payments in an Alternative Currency, shall in each case, be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. Subject to the definition of "Interest Period," if any payment to be made by any Credit Party shall come due on a day other than a Business Day, payment shall be made on the next following Business Day, and such extension of time shall be reflected in computing interest or fees, as the case may be.

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(b) *Funding by Lenders; Presumption by Administrative Agent.* Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurocurrency Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such 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 Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) 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 in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (x) in the case of a payment to be made by such Lender, the Overnight Rate *plus* any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing and (y) in the case of a payment to be made by the Borrower, the interest rate applicable to Base Rate Loans under the Facility in which such Loan was made. 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.

3649 (c) *Payments by the Borrower; Presumptions by Administrative Agent.*
3650 Unless the Administrative Agent shall have received notice from the Borrower prior to the date
3651 on which any payment is due to the Administrative Agent for the account of the Lenders or the
3652 L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent
3653 may assume that the Borrower has made such payment on such date in accordance herewith and
3654 may, in reliance upon such assumption, distribute to the Lenders or the L/C Issuer, as the case
3655 may be, the amount due. In such event, if the Borrower has not in fact made such payment, then
3656 each of the Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the
3657 Administrative Agent forthwith on demand the amount so distributed to such Lender or L/C
3658 Issuer, in immediately available funds with interest thereon, for each day from and including the
3659 date such amount is distributed to it to but excluding the date of payment to the Administrative
3660 Agent, at the Overnight Rate. A notice of the Administrative Agent to any Lender or the
3661 Borrower with respect to any amount owing under this subsection (b) shall be conclusive, absent
3662 manifest error.

3663 (d) *Failure to Satisfy Conditions Precedent.* If any Lender makes available to
3664 the Administrative Agent funds for any Loan to be made by such Lender as provided in the
3665 foregoing provisions of this Article 2, and such funds are not made available to the Borrower by
3666 the Administrative Agent because the conditions to the applicable Credit Extension set forth in
3667 Article 5 are not satisfied or waived in accordance with the terms hereof, the Administrative
3668 Agent shall return such funds (in like funds as received from such Lender) to such Lender,
3669 without interest.

3670 (e) *Obligation of the Lenders Several.* The obligations of the Lenders
3671 hereunder to make Loans, to fund participations in Letters of Credit and Swingline Loans and to
3672 make payments pursuant to Section 11.04(c) are several and not joint. The failure of any Lender
3673 to make any Loan, to fund any such participation or to make any payment under Section 11.04(c)
3674 on any date required hereunder shall not relieve any other Lender of its corresponding obligation
3675 to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so
3676 make its Loan, to purchase its participation or to make its payment under Section 11.04(c).

3677 (f) *Funding Source.* Subject to Section 3.06, nothing herein shall be deemed
3678 to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to
3679 constitute a representation by any Lender that it has obtained or will obtain the funds for any
3680 Loan in any particular place or manner.

3681 (g) *Allocation of Funds.* If at any time insufficient funds are received by or
3682 are available to the Administrative Agent to pay fully all amounts of principal, L/C Borrowings,
3683 interest and fees then due hereunder, such funds shall be applied (i) first, toward costs and
3684 *expenses* (including all reasonable and documented out-of-pocket fees, expenses and
3685 disbursements of any law firm or other counsel and amounts payable under Article 3) incurred
3686 by the Administrative Agent and each Lender, (ii) second, toward repayment of interest and fees
3687 then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of
3688 interest and fees then due to such parties, and (iii) third, toward repayment of principal and L/C
3689 Borrowings then due hereunder, ratably among the parties entitled thereto in accordance with the
3690 amounts of principal and L/C Borrowings then due to such parties.

3691 Section 2.12. *Sharing of Payments by Lenders.* If any Lender shall, by exercising any
3692 right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or
3693 interest on any of the Loans made by it, or the participations in L/C Obligations or in Swingline
3694 Loans held by it resulting in such Lender's receiving payment of a proportion of the aggregate
3695 amount of such Loans or participations and accrued interest thereon greater than its pro rata
3696 share of the applicable Class of Loans thereof as provided herein, then the Lender receiving such
3697 greater proportion shall notify the Administrative Agent of such fact, and purchase (for cash at
3698 face value) participations in the Loans and subparticipations in L/C Obligations and Swingline
3699 Loans of the other Appropriate Lenders, or make such other adjustments among the group of
3700 Appropriate Lenders as shall be equitable, so that the benefit of all such payments shall be shared
3701 by the Appropriate Lenders ratably in accordance with the aggregate amount of principal of and
3702 accrued interest on their respective Loans and other amounts owing them; provided that:

3703 (A) if any such participations or subparticipations are
3704 purchased and all or any portion of the payment giving rise thereto is
3705 recovered, such participations or subparticipations shall be rescinded and
3706 the purchase price restored to the extent of such recovery, without interest;
3707 and

3708 (B) the provisions of this Section shall not be construed to
3709 apply to (x) any payment made by the Borrower pursuant to and in
3710 accordance with the express terms of this Credit Agreement, including
3711 Sections 2.18, 2.19 and 2.20 and the application of funds arising from the
3712 existence of a Defaulting Lender, (y) any amounts applied to L/C
3713 Obligations by the L/C Issuer or Swingline Loans by the Swingline
3714 Lender, as appropriate, from Cash Collateral or other Adequate Assurance
3715 provided under Section 2.16 or (z) any payment obtained by a Lender as
3716 consideration for the assignment of or sale of a participation in any of its
3717 Loans or subparticipations in L/C Obligations or Swingline Loans to any
3718 assignee or participant, other than to the Borrower or any of its Restricted
3719 Subsidiaries (as to which the provisions of this Section shall apply) unless
3720 such assignment occurs in accordance with Section 11.06(i).

3721 Each Credit Party consents to the foregoing and agrees, to the extent it may effectively do
3722 so under applicable Law, that any Lender acquiring a participation pursuant to the foregoing
3723 arrangements may exercise against such Credit Party rights of setoff and counterclaim with
3724 respect to such participation as fully as if such Lender were a direct creditor of such Credit Party
3725 in the amount of such participation.

3726 Section 2.13. *Evidence of Debt.*

3727 (a) The Credit Extensions made by each Lender shall be evidenced by one or
3728 more accounts or records maintained by such Lender and by the Administrative Agent in the
3729 ordinary course of business. The accounts or records maintained by the Administrative Agent
3730 and each Lender shall be conclusive absent manifest error of the amount of the Credit Extensions
3731 made by the Lenders to the Borrower and the interest and payments thereon. Any failure to so
3732 record or any error in doing so shall not, however, limit or otherwise affect the obligation of the

3733 Borrower hereunder to pay any amount owing with respect to the Obligations. In the event of
3734 any conflict between the accounts and records maintained by any Lender and the accounts and
3735 records of the Administrative Agent in respect of such matters, the accounts and records of the
3736 Administrative Agent shall control in the absence of manifest error. Upon the request of any
3737 Lender made through the Administrative Agent, the Borrower shall execute and deliver to the
3738 Administrative Agent a Note for such Lender, which shall evidence such Lender's Loans in
3739 addition to such accounts or records. Each Lender may attach schedules to its Note and endorse
3740 thereon the date, Type (if applicable), amount and maturity of its Loans and payments with
3741 respect thereto.

3742 (b) In addition to the accounts and records referred to in subsection (a), each
3743 Revolving Credit Lender and the Administrative Agent shall maintain in accordance with its
3744 usual practice accounts or records evidencing the purchases and sales by such Revolving Credit
3745 Lender of participations in Letters of Credit and Swingline Loans. In the event of any conflict
3746 between the accounts and records maintained by the Administrative Agent and the accounts and
3747 records of any Revolving Credit Lender in respect of such matters, the accounts and records of
3748 the Administrative Agent shall control in the absence of manifest error.

3749 Section 2.14. *[Reserved]*.

3750 Section 2.15. *[Reserved]*.

3751 Section 2.16. *Cash Collateral*.

3752 (a) *Certain Credit Support Events*. Upon the request of the Administrative
3753 Agent or the L/C Issuer if the L/C Issuer has honored any full or partial drawing request under
3754 any Letter of Credit and such drawing has resulted in an L/C Borrowing or if, as of the L/C
3755 Expiration Date, any L/C Obligation for any reason remains outstanding, the Borrower shall
3756 immediately Cash Collateralize the then Outstanding Amount of the L/C Obligations. If the
3757 Administrative Agent notifies the Borrower at any time that the Outstanding Amount of all L/C
3758 Obligations at such time exceeds 103% of the L/C Sublimit, then, within two Business Days
3759 after receipt of such notice, the Borrower shall Cash Collateralize the L/C Obligations in an
3760 amount equal to the amount by which the Outstanding Amount of all L/C Obligations exceeds
3761 the L/C Sublimit. At any time that there shall exist a Defaulting Lender, immediately upon the
3762 request of the Administrative Agent, the L/C Issuer or the Swingline Lender, the Borrower shall
3763 deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting
3764 Exposure (after giving effect to Section 2.17(a)(vii) and any Cash Collateral provided by the
3765 Defaulting Lender). At any time that there shall exist a Defaulting Lender, promptly upon the
3766 request of the Administrative Agent, the L/C Issuer or the Swingline Lender, the Borrower shall
3767 deliver to the Administrative Agent Cash Collateral in an amount sufficient to cover all Fronting
3768 Exposure or other Adequate Assurance (after giving effect to Section 2.17(a)(vii) and any Cash
3769 Collateral or other Adequate Assurance provided by the Defaulting Lender). Additionally, if the
3770 Administrative Agent notifies the Borrower at any time that the Outstanding Amount of all L/C
3771 Obligations at such time exceeds 103% of the L/C Sublimit then in effect, then within two (2)
3772 Business Days after receipt of such notice, the Borrower shall provide Cash Collateral for the
3773 Outstanding Amount of the L/C Obligations in an amount not less than the amount by which the
3774 Outstanding Amount of all L/C Obligations exceeds the L/C Sublimit.

3775 (b) *Grant of Security Interest.* All Cash Collateral (other than credit support
3776 not constituting funds subject to deposit) shall be maintained in blocked, non-interest bearing
3777 deposit accounts with the Administrative Agent. The Borrower, and to the extent provided by
3778 any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of)
3779 the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuer and the
3780 Revolving Credit Lenders (including the Swingline Lender), and agrees to maintain, a first
3781 priority security interest in all such cash, deposit accounts and all balances therein, and all other
3782 property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as
3783 security for the obligations to which such Cash Collateral may be applied pursuant to Section
3784 2.16(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any
3785 right or claim of any Person other than the Administrative Agent as herein provided, or that the
3786 total amount of such Cash Collateral is less than the applicable Fronting Exposure and other
3787 obligations secured thereby, the Borrower or the relevant Defaulting Lender will, promptly upon
3788 demand by the Administrative Agent, pay or provide to the Administrative Agent additional
3789 Cash Collateral in an amount sufficient to eliminate such deficiency.

3790 (c) *Application.* Notwithstanding anything to the contrary contained in this
3791 Credit Agreement, Cash Collateral provided under any of this Section 2.16 or Sections 2.03,
3792 2.04, 2.06, 2.17 or 9.02 in respect of Letters of Credit or Swingline Loans shall be held and
3793 applied to the satisfaction of the specific L/C Obligations, Swingline Loans, obligations to fund
3794 participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any
3795 interest accrued on such obligation) and other obligations for which the Cash Collateral was so
3796 provided, prior to any other application of such property as may be provided for herein.

3797 (d) *Release.* Cash Collateral (or the appropriate portion thereof) provided to
3798 reduce Fronting Exposure or other obligations shall be released promptly following (i) the
3799 elimination of the applicable Fronting Exposure or other obligations giving rise thereto
3800 (including by the termination of Defaulting Lender status of the applicable Lender (or, as
3801 appropriate, its assignee following compliance with Section 11.06(b)(vi))) or (ii) the
3802 Administrative Agent's good faith determination that there exists excess Cash Collateral;
3803 *provided, however,* (x) that Cash Collateral furnished by or on behalf of a Credit Party shall not
3804 be released during the continuance of an Event of Default (and following application as provided
3805 in this Section 2.16 shall be applied in accordance with Section 9.03), and (y) the Person
3806 providing Cash Collateral and the L/C Issuer or the Swingline Lender, as applicable, may agree
3807 that Cash Collateral shall not be released but instead held to support future anticipated Fronting
3808 Exposure or other obligations.

3809 Section 2.17. *Defaulting Lenders.*

3810 (a) *Adjustments.* Notwithstanding anything to the contrary contained in this
3811 Credit Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such
3812 Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:

3813 (i) [reserved];

3814 (ii) [reserved];

3815 (iii) the Defaulting Lender shall not be entitled to vote, or participate in
3816 amendments, waivers or consents hereunder or in respect of the other Credit
3817 Documents, except as may be expressly provided herein;

3818 (iv) the Defaulting Lender may be replaced and its interests assigned as
3819 provided in Section 11.13; all payments of principal, interest and other amounts
3820 owing to a Defaulting Lender will be paid into an account or subaccount with the
3821 Administrative Agent (collectively, the “**Defaulting Lender Account**”) to secure
3822 the Defaulting Lender’s obligations under this Credit Agreement;

3823 (v) amounts held in the Defaulting Lender Account shall be applied at
3824 such time or times as may be determined by the Administrative Agent as follows:
3825 *first*, to the payment of any amounts owing by that Defaulting Lender to the
3826 Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any
3827 amounts owing by that Defaulting Lender to the L/C Issuer or the Swingline
3828 Lender hereunder; *third*, if so determined by the Administrative Agent or
3829 requested by the L/C Issuer or the Swingline Lender, to be held as Cash Collateral
3830 for future funding obligations of that Defaulting Lender of any participation in
3831 any Swingline Loan or Letter of Credit; *fourth*, as the Borrower may request (so
3832 long as no Default or Event of Default exists), to the funding of any Loan in
3833 respect of which that Defaulting Lender has failed to fund its portion thereof as
3834 required by this Credit Agreement, as determined by the Administrative Agent;
3835 *fifth*, if so determined by the Administrative Agent and the Borrower, to be held in
3836 a non-interest bearing deposit account and released pro rata in order to satisfy
3837 obligations of that Defaulting Lender to fund Loans under this Credit Agreement;
3838 *sixth*, to the payment of any amounts owing to the Lenders, the L/C Issuer or the
3839 Swingline Lender as a result of any judgment of a court of competent jurisdiction
3840 obtained by any Lender, the L/C Issuer or the Swingline Lender against that
3841 Defaulting Lender as a result of that Defaulting Lender’s breach of its obligations
3842 under this Credit Agreement; *seventh*, so long as no Default or Event of Default
3843 exists, to the payment of any amounts owing to the Borrower as a result of any
3844 judgment of a court of competent jurisdiction obtained by the Borrower against
3845 that Defaulting Lender as a result of that Defaulting Lender’s breach of its
3846 obligations under this Credit Agreement; and *eighth*, to that Defaulting Lender or
3847 as otherwise directed by a court of competent jurisdiction; *provided* that if (x)
3848 such payment is a payment of the principal amount of any Loans or L/C
3849 Borrowings in respect of which that Defaulting Lender has not fully funded its
3850 appropriate share and (y) such Loans or L/C Borrowings were made at a time
3851 when the conditions set forth in Section 5.02 were satisfied or waived, such
3852 payment shall be applied solely to pay the Loans of, and L/C Borrowings owed to,
3853 all non-Defaulting Lenders on a pro rata basis prior to being applied to the
3854 payment of any Loans of, or L/C Borrowings owed to, that Defaulting Lender
3855 until such time as all Loans and funded and unfunded participations in L/C
3856 Obligations and Swingline Loans are held by the Lenders in accordance with their
3857 respective Aggregate Commitment Percentage under the applicable Facility
3858 without giving effect to Section 2.17(a)(vii). Any payments, prepayments or
3859 other amounts paid or payable to a Defaulting Lender that are applied (or held) to

3860 pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to
3861 this Section 2.17(a)(v) shall be deemed paid to and redirected by that Defaulting
3862 Lender, and each Lender irrevocably consents hereto;

3863 (vi) the Defaulting Lenders shall not be entitled to receive any
3864 Commitment Fee, facility fee, letter of credit fee or other fees hereunder (which
3865 fees may be retained by the Borrower rather than paid into the Defaulting Lender
3866 Account); and

3867 (vii) during any period in which there is a Defaulting Lender, for
3868 purposes of computing the amount of the obligation of each non-Defaulting
3869 Lender to acquire, refinance or fund participations in Letters of Credit or
3870 Swingline Loans pursuant to Sections 2.03 and 2.04, the “Aggregate Commitment
3871 Percentage” of each non-Defaulting Lender shall be computed without giving
3872 effect to the Revolving Credit Commitment of that Defaulting Lender; *provided*
3873 that (A) each such reallocation shall be given effect only if, at the date the
3874 applicable Lender becomes a Defaulting Lender, no Event of Default exists; and
3875 (B) the aggregate obligation of each non-Defaulting Lender to acquire, refinance
3876 or fund participations in Letters of Credit and Swingline Loans shall not exceed
3877 the positive difference, if any, of (1) the Revolving Credit Commitment of that
3878 non-Defaulting Lender *minus* (2) the aggregate Outstanding Amount of the
3879 Revolving Credit Obligations of that Lender.

3880 (b) *Defaulting Lender Cure*. If the Borrower, the Administrative Agent, the
3881 Swingline Lender and the L/C Issuer agree in writing in their sole discretion that a Defaulting
3882 Lender should no longer be deemed to be a Defaulting Lender, the Administrative Agent will so
3883 notify the parties hereto, whereupon as of the effective date specified in such notice and subject
3884 to any conditions set forth therein (which may include arrangements with respect to any Cash
3885 Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding
3886 Loans of the other Lenders or take such other actions as the Administrative Agent may determine
3887 to be necessary to cause the Revolving Credit Loans and funded and unfunded participations in
3888 Letters of Credit and Swingline Loans to be held on a pro rata basis by the Revolving Credit
3889 Lenders in accordance with their Aggregate Commitment Percentages (without giving effect to
3890 Section 2.17(a)(vii)), whereupon that Lender will cease to be a Defaulting Lender; *provided* that
3891 no adjustments will be made retroactively with respect to fees accrued or payments made by or
3892 on behalf of the Borrower while that Lender was a Defaulting Lender; and *provided, further*, that
3893 except to the extent otherwise expressly agreed by the affected parties, no change hereunder
3894 from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party
3895 hereunder arising from that Lender’s having been a Defaulting Lender.

3896 Section 2.18. *Incremental Facilities*.

3897 (a) *Incremental Commitments*. The Borrower (or in the case of Escrow
3898 Incremental Term Loans, the Escrow Borrower) may, by written notice to the Administrative
3899 Agent from time to time, request Incremental Commitments, which may be of the same Class as
3900 any outstanding Term Loans (a “Term Loan Increase”) or a new Class of term loans and/or one
3901 or more increases in the amount of the Revolving Credit Commitments (a “Revolving

3902 Commitment Increase”) or the establishment of one or more new revolving credit commitments.
3903 Such notice shall set forth: (i) the amount of the Incremental Commitments being requested
3904 (which shall be in a minimum amount of \$5,000,000; provided that such amount may be less
3905 than \$5,000,000 if such amount represents all remaining availability under the limit set forth in
3906 Section 2.18(c)(ii)), (ii) the date on which such Incremental Commitments are requested to
3907 become effective, (iii) whether such Incremental Commitments are Incremental Revolving
3908 Commitments or Incremental Term Commitments and (iv) whether such Incremental
3909 Commitments will constitute Escrow Incremental Term Loans. The Borrower may in its sole
3910 discretion seek Incremental Commitments from existing Lenders (each of which shall be entitled
3911 to agree or decline to participate in its sole discretion) or any Additional Lender.

3912 (b) *Incremental Loans.* On the applicable date (each, an “**Incremental**
3913 **Facility Closing Date**”) specified in any Incremental Amendment, subject to the satisfaction of
3914 the terms and conditions in this Section 2.18 and in the applicable Incremental Amendment, (i)
3915 (A) each Incremental Term Lender of such Class shall make an Incremental Term Loan to the
3916 Borrower in an amount equal to its Incremental Term Commitment of such Class and (B) each
3917 Incremental Term Lender of such Class shall become a Lender hereunder with respect to the
3918 Incremental Term Commitment of such Class and the Incremental Term Loans of such Class
3919 made pursuant thereto and (ii) (A) each Incremental Revolving Lender of such Class shall make
3920 its Commitment available to the Borrower in an amount equal to its Incremental Revolving
3921 Commitment of such Class and (B) each Incremental Revolving Lender of such Class shall
3922 become a Lender hereunder with respect to the Incremental Revolving Commitment of such
3923 Class and the Incremental Revolving Loans of such Class made pursuant thereto.

3924 (c) *Effectiveness of Incremental Amendment.* The effectiveness of any
3925 Incremental Amendment, and the Incremental Commitments thereunder, shall be subject to the
3926 satisfaction on the applicable date (which shall be no earlier than the date of such Incremental
3927 Amendment) specified therein (the “**Incremental Amendment Date**”) of each of the following
3928 conditions, together with any other conditions set forth in the Incremental Amendment:

3929 (i) after giving effect to such Incremental Commitments, the
3930 conditions of Section 5.02 shall be satisfied (it being understood that all
3931 references to “the date of such Credit Extension” or similar language in such
3932 Section 5.02 shall be deemed to refer to the Incremental Amendment Date);
3933 *provided* that in connection with any Incremental Commitment, the primary
3934 purpose of which is to finance a Limited Condition Transaction, if agreed by the
3935 Incremental Lenders providing such Incremental Commitments, the conditions set
3936 forth in clauses (a) and (b) (other than with respect to any Event of Default under
3937 Section 9.01(a) or (f)) of Section 5.02 may be agreed not to apply and excluded in
3938 the relevant Incremental Amendment and the condition set forth in clause (c) of
3939 Section 5.02 may be satisfied by the delivery of a Request for Credit Extension
3940 within such lesser time period as agreed by such Incremental Lenders, the
3941 Administrative Agent and the Borrower;

3942 (ii) (A) after giving Pro Forma Effect to both (x) the making of
3943 Incremental Term Loans or establishment of Incremental Revolving
3944 Commitments (assuming a borrowing of the maximum amount of Loans available

3945 thereunder) under such Incremental Amendment and (y) any Specified
3946 Transactions consummated in connection therewith, the Consolidated Total Net
3947 Leverage Ratio does not exceed 2.50:1.00; or (B) together with the Incremental
3948 Term Loans made and Incremental Revolving Commitments established under
3949 such Incremental Amendment, the aggregate principal amount of Incremental
3950 Term Loans made, Incremental Equivalent Debt deemed incurred and Incremental
3951 Revolving Commitments established under this clause (B) does not exceed
3952 \$100,000,000; *provided* that it is understood that (1) Incremental Term Loans and
3953 Incremental Revolving Commitments may be incurred under either clause (A) or
3954 clause (B) as selected by the Borrower in its sole discretion, including by
3955 designating any portion of Incremental Commitments in excess of an amount
3956 permitted to be incurred under clause (A) at the time of such incurrence as
3957 incurred under clause (B); and

3958 (iii) to the extent reasonably requested by the Administrative Agent,
3959 receipt by the Administrative Agent of (A) customary legal opinions, board
3960 resolutions and officers' certificates (including a solvency certificate) consistent
3961 with those delivered on the Closing Date (conformed as appropriate) other than
3962 changes to such legal opinions resulting from a Change in Law, change in fact or
3963 change to counsel's form of opinion reasonably satisfactory to the Administrative
3964 Agent and (B) reaffirmation agreements and/or such amendments to the Collateral
3965 Documents as may be reasonably requested by the Administrative Agent in order
3966 to ensure that such Incremental Commitments and extensions of credit thereunder
3967 are provided with the benefit of the applicable Credit Documents.

3968 (d) *Required Terms.* The terms, provisions and documentation of the
3969 Incremental Term Loans and Incremental Term Commitments or the Incremental Revolving
3970 Loans and Incremental Revolving Commitments, as the case may be, of any Class shall be as
3971 agreed between the Borrower and the applicable Incremental Lenders providing such
3972 Incremental Commitments, and except as otherwise set forth herein, to the extent not identical to
3973 any Class of Term Loans or Revolving Credit Commitments, as applicable, each existing on the
3974 Incremental Facility Closing Date, shall be consistent with clauses (i) and (ii) below, as
3975 applicable, and otherwise (a) conformed (or added) in the Credit Documents pursuant to the
3976 related Incremental Amendment for the benefit of all Lenders, (b) applicable only to periods
3977 after the Latest Maturity Date as of the Incremental Amendment Date or (c) reasonably
3978 satisfactory to the Administrative Agent; *provided* that in the case of a Term Loan Increase or a
3979 Revolving Commitment Increase, the terms, provisions and documentation (other than the
3980 Incremental Amendment evidencing such increase) of such Term Loan Increase or Revolving
3981 Commitment Increase shall be identical (other than with respect to upfront fees, OID or similar
3982 fees) to the applicable Class of Term Loans or Revolving Credit Commitments being increased,
3983 in each case, as existing on the Incremental Facility Closing Date (after giving effect to Section
3984 2.18(e)). In any event:

3985 (i) the Incremental Term Loans:

3986 (A) (I) shall rank *pari passu* in right of payment with the
3987 Obligations, (II) shall be secured by the Collateral and shall rank *pari*

3988 *passu* in right of security with the Obligations and (III) shall be guaranteed
3989 by the Guarantors;

3990 (B) as of the Incremental Amendment Date, shall not have a
3991 final scheduled maturity date earlier than the Maturity Date of the Initial
3992 Term Loans;

3993 (C) (I) as of the Incremental Amendment Date, shall have a
3994 Weighted Average Life to Maturity not shorter than the remaining
3995 Weighted Average Life to Maturity of the Initial Term Loans and (II)
3996 subject to the foregoing, shall have an amortization schedule as
3997 determined by the Borrower and the applicable Incremental Term Loan
3998 arranger(s);

3999 (D) shall have an all-in-yield (whether in the form of interest
4000 rate margin, OID or otherwise) determined by the Borrower and the
4001 applicable Incremental Term Lenders; *provided* that the Applicable
4002 Percentage and amortization for a Term Loan Increase shall be (I) the
4003 Applicable Percentage and amortization for the Class being increased or
4004 (II) higher than the Applicable Percentage for the Class being increased as
4005 long as the Applicable Percentage for the Class being increased shall be
4006 automatically increased as and to the extent necessary to eliminate such
4007 deficiency;

4008 (E) shall have fees determined by the Borrower and the
4009 applicable Incremental Term Loan arranger(s); and

4010 (F) may participate on (I) a pro rata basis, less than pro rata
4011 basis or greater than pro rata basis in any voluntary prepayments of Term
4012 Loans hereunder and (II) a pro rata basis or less than pro rata basis (but
4013 not on a greater than pro rata basis (except for prepayments of any Class
4014 or Classes of Term Loans with a Maturity Date preceding the Maturity
4015 Date of the remaining Classes of Term Loans then outstanding or made
4016 with the proceeds of Refinancing Facilities)) in any mandatory
4017 prepayments of Term Loans hereunder;

4018 (ii) the Incremental Revolving Commitments and Incremental
4019 Revolving Loans:

4020 (A) (I) shall rank *pari passu* in right of payment with the
4021 Obligations, (II) shall be secured by the Collateral and shall rank *pari*
4022 *passu* in right of security with the Obligations and (III) shall be guaranteed
4023 by the Guarantors;

4024 (B) (I) shall not have a final scheduled maturity date or
4025 commitment reduction date earlier than the Maturity Date with respect to
4026 the Initial Revolving Credit Commitments and (II) shall not have any

4027 scheduled amortization or mandatory commitment reduction prior to the
4028 Maturity Date with respect to the Initial Revolving Credit Commitments;

4029 (C) shall have an all-in-yield (whether in the form of interest
4030 rate margin, OID or otherwise) determined by the Borrower and the
4031 applicable Incremental Revolving Lenders; *provided* that the Applicable
4032 Percentage for a Revolving Commitment Increase shall be (I) the
4033 Applicable Percentage for the Class being increased or (II) higher than the
4034 Applicable Percentage for the Class being increased as long as the
4035 Applicable Percentage for the Class being increased shall be automatically
4036 increased as and to the extent necessary to eliminate such deficiency;

4037 (D) shall have fees determined by the Borrower and the
4038 applicable Incremental Revolving Commitment arranger(s);

4039 (E) shall provide that the borrowing and repayment (except for
4040 (1) payments of interest and fees at different rates on Incremental
4041 Revolving Commitments (and related outstandings), (2) repayments
4042 required upon the Maturity Date of the Incremental Revolving
4043 Commitments and (3) repayment made in connection with a permanent
4044 repayment and termination of commitments (in accordance with clause (F)
4045 below)) of Loans with respect to Incremental Revolving Commitments
4046 after the associated Incremental Facility Closing Date shall be made on a
4047 pro rata basis or less than a pro rata basis (but not more than a pro rata
4048 basis) with all other Revolving Credit Commitments then existing on the
4049 Incremental Facility Closing Date; and

4050 (F) may provide that the permanent repayment of Revolving
4051 Credit Loans with respect to, and termination or reduction of, Incremental
4052 Revolving Commitments after the associated Incremental Facility Closing
4053 Date be made on a pro rata basis or less than pro rata basis (but not on a
4054 greater than pro rata basis other than with respect to any termination of
4055 undrawn Revolving Credit Commitments or a permanent repayment of
4056 any Class of Revolving Credit Commitments (1) with the proceeds of a
4057 Refinancing Facility or (2) that mature earlier than other outstanding
4058 Classes of Revolving Credit Commitments) with all other Revolving
4059 Credit Commitments.

4060 (e) *Incremental Amendment.* Commitments in respect of Incremental Term
4061 Loans and Incremental Revolving Commitments shall become additional Commitments pursuant
4062 to an amendment (an "**Incremental Amendment**") to this Credit Agreement and, as appropriate,
4063 the other Credit Documents, executed by the Borrower, each Incremental Lender providing such
4064 Commitments, the Administrative Agent and, for purposes of any election and/or increase to the
4065 Swingline Sublimit or L/C Sublimit, the Swingline Lender and each L/C Issuer. The Incremental
4066 Amendment may, without the consent of any other Credit Party, the Administrative Agent or
4067 Lender, effect such amendments to this Credit Agreement and the other Credit Documents as
4068 may be necessary or appropriate, in the reasonable opinion of the Administrative Agent and the

4069 Borrower, to effect the provisions of this Section 2.18, including any amendments necessary to
4070 establish the Incremental Loans and/or Incremental Commitments as a new Class of Loans, to
4071 provide to the Lenders of any Class of Loans or Commitments hereunder the benefit of any term
4072 or provision that is added under any Incremental Amendment for the benefit of the Lenders of an
4073 Incremental Facility (including to the extent necessary or advisable to allow any Incremental
4074 Facility to be an Incremental Increase) and such other technical amendments as may be
4075 necessary or appropriate in the reasonable opinion of the Administrative Agent and the Borrower
4076 in connection with the establishment of such new Class or tranche, in each case on terms
4077 consistent with this Section 2.18. The Borrower will use the proceeds of the Incremental Term
4078 Loans and Incremental Revolving Commitments for any purpose not prohibited by this
4079 Agreement.

4080 (f) *Reallocation of Revolving Credit Exposure.* Upon any Incremental
4081 Facility Closing Date on which Incremental Revolving Commitments are effected through
4082 Refinancing Amendment pursuant to this Section 2.18, (a) each of the Revolving Credit Lenders
4083 shall assign to each of the Incremental Revolving Lenders, and each of the Incremental
4084 Revolving Lenders shall purchase from each of the Revolving Credit Lenders, at the principal
4085 amount thereof, such interests in the Incremental Revolving Loans outstanding on such
4086 Incremental Facility Closing Date as shall be necessary in order that, after giving effect to all
4087 such assignments and purchases, such Revolving Credit Loans will be held by existing
4088 Revolving Credit Lenders and Incremental Revolving Lenders ratably in accordance with their
4089 Revolving Credit Commitments after giving effect to the addition of such Incremental Revolving
4090 Commitments to the Revolving Credit Commitments, (b) each Incremental Revolving
4091 Commitment shall be deemed for all purposes a Revolving Credit Commitment and each Loan
4092 made thereunder shall be deemed, for all purposes, a Revolving Credit Loan and (c) each
4093 Incremental Revolving Lender shall become a Lender with respect to the Incremental Revolving
4094 Commitments and all matters relating thereto. The Administrative Agent and the Lenders hereby
4095 agree that the minimum borrowing and prepayment requirements in Section 2.02(a) and
4096 2.06(a)(i) of this Agreement shall not apply to the transactions effected pursuant to the
4097 immediately preceding sentence.

4098 (g) The Incremental Term Loans made under each Term Loan Increase shall
4099 be made by the applicable Lenders participating therein pursuant to the procedures set forth in
4100 Section 2.01 and 2.02 and on the date of the making of such Incremental Term Loans, and
4101 notwithstanding anything to the contrary set forth in Section 2.01 and 2.02, such Incremental
4102 Term Loans shall be added to (and form part of) each Borrowing of outstanding Term Loans
4103 under the applicable Class of Term Loans on a pro rata basis (based on the relative sizes of the
4104 various outstanding Borrowings), so that each Lender under such Class will participate
4105 proportionately in each then outstanding Borrowing of Term Loans of such Class; *provided* that
4106 Escrow Incremental Term Loans shall not be deemed to be outstanding under this Agreement or
4107 any other Credit Document for any purposes hereof (including, without limitation, for purposes
4108 of any financial calculation, the definition of "Obligations," the definition of "Required Lenders"
4109 or Section 9 or Section 11.01 hereof) and the obligations with respect thereto shall not be
4110 recourse to any Credit Party, in each case, unless and until the Escrow Assumption with respect
4111 thereto has occurred and the Escrow Assumption shall only be permitted if the conditions set
4112 forth in section 2.18(c) are satisfied as of the date of such Escrow Assumption.

4113 (h) This Section 2.18 shall supersede any provisions in Section 2.12 or 11.01
4114 to the contrary.

4115 Section 2.19. *Amend and Extend Transactions.*

4116 (a) The Borrower may, by written notice to the Administrative Agent from
4117 time to time, request an extension (each, an "Extension") of the maturity or termination date of
4118 any Class of Revolving Credit Commitments and/or Term Loans to the extended maturity or
4119 termination date specified in such notice. Such notice shall set forth (i) the amount of the
4120 applicable Class of Revolving Credit Commitments and/or Term Loans to be extended (which
4121 shall be in minimum increments of \$1,000,000 and a minimum amount of \$5,000,000), (ii) the
4122 date on which such Extensions are requested to become effective (which shall be not less than
4123 five (5) Business Days nor more than 60 days after the date of such Extension request (or such
4124 longer or shorter periods as the Administrative Agent shall reasonably agree)) and (iii)
4125 identifying the relevant Class of Revolving Credit Commitments and/or Term Loans to which
4126 the Extension request relates. Each Lender of the applicable Class shall be offered (an
4127 "Extension Offer") an opportunity to participate in such Extension on a pro rata basis and on the
4128 same terms and conditions as each other Lender of such Class pursuant to procedures established
4129 by, or reasonably acceptable to, the Administrative Agent. If the aggregate principal amount of
4130 Term Loans (calculated on the face amount thereof) or Revolving Credit Commitments in
4131 respect of which Lenders shall have accepted the relevant Extension Offer shall exceed the
4132 maximum aggregate principal amount of Term Loans or Revolving Credit Commitments, as
4133 applicable, offered to be extended by the Borrower pursuant to such Extension Offer, then the
4134 Term Loans or Revolving Credit Commitments, as applicable, of Lenders of the applicable Class
4135 shall be extended ratably up to such maximum amount based on the respective principal amounts
4136 (but not to exceed actual holdings of record) with respect to which such Lenders have accepted
4137 such Extension Offer.

4138 (b) It shall be a condition precedent to the effectiveness of any Extension that
4139 (i) no Default or Event of Default shall have occurred and be continuing immediately prior to
4140 and immediately after giving effect to such Extension, (ii) the representations and warranties set
4141 forth in Article 6 and in each other Credit Document shall be true and correct in all material
4142 respects on and as of the date of such Extension, (iii) the L/C Issuer and the Swingline Lender
4143 shall have consented to any Extension of the Revolving Credit Commitments, to the extent that
4144 such extension provides for the issuance of Letters of Credit or making of Swingline Loans at
4145 any time during the extended period and (iv) the terms of such Extended Revolving
4146 Commitments and Extended Term Loans shall comply with Section 2.19(c).

4147 (c) The terms of each Extension shall be determined by the Borrower and the
4148 applicable extending Lender and set forth in an Extension Amendment; *provided* that (i) the final
4149 maturity date of any Extended Term Loan or Extended Revolving Commitment shall be no
4150 earlier than the maturity or termination date of the Class of Term Loans or Revolving Credit
4151 Commitments being extended, (ii) (A) there shall be no scheduled amortization or mandatory
4152 commitment reduction of the Extended Revolving Commitments and (B) the Weighted Average
4153 Life to Maturity of the Extended Term Loans shall be no shorter than the remaining Weighted
4154 Average Life to Maturity of the Class of Term Loans being extended, (iii) the Extended
4155 Revolving Loans and the Extended Term Loans will rank *pari passu* in right of payment and

4156 with respect to security with the Revolving Credit Loans and the Term Loans and shall be
4157 guaranteed by the Guarantors, (iv) the interest rate margin, rate floors, fees, original issue
4158 discounts and premiums applicable to any Extended Term Loans or Extended Revolving
4159 Commitments (and the Extended Revolving Loans thereunder) shall be determined by the
4160 Borrower and the lenders providing such Extended Term Loans or Extended Revolving
4161 Commitments, as applicable, (v) none of the obligors or guarantors with respect to such
4162 Extended Term Loans or Extended Revolving Commitments shall be a Person that is not a Credit
4163 Party and (vi) to the extent the terms of the Extended Term Loans or the Extended Revolving
4164 Commitments are inconsistent with the terms set forth herein (except as set forth in clause (i)
4165 through (v) above), such terms shall be reasonably satisfactory to the Administrative Agent.

4166 (d) In connection with any Extension, the Borrower, the Administrative Agent
4167 and each applicable extending Lender shall execute and deliver to the Administrative Agent an
4168 amendment (an "**Extension Amendment**") and such other documentation as the Administrative
4169 Agent shall reasonably specify to evidence the Extension. The Administrative Agent shall
4170 promptly notify each Lender as to the effectiveness of each Extension. Any Extension
4171 Amendment may, without the consent of any other Lender, effect such amendments to this
4172 Agreement and the other Credit Documents as may be necessary or appropriate, in the
4173 reasonable opinion of the Administrative Agent and the Borrower, to implement the terms of any
4174 such Extension, including any amendments necessary to establish Extended Term Loans or
4175 Extended Revolving Commitments as a new Class or tranche of Term Loans or Revolving Credit
4176 Commitments, as applicable, and such other technical amendments as may be necessary or
4177 appropriate in the reasonable opinion of the Administrative Agent and the Borrower in
4178 connection with the establishment of such new Class or tranche (including to preserve the pro
4179 rata treatment of the extended and non-extended Classes and to provide for the reallocation of
4180 participation in Letters of Credit or Swingline Loans upon the expiration or termination of the
4181 commitments under any Class), in each case on terms not inconsistent with this Section 2.19.

4182 Section 2.20. *Refinancing Facilities.*

4183 (a) The Borrower may, by written notice to the Administrative Agent from
4184 time to time, request (x) Refinancing Revolving Commitments to replace all or a portion of any
4185 existing Class of Revolving Credit Commitments and (y) Refinancing Term Loans to refinance
4186 all or a portion of any existing Class of Term Loans (with respect to a particular Refinancing
4187 Commitment or Refinancing Loan, such existing Revolving Credit Commitments or Loans,
4188 "**Refinanced Debt**"). Such notice shall set forth (i) the amount of the applicable Refinancing
4189 Facility (which shall be in minimum increments of \$1,000,000 and a minimum amount of
4190 \$5,000,000), (ii) the date on which the applicable Refinancing Facility is to become effective and
4191 (iii) whether such Refinancing Facilities are Refinancing Revolving Commitments or
4192 Refinancing Term Loans. The Borrower may in its sole discretion seek Refinancing Facilities
4193 from existing Lenders (each of which shall be entitled to agree or decline to participate in its sole
4194 discretion) or any Additional Lender.

4195 (b) *Refinancing Loans.* On any Refinancing Facility Closing Date on which
4196 any Refinancing Term Commitments of any Class are effected, subject to the satisfaction of the
4197 terms and conditions in this Section 2.20, (i) each Refinancing Term Lender of such Class shall
4198 make a Loan to the Borrower (a "**Refinancing Term Loan**") in an amount equal to its

4199 Refinancing Term Commitment of such Class and (ii) each Refinancing Term Lender of such
4200 Class shall become a Lender hereunder with respect to the Refinancing Term Commitment of
4201 such Class and the Refinancing Term Loans of such Class made pursuant thereto. On any
4202 Refinancing Facility Closing Date on which any Refinancing Revolving Commitments of any
4203 Class are effected, subject to the satisfaction of the terms and conditions in this Section 2.20, (i)
4204 each Refinancing Revolving Lender of such Class shall make its Commitment available to the
4205 Borrower (when borrowed, a “**Refinancing Revolving Loan**” and collectively with any
4206 Refinancing Term Loan, a “**Refinancing Loan**”) in an amount equal to its Refinancing
4207 Revolving Commitment of such Class and (ii) each Refinancing Revolving Lender of such Class
4208 shall become a Lender hereunder with respect to the Refinancing Revolving Commitment of
4209 such Class and the Refinancing Revolving Loans of such Class made pursuant thereto.

4210 (c) *Effectiveness of Refinancing Amendment.* The effectiveness of any
4211 Refinancing Amendment, and the Refinancing Commitments thereunder, shall be subject to the
4212 satisfaction on the date thereof (a “**Refinancing Facility Closing Date**”) of each of the following
4213 conditions, together with any other conditions set forth in the Refinancing Amendment:

4214 (i) after giving effect to such Refinancing Commitments, the
4215 conditions of Sections 5.02(a) and (b) shall be satisfied (it being understood that
4216 all references to “the date of such Credit Extension” or similar language in such
4217 Section 5.02 shall be deemed to refer to the effective date of such Refinancing
4218 Amendment);

4219 (ii) each Refinancing Commitment shall be in an aggregate principal
4220 amount that is not less than \$5,000,000 and shall be in an increment of \$1,000,000
4221 (provided that such amount may be less than \$5,000,000 and not in an increment
4222 of \$1,000,000 if such amount is equal to (x) the entire outstanding principal
4223 amount of the Refinanced Debt that is in the form of Term Loans or (y) the entire
4224 principal amount of Refinanced Debt that is in the form of Revolving Credit
4225 Commitments); and

4226 (iii) to the extent reasonably requested by the Administrative Agent,
4227 receipt by the Administrative Agent of (i) customary legal opinions, board
4228 resolutions and officers’ certificates consistent with those delivered on the
4229 Closing Date (conformed as appropriate) other than changes to such legal
4230 opinions resulting from a Change in Law, change in fact or change to counsel’s
4231 form of opinion reasonably satisfactory to the Administrative Agent and (ii)
4232 reaffirmation agreements and/or such amendments to the Collateral Documents as
4233 may be reasonably requested by the Administrative Agent in order to ensure that
4234 such Refinancing Lenders are provided with the benefit of the applicable Credit
4235 Documents.

4236 (d) *Required Terms.* The terms, provisions and documentation of the
4237 Refinancing Term Loans and Refinancing Term Commitments or the Refinancing Revolving
4238 Loans and Refinancing Revolving Commitments, as the case may be, of any Class shall be as
4239 agreed between the Borrower and the applicable Refinancing Lenders providing such
4240 Refinancing Commitments, and except as otherwise set forth herein, to the extent not identical to

4241 any Class of Term Loans or Revolving Credit Commitments, as applicable, each existing on the
4242 Refinancing Facility Closing Date, shall be consistent with clauses (i) and (ii) below, as
4243 applicable, and otherwise reasonably satisfactory to the Administrative Agent. In any event:

4244 (i) the Refinancing Term Loans:

4245 (A) (I) shall rank *pari passu* in right of payment with the
4246 Obligations, (II) shall be secured by the Collateral and shall rank *pari*
4247 *passu* in right of security with the Obligations and (III) shall be guaranteed
4248 by the Guarantors;

4249 (B) as of the Refinancing Facility Closing Date, shall not have
4250 a final scheduled maturity date earlier than the Maturity Date of the
4251 Refinanced Debt;

4252 (C) (I) as of the Refinancing Facility Closing Date, shall not
4253 have a Weighted Average Life to Maturity shorter than the remaining
4254 Weighted Average Life to Maturity of the Refinanced Debt and (II) shall
4255 have an amortization schedule as determined by the Borrower and the
4256 applicable Refinancing Lenders;

4257 (D) shall have an all-in-yield (whether in the form of interest
4258 rate margin, OID or otherwise) determined by the Borrower and the
4259 applicable Refinancing Term Lenders;

4260 (E) shall have fees determined by the Borrower and the
4261 applicable Refinancing Term Loan arranger(s);

4262 (F) may participate on (I) a pro rata basis, less than pro rata
4263 basis or greater than pro rata basis in any voluntary prepayments of Term
4264 Loans hereunder and (II) a pro rata basis or less than pro rata basis (but
4265 not on a greater than pro rata basis (except for prepayments of any Class
4266 or Classes of Term Loans with a Maturity Date preceding the Maturity
4267 Date of the remaining Classes of Term Loans then outstanding or made
4268 with the proceeds of Refinancing Facilities)) in any mandatory
4269 prepayments of Term Loans hereunder; and

4270 (G) shall not have a greater principal amount than the principal
4271 amount of the Refinanced Debt plus accrued interest, fees, premiums (if
4272 any) and penalties payable by the terms of such tranche of Term Loans
4273 and reasonable fees, expenses, OID and upfront fees associated with the
4274 incurrence of such Refinancing Term Loans; and

4275 (ii) the Refinancing Revolving Commitments and Refinancing
4276 Revolving Loans:

4277 (A) (I) shall rank *pari passu* in right of payment with the
4278 Obligations, (II) shall be secured by the Collateral and shall rank *pari*

4279 *passu* in right of security with the Obligations and (III) shall be guaranteed
4280 by the Guarantors;

4281 (B) shall not have a final scheduled maturity date or
4282 commitment reduction date earlier than the Maturity Date or commitment
4283 reduction date, respectively, with respect to the Refinanced Debt;

4284 (C) shall have an all-in-yield (whether in the form of interest
4285 rate margin, OID or otherwise) determined by the Borrower and the
4286 applicable Refinancing Revolving Lenders;

4287 (D) shall have fees determined by the Borrower and the
4288 applicable Refinancing Revolving Commitments arranger(s);

4289 (E) shall provide that the borrowing and repayment (except for
4290 (1) payments of interest and fees at different rates on Refinancing
4291 Revolving Commitments (and related outstandings), (2) repayments
4292 required upon the Maturity Date of the Refinancing Revolving
4293 Commitments and (3) repayment made in connection with a permanent
4294 repayment and termination of commitments (in accordance with clause (F)
4295 below)) of Loans with respect to Refinancing Revolving Commitments
4296 after the associated Refinancing Facility Closing Date shall be made on a
4297 *pro rata* basis or less than a *pro rata* basis (but not more than a *pro rata*
4298 basis) with all other Revolving Credit Commitments then existing on the
4299 Refinancing Facility Closing Date,

4300 (F) may provide that the permanent repayment of Revolving
4301 Credit Loans with respect to, and termination or reduction of, Refinancing
4302 Revolving Commitments after the associated Refinancing Facility Closing
4303 Date be made on a *pro rata* basis or less than *pro rata* basis (but not on a
4304 greater than *pro rata* basis other than with respect to any termination of
4305 undrawn Revolving Credit Commitments or a permanent repayment of
4306 any Class of Revolving Credit Commitments (1) with the proceeds of a
4307 Refinancing Facility or (2) that mature earlier than other outstanding
4308 Classes of Revolving Credit Commitments) with all other Revolving
4309 Credit Commitments, and

4310 (G) shall not have a greater principal amount than the principal
4311 amount of the Refinanced Debt plus accrued interest, fees, premiums (if
4312 any) and penalties payable by the terms of such tranche of Term Loans
4313 and reasonable fees, expenses, OID and upfront fees associated with the
4314 incurrence of such Refinancing Revolving Commitments;

4315 (e) *Refinancing Amendment.* Commitments in respect of Refinancing Term
4316 Loans and Refinancing Revolving Commitments shall become additional Commitments pursuant
4317 to an amendment (a "**Refinancing Amendment**") to this Agreement and, as appropriate, the
4318 other Credit Documents, executed by the Borrower, each Refinancing Lender providing such

4319 Commitments and the Administrative Agent. The Refinancing Amendment may, without the
4320 consent of any other Credit Party, Administrative Agent or Lender, effect such amendments to
4321 this Agreement and the other Credit Documents as may be necessary or appropriate, in the
4322 reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this
4323 Section 2.20, including any amendments necessary to establish the Refinancing Loans and/or
4324 Refinancing Commitments as a new Class or tranche of Loans and such other technical
4325 amendments as may be necessary or appropriate in the reasonable opinion of the Administrative
4326 Agent and the Borrower in connection with the establishment of such new Class or tranche
4327 (including to preserve the pro rata treatment of the refinanced and non-refinanced Classes or
4328 tranches and to provide for the reallocation of participation in Letters of Credit or Swingline
4329 Loans upon the expiration or termination of the commitments under any Class or tranche), in
4330 each case on terms consistent with this Section 2.20. The Borrower will use the proceeds of the
4331 Refinancing Term Loans and Refinancing Revolving Commitments to extend, renew, replace,
4332 repurchase, retire or refinance, substantially concurrently, the applicable Refinanced Debt.

4333 (f) *Reallocation of Revolving Credit Exposure.* Upon any Refinancing
4334 Facility Closing Date on which Refinancing Revolving Commitments are effected pursuant to
4335 this Section 2.20, (a) each of the Revolving Credit Lenders shall assign to each of the
4336 Refinancing Revolving Lenders, and each of the Refinancing Revolving Lenders shall purchase
4337 from each of the Revolving Credit Lenders, at the principal amount thereof, such interests in the
4338 Refinancing Revolving Loans outstanding on such Refinancing Facility Closing Date as shall be
4339 necessary in order that, after giving effect to all such assignments and purchases, such Revolving
4340 Credit Loans will be held by existing Revolving Credit Lenders and Refinancing Revolving
4341 Lenders ratably in accordance with their Revolving Credit Commitments after giving effect to
4342 the addition of such Refinancing Revolving Commitments to the Revolving Credit
4343 Commitments, (b) each Refinancing Revolving Commitment shall be deemed for all purposes a
4344 Revolving Credit Commitment and each Loan made thereunder shall be deemed, for all
4345 purposes, a Revolving Credit Loan and (c) each Refinancing Revolving Lender shall become a
4346 Lender with respect to the Incremental Revolving Commitments and all matters relating thereto.
4347 The Administrative Agent and the Lenders hereby agree that the minimum borrowing and
4348 prepayment requirements in Section 2.02(a) and 2.06(a)(i) of this Agreement shall not apply to
4349 the transactions effected pursuant to the immediately preceding sentence.

4350 (g) This Section 2.20 shall supersede any provisions in Section 2.12 or 11.01
4351 to the contrary.

4352 ARTICLE 3
4353 TAXES, YIELD PROTECTION AND ILLEGALITY

4354 Section 3.01. *Taxes.*

4355 (a) *Payments Free of Taxes; Obligation to Withhold; Payments on Account of*
4356 *Taxes.*

4357 (i) Any and all payments by or on account of any obligation of the
4358 Credit Parties hereunder or under any other Credit Document shall to the extent
4359 permitted by applicable Laws be made free and clear of and without reduction or

4360 withholding for any Taxes. If, however, applicable Laws require any Credit Party
4361 or the Administrative Agent to withhold or deduct any Tax, such Tax shall be
4362 withheld or deducted in accordance with such Laws as determined by such Credit
4363 Party or the Administrative Agent, as the case may be, upon the basis of the
4364 information and documentation to be delivered pursuant to subsection (e) below.

4365 (ii) If the Credit Parties or the Administrative Agent shall be required
4366 by the Internal Revenue Code to withhold or deduct any Taxes, including both
4367 United States federal backup withholding and withholding taxes, from any
4368 payment, then (A) the Administrative Agent shall withhold or make such
4369 deductions as are determined by the Administrative Agent to be required based
4370 upon the information and documentation it has received pursuant to subsection (e)
4371 below, (B) the Administrative Agent shall timely pay the full amount withheld or
4372 deducted to the relevant Governmental Authority in accordance with the Internal
4373 Revenue Code, and (C) to the extent that the withholding or deduction is made on
4374 account of Indemnified Taxes or Other Taxes, the sum payable by the Credit
4375 Parties shall be increased as necessary so that after any required withholding or
4376 the making of all required deductions (including any withholding or deductions
4377 applicable to additional sums payable under this Section) the Administrative
4378 Agent, any Lender or the L/C Issuer, as the case may be, receives an amount
4379 equal to the sum it would have received had no such withholding or deduction
4380 been made.

4381 (iii) If any Credit Party or the Administrative Agent shall be required
4382 by any applicable Laws other than the Internal Revenue Code to withhold or
4383 deduct any Taxes from any payment, then such Credit Party or the Administrative
4384 Agent, as required by such Laws, shall withhold or make such deductions as are
4385 determined by it to be required based upon the information and documentation it
4386 has received pursuant to subsection (e) below, such Credit Party or the
4387 Administrative Agent, to the extent required by such Laws, shall timely pay the
4388 full amount so withheld or deducted by it to the relevant Governmental Authority
4389 in accordance with such Laws, and to the extent that the withholding or deduction
4390 is made on account of Indemnified Taxes or Other Taxes, the sum payable by
4391 such Credit Party shall be increased as necessary so that after any required
4392 withholding or the making of all required deductions (including any withholding
4393 or deductions applicable to additional sums payable under this Section) the
4394 Administrative Agent, Lender or L/C Issuer, as the case may be, receives an
4395 amount equal to the sum it would have received had no such withholding or
4396 deduction been made.

4397 (b) *Payment of Other Taxes by the Credit Parties.* Without duplication of
4398 other amounts payable by the Borrower under this Section 3.01, the Credit Parties shall timely
4399 pay any Other Taxes to the relevant Governmental Authority, or at the option of the
4400 Administrative Agent timely reimburse it for the payment of any Other Taxes, in accordance
4401 with applicable Laws.

4402 (c) *Tax Indemnification.*

4403 (i) Without limiting the provisions of subsection (a) or (b) above, the
4404 Credit Parties shall, and do hereby, indemnify the Administrative Agent, each
4405 Lender and the L/C Issuer, and shall make payment in respect thereof within 10
4406 days after demand therefor, for the full amount of any Indemnified Taxes or Other
4407 Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or
4408 attributable to amounts payable under this Section) paid or payable by the Credit
4409 Parties or the Administrative Agent or paid by the Administrative Agent, such
4410 Lender or the L/C Issuer, as the case may be, whether or not such Indemnified
4411 Taxes or Other Taxes were correctly or legally imposed or asserted by the
4412 relevant Governmental Authority. A certificate as to the amount of any such
4413 payment or liability delivered to the Borrower by a Lender or the L/C Issuer (with
4414 a copy to the Administrative Agent), or by the Administrative Agent on its own
4415 behalf or on behalf of a Lender or the L/C Issuer, shall be conclusive absent
4416 manifest error.

4417 (ii) Without limiting the provisions of subsection (a) or (b) above, each
4418 Lender and the L/C Issuer shall, and does hereby, indemnify each Credit Party
4419 and the Administrative Agent, and shall make payment in respect thereof within
4420 10 days after demand therefor, against (i) any and all Taxes and any and all
4421 related losses, claims, liabilities, penalties, interest and expenses (including the
4422 reasonable and documented out-of-pocket fees, charges and disbursements of any
4423 counsel for each Credit Party and the Administrative Agent) incurred by or
4424 asserted against such Credit Party or the Administrative Agent by any
4425 Governmental Authority as a result of the failure by such Lender or the L/C
4426 Issuer, as the case may be, to deliver, or as a result of the inaccuracy, inadequacy
4427 or deficiency of, any documentation required to be delivered by such Lender or
4428 the L/C Issuer, as the case may be, to such Credit Party or the Administrative
4429 Agent pursuant to subsection (e) and (ii) any Excluded Taxes attributable to such
4430 Lender, in each case, that are payable or paid by the Administrative Agent in
4431 connection with this Credit Agreement or any other Credit Document, and any
4432 reasonable expenses arising therefrom or with respect thereto, whether or not such
4433 Taxes were correctly or legally imposed or asserted by the relevant Government
4434 Authority. Each Lender and the L/C Issuer hereby authorizes the Administrative
4435 Agent to set off and apply any and all amounts at any time owing to such Lender
4436 or the L/C Issuer, as the case may be, under this Credit Agreement or any other
4437 Credit Document against any amount due to the Administrative Agent under this
4438 clause (ii). The agreements in this clause (ii) shall survive the resignation and/or
4439 replacement of the Administrative Agent, any assignment of rights by, or the
4440 replacement of, a Lender or the L/C Issuer, the termination of the Commitments
4441 and the repayment, satisfaction or discharge of all other Obligations.

4442 (d) *Evidence of Payments.* As soon as practicable, after any payment of Taxes
4443 by any Credit Party to a Governmental Authority as provided in this Section 3.01, the Credit
4444 Party shall deliver (or cause to be delivered) to the Administrative Agent the original or a
4445 certified copy of a receipt issued by such Governmental Authority evidencing such payment, a
4446 copy of any return required by Law to report such payment or other evidence of such payment
4447 reasonably satisfactory to the Administrative Agent.

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(e) *Status of Lenders; Tax Documentation.*

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(i) Each Lender shall deliver to the Borrower and to the Administrative Agent, at the time or times prescribed by applicable Laws or when reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation prescribed by applicable Laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit the Borrower or the Administrative Agent, as the case may be, to determine whether or not payments made hereunder or under any other Credit Document are subject to Taxes, if applicable, the required rate of withholding or deduction, such Lender's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of all payments to be made to such Lender by the Borrower pursuant to this Credit Agreement or otherwise to establish such Lender's status for withholding tax purposes in the applicable jurisdiction and (D) whether or not payments made hereunder or under any other Credit Document are subject to backup withholding taxes or information reporting requirement. Notwithstanding anything to the contrary in this Section 3.01(e)(i), the completion, execution and submission of such documentation (other than such documentation set forth in Section 3.01(e)(ii)(A), (ii)(B) and (ii)(C) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

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(ii) Without limiting the generality of the foregoing, if the Borrower is a resident for tax purposes in the United States:

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(A) Any Lender that is a "United States person" within the meaning of Section 7701(a)(30) of the Internal Revenue Code shall deliver to the Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Credit Agreement (and from time to time thereafter upon the request of such Borrower and the Administrative Agent) executed originals of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable Laws or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent, as the case may be, to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

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(B) Each Foreign Lender to the extent that it is legally entitled to do so 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 becomes a Lender under this Credit Agreement (and from time to time thereafter upon the request of the Borrower or the Administrative Agent, but only if such Foreign Lender is legally entitled to do so), whichever of the following is applicable:

4490 (1) executed originals of Internal Revenue Service
4491 Form W-8 BEN or W-8 BEN-E, as applicable, claiming eligibility
4492 for benefits of an income tax treaty to which the United States is a
4493 party, with respect to (x) payments of interest under any Credit
4494 Document pursuant to the "interest" article of such tax treaty, and
4495 (y) any other applicable payments under any Credit Document
4496 pursuant to the "business profits" or "other income" article of such
4497 tax treaty,

4498 (2) executed originals of Internal Revenue Service
4499 Form W-8 ECI,

4500 (3) to the extent a Foreign Lender is not the beneficial
4501 owner, executed originals of Internal Revenue Service Form W-8
4502 IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or
4503 W-8BEN-E, a certificate as required under Section
4504 3.01(e)(ii)(B)(4), IRS Form W-8, and/or other certification
4505 documents from each beneficial owner, as applicable; *provided*
4506 that if the Foreign Lender is a partnership and one or more direct
4507 or indirect partners of such Foreign Lender are claiming the
4508 portfolio interest exemption, such Foreign Lender may provide a
4509 certificate as required under Section 3.01(e)(ii)(B)(4) on behalf of
4510 each such direct and indirect partner,

4511 (4) in the case of a Foreign Lender claiming the
4512 benefits of the exemption for portfolio interest under section
4513 881(c) of the Internal Revenue Code, (x) a certificate to the effect
4514 that such Foreign Lender is not (A) a "bank" within the meaning of
4515 section 881(c)(3)(A) of the Internal Revenue Code, (B) a "10
4516 percent shareholder" of the Borrower within the meaning of
4517 section 881(c)(3)(B) of the Internal Revenue Code, or (C) a
4518 "controlled foreign corporation" described in section 881(c)(3)(C)
4519 of the Internal Revenue Code and (y) executed originals of Internal
4520 Revenue Service Form W-8 BEN or W-8 BEN-E, as applicable, or

4521 (5) executed originals of any other form prescribed by
4522 applicable Laws as a basis for claiming exemption from or a
4523 reduction in United States federal withholding tax together with
4524 such supplementary documentation as may be prescribed by
4525 applicable Laws to permit the Borrower or the Administrative
4526 Agent to determine the withholding or deduction required to be
4527 made.

4528 (C) If a payment made to a Lender under any Credit Document
4529 would be subject to United States federal withholding Tax imposed by
4530 FATCA if such Lender were to fail to comply with the applicable
4531 reporting requirements of FATCA (including those contained in Section

4532 1471(b) or 1472(b) of the Internal Revenue Code, as applicable), such
4533 Lender shall deliver to the Administrative Agent and the Borrower at the
4534 time or times prescribed by Law and at such time or times reasonably
4535 requested by the Borrower or the Administrative Agent such
4536 documentation prescribed by applicable Law (including as prescribed by
4537 Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such
4538 additional documentation reasonably requested by the Borrower or the
4539 Administrative Agent as may be necessary for the Borrower and the
4540 Administrative Agent to comply with their obligations under FATCA and
4541 to determine that such Lender has complied with such Lender's
4542 obligations under FATCA or to determine the amount to deduct and
4543 withhold from such payment. Solely for purposes of this clause (C),
4544 "FATCA" shall include any amendments made to FATCA after the
4545 Closing Date.

4546 (iii) On or before the date the Administrative Agent becomes a party to
4547 this Agreement, the Administrative Agent shall provide to the Borrower, two
4548 duly-signed, properly completed copies of the IRS Form W-9 or any successor
4549 thereto. At any time thereafter, the Administrative Agent shall provide updated
4550 documentation previously provided or a successor form thereto) when any
4551 documentation previously delivered has expired or become obsolete or invalid or
4552 otherwise upon the reasonable request of the Borrower.

4553 (iv) Each Lender agrees that if any form or certification it previously
4554 delivered expires or becomes obsolete or inaccurate in any respect, it shall update
4555 such form or certification, provide such successor form, or promptly notify the
4556 Borrower and the Administrative Agent in writing of its legal inability to do so

4557 (v) Each Lender shall promptly notify the Borrower and the
4558 Administrative Agent of any change in circumstances that would modify or
4559 render invalid any claimed exemption or reduction, and take such steps as shall
4560 not be materially disadvantageous to it, in the reasonable judgment of such
4561 Lender, and as may be reasonably necessary (including the re-designation of its
4562 Lending Office) to avoid any requirement of applicable Laws of any jurisdiction
4563 that the Borrower or the Administrative Agent make any withholding or
4564 deduction for taxes from amounts payable to such Lender.

4565 (vi) Each of the Credit Parties shall promptly deliver to the
4566 Administrative Agent or any Lender, as the Administrative Agent or such Lender
4567 shall reasonably request, on or prior to the Closing Date (or such later date on
4568 which it first becomes a Credit Party), and in a timely fashion thereafter, such
4569 documents and forms required by any relevant taxing authorities under the Laws
4570 of any jurisdiction, duly executed and completed by such Credit Party, as are
4571 required to be furnished by such Lender or the Administrative Agent under such
4572 Laws in connection with any payment by the Administrative Agent or any Lender
4573 of Taxes or Other Taxes, or otherwise in connection with the Credit Documents,
4574 with respect to such jurisdiction.

4575 (f) *Treatment of Certain Refunds.* If the Administrative Agent, any Lender or
4576 the L/C Issuer determines, in its sole discretion, that it has received a refund of any Taxes or
4577 Other Taxes as to which it has been indemnified by any Credit Party or with respect to which any
4578 Credit Party has paid additional amounts pursuant to this Section, it shall pay to such Credit
4579 Party an amount equal to such refund (but only to the extent of indemnity payments made, or
4580 additional amounts paid, by such Credit Party under this Section with respect to the Taxes or
4581 Other Taxes giving rise to such refund), net of all out-of-pocket expenses and net of any loss or
4582 gain realized in the conversion of such funds from or to another currency incurred by the
4583 Administrative Agent, such Lender or the L/C Issuer, as the case may be, and without interest
4584 (other than any interest paid by the relevant Governmental Authority with respect to such
4585 refund); *provided* that each Credit Party, upon the request of the Administrative Agent, such
4586 Lender or the L/C Issuer, agrees to repay the amount paid over to such Credit Party (*plus* any
4587 penalties, interest or other charges imposed by the relevant Governmental Authority) to the
4588 Administrative Agent, such Lender or the L/C Issuer in the event the Administrative Agent, such
4589 Lender or the L/C Issuer is required to repay such refund to such Governmental Authority. This
4590 subsection shall not be construed to require the Administrative Agent, any Lender or the L/C
4591 Issuer to make available its tax returns (or any other information relating to its taxes that it deems
4592 confidential) to the Credit Parties, any of their Subsidiaries or any other Person.

4593 (g) *Survival.* Each party's obligation under Section 3.01 shall survive the
4594 resignation or replacement of the Administrative Agent or any assignment of rights by, or the
4595 replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or
4596 discharge of all obligations under any Credit Document.

4597 Section 3.02. *Illegality.* If any Lender reasonably determines that any Law has made it
4598 unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or
4599 its applicable Lending Office to make, maintain or fund Loans whose interest is determined by
4600 reference to the Eurocurrency Rate, or to determine or charge interest rates based upon the
4601 Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the
4602 authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London
4603 interbank market, then, on notice thereof by such Lender to the Borrower through the
4604 Administrative Agent, any obligation of such Lender to make or continue Eurocurrency Rate
4605 Loans or to convert Base Rate Loans to Eurocurrency Rate Loans shall be suspended and if such
4606 notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest
4607 rate on which is determined by reference to the Eurocurrency Rate component of the Base Rate,
4608 the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such
4609 illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate
4610 component of the Base Rate, in each case until such Lender notifies the Administrative Agent
4611 and the Borrower that the circumstances giving rise to such determination no longer exist. Upon
4612 the Borrower's receipt of such notice, (x) the Borrower shall, upon demand from such Lender
4613 (with a copy to the Administrative Agent), prepay or, if applicable, convert all of such Lender's
4614 Eurocurrency Rate Loans to Base Rate Loans (the interest rate on which Base Rate Loans of
4615 such Lender shall, if necessary to avoid such illegality, be determined by the Administrative
4616 Agent without reference to the Eurocurrency Rate component of the Base Rate), either on the last
4617 day of the Interest Period therefor, if such Lender may lawfully continue to maintain such
4618 Eurocurrency Rate Loans to such day, or immediately, if such Lender may not lawfully continue
4619 to maintain such Eurocurrency Rate Loans and (y) if such notice asserts the illegality of such

4620 Lender determining or charging interest rates based upon the Eurocurrency Rate component of
4621 the Base Rate with respect to any Base Rate Loans, the Administrative Agent shall during the
4622 period of such suspension compute the Base Rate applicable to such Lender without reference to
4623 the Eurocurrency Rate component thereof until the Administrative Agent is advised in writing by
4624 such Lender that it is no longer illegal for such Lender to determine or charge interest rates based
4625 upon the Eurocurrency Rate. Upon any such prepayment or conversion, the Borrower shall also
4626 pay accrued interest on the amount so prepaid or converted.

4627 Section 3.03. *Inability to Determine Rates.* If (x) the Administrative Agent reasonably
4628 determines that for any reason in connection with any request for a Eurocurrency Rate Loan or a
4629 conversion to or continuation thereof that Dollar deposits are not being offered to banks in the
4630 London interbank market, the applicable amount or the applicable Interest Period for such
4631 Eurocurrency Rate Loan, adequate and reasonable means do not exist for determining the
4632 Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency
4633 Rate Loan, or (y) the Required Lenders notify the Administrative Agent that the Eurocurrency
4634 Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan, or in
4635 connection with an existing or proposed Base Rate Loan which is based on the Eurocurrency
4636 Rate, does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the
4637 Administrative Agent will promptly notify the Borrower and Lenders. Thereafter, (x) the
4638 obligation of the Lenders to make or maintain such Eurocurrency Rate Loans shall be suspended
4639 and (y) in the event of a determination described in the preceding sentence with respect to the
4640 Eurocurrency Rate component of the Base Rate, the utilization of the Eurocurrency Rate
4641 component in determining the Base Rate shall be suspended, in each case until the
4642 Administrative Agent (upon the instruction of the Required Lenders in the case of clause (y) of
4643 the previous sentence) revokes such notice. Upon receipt of such notice, the Borrower may
4644 revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency
4645 Rate Loans or, failing that, will be deemed to have converted such request into a request for a
4646 Borrowing of Base Rate Loans or conforming Eurocurrency Rate Loans, as appropriate, in the
4647 amount specified therein.

4648 Section 3.04. *Increased Cost; Capital Adequacy.*

4649 (a) *Increased Costs Generally.* If any Change in Law shall:

4650 (i) impose, modify or deem applicable any reserve, special deposit,
4651 compulsory loan, insurance charge or similar requirement against assets of,
4652 deposits with or for the account of, or credit extended or participated in by, any
4653 Lender (except any reserve requirement reflected in the Eurocurrency Rate or
4654 contemplated by Section 3.04(e) hereof) or the L/C Issuer;

4655 (ii) subject any Lender or the L/C Issuer to any tax of any kind
4656 whatsoever with respect to this Credit Agreement, any Letter of Credit, any
4657 participation in a Letter of Credit or any Eurocurrency Rate Loan made by it, or
4658 change the basis of taxation of payments to such Lender or the L/C Issuer in
4659 respect thereof (except for (A) Indemnified Taxes or Other Taxes covered by
4660 Section 3.01(a) and Section 3.01(b), (B) the imposition of, or any change in the
4661 rate of, any Taxes described in clauses (c) through (f) of the definition of

4662 Excluded Tax and (C) Connection Income Taxes) payable by such Lender or the
4663 L/C Issuer; or

4664 (iii) impose on any Lender or the L/C Issuer or the London interbank
4665 market any other condition, cost or expense affecting this Credit Agreement or
4666 Eurocurrency Rate Loans made by such Lender or any Letter of Credit or
4667 participation therein;

4668 and the result of any of the foregoing shall be to increase the cost to such Lender of making or
4669 maintaining any Eurocurrency Rate Loan, the interest on which is determined by reference to the
4670 Eurocurrency Rate (or of maintaining its obligation to make any such Loan), or to increase the
4671 cost to such Lender or the L/C Issuer of participating in, issuing or maintaining any Letter of
4672 Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to
4673 reduce the amount of any sum received or receivable by such Lender or the L/C Issuer hereunder
4674 (whether of principal, interest or any other amount) then, upon request of such Lender or the L/C
4675 Issuer, the Borrower will pay, or cause to be paid, to such Lender or the L/C Issuer, as the case
4676 may be, such additional amount or amounts as will compensate such Lender or the L/C Issuer, as
4677 the case may be, for such additional costs incurred or reduction suffered.

4678 (b) *Capital Requirements.* If any Lender or the L/C Issuer reasonably
4679 determines that any Change in Law affecting such Lender or the L/C Issuer or any Lending
4680 Office of such Lender or such Lender's or the L/C Issuer's holding company, if any, regarding
4681 capital or liquidity requirements has or would have the effect of reducing the rate of return on
4682 such Lender's or the L/C Issuer's capital or on the capital of such Lender's or the L/C Issuer's
4683 holding company, if any, as a consequence of this Credit Agreement, the Commitments of such
4684 Lender or the Loans made by, or participations in Letters of Credit held by, such Lender, or the
4685 Letters of Credit issued by the L/C Issuer, to a level below that which such Lender or the L/C
4686 Issuer or such Lender's or the L/C Issuer's holding company could have achieved but for such
4687 Change in Law (taking into consideration such Lender's or the L/C Issuer's policies and the
4688 policies of such Lender's or the L/C Issuer's holding company with respect to capital adequacy
4689 and liquidity), then from time to time the Borrower will pay to such Lender or the L/C Issuer, as
4690 the case may be, such additional amount or amounts as will compensate such Lender or L/C
4691 Issuer or such Lender's or the L/C Issuer's holding company for any such reduction suffered.

4692 (c) *Certificates for Reimbursement.* A certificate of a Lender or the L/C
4693 Issuer setting forth in reasonable detail the amount or amounts necessary to compensate such
4694 Lender or the L/C Issuer or its holding company, as the case may be, as specified in subsection
4695 (a) or (b) of this Section and delivered to the Borrower shall be conclusive absent manifest error.
4696 The Borrower shall pay such Lender or the L/C Issuer, as the case may be, the amount shown as
4697 due on any such certificate within 10 days after receipt thereof.

4698 (d) *Delay in Requests.* Failure or delay on the part of any Lender or the L/C
4699 Issuer to demand compensation pursuant to the foregoing provisions of this Section shall not
4700 constitute a waiver of such Lender's or the L/C Issuer's right to demand such compensation;
4701 *provided* that the Borrower shall not be required to compensate a Lender or the L/C Issuer
4702 pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions
4703 suffered more than six months prior to the date that such Lender or the L/C Issuer, as the case

4704 may be, notifies the Borrower of the Change in Law giving rise to such increased costs or
4705 reductions and of such Lender's or the L/C Issuer's intention to claim compensation therefor
4706 (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive,
4707 then the six-month period referred to above shall be extended to include the period of retroactive
4708 effect thereof).

4709 (e) *Reserves on Eurocurrency Rate Loans.* Without duplication of amounts
4710 paid pursuant to the definition of "Eurocurrency Rate," the Borrower shall pay, or cause to be
4711 paid, to each Lender, as long as such Lender shall be required to comply with any reserve ratio
4712 requirement or analogous requirement of any central banking or financial regulatory authority
4713 imposed in respect of the maintenance of the Commitments or the funding of the Eurocurrency
4714 Rate Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if
4715 necessary, to the nearest five decimal places) equal to the actual costs allocated to such
4716 Commitment or Loan by such Lender (as determined by such Lender in good faith, which
4717 determination shall be conclusive absent manifest error), which shall be due and payable on each
4718 date on which interest is payable on such Loan; *provided* the Borrower shall have received at
4719 least 10 days' prior notice (with a copy to the Administrative Agent) of such additional interest
4720 or costs from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest
4721 Payment Date, such additional interest or costs shall be due and payable 10 days from receipt of
4722 such notice.

4723 Section 3.05. *Compensation for Losses.* Upon written demand of any Lender (with a
4724 copy to the Administrative Agent) from time to time, which demand shall set forth in reasonable
4725 detail the basis for requesting such compensation, the Borrower shall promptly compensate, or
4726 cause to be compensated, such Lender for and hold such Lender harmless from any loss, cost or
4727 expense incurred by it as a result of:

4728 (a) any continuation, conversion, payment or prepayment of any
4729 Eurocurrency Rate Loan on a day other than the last day of the Interest Period for such Loan
4730 (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

4731 (b) any failure by the Borrower (for a reason other than the failure of such
4732 Lender to make a Loan) to prepay, borrow, continue or convert any Eurocurrency Rate Loan on
4733 the date or in the amount notified by the Borrower; or

4734 (c) any assignment of a Eurocurrency Rate Loan on a day other than the last
4735 day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section
4736 11.13;

4737 including any loss or expense (excluding loss of anticipated profits, any foreign exchange losses
4738 or margin) arising from the liquidation or redeployment of funds obtained by it to maintain such
4739 Loan or from fees payable to terminate the deposits from which such funds were obtained or
4740 from the performance of any foreign exchange contract. The Borrower shall also pay, or cause
4741 to be paid, any customary administrative fees charged by such Lender in connection with the
4742 foregoing. A certificate of a Lender setting forth in reasonable detail the amount or amounts
4743 necessary to compensate such Lender as specified in this Section and delivered to the Borrower
4744 shall be conclusive absent manifest error.

4745 Section 3.06. *Mitigation Obligations; Replacement of Lenders.*

4746 (a) Designation of a Different Lending Office. If any Lender requests
4747 compensation under Section 3.04, or the Borrower is required to pay any additional amount to
4748 any Lender (including the L/C Issuer) or any Governmental Authority for the account of any
4749 Lender pursuant to Section 3.01, or if any Lender (including the L/C Issuer) gives a notice
4750 pursuant to Section 3.02, then such Lender shall use reasonable efforts to designate a different
4751 Lending Office for funding or booking its Loans hereunder or issuing or participating in Letters
4752 of Credit hereunder or to assign its rights and obligations hereunder to another of its offices,
4753 branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i)
4754 would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be,
4755 in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii)
4756 in each case, would not subject such Lender to any material unreimbursed cost or expense and
4757 would not otherwise be materially disadvantageous to such Lender in any material economic,
4758 legal or regulatory respect; provided that nothing in this Section 3.06(a) shall affect or postpone
4759 any Obligations of the Borrower or the rights of the Lenders under this Article 3. The Borrower
4760 hereby agrees to pay, or cause to be paid, all reasonable costs and expenses incurred by any
4761 Lender in connection with any such designation or assignment.

4762 (b) If any Lender requests compensation by the Borrower under Section 3.04,
4763 the Borrower may, by notice to such Lender (with a copy to the Administrative Agent), suspend
4764 the obligation of such Lender to make or continue Eurocurrency Rate Loans from one Interest
4765 Period to another Interest Period, or to convert Base Rate Loans into Eurocurrency Rate Loans,
4766 until the event or condition giving rise to such request ceases to be in effect (in which case the
4767 provisions of Section 3.06(d) shall be applicable); *provided* that such suspension shall not affect
4768 the right of such Lender to receive the compensation so requested.

4769 (c) If the obligation of any Lender to make or continue any Eurocurrency Rate
4770 Loan or to convert Base Rate Loans into Eurocurrency Rate Loans shall be suspended pursuant
4771 to Section 3.06(b) hereof, such Lender's applicable Eurocurrency Rate Loans shall be
4772 automatically converted into Base Rate Loans on the last day(s) of the then current Interest
4773 Period(s) for such Eurocurrency Rate Loans (or, in the case of any immediate conversion
4774 required by Section 3.02, on such earlier date as required by Law) and, unless and until such
4775 Lender gives notice as provided below that the circumstances specified in Section 3.02, 3.03 or
4776 3.04 hereof that gave rise to such conversion no longer exist:

4777 (i) to the extent that such Lender's Eurocurrency Rate Loans have
4778 been so converted, all payments and prepayments of principal that would
4779 otherwise be applied to such Lender's applicable Eurocurrency Rate Loans shall
4780 be applied instead to its Base Rate Loans; and

4781 (ii) all Loans that would otherwise be made or continued from one
4782 Interest Period to another by such Lender as Eurocurrency Rate Loans shall be
4783 made or continued instead as Base Rate Loans (if possible), and all Base Rate
4784 Loans of such Lender that would otherwise be converted into Eurocurrency Rate
4785 Loans shall remain as Base Rate Loans.

4786 (d) If any Lender gives notice to a Borrower (with a copy to the
4787 Administrative Agent) that the circumstances specified in Section 3.01, Section 3.02,
4788 Section 3.03 or Section 3.04 hereof that gave rise to the conversion of such Lender's
4789 Eurocurrency Rate Loans pursuant to this Section 3.06 no long exist (which such Lender agrees
4790 to do promptly upon such circumstances ceasing to exist) at a time when Eurocurrency Rate
4791 Loans made by other Lenders are outstanding, such Lender's Base Rate Loans shall be
4792 automatically converted irrespective of whether such conversion results in greater than ten
4793 Interest Periods (as adjusted pursuant to Section 2.02(f)) being outstanding under this
4794 Agreement, on the first day(s) of the next succeeding Interest Period(s) for such outstanding
4795 Eurocurrency Rate Loans, to the extent necessary so that, after giving effect thereto, all Loans
4796 held by the Lenders holding Eurocurrency Rate Loans and by such Lender are held pro rata (as
4797 to principal amounts, interest rate basis, and Interest Periods) in accordance with their respective
4798 Commitments.

4799 (e) *Replacement of Lenders.* If any Lender requests compensation under
4800 Section 3.04, or if the Borrower is required to pay any additional amount to any Lender or any
4801 Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender
4802 gives notice pursuant to Section 3.02, or if any Lender is then a Defaulting Lender, the Borrower
4803 may replace such Lender in accordance with Section 11.13.

4804 Section 3.07. *Survival Losses.* All of the Borrower's obligations under this Article 3
4805 shall survive termination of the Commitments hereunder and repayment of the Obligations.

4806 ARTICLE 4
4807 GUARANTY

4808 Section 4.01. *The Guaranty.*

4809 (a) Each of the Guarantors hereby jointly and severally guarantees to the
4810 Administrative Agent and each of the holders of the Obligations as hereinafter provided, as
4811 primary obligor and not as surety, the prompt payment of the Obligations in full when due
4812 (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory cash
4813 collateralization or otherwise) strictly in accordance with the terms thereof. The Guarantors
4814 hereby further agree that if any of the Obligations are not paid in full when due (whether at stated
4815 maturity, as a mandatory prepayment, by acceleration, as a mandatory cash collateralization or
4816 otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any
4817 demand or notice whatsoever, and that in the case of any extension of time of payment or
4818 renewal of any of the Obligations, the same will be promptly paid in full when due (whether at
4819 extended maturity, as a mandatory prepayment, by acceleration, as a mandatory cash
4820 collateralization or otherwise) in accordance with the terms of such extension or renewal.

4821 (b) Notwithstanding any provision to the contrary contained herein or in any
4822 other of the Credit Documents or Swap Contracts, the obligations of each Guarantor (in its
4823 capacity as such) under this Credit Agreement and the other Credit Documents and Swap
4824 Contracts shall be limited to an aggregate amount equal to the largest amount that would not
4825 render such obligations subject to avoidance under the Debtor Relief Laws or any comparable
4826 provisions of any applicable Law.

4827 Section 4.02. *Obligations Unconditional.*

4828 (a) The obligations of the Guarantors under Section 4.01 are joint and several,
4829 absolute and unconditional, irrespective of the value, genuineness, validity, regularity or
4830 enforceability of any of the Credit Documents or other documents relating to the Obligations, or
4831 any substitution, compromise, release, impairment or exchange of any other guarantee of or
4832 security for any of the Obligations, and, to the fullest extent permitted by applicable Law,
4833 irrespective of any other circumstance whatsoever that might otherwise constitute a legal or
4834 equitable discharge or defense of a surety or guarantor (other than payment or performance), it
4835 being the intent of this Section 4.02 that the obligations of the Guarantors hereunder shall be
4836 absolute and unconditional under any and all circumstances. Each Guarantor agrees that such
4837 Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against
4838 any other Guarantor for amounts paid under this Article 4 until such time as the Obligations have
4839 been paid in full and the commitments relating thereto have expired or terminated.

4840 (b) It is agreed that, to the fullest extent permitted by Law, the occurrence of
4841 any one or more of the following shall not alter or impair the liability of any Guarantor
4842 hereunder, which shall remain absolute and unconditional as described above:

4843 (i) at any time or from time to time, without notice to any Guarantor,
4844 the time for any performance of or compliance with any of the Obligations shall
4845 be extended, or such performance or compliance shall be waived; or

4846 (ii) any of the acts mentioned in any of the provisions of any of the
4847 Credit Documents, or other documents relating to the obligations or any other
4848 agreement or instrument referred to therein shall be done or omitted.

4849 (c) With respect to its obligations hereunder, each Guarantor hereby expressly
4850 waives diligence, presentment, demand of payment, protest, notice of acceptance of the guaranty
4851 given hereby and of extensions of credit that may constitute obligations guaranteed hereby,
4852 notices of amendments, waivers, consents and supplements to the Credit Documents and other
4853 documents relating to the Obligations, or the compromise, release or exchange of collateral or
4854 security, and all other notices whatsoever, and any requirement that the Administrative Agent or
4855 any holder of the Obligations exhaust any right, power or remedy or proceed against any Person
4856 under any of the Credit Documents or any other documents relating to the Obligations or any
4857 other agreement or instrument referred to therein, or against any other Person under any other
4858 guarantee of, or security for, any of the Obligations.

4859 Section 4.03. *Reinstatement.* Neither the Guarantors' obligations hereunder nor any
4860 remedy for the enforcement thereof shall be impaired, modified, changed or released in any
4861 manner whatsoever by an impairment, modification, change, release or limitation of the liability
4862 of the Borrower, by reason of the Borrower's bankruptcy or insolvency or by reason of the
4863 invalidity or unenforceability of all or any portion of the Obligations. In addition, the obligations
4864 of each Guarantor under this Article 4 shall be automatically reinstated if and to the extent that
4865 for any reason any payment by or on behalf of any Person in respect of the Obligations is
4866 rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a
4867 result of any Debtor Relief Law or otherwise, and each Guarantor agrees that it will indemnify

4868 the Administrative Agent and each holder of the Obligations on demand for all reasonable and
4869 documented costs and expenses (including reasonable and documented attorneys' fees and
4870 disbursements) incurred by the Administrative Agent or such holder of the Obligations in
4871 connection with such rescission or restoration, including any such costs and expenses incurred in
4872 defending against any claim alleging that such payment constituted a preference, fraudulent
4873 transfer or similar payment under any Debtor Relief Law.

4874 Section 4.04. *Certain Waivers.* Each Guarantor acknowledges and agrees that the
4875 guaranty given hereby may be enforced without the necessity of resorting to or otherwise
4876 exhausting remedies in respect of any other security or collateral interests, and without the
4877 necessity at any time of having to take recourse against the Borrower or any other Person or
4878 against any collateral securing the Obligations or otherwise, and it will not assert any right to
4879 require that action first be taken against the Borrower or any other Person (including any co-
4880 guarantor) or pursuit of any other remedy or enforcement of any other right, and nothing
4881 contained herein shall prevent or limit action being taken against the Borrower hereunder, under
4882 the other Credit Documents or the other documents and agreements relating to the Obligations or
4883 from foreclosing on any security or collateral interests relating hereto or thereto, or from
4884 exercising any other rights or remedies available in respect thereof, if the Guarantors shall not
4885 timely perform their obligations, and the exercise of any such rights and completion of any such
4886 foreclosure proceedings shall not constitute a discharge of the Guarantors' obligations hereunder
4887 unless as a result thereof, the Obligations shall have been paid in full and the commitments
4888 relating thereto shall have expired or terminated, it being the purpose and intent that the
4889 Guarantors' obligations hereunder be absolute, irrevocable, independent and unconditional.
4890 Each Guarantor agrees that such Guarantor shall have no right of recourse to security for the
4891 Obligations, except through the exercise of rights of subrogation pursuant to Section 4.02(a) and
4892 through the exercise of rights of contribution pursuant to Section 4.06.

4893 Section 4.05. *Remedies.* The Guarantors agree that, to the fullest extent permitted by
4894 Law, as between the Guarantors, on the one hand, and holders of the Obligations, on the other
4895 hand, the Obligations may be declared to be forthwith due and payable as provided in Section
4896 9.02 (and shall be deemed to have become automatically due and payable in the circumstances
4897 specified in Section 9.02)) for purposes of Section 4.01, notwithstanding any stay, injunction or
4898 other prohibition preventing such declaration (or preventing the Obligations from becoming
4899 automatically due and payable) as against any other Person and that, in the event of such
4900 declaration (or the Obligations being deemed to have become automatically due and payable),
4901 the Obligations (whether or not due and payable by any other Person) shall forthwith become
4902 due and payable by the Guarantors for purposes of Section 4.01. The Guarantors acknowledge
4903 and agree that their obligations hereunder are secured in accordance with the terms of the
4904 Collateral Documents and that the holders of the Obligations may exercise their remedies
4905 thereunder in accordance with the terms thereof.

4906 Section 4.06. *Rights of Contribution.* The Guarantors hereby agree as among
4907 themselves that, in connection with payments made hereunder, each Guarantor shall have a right
4908 of contribution from each other Guarantor in accordance with applicable Law. Such contribution
4909 rights shall be subordinate and subject in right of payment to the Obligations until such time as
4910 the Obligations have been irrevocably paid in full and the commitments relating thereto shall
4911 have expired or been terminated, and none of the Guarantors shall exercise any such contribution

4912 rights until the Obligations have been irrevocably paid in full and the commitments relating
4913 thereto shall have expired or been terminated.

4914 Section 4.07. *Guaranty of Payment; Continuing Guarantee.* The guarantee given by the
4915 Guarantors in this Article 4 is a guaranty of payment and not of collection, is a continuing
4916 guaranty, and shall apply to all Obligations whenever arising.

4917 Section 4.08. *Keepwell.* Each Qualified ECP Guarantor hereby jointly and severally
4918 absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as
4919 may be needed from time to time by each other Guarantor to honor all of its obligations under
4920 the guaranty given hereby in respect of the Swap Obligations; provided, however, that each
4921 Qualified ECP Guarantor shall only be liable under this Section 4.08 for the maximum amount of
4922 such liability that can be hereby incurred without rendering its obligations under this Section
4923 4.08, or otherwise under the guaranty given hereby, voidable under applicable Law relating to
4924 fraudulent conveyance or fraudulent transfer, and not for any greater amount. The obligations of
4925 each Qualified ECP Guarantor under this Section 4.08 shall remain in full force and effect until
4926 the termination of the Commitments and the repayment, satisfaction or discharge of all other
4927 Obligations (other than (i) contingent indemnification obligations as to which no claim has been
4928 asserted, (ii) Obligations described in clauses (b) and (c) of the definition thereof and (iii) any
4929 Letter of Credit that has been Cash Collateralized or back-stopped by a letter of credit reasonably
4930 satisfactory to the L/C Issuer or such Letter of Credit has been deemed reissued under another
4931 agreement reasonably acceptable to the L/C Issuer). Each Qualified ECP Guarantor intends that
4932 this Section 4.08 constitute, and this Section 4.08 shall be deemed to constitute, a “keepwell,
4933 support, or other agreement” for the benefit of each other Guarantor for all purposes of Section
4934 1a(18)(A)(v)(II) of the Commodity Exchange Act.

4935 Section 4.09. *Release of Guarantors.* If, in compliance with the terms and provisions of
4936 the Credit Documents, any Guarantor ceases to be a Restricted Subsidiary or becomes an
4937 Excluded Subsidiary as a result of a transaction or designation permitted hereunder (any such
4938 Guarantor, a “Transferred Guarantor”), such Transferred Guarantor shall be automatically
4939 released from its obligations under this Agreement (including under Section 11.04 hereof) and its
4940 obligations to pledge and grant any Collateral owned by it pursuant to any Collateral Document
4941 and, so long as the Borrower shall have provided the Administrative Agent and Collateral Agent
4942 such certifications or documents as any such Agent shall reasonably request, the Administrative
4943 Agent and Collateral Agent shall take such actions as are necessary to effect each release
4944 described in this Section 4.09 in accordance with the relevant provisions of the Collateral
4945 Documents; provided, however, that the release of any Subsidiary Guarantor from its obligations
4946 under this Agreement if such Subsidiary Guarantor becomes an Excluded Subsidiary shall only
4947 be permitted if at the time such Subsidiary Guarantor becomes an Excluded Subsidiary of such
4948 type (1) after giving pro forma effect to such release and the consummation of the transaction
4949 that causes such Person to be an Excluded Subsidiary of such type, the Borrower is deemed to
4950 have made a new Investment in such Person (as if such Person were then newly acquired) and
4951 such Investment is permitted at such time and (2) a Responsible Officer of the Borrower certifies
4952 to the Administrative Agent compliance with the preceding clause (1); provided, further, that no
4953 such release shall occur if such Subsidiary Guarantor continues to be a guarantor in respect of
4954 any Incremental Equivalent Debt, any Refinancing Equivalent Debt or any Permitted
4955 Refinancing in respect of any of the foregoing.

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ARTICLE 5
CONDITIONS PRECEDENT TO CREDIT EXTENSIONS

4958 Section 5.01. *Conditions to the Closing Date.* The obligation of the L/C Issuer and each
4959 Lender to make the initial Credit Extensions on the Closing Date shall, in each case, be subject to
4960 satisfaction (or waiver in accordance with Section 11.01) of the following conditions:

4961 (a) *Credit Documents.* Receipt by the Administrative Agent of executed
4962 counterparts of the following documents, in each case, executed by the Credit Parties party
4963 thereto:

- 4964 1. this Credit Agreement;
- 4965 2. the Security Agreement;
- 4966 3. the Perfection Certificate;
- 4967 4. the Intellectual Property Security Agreements for filing in the United
4968 States Patent and Trademark Office and the United States Copyright Office;
- 4969 5. Notes, if requested by a Lender at least three (3) Business Days in advance
4970 of the Closing Date; and
- 4971 6. a Loan Notice.

4972 (b) *Opinions of Counsel.* Receipt by the Administrative Agent, on behalf of
4973 itself and the Lenders, of customary opinions of legal counsel from (i) Ropes & Gray LLP, New
4974 York Counsel to the Credit Parties and (ii) Knightlinger & Gray, LLP, Indiana counsel to
4975 Microsemi Corp. – Memory and Storage Solutions.

4976 (c) *Organization Documents, Resolutions, Etc.* Receipt by the Administrative
4977 Agent of the following:

4978 (i) with respect to each Credit Party, copies of the Organization
4979 Documents of such Credit Party certified to be true and complete as of a recent
4980 date by the appropriate Governmental Authority of the state or other jurisdiction
4981 of its incorporation or organization, where applicable, and certified by a
4982 Responsible Officer of such Credit Party to be true and correct as of the Closing
4983 Date;

4984 (ii) with respect to each Credit Party, such certificates of resolutions or
4985 other action, incumbency certificates and/or other certificates of Responsible
4986 Officers of such Credit Party as the Administrative Agent may reasonably require
4987 evidencing the identity, authority and capacity of each Responsible Officer
4988 thereof authorized to act as a Responsible Officer in connection with this Credit
4989 Agreement and the other Credit Documents to which such Credit Party is a party;
4990 and

4991 (iii) good standing certificates for each Credit Party as of recent date in
4992 its state of organization or formation.

4993 (d) *Personal Property Collateral.* Receipt by the Administrative Agent of (i)
4994 all certificates evidencing any certificated Capital Stock or equity interests of the Borrower's
4995 direct or indirect Subsidiaries pledged pursuant to the Security Agreement, together with undated
4996 stock powers duly executed in blank attached thereto, and (ii) evidence that all other actions,
4997 recordings and filings required by the Collateral Documents (other than the filing or recording of
4998 any Mortgages) that the Administrative Agent may deem reasonably necessary to satisfy the
4999 Collateral and Guarantee Requirement shall have been taken, completed or otherwise provided
5000 for in a manner reasonably satisfactory to the Administrative Agent; *provided, however*, that, to
5001 the extent any of the requirements set forth in clauses (i) and (ii) of this clause (d), including the
5002 delivery of documents and instruments necessary to satisfy the Collateral and Guarantee
5003 Requirement, including the Mortgages, Mortgage Policies and related real estate deliverables
5004 cannot be provided or perfected after the Borrower's use of commercially reasonable efforts to
5005 do so without undue burden or expense (except for the execution and delivery of the Security
5006 Agreement and perfection of security interests created thereunder to the extent that a Lien on the
5007 Collateral may be perfected (x) by the filing of a financing statement under the Uniform
5008 Commercial Code or (y) by the delivery of stock certificates of the Borrower and the Material
5009 Domestic Subsidiaries that are Wholly-Owned with respect to which a Lien may be perfected
5010 upon closing by the delivery of a stock certificate), then such requirement shall not constitute
5011 conditions precedent to any Credit Extension on the Closing Date but the Borrower agrees to
5012 deliver, or cause to be delivered, such documents and instruments, or take or cause to be taken
5013 such other actions as may be required to perfect such security interests within the time periods
5014 set forth on Schedule 7.15 (subject, in either case, to extensions approved by the Administrative
5015 Agent in its reasonable discretion).

5016 (e) *Closing Certificate.* Receipt by the Administrative Agent of a certificate
5017 signed by a Responsible Officer of the Borrower as of the Closing Date certifying that the
5018 conditions specified in subsections (g), (h) and (i) of this Section 5.01 have been satisfied as of
5019 the Closing Date.

5020 (f) *Fees.* Payment of all fees and expenses required to be paid on the Closing
5021 Date (including fees pursuant to the Fee Letter), including the reasonable and documented out-
5022 of-pocket fees and expenses of counsel for the Administrative Agent and the Arrangers that, in
5023 the case of such expenses, have been invoiced at least three Business Days prior to the Closing
5024 Date (except as otherwise reasonably agreed by the Borrower).

5025 (g) *Consummation of Microsemi Acquisition.* The Microsemi Acquisition
5026 shall have been, or shall substantially concurrently with such initial Credit Extension on the
5027 Closing Date be, consummated in accordance with the terms of the Acquisition Agreement. The
5028 Acquisition Agreement shall not have been amended or waived, and no consents shall have been
5029 given with respect thereto, in each case, in any material respect by the Borrower and its
5030 Subsidiaries in a manner materially adverse to the Lenders or the Arrangers (in each case, in
5031 their capacity as such) without the consent of the Arrangers *provided* that (a) any amendment,
5032 waiver or consent that results in a change in the amount of consideration required to consummate
5033 the Microsemi Acquisition shall be deemed not to be materially adverse to the Lenders or the

5034 Arrangers so long as (i) subject to clause (d) below, any reduction shall be applied to reduce the
5035 Term Loan Facility, the use of cash from the Borrower's balance sheet and the proceeds from
5036 any common equity issuance (if any) on a pro rata basis and (ii) any increase is funded by cash
5037 on the Borrower's balance sheet or the proceeds of common equity of the Borrower, (b) the
5038 granting of any consent under the Acquisition Agreement that is not materially adverse to the
5039 interests of the Lenders or the Arrangers shall not otherwise constitute an amendment or waiver,
5040 (c) any change to the definition of "Material Adverse Effect" in the Acquisition Agreement shall
5041 be deemed materially adverse to the Lenders and the Arrangers and (d) any reduction in the
5042 purchase price of the Acquisition in excess of 10% shall be deemed materially adverse to the
5043 Lenders and the Arrangers.

5044 (h) *Accuracy of Representations and Warranties.*

5045 (i) The Specified Representations shall be true and correct in all
5046 material respects (except for representations and warranties that are already
5047 qualified by materiality, which representations and warranties shall be true and
5048 correct after giving effect to such materiality qualifier); and

5049 (ii) the Acquisition Agreement Representations shall be true and
5050 correct in all material respects but only to the extent that the Borrower has the
5051 right (taking into account any applicable cure provisions), pursuant to the
5052 Acquisition Agreement, to terminate its obligations under the Acquisition
5053 Agreement to consummate the Microsemi Acquisition (or the right not to
5054 consummate the Microsemi Acquisition pursuant to the Acquisition Agreement)
5055 as a result of a breach of such representations and warranties.

5056 (i) *No Target Material Adverse Effect.* Since March 23, 2016, except as set
5057 forth in the disclosure schedules to the Acquisition Agreement, there shall not have been a Target
5058 Material Adverse Effect or the occurrence of any change, effect, event, occurrence, state of facts
5059 or development, which would, individually or in the aggregate, be reasonably likely to have a
5060 Target Material Adverse Effect.

5061 (j) *Solvency Certificate.* Receipt by the Administrative Agent of the
5062 Solvency Certificate.

5063 (k) *Financial Statements.* Receipt by the Administrative Agent of (i) the
5064 Historical Financial Statements and (ii) the Pro Forma Financial Statements.

5065 (l) *Refinancing.* Receipt by the Administrative Agent of reasonably
5066 satisfactory evidence that (A) all indebtedness under that certain Credit Agreement, dated as of
5067 October 12, 2012, by and among the Borrower, KeyBank National Association, as administrative
5068 agent, and the lenders and other parties thereto (as amended, restated, supplemented or otherwise
5069 modified through the Closing Date) has been paid in full, and all commitments and guaranties in
5070 connection therewith have been terminated and released and (B) the guarantees of the Target
5071 and/or its Subsidiaries, and any security interests granted in the Target, its Subsidiaries and their
5072 assets have been terminated and released under (I) that certain Guarantee and Collateral
5073 Agreement, dated as of January 15, 2016, by and among Microsemi Corporation, the other

5074 Grantors (as defined therein) party thereto and Morgan Stanley Senior Funding, Inc. and (II) that
5075 certain Indenture, dated as of January 15, 2016, by and among Microsemi Corporation, the
5076 guarantors named therein and U.S. Bank National Association (collectively, the “**Refinancing**”).

5077 (m) *Patriot Act*. Receipt by the Administrative Agent, at least three (3)
5078 Business Days prior to the Closing Date, of all documentation and other information relating to
5079 the Borrower and the other Credit Parties that are required by regulatory authorities under
5080 applicable “know-your-customer” rules and regulations, including the Act, to the extent
5081 requested by the Administrative Agent in writing from the Borrower at least ten (10) Business
5082 Days prior to the Closing Date.

5083 Without limiting the generality of the provisions of Section 10.04, for purposes of
5084 determining compliance with the conditions specified in this Section 5.01, each Lender that has
5085 signed this Credit Agreement shall be deemed to have consented to, approved or accepted or to
5086 be satisfied with, each document or other matter required thereunder to be consented to or
5087 approved by or reasonable acceptable or satisfactory to a Lender unless the Administrative Agent
5088 shall have received notice from such Lender prior to the proposed Closing Date specifying its
5089 objection thereto.

5090 Section 5.02. *Conditions to all Credit Extensions after the Closing Date*. The obligation
5091 of each Lender to honor any Request for Credit Extension after the Closing Date is subject to the
5092 satisfaction (or waiver in accordance with Section 11.01) of the following conditions precedent:

5093 (a) The representations and warranties of the Borrower and each other Credit
5094 Party contained in Article 6 or any other Credit Document shall be true and correct in all material
5095 respects on and as of the date of such Credit Extension, except to the extent that such
5096 representations and warranties specifically refer to an earlier date, in which case they shall be
5097 true and correct in all material respects as of such earlier date; *provided, however*, that any
5098 representation and warranty that is qualified as to “materiality,” “Material Adverse Effect” or
5099 similar language shall be true and correct (after giving effect to any qualification therein) in all
5100 respects on such respective dates, and except that for purposes of this Section 5.02, the
5101 representations and warranties contained in subsections (a) and (b) of Section 6.05 shall be
5102 deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b),
5103 respectively, of Section 7.01.

5104 (b) Other than in connection with the initial Credit Extensions on the Closing
5105 Date, no Default or Event of Default shall exist immediately before or immediately after giving
5106 effect to such Credit Extension.

5107 (c) The Administrative Agent, the L/C Issuer and/or the Swingline Lender
5108 shall have received a Request for Credit Extension in accordance with the requirements hereof.

5109 Each Request for Credit Extension (other than a Loan Notice requesting only a
5110 conversion of Loans to other Types of Loans, or a continuation of Eurocurrency Rate Loans)
5111 submitted by the Borrower shall be deemed to be a representation and warranty by the Borrower
5112 that the conditions specified in Section 5.02(a) and (b) have been satisfied (to the extent such

5113 conditions are required to be satisfied with respect to such Credit Extension) on and as of the
5114 date of the applicable Credit Extension.

5115 ARTICLE 6
5116 REPRESENTATIONS AND WARRANTIES

5117 Each of the Credit Parties represent and warrant to the Administrative Agent and the
5118 Lenders, as of the Closing Date and each other date on which such representations and
5119 warranties are required to be true and correct pursuant to Section 5.02 or otherwise, that:

5120 Section 6.01. *Existence, Qualification and Power.* Each Credit Party (a) is duly
5121 organized or formed, validly existing and in good standing under the Laws of the jurisdiction of
5122 its incorporation or organization; (b) has all requisite power and authority and all requisite
5123 governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and
5124 carry on its business and (ii) execute, deliver and perform its obligations under the Credit
5125 Documents to which it is a party; and (c) is duly qualified and is licensed and in good standing
5126 (to the extent such concept exists in such jurisdiction) under the Laws of each jurisdiction where
5127 its ownership, lease or operation of properties or the conduct of its business requires such
5128 qualification or license; except, in each case referred to in clause (a) (other than with respect to
5129 the Borrower), (b)(i) or (c), to the extent that failure to do so could not reasonably be expected to
5130 have a Material Adverse Effect.

5131 Section 6.02. *Authorization; No Contravention.* The execution, delivery and
5132 performance by each Credit Party of each Credit Document to which it is party, (a) have been
5133 duly authorized by all necessary corporate or other organizational action, (b) do not and will not
5134 contravene the terms of any of such Person's Organization Documents; and (c) do not and will
5135 not conflict with or result in any breach or contravention of, or the creation of any Lien under
5136 (other than as permitted by Section 8.01), or require any payment to be made under any
5137 Contractual Obligation to which such Person is a party or affecting such Person or the properties
5138 of such Person or any of its Restricted Subsidiaries or any order, injunction, writ or decree of any
5139 Governmental Authority or any arbitral award to which such Person or its property is subject; or
5140 violate any Law applicable to such Person; except with respect to any contravention, conflict or
5141 violation referred to in clause (c), to the extent that such contravention, conflict or violation
5142 could not reasonably be expected to have a Material Adverse Effect.

5143 Section 6.03. *Governmental Authorization; Other Consents.* No approval, consent,
5144 exemption, authorization, or other action by, or notice to, or filing with, any Governmental
5145 Authority or any other Person is necessary or required in connection with the execution, delivery
5146 or performance by, or enforcement against, any Credit Party of this Credit Agreement or any
5147 other Credit Document (other than as have already been obtained and are in full force and effect,
5148 filings to perfect security interests granted pursuant to the Credit Documents (except to the extent
5149 not required to be obtained, taken, given or made or in full force and effect pursuant to the
5150 Collateral and Guarantee Requirement) and those approvals, consents, exemptions,
5151 authorizations or other actions, notices or filings, the failure of which to obtain or make could not
5152 reasonably be expected to have a Material Adverse Effect).

5153 Section 6.04. *Binding Effect.* This Credit Agreement has been, and each other Credit
5154 Document, when delivered hereunder, will have been, duly executed and delivered by each
5155 Credit Party that is party thereto. This Credit Agreement constitutes, and each other Credit
5156 Document when so delivered will constitute, a legal, valid and binding obligation of such Credit
5157 Party, enforceable against each Credit Party that is party thereto in accordance with its terms,
5158 except (a) to the extent the enforceability thereof may be limited by applicable Debtor Relief
5159 Laws affecting creditors' rights generally and by equitable principles of law (regardless of
5160 whether enforcement is sought in equity or at law) and (b) for any filing necessary to perfect
5161 security interests granted pursuant to the Credit Documents.

5162 Section 6.05. *Financial Statements.*

5163 (a) The Annual Financial Statements fairly present in all material respects the
5164 financial condition of the Borrower and its Subsidiaries or the Target and its Subsidiaries, as
5165 applicable, as of the date thereof and their results of operations for the period covered thereby in
5166 accordance with GAAP consistently applied throughout the period covered thereby, except as
5167 otherwise expressly noted therein.

5168 (b) The Quarterly Financial Statements fairly present in all material respects
5169 the financial condition of the Borrower and its Subsidiaries or the Target and its Subsidiaries, as
5170 applicable, as of the date thereof and their results of operations for the period covered thereby, in
5171 accordance with GAAP consistently applied throughout the period covered thereby, except as
5172 otherwise expressly noted therein and subject to the absence of footnotes and to normal year-end
5173 audit adjustments.

5174 Section 6.06. *No Material Adverse Effect.* Since the Closing Date, there has been no
5175 event or circumstance, either individually or in the aggregate, that has had or could reasonably be
5176 expected to have a Material Adverse Effect.

5177 Section 6.07. *Litigation.* There are no actions, suits, investigations, criminal
5178 prosecutions, civil investigative demands, imposition of criminal or civil fines or penalties,
5179 proceedings, claims or disputes pending or, to the knowledge of the Borrower, overtly threatened
5180 or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or
5181 against the Borrower or any Restricted Subsidiary or against any of their properties or revenues
5182 that either individually or in the aggregate could reasonably be expected to have a Material
5183 Adverse Effect.

5184 Section 6.08. *Labor Matters.* Except as, individually or in the aggregate, could not
5185 reasonably be expected to have a Material Adverse Effect, there are no strikes or other labor
5186 disputes against the Borrower or any of its Restricted Subsidiaries pending or, to the knowledge
5187 of the Borrower, threatened.

5188 Section 6.09. *Ownership of Property; Liens.* The Borrower and its Restricted
5189 Subsidiaries have good record and marketable title in fee simple to, or valid leasehold interests
5190 in, all real property necessary or used in the ordinary conduct of its business, except for such
5191 defects in title as could not, individually or in the aggregate, reasonably be expected to have a

5192 Material Adverse Effect. The property of the Borrower and its Restricted Subsidiaries is not
5193 subject to Liens, other than Permitted Liens.

5194 Section 6.10. *Environmental Matters.* Except with respect to any matters that, either
5195 individually or in the aggregate, could not reasonably be expected to result in a Material Adverse
5196 Effect:

5197 (a) Each Credit Party, and their respective operations and properties, are in
5198 compliance with Environmental Laws, which includes obtaining and maintaining all permits,
5199 licenses and other approvals as required under any Environmental Law to carry on the business
5200 of the Credit Parties;

5201 (b) neither the Borrower nor any of its Restricted Subsidiaries have received
5202 or are subject to any claim under Environmental Laws;

5203 (c) there has been no Release of Hazardous Materials on, at, under or from
5204 any real property or facilities owned, operated or leased by any of the Credit Parties, or, to the
5205 knowledge of the Borrower, real property formerly owned, operated or leased by any Credit
5206 Party that, in any case, could reasonably be expected to require the Borrower to perform any
5207 investigation, remedial activity or corrective action or cleanup under Environmental Laws or
5208 could otherwise reasonably be expected to result in the Borrower incurring Environmental
5209 Liability.

5210 The Borrower and its Restricted Subsidiaries periodically conduct in the ordinary course
5211 of business a review of the effect of existing Environmental Laws and claims alleging potential
5212 liability or responsibility for violation of any Environmental Law and Environmental Liabilities
5213 on their respective businesses, operations and properties, and such Environmental Laws, claims
5214 and Environmental Liabilities would not, individually or in the aggregate, reasonably be
5215 expected to result in a Material Adverse Effect.

5216 Section 6.11. *[Reserved]*.

5217 Section 6.12. *Taxes.* The Borrower and its Restricted Subsidiaries have filed all U.S.
5218 federal income and other material tax returns and reports required to be filed, and have paid all
5219 taxes, assessments, fees and other governmental charges levied or imposed upon them or their
5220 properties, income or assets otherwise due and payable, except those that are being contested in
5221 good faith by appropriate proceedings and for which adequate reserves have been provided in
5222 accordance with GAAP or that could not, individually or in the aggregate, reasonably be
5223 expected to result in a Material Adverse Effect.

5224 Section 6.13. *ERISA Compliance.*

5225 (a) Except as could not reasonably be expected to result in a Material Adverse
5226 Effect, each Plan is in compliance in all material respects with the applicable provisions of
5227 ERISA, the Internal Revenue Code and other federal or state Laws and each Credit Party and
5228 each ERISA Affiliate is in compliance with ERISA, the Internal Revenue Code and other
5229 applicable United States federal or United States state Laws with respect to each Multiemployer
5230 Plan. Except as could not reasonably be expected to result in a Material Adverse Effect, each

5231 Plan that is intended to qualify under Section 401(a) of the Internal Revenue Code is covered by
5232 a favorable determination letter from the IRS (or an application for such a letter is currently
5233 pending before the IRS with respect thereto) or is maintained under a prototype document that
5234 has received a favorable opinion letter from the IRS and, to the best knowledge of the Credit
5235 Parties, nothing has occurred that would prevent, or cause the loss of, such qualification. Except
5236 as could not reasonably be expected to result in a Material Adverse Effect, each Credit Party and
5237 each ERISA Affiliate have made all required contributions that are due and owing to each Plan
5238 subject to Section 412 of the Internal Revenue Code or Section 303 of ERISA and to each
5239 Multiemployer Plan under Section 412 of the Internal Revenue Code or Section 304 of ERISA,
5240 and no application for a waiver of the minimum funding standard pursuant to Section 412 of the
5241 Internal Revenue Code or Section 302 of ERISA has been made with respect to any Plan.

5242 (b) There are no pending or, to the best knowledge of the Credit Parties,
5243 threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to
5244 any Plan that would reasonably be expected to have a Material Adverse Effect. There has been
5245 no prohibited transaction or violation of the fiduciary responsibility rules with respect to any
5246 Plan that would reasonably be expected to result in a Material Adverse Effect.

5247 (c) (i) No ERISA Event has occurred or is reasonably expected to occur that
5248 could reasonably be expected to result in a Material Adverse Effect; (ii) no Pension Plan has any
5249 Unfunded Pension Liability in an aggregate amount which could reasonably be expected to result
5250 in a Material Adverse Effect; (iii) neither any Credit Party nor any ERISA Affiliate has incurred,
5251 or reasonably expects to incur, any liability in an aggregate amount which could reasonably be
5252 expected to result in a Material Adverse Effect (and no event has occurred that, with the giving
5253 of notice under Section 4219 of ERISA, would result in such liability) under Sections 4201 of
5254 ERISA with respect to a Multiemployer Plan; and (iv) neither any Credit Party nor any ERISA
5255 Affiliate has engaged in a transaction involving any Pension Plan or Multiemployer Plan that
5256 would reasonably be expected to be subject to Sections 4069 or 4212(c) of ERISA.

5257 Section 6.14. *Subsidiaries.* As of the Closing Date (after giving effect to the
5258 Transactions), no Credit Party has any Subsidiaries other than those specifically disclosed in
5259 Schedule 6.14. The outstanding Capital Stock of each Subsidiary that has been or is required to
5260 be pledged to the Collateral Agent pursuant to the Collateral and Guarantee Requirement has
5261 been validly issued, is owned free of Liens other than Permitted Liens, and with respect to any
5262 outstanding shares of such Capital Stock of a corporation, such shares have been validly issued
5263 and are fully paid and non-assessable. As of the Closing Date, the outstanding shares of Capital
5264 Stock of each Subsidiary that have been or are required to be pledged to the Collateral Agent
5265 pursuant to the Collateral and Guarantee Requirement are not subject to any buy-sell, voting trust
5266 or other shareholder agreement except as identified on Schedule 6.14.

5267 Section 6.15. *Margin Regulations; Investment Company Act.*

5268 (a) The Credit Parties are not engaged and will not engage, principally or as
5269 one of their important activities, in the business of purchasing or carrying "margin stock" (within
5270 the meaning of Regulation U issued by the FRB), or extending credit for the purpose of
5271 purchasing or carrying margin stock.

5272 (b) Neither the Borrower nor any Credit Party is or is required to be registered
5273 as an “investment company” under the Investment Company Act of 1940.

5274 Section 6.16. *Disclosure.* No report, financial statement, certificate or other written
5275 information furnished by or on behalf of any Credit Party (other than projected financial
5276 information and information of a general economic or industry nature) to the Administrative
5277 Agent or any Lender in connection with the transactions contemplated hereby and the
5278 negotiation of this Credit Agreement or delivered hereunder or under any other Credit Document
5279 considered as a whole contain any untrue statement of a material fact or omit to state any
5280 material fact necessary to make the statements therein, not materially misleading in light of the
5281 circumstances under which they were made (after giving effect to all supplements and updates
5282 thereto); provided that, with respect to projected financial information, the Credit Parties
5283 represent only that such information was prepared in good faith based upon assumptions
5284 believed to be reasonable at the time furnished; it being understood that such projections may
5285 vary from actual results and that such variances may be material.

5286 Section 6.17. *Compliance with Laws.* The Borrower and its Restricted Subsidiaries are
5287 in compliance with the requirements of all Laws and all orders, writs, injunctions, settlements or
5288 other agreements with any Governmental Authority and decrees having the force of law
5289 applicable to them or to their properties, except in such instances in which (i) such requirement
5290 of Law or order, writ, injunction or decree is being contested in good faith by appropriate
5291 proceedings diligently conducted or (ii) the failure to comply therewith, either individually or in
5292 the aggregate, would not reasonably be expected to have a Material Adverse Effect.

5293 Section 6.18. *Collateral Documents.* Each Collateral Document is effective to create in
5294 favor of the Collateral Agent, for the benefit of the holders of the Obligations, a legal, valid and
5295 enforceable security interest in the Collateral identified therein, except to the extent that the
5296 enforceability thereof may be limited by applicable Debtor Relief Laws affecting creditors’
5297 rights generally and by equitable principles of law (regardless of whether enforcement is sought
5298 in equity or at law) and, together with such filings and other actions required to be taken hereby
5299 or by the applicable Collateral Documents, the Collateral Documents shall create a fully
5300 perfected first priority Lien on, and security interest in, all right, title and interest of the grantors
5301 thereunder in such Collateral (to the extent that such Liens may be perfected by the filing of a
5302 financing statement or other appropriate action), in each case subject to no other Lien (other than
5303 Permitted Liens).

5304 Notwithstanding anything herein (including this Section 6.18) or in any other Credit
5305 Document to the contrary, neither the Borrower nor any other Credit Party makes any
5306 representation or warranty as to (A) the effects of perfection or non-perfection, the priority or the
5307 enforceability of any pledge of or security interest in any Capital Stock of any Foreign
5308 Subsidiary, or as to the rights and remedies of the Collateral Agent or any Lender with respect
5309 thereto, under foreign Law, (B) the pledge or creation of any security interest, or the effects of
5310 perfection or non-perfection, the priority or the enforceability of any pledge of or security
5311 interest to the extent such pledge, security interest, perfection or priority is not required pursuant
5312 to the Collateral and Guarantee Requirement or (C) on the Closing Date and until required
5313 pursuant to Section 7.12 or 5.01(d), the pledge or creation of any security interest, or the effects

5314 of perfection or non-perfection, the priority or enforceability of any pledge or security interest to
5315 the extent not required on the Closing Date pursuant to Section 5.01(d).

5316 Section 6.19. *Intellectual Property*. The Borrower and its Restricted Subsidiaries own,
5317 license or possess the right to use all of the trademarks, service marks, trade names, domain
5318 names, copyrights, patents, patent rights, licenses, technology, software, know-how database
5319 rights, design rights and other intellectual property rights (collectively, "IP Rights") that are
5320 reasonably necessary for the operation of their respective businesses as currently conducted, and
5321 such IP Rights do not conflict with the rights of any Person, except to the extent the absence of
5322 such IP Rights and such conflicts, either individually or in the aggregate, could not reasonably be
5323 expected to have a Material Adverse Effect. The operation of the respective businesses of the
5324 Borrower and its Restricted Subsidiaries as currently conducted does not infringe upon any rights
5325 held by any Person except for such infringements, individually or in the aggregate, which would
5326 not reasonably be expected to have a Material Adverse Effect. No claim or litigation regarding
5327 any of the IP Rights is pending or, to the knowledge of the Borrower, threatened in writing
5328 against any Credit Party or any of the Restricted Subsidiaries, which, either individually or in the
5329 aggregate, could reasonably be expected to have a Material Adverse Effect.

5330 Section 6.20. *Solvency*. On the Closing Date, after giving effect to the Transactions, the
5331 Borrower and its Restricted Subsidiaries are, on a consolidated basis, Solvent.

5332 Section 6.21. *Patriot Act; Sanctioned Persons*.

5333 (a) To the extent applicable, each Credit Party is in compliance, in all material
5334 respects, with (i) the United States Trading with the Enemy Act, as amended, and each of the
5335 foreign assets control regulations of the United States Treasury Department (31 C.F.R., Subtitle
5336 B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto,
5337 (ii) the Act and (iii) the United States Foreign Corrupt Practices Act of 1977, as amended (the
5338 "FCPA"), the UK Bribery Act or other applicable anti-corruption laws. No part of the proceeds
5339 of the Loans will be used, directly or, to the Borrower's knowledge, indirectly, for any payments
5340 to any official or employee of a Governmental Authority, political party or official, or candidate
5341 for political office in order to obtain, retain or direct business or obtain any improper advantage,
5342 in each such case in violation of the FCPA, the UK Bribery Act or other applicable anti-
5343 corruption laws.

5344 (b) Neither the Borrower, nor any of its Subsidiaries, nor, to the knowledge of
5345 the Borrower, any director, officer, employee, agent or controlled affiliate of the Borrower is an
5346 individual or entity (for purposes of this Section 6.21(b), a "Person") that is, or is owned or
5347 controlled by Persons that are the subject of any sanctions (i) administered or enforced by the
5348 United States, including the U.S. Department of the Treasury's Office of Foreign Assets Control,
5349 the United Nations Security Council, the European Union or Her Majesty's Treasury or other
5350 applicable sanctions authority, (ii) pursuant to the U.S. Iran Sanctions Act, as amended, or
5351 Executive Order 13590 (collectively, "Sanctions") or (iii) located, organized or resident in a
5352 country or territory that is, or whose government is, the subject of a comprehensive trade
5353 Sanctions program or embargo. The Borrower will not, directly or, to its knowledge, indirectly,
5354 use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to
5355 any Person (x) to fund any activities or business of or with any Person, or in any country or

5356 territory, that, at the time of such funding, is, or whose government is, the subject of Sanctions,
5357 in each such case as would violate Sanctions, or (y) in any other manner that would result in a
5358 violation of Sanctions by any Person (including any Person participating in the Loan, whether as
5359 a lender, underwriter, advisor, investor or otherwise).

5360 Section 6.22. *EEA Financial Institutions*. No Credit Party is an EEA Financial
5361 Institution.

5362
5363

ARTICLE 7
AFFIRMATIVE COVENANTS

5364 From and after the Closing Date, until the Loan Obligations (other than (i) contingent
5365 indemnification obligations as to which no claim has been asserted, (ii) Obligations described in
5366 clauses (b) and (c) of the definition thereof and (iii) any Letter of Credit that has been Cash
5367 Collateralized or back-stopped by a letter of credit reasonably satisfactory to the L/C Issuer or
5368 such Letter of Credit has been deemed reissued under another agreement reasonably acceptable
5369 to the L/C Issuer) shall have been paid in full or otherwise satisfied, and the Commitments
5370 hereunder shall have expired or been terminated, the Borrower and its Restricted Subsidiaries
5371 will:

5372 Section 7.01. *Financial Statements*. Deliver to the Administrative Agent (and the
5373 Administrative Agent will deliver to each Lender):

5374 (a) within ninety (90) days after the end of each fiscal year of the Borrower, a
5375 consolidated balance sheet of the Borrower and its Subsidiaries as at the end of such fiscal year,
5376 and the related consolidated statements of comprehensive income, shareholders' equity and cash
5377 flows for such fiscal year, setting forth in each case in comparative form the figures for the
5378 previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, including a
5379 customary management's discussion and analysis narrative, audited and accompanied by a report
5380 and opinion of KPMG LLP or any other independent registered public accounting firm of
5381 nationally recognized standing, which report and opinion (i) shall be prepared in accordance with
5382 generally accepted auditing standards and (ii) shall not be subject to any "going concern" or like
5383 qualification or exception or any qualification or exception as to the scope of such audit (except
5384 as may be required as a result of (x) a prospective Event of Default with respect to the Financial
5385 Covenants or (y) the impending maturity of any Facility, any Incremental Equivalent Debt or any
5386 Refinancing Equivalent Debt);

5387 (b) within forty-five (45) days after the end of each of the first three (3) fiscal
5388 quarters of each fiscal year of the Borrower, a consolidated balance sheet of the Borrower and its
5389 Subsidiaries as at the end of such fiscal quarter and the related (i) consolidated statements of
5390 comprehensive income for such fiscal quarter and for the portion of the fiscal year then ended,
5391 (ii) consolidated statements of cash flows for the portion of the fiscal year then ended, setting
5392 forth in each case in comparative form the figures for the corresponding portion of the previous
5393 fiscal year and (iii) a customary management's discussion and analysis narrative, all in
5394 reasonable detail and certified by a Responsible Officer of the Borrower as fairly presenting in
5395 all material respects the financial condition, results of operations and cash flows of the Borrower

5396 and its Subsidiaries in accordance with GAAP, subject only to normal year-end audit
5397 adjustments; and

5398 (c) simultaneously with the delivery of each set of consolidated financial
5399 statements referred to in Sections 7.01(a) and 7.01(b) above, the related unaudited consolidating
5400 financial statements reflecting the adjustments necessary to eliminate the accounts of
5401 Unrestricted Subsidiaries (if any) (which may be in footnote form only) from such consolidated
5402 financial statements.

5403 Notwithstanding the foregoing, the obligations in paragraphs (a) and (b) of this
5404 Section 7.01 may be satisfied with respect to financial information of the Borrower and the
5405 Restricted Subsidiaries by furnishing (A) the applicable financial statements of the Borrower or
5406 (B) the Borrower's Form 10-K or 10-Q, as applicable, filed with the SEC; *provided* that, with
5407 respect to clauses (A) and (B), to the extent such information is in lieu of information required to
5408 be provided under Section 7.01(a), such materials are, to the extent applicable, accompanied by a
5409 report and opinion of KPMG LLP or any other independent registered public accounting firm of
5410 nationally recognized standing, which report and opinion shall be prepared in accordance with
5411 generally accepted auditing standards and shall not be subject to any "going concern" or like
5412 qualification or exception or any qualification or exception as to the scope of such audit (except
5413 as may be required as a result of (x) a prospective Event of Default with respect to the Financial
5414 Covenants or (y) the impending maturity of any Facility, any Incremental Equivalent Debt or any
5415 Refinancing Equivalent Debt).

5416 Section 7.02. Certificates; Other Information. Deliver to the Administrative Agent (and
5417 the Administrative Agent will deliver to each Lender), in form and detail reasonable satisfactory
5418 to the Administrative Agent:

5419 (a) concurrently with the delivery of the financial statements referred to in
5420 Sections 7.01(a) and (b) and (b) (beginning with the first full fiscal quarter ending after the
5421 Closing Date), a duly completed Compliance Certificate signed by a Responsible Officer of the
5422 Borrower;

5423 (b) concurrently with the delivery of the financial statements referred to in
5424 Sections 7.01(a) and (b), a reasonably detailed consolidated budget for the then-current fiscal
5425 year on a quarterly basis (including a projected consolidated balance sheet of the Borrower and
5426 its Subsidiaries as of the end of such fiscal year and the related consolidated statements of
5427 projected cash flow and projected income for such fiscal year and a summary of the material
5428 underlying assumptions applicable thereto) (collectively, the "**Projections**"), which Projections
5429 shall in each case be accompanied by a certificate of a Responsible Officer stating that such
5430 Projections have been prepared in good faith on the basis of the assumptions stated therein,
5431 which assumptions were believed to be reasonable at the time of furnished, it being understood
5432 that actual results may vary from such Projections and that such variations may be material;

5433 (c) promptly after the same are available, copies of each annual report, proxy
5434 or financial statement or other report or communication sent to the stockholders of the Borrower,
5435 and copies of all annual, regular, periodic and special reports and registration statements that the

5436 Borrower may file or be required to file with the SEC under Section 13 or 15(d) of the Exchange
5437 Act, and not otherwise required to be delivered to the Administrative Agent pursuant hereto; and

5438 (d) promptly, such additional information regarding the business, financial or
5439 corporate affairs of any Credit Party or any Restricted Subsidiary of a Credit Party, or
5440 compliance with the terms of the Credit Documents, as the Administrative Agent (including at
5441 the direction of a Lender) may from time to time reasonably request.

5442 Documents required to be delivered pursuant to Section 7.01 or Section 7.02(b) or (c) (to
5443 the extent that any such documents are included in materials otherwise filed with the SEC) may
5444 be delivered electronically and, if so delivered, shall be deemed to have been delivered on the
5445 date on which the Borrower posts such documents, or provide a link thereto on the Borrower's
5446 website on the Internet at the website address listed on Schedule 11.02 (as may be updated by the
5447 Borrower from time to time); or on which such documents are posted on the Borrower's behalf
5448 on an Internet or intranet website, if any, to which each Lender and the Administrative Agent
5449 have access (whether a commercial, third-party website or whether sponsored by the
5450 Administrative Agent); *provided* that: (a) the Borrower shall deliver paper copies of such
5451 documents to the Administrative Agent or any Lender that requests the Borrower to deliver such
5452 paper copies and (b) the Borrower shall notify (which may be by facsimile or electronic mail) the
5453 Administrative Agent of the posting of any such documents and provide to the Administrative
5454 Agent by electronic mail electronic versions (i.e., soft copies) of such documents.
5455 Notwithstanding anything contained herein, in every instance the Borrower shall be required to
5456 provide paper copies of the Compliance Certificates required by Section 7.02(a) to the
5457 Administrative Agent (which may be electronic copies delivered via electronic mail). The
5458 Administrative Agent shall have no obligation to request the delivery or to maintain copies of the
5459 documents referred to above, and in any event shall have no responsibility to monitor
5460 compliance by the Borrower with any such request for delivery, and each Lender shall be solely
5461 responsible for requesting delivery to it or maintaining its copies of such documents.

5462 The Credit Parties hereby acknowledge that (a) the Administrative Agent and/or the
5463 Arrangers will make available to the Lenders and the L/C Issuer materials and/or information
5464 provided by or on behalf of the Credit Parties hereunder (collectively, "**Credit Party Materials**")
5465 by posting the Credit Party Materials on IntraLinks or another similar electronic system (the
5466 "**Platform**") and (b) certain of the Lenders (each a "**Public Lender**") may have personnel who
5467 do not wish to receive material non-public information with respect to the Borrower or its
5468 Subsidiaries and Affiliates, or the respective securities of any of the foregoing, and who may be
5469 engaged in investment and other market-related activities with respect to such Persons' securities.
5470 The Credit Parties hereby agree that so long as any of the Credit Parties is the issuer of any
5471 outstanding debt or equity securities that are registered or issued pursuant to a private offering or
5472 is actively contemplating issuing any such securities that (w) all Credit Party Materials that are to
5473 be made available to Public Lenders shall be clearly and conspicuously marked "**PUBLIC**"
5474 which, at a minimum, shall mean that the word "**PUBLIC**" shall appear prominently on the first
5475 page thereof; (x) by marking Credit Party Materials "**PUBLIC**," the Credit Parties shall be
5476 deemed to have authorized the Administrative Agent, the Arrangers, the L/C Issuer and the
5477 Lenders to treat such Credit Party Materials as not containing any material non-public
5478 information (although such information may be sensitive and proprietary) with respect to the
5479 Credit Parties or their securities for purposes of United States federal and state securities Laws

5480 (provided that to the extent that such Credit Party Materials constitute Information, they shall be
5481 treated as set forth in Section 11.07), (y) all Credit Party Materials marked "PUBLIC" are
5482 permitted to be made available through a portion of the Platform designated as "Public Side
5483 Information" and (z) the Administrative Agent and the Arrangers shall be entitled to treat any
5484 Credit Party Materials that are not marked "PUBLIC" as being suitable only for posting on a
5485 portion of the Platform not designated "Public Side Information." Notwithstanding the
5486 foregoing, the Credit Parties shall be under no obligation to mark any Credit Party Materials
5487 "PUBLIC."

5488 Section 7.03. *Notification.* Promptly after a Responsible Officer of the Borrower or any
5489 Guarantor has obtained actual knowledge thereof, notify the Administrative Agent:

5490 (a) of the occurrence of any Default;

5491 (b) of the filing or commencement of, or any written threat or notice of
5492 intention of any person to file or commence, any action, suit, litigation or proceeding (including
5493 pursuant to any applicable Environmental Laws), whether at law or in equity by or before any
5494 Governmental Authority against the Borrower or any of its Restricted Subsidiaries, that could in
5495 each case reasonably be expected to result in a Material Adverse Effect; and

5496 (c) of the occurrence of any ERISA Event which could reasonably be
5497 expected to result in a Material Adverse Effect.

5498 Each notice pursuant to this Section shall be accompanied by a statement of a
5499 Responsible Officer of the Borrower setting forth details of the occurrence referred to therein and
5500 stating what action the Borrower has taken and proposes to take with respect thereto. Each
5501 notice pursuant to Section 7.03(a) shall describe with particularity any and all provisions of this
5502 Credit Agreement and any other Credit Document that have been breached.

5503 Section 7.04. *Payment of Taxes.* Pay and discharge, as the same shall become due and
5504 payable (beyond any period of grace or cure, if applicable), all its obligations and liabilities, in
5505 respect of Taxes imposed upon it or upon its income or profits or in respect of its property,
5506 unless the same are being contested in good faith by appropriate proceedings diligently
5507 conducted and adequate reserves in accordance with GAAP are being maintained by the
5508 Borrower and its Restricted Subsidiaries or the failure to pay or discharge the same would not
5509 reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

5510 Section 7.05. *Preservation of Existence, Etc.*

5511 (a) Preserve, renew and maintain in full force and effect its legal existence
5512 and good standing under the Laws of the jurisdiction of its organization, except (i) in connection
5513 with a transaction permitted by Section 8.04 or 8.05 or (ii) with respect to any Restricted
5514 Subsidiary, to the extent that the failure to do so could not reasonably be expected to have,
5515 individually or in the aggregate, a Material Adverse Effect;

5516 (b) take all commercially reasonable action to maintain all rights, privileges,
5517 permits, licenses and franchises necessary or desirable in the normal conduct of its business,

5518 except to the extent that failure to do so would not reasonably be expected to have a Material
5519 Adverse Effect; and

5520 (c) preserve or renew all of its patents, registered copyrights, registered
5521 trademarks, trade names and service marks, the non-preservation or non-renewal of which could
5522 reasonably be expected to have a Material Adverse Effect.

5523 Section 7.06. *Maintenance of Properties.* Maintain, preserve and protect all of its
5524 material Property necessary in the operation of its business in good working order and condition,
5525 ordinary wear and tear excepted and casualty and condemnation excepted and make all necessary
5526 repairs and replacements thereof or thereto in accordance with customary industry practice,
5527 except where the failure to do so could not reasonably be expected to have a Material Adverse
5528 Effect.

5529 Section 7.07. *Maintenance of Insurance.*

5530 (a) Maintain in full force and effect with financially sound and reputable
5531 insurance companies (in the good faith judgment of the Borrower) that are not Affiliates of the
5532 Borrower, flood, casualty and liability insurance with respect to its material properties (that are
5533 necessary for the operation of their respective businesses) and business against loss or damage of
5534 the kinds customarily insured against by Persons engaged in the same or similar business, of
5535 such types and in such amounts as are customarily carried under similar circumstances by such
5536 other Persons (provided that the Borrower and its Restricted Subsidiaries may self-insure to the
5537 extent customary among companies engaged in similar businesses or advisable in the good faith
5538 judgment of the Borrower) and identifying the Administrative Agent as mortgagee and loss
5539 payee as its interests may appear, with respect to flood hazard and casualty insurance, and as
5540 additional insured, with respect to liability insurance and providing for prior notice to the
5541 Administrative Agent of the termination, lapse or cancellation of any such insurance.

5542 (b) Notwithstanding anything herein to the contrary, with respect to each
5543 Mortgaged Property, if at any time the area in which the buildings and other improvements (as
5544 described in the applicable Mortgage) are located is designated a "special flood hazard area" in
5545 any Flood Insurance Rate Map published by the Federal Emergency Management Agency (or
5546 any successor agency) in a community where flood insurance coverage under NFIP is available,
5547 obtain flood insurance in such total amount as required by the applicable Flood Laws and
5548 otherwise as the Administrative Agent may from time to time reasonably require, and otherwise
5549 to ensure compliance with the NFIP as set forth in the Flood Laws. Following the Closing Date,
5550 the Borrower shall deliver to the Administrative Agent annual renewals of each flood insurance
5551 policy or annual renewals of each force-placed flood insurance policy, as applicable. In
5552 connection with any amendment to this Agreement pursuant to which any increase, extension, or
5553 renewal of Loans is contemplated, upon the Administrative Agent's request, the Borrower shall
5554 cause to be delivered to the Administrative Agent for any Mortgaged Property, a Flood
5555 Determination Form, Borrower Notice and Evidence of Flood Insurance, as applicable.

5556 Section 7.08. *Compliance with Laws; Environmental Laws.*

5557 (a) Comply in all respects with the requirements of all Laws and all orders,
5558 writs, injunctions and decrees applicable to it or to its business or property, except in such
5559 instances in which (i) such requirement of Law or order, writ, injunction or decree is being
5560 contested in good faith by appropriate proceedings diligently conducted; or (ii) the failure to
5561 comply therewith would not reasonably be expected to have a Material Adverse Effect.

5562 (b) Except, in each case, to the extent that the failure to do so could not
5563 reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect,
5564 comply, and take all reasonable actions to cause all lessees and other Persons operating or
5565 occupying its properties to comply with all Environmental Laws; obtain and renew all
5566 Environmental Permits necessary for its operations and properties; and, in each case to the extent
5567 the Credit Parties are required by applicable Environmental Laws, conduct any investigation,
5568 remedial or other corrective action necessary to address Hazardous Materials at any property or
5569 facility in accordance with applicable Environmental Laws.

5570 Section 7.09. *Books and Records.* Maintain proper books of record and account, in
5571 which true and correct entries in conformity with GAAP shall be made of all financial
5572 transactions and matters involving the assets and business of the Borrower or such Restricted
5573 Subsidiary, as the case may be (it being understood and agreed that certain Foreign Subsidiaries
5574 maintain individual books and records in conformity with generally accepted accounting
5575 principles in their respective countries of organization and that such maintenance shall not
5576 constitute a breach of the representations, warranties or covenants hereunder), and such books of
5577 record and account in material conformity with all applicable requirements of any Governmental
5578 Authority having regulatory jurisdiction over the Borrower or such Restricted Subsidiary.

5579 Section 7.10. *Inspection Rights.* Permit representatives and independent contractors of
5580 the Administrative Agent to visit and inspect any of its properties, to examine its corporate,
5581 financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its
5582 affairs, finances and accounts with its directors, officers, and independent public accountants
5583 (subject to such accountants' customary policies and procedures), all at the reasonable expense
5584 of the Borrower and at such reasonable times during normal business hours once each fiscal year,
5585 upon reasonable advance notice to the Borrower; provided, however, that when an Event of
5586 Default has occurred and is continuing, the Administrative Agent (or any of its respective
5587 representatives or independent contractors) may do any of the foregoing at the expense of the
5588 Borrower at any time during normal business hours upon reasonable advance notice; provided,
5589 further, that, excluding any such visits and inspections during the continuance of an Event of
5590 Default, the Borrower will be responsible for the costs and expenses of the Administrative Agent
5591 only for one such visit and inspection in any fiscal year of the Borrower. The Administrative
5592 Agent shall give the Borrower the opportunity to participate in any discussions with the
5593 Borrower's independent public accountants. Notwithstanding anything to the contrary in this
5594 Section 7.10, none of the Borrower or any of the Restricted Subsidiaries will be required to
5595 disclose, permit the inspection, examination or making copies or abstracts of, or discussion of,
5596 any document, information or other matter that (a) constitutes non-financial trade secrets or non-
5597 financial proprietary information, (b) in respect of which disclosure to the Administrative Agent
5598 or any Lender (or their respective representatives or contractors) is prohibited by Law or any
5599 binding agreement or (c) is subject to attorney-client or similar privilege or constitutes attorney
5600 work product; provided that, in each case, the Borrower shall provide notice to the

5601 Administrative Agent that such information is being withheld and (other than with respect to
5602 clause (c) above) the Borrower shall use its commercially reasonable efforts to obtain the
5603 relevant consents and to communicate, to the extent both feasible and permitted under applicable
5604 Law or confidentiality obligation, the applicable information.

5605 Section 7.11. *Use of Proceeds.* Use the Credit Extensions under the Facilities on the
5606 Closing Date (subject to limitations set forth in Section 2.01(b) with respect to the use of
5607 proceeds of the Revolving Credit Loans made on the Closing Date) to consummate the
5608 Transactions and pay Transaction Expenses, and after the Closing Date, use the proceeds of any
5609 Credit Extension to finance working capital, capital expenditures and other general corporate
5610 purposes, including Acquisitions and Restricted Payments otherwise permitted hereunder.

5611 Section 7.12. *Joinder of Subsidiaries as Guarantors.* At the Borrower's expense,
5612 subject to the limitations and exceptions of this Credit Agreement, including the provisions of
5613 the Collateral and Guarantee Requirement and any applicable limitation in any Collateral
5614 Document, take all action necessary or reasonably requested by the Administrative Agent to
5615 ensure that the Collateral and Guarantee Requirement continues to be satisfied, including:

5616 (a) Upon the formation or acquisition of any new direct or indirect wholly
5617 owned Material Domestic Subsidiary (in each case, other than an Excluded Subsidiary) by any
5618 Credit Party or the designation in accordance with Section 7.14 of any existing direct or indirect
5619 wholly owned Material Domestic Subsidiary as a Restricted Subsidiary (in each case, other than
5620 an Excluded Subsidiary) or any Subsidiary becoming a wholly owned Material Domestic
5621 Subsidiary (in each case, other than an Excluded Subsidiary):

5622 (i) within 30 days after such formation, acquisition or cessation, or
5623 such longer period as the Administrative Agent may agree in its discretion:

5624 (A) cause each such Material Domestic Subsidiary that is
5625 required to become a Guarantor pursuant to the Collateral and Guarantee
5626 Requirement to duly execute and deliver to the Administrative Agent a
5627 Joinder Agreement, joinders to the Security Agreement, Intellectual
5628 Property Security Agreements, a counterpart of the Intercompany Note
5629 and other security agreements and documents as reasonably requested by
5630 and in form and substance reasonably satisfactory to the Administrative
5631 Agent (consistent with the Security Agreement, Intellectual Property
5632 Security Agreements and other security agreements in effect on the
5633 Closing Date), in each case granting Liens required by the Collateral and
5634 Guarantee Requirement, other than, in each case, with respect to any
5635 Excluded Property;

5636 (B) cause each such Material Domestic Subsidiary that is
5637 required to become a Guarantor pursuant to the Collateral and Guarantee
5638 Requirement (and the parent of each such Material Domestic Subsidiary
5639 that is a Guarantor) to deliver any and all certificates representing Capital
5640 Stock (to the extent certificated) and intercompany notes (to the extent
5641 certificated) that are required to be pledged pursuant to the Collateral and

5642 Guarantee Requirement or the Security Agreement, accompanied by
5643 undated stock powers or other appropriate instruments of transfer executed
5644 in blank;

5645 (C) take and cause such Material Domestic Subsidiary that is
5646 required to become a Guarantor pursuant to the Collateral and Guarantee
5647 Requirement and the parent of such Material Domestic Subsidiary to take
5648 whatever action (including the recording of Mortgages, the filing of UCC
5649 financing statements and delivery of stock and membership interest
5650 certificates to the extent certificated) as may be required pursuant to the
5651 terms of the Collateral Documents or as may be necessary in the
5652 reasonable opinion of the Administrative Agent to vest in the
5653 Administrative Agent (or in any representative of the Administrative
5654 Agent designated by it) valid and perfected Liens to the extent required by
5655 the Collateral and Guarantee Requirement, and to otherwise comply with
5656 the requirements of the Collateral and Guarantee Requirement;

5657 (ii) if reasonably requested by the Administrative Agent, within forty-
5658 five (45) days after such request (or such longer period as the Administrative
5659 Agent may agree in its discretion), deliver to the Administrative Agent a signed
5660 copy of an opinion, addressed to the Administrative Agent and the Lenders, of
5661 counsel for the Credit Parties to the Administrative Agent as to such matters set
5662 forth in this Section 7.12(a) as the Administrative Agent may reasonably request;

5663 (iii) as promptly as practicable after the request therefor by the
5664 Administrative Agent, deliver to the Administrative Agent with respect to each
5665 Specified Real Property, any existing title reports, abstracts or environmental
5666 assessment reports, to the extent available and in the possession or control of the
5667 Borrower; *provided, however*, that there shall be no obligation to deliver to the
5668 Administrative Agent any existing environmental assessment report whose
5669 disclosure to the Administrative Agent would require the consent of a Person
5670 other than the Borrower or one of its Subsidiaries, where, despite the
5671 commercially reasonable efforts of the Borrower to obtain such consent, such
5672 consent cannot be obtained; and

5673 (iv) if reasonably requested by the Administrative Agent, within sixty
5674 (60) days after such request (or such longer period as the Administrative Agent
5675 may agree in its discretion), deliver to the Administrative Agent any other items
5676 necessary from time to time to satisfy the Collateral and Guarantee Requirement
5677 with respect to perfection and existence of security interests with respect to
5678 property of any Guarantor acquired after the Closing Date and subject to the
5679 Collateral and Guarantee Requirement, but not specifically covered by the
5680 preceding clauses (i), (ii) or (iii) or subsection (b) below.

5681 (b) Not later than ninety (90) days after the acquisition by any Credit Party of
5682 Specified Real Property (or such longer period as the Administrative Agent may agree in its
5683 discretion) that is required to be provided as Collateral pursuant to the Collateral and Guarantee

5684 Requirement, which property would not be automatically subject to another Lien pursuant to pre-
5685 existing Collateral Documents, cause such property to be subject to a Lien and Mortgage in favor
5686 of the Collateral Agent for the ratable benefit of the holders of the Secured Obligations and take,
5687 or cause the relevant Credit Party to take, such actions as shall be necessary or reasonably
5688 requested by the Administrative Agent to grant and perfect or record such Lien, in each case to
5689 the extent required by, and subject to the limitations and exceptions of this Credit Agreement,
5690 including the Collateral and Guarantee Requirement, and to otherwise comply with the
5691 requirements of the Collateral and Guarantee Requirement.

5692 Section 7.13. *Further Assurances.* Promptly upon reasonable request by the
5693 Administrative Agent (i) correct any material defect or error that may be discovered in the
5694 execution, acknowledgment, filing or recordation of any Collateral Document or other document
5695 or instrument relating to any Collateral, and (ii) do, execute, acknowledge, deliver, record, re-
5696 record, file, re-file, register and re-register any and all such further acts, deeds, certificates,
5697 assurances and other instruments as the Administrative Agent may reasonably request from time
5698 to time in order to carry out more effectively the purposes of the Collateral Documents, to the
5699 extent required pursuant to the Collateral and Guarantee Requirement.

5700 Section 7.14. *Designation of Subsidiaries.* The Borrower may at any time after the
5701 Closing Date designate any Restricted Subsidiary of the Borrower as an Unrestricted Subsidiary
5702 or any Unrestricted Subsidiary as a Restricted Subsidiary; provided that (i) immediately before
5703 and after such designation, no Event of Default shall have occurred and be continuing, and (ii)
5704 the Borrower is in pro forma compliance with the Financial Covenants. The designation of any
5705 Subsidiary as an Unrestricted Subsidiary after the Closing Date shall be deemed to constitute an
5706 Investment by the Borrower therein at the date of designation. The designation of any
5707 Unrestricted Subsidiary as a Restricted Subsidiary shall constitute (i) the incurrence at the time
5708 of designation of any Investment, Indebtedness or Liens of such Subsidiary existing at such time
5709 and (ii) a return on any Investment by the Borrower in Unrestricted Subsidiaries.

5710 Section 7.15. *Post-Closing Obligations.* Complete each of the actions described on
5711 Schedule 7.15 as soon as commercially reasonable and by no later than the date set forth in
5712 Schedule 7.15 with respect to such action or such later date as the Administrative Agent may
5713 agree in its sole discretion.

5714 ARTICLE 8
5715 NEGATIVE COVENANTS

5716 From and after the Closing Date, until the Loan Obligations (other than (i) contingent
5717 indemnification obligations as to which no claim has been asserted, (ii) Obligations described in
5718 clauses (b) and (c) of the definition thereof and (iii) any Letter of Credit that has been Cash
5719 Collateralized or back-stopped by a letter of credit reasonably satisfactory to the L/C Issuer or
5720 such Letter of Credit has been deemed reissued under another agreement reasonably acceptable
5721 to the L/C Issuer) shall have been paid in full or otherwise satisfied, and the Commitments
5722 hereunder shall have expired or been terminated, the Borrower shall not, and shall not permit any
5723 Restricted Subsidiary to:

5724 Section 8.01. *Liens*. Create, incur, assume or suffer to exist any Lien upon any of its
5725 property, assets or revenues, whether now owned or hereafter acquired, other than the following:

5726 (a) Liens pursuant to any Credit Document securing the Loan Obligations,
5727 including Cash Collateral and other Adequate Assurance pledged to the L/C Issuer and the
5728 Swingline Lender to secure obligations of Defaulting Lenders;

5729 (b) Liens securing Indebtedness permitted by Section 8.03(q) and (r);

5730 (c) Liens securing obligations pursuant to a Swap Contract or Treasury
5731 Management Agreement permitted hereunder in favor of a Person that was (or was an Affiliate
5732 of) a Lender hereunder on the Closing Date or on the date such transaction was entered into, but
5733 only to the extent that (i) for any Swap Contract, the obligations under such Swap Contract are
5734 permitted under Section 8.03(d), (ii) such Liens are on the same collateral that secures the Loan
5735 Obligations and (iii) the obligations under such Swap Contract or Treasury Management
5736 Agreement and the Loan Obligations share *pari passu* in the collateral that is subject to such
5737 Liens;

5738 (d) Liens existing on the Closing Date and listed on Schedule 8.01 and any
5739 modifications, replacements, renewals, refinancings or extensions thereof; *provided* that (i) the
5740 property covered thereby is not changed other than after-acquired property that is affixed or
5741 incorporated into the property covered by such Lien and any proceeds of products of such
5742 property, (ii) the amount secured or benefited thereby is not increased except by an amount equal
5743 to unpaid accrued interest and premium thereon plus other amounts owing or paid related to such
5744 Indebtedness, and fees and expenses reasonably incurred, in connection with such modification,
5745 refinancing, refunding, renewal, replacement or extension, (iii) the direct or any contingent
5746 obligor with respect thereto is not changed and (iv) any modification, replacement, renewal,
5747 refinancing or extension of the obligations secured or benefited thereby is permitted by Section
5748 8.03(b);

5749 (e) Liens for taxes not yet due or that are being contested in good faith and by
5750 appropriate proceedings diligently conducted, if adequate reserves with respect thereto are
5751 maintained on the books of the applicable Person in accordance with GAAP;

5752 (f) carriers', warehousemen's, mechanics', materialmen's, repairmen's,
5753 landlords' or sublandlords' or other like Liens arising in the ordinary course of business that are
5754 not overdue for a period of more than 60 days or if more than 60 days overdue, are unfiled and
5755 no other action has been taken to enforce such Lien or which are being contested in good faith
5756 and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto
5757 are maintained on the books of the applicable Person in accordance with GAAP or the equivalent
5758 accounting principles in the relevant local jurisdiction;

5759 (g) (i) pledges or deposits in the ordinary course of business in connection
5760 with workers' compensation, health, disability or employee benefits, unemployment insurance
5761 and other social security legislation or similar legislation or regulation or other insurance-related
5762 obligations (including in respect of deductibles, self-insured retention amounts and premiums
5763 and adjustments thereto), other than any Lien imposed by Title IV of ERISA and (ii) pledges and

5764 deposits in the ordinary course of business securing liability for reimbursement or
5765 indemnification obligations of (including obligations in respect of letters of credit or bank
5766 guarantees for the benefit of) insurance carriers providing property, casualty or liability
5767 insurance to the Borrower or any of its Restricted Subsidiaries;

5768 (h) deposits to secure the performance of bids, trade contracts, governmental
5769 contracts and leases (other than Indebtedness for borrowed money), statutory obligations, surety,
5770 stay, customs and appeal bonds, performance bonds and other obligations of a like nature
5771 incurred in the ordinary course of business or consistent with past practice or industry practice;

5772 (i) zoning restrictions, easements, rights-of-way, covenants, conditions,
5773 restrictions, reservations, encroachments and other similar encumbrances affecting real property
5774 that, in the aggregate, are not substantial in amount, and that do not in any case materially detract
5775 from the value of the property subject thereto or materially interfere with the ordinary conduct of
5776 the business of the Borrower or any of its Restricted Subsidiaries, taken as a whole;

5777 (j) Liens securing judgments for the payment of money not constituting an
5778 Event of Default under Section 9.01(h) or securing appeal or other surety bonds related to such
5779 judgments;

5780 (k) Liens securing, or in respect of, obligations under Capitalized Leases and
5781 purchase money obligations for fixed or capital assets; *provided* that such Liens do not at any
5782 time encumber any property (except for replacements, additions and accessions to such property)
5783 other than the property financed by such Indebtedness except that that individual financings of
5784 equipment provided by one lender may be cross collateralized to other financings of equipment
5785 provided by such lender;

5786 (l) Liens in favor of customs and revenue authorities arising as a matter of
5787 law to secure payment of customs duties in connection with the importation of goods in the
5788 ordinary course of business;

5789 (m) Liens on property or assets acquired in connection with an Acquisition
5790 permitted under this Agreement; *provided* that (i) the indebtedness secured by such Liens is
5791 permitted under Section 8.03 and (ii) the Liens (A) are not incurred in connection with, or in
5792 contemplation or anticipation of, the acquisition, (B) are not, in the case of any Credit Party,
5793 “blanket liens”, and (C) do not attach or extend to any other property or assets (other than the
5794 proceeds or products thereof and other than after-acquired property subjected to such Lien in
5795 accordance with the terms governing the Indebtedness secured by such Lien);

5796 (n) Liens of landlords or mortgages of landlords on fixtures, equipment and
5797 movable property located on premises leased by the Borrower or any Restricted Subsidiary
5798 which do not interfere in any material respect with the business of the Borrower and its
5799 Restricted Subsidiaries, taken as a whole;

5800 (o) Liens incurred and financing statements filed or recorded in each case
5801 with respect to property leased by the Borrower and its Restricted Subsidiaries to the owners of
5802 such property which are operating leases; *provided* that such Lien does not extend to any other
5803 property of the Borrower and its Restricted Subsidiaries;

5804 (p) Liens (i) of a collection bank arising under Section 4-208 of the UCC on
5805 items in the course of collection, (ii) attaching to commodity trading accounts or other
5806 commodities brokerage accounts incurred in the ordinary course of business and (iii) in favor of
5807 a banking or other financial institution arising as a matter of Law or under customary general
5808 terms and conditions encumbering deposits or other funds maintained with a financial institution
5809 (including the right of set-off) and that are within the general parameters customary in the
5810 banking industry or arising pursuant to such banking institution's general terms and conditions;

5811 (q) deposits of cash or the issuance of a Letter of Credit made to secure
5812 liability to insurance carriers under insurance or self-insurance arrangements;

5813 (r) Liens (i) on cash advances in favor of the seller of any property to be
5814 acquired in an Investment permitted under Section 8.02 to be applied against the purchase price
5815 for such Investment or other acquisition, and (ii) consisting of an agreement to Dispose of any
5816 property in a Disposition permitted under Section 8.05, in each case, solely to the extent such
5817 Investment or other acquisition or Disposition, as the case may be, would have been permitted on
5818 the date of the creation of such Lien;

5819 (s) Liens on property or assets of Restricted Subsidiaries that are not Credit
5820 Parties securing obligations of Restricted Subsidiaries that are not Credit Parties;

5821 (t) Liens on Collateral securing Ratio Debt (and any Permitted Refinancing
5822 thereof); *provided* that such Liens shall be junior to the Liens securing the Obligations and shall
5823 be subject to a lien subordination and intercreditor arrangement in form and substance
5824 reasonably satisfactory to the Administrative Agent;

5825 (u) leases, licenses, cross-licenses, subleases or sublicenses not interfering in
5826 any material respect with the business of the Borrower and its Restricted Subsidiaries, or
5827 otherwise materially diminishing the value of the Collateral, in either case taken as a whole;

5828 (v) Liens arising from precautionary UCC financing statements or similar
5829 filings in connection with any transaction otherwise not prohibited under this Agreement;

5830 (w) additional Liens so long as the aggregate principal amount of the
5831 obligations so secured does not exceed the greater of (i) \$15,000,000 and (ii) 2.25% of Total
5832 Assets;

5833 (x) Liens that are contractual rights of set-off or rights of pledge (i) relating to
5834 the establishment of depository relations with banks or other deposit-taking financial institutions
5835 and not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposit or
5836 sweep accounts of the Borrower or any of its Restricted Subsidiaries to permit satisfaction of
5837 overdraft or similar obligations incurred in the ordinary course of business of the Borrower or
5838 any of its Restricted Subsidiaries or (iii) relating to purchase orders and other agreements entered
5839 into with customers of the Borrower or any of its Restricted Subsidiaries in the ordinary course
5840 of business;

5841 (y) Liens solely on any cash earnest money deposits made by the Borrower or
5842 any of its Restricted Subsidiaries in connection with any letter of intent or purchase agreement
5843 permitted hereunder; and

5844 (z) Liens on specific items of inventory or other goods and the proceeds
5845 thereof of any Person securing such Person's obligations in respect of letters of credit or banker's
5846 acceptances issued or created for the account of such Person to facilitate the purchase, shipment
5847 or storage of such inventory or goods in the ordinary course of business.

5848 The expansion of Liens by virtue of accrual of interest, accretion of accreted value,
5849 amortization of original issue discount and increases in the amount of Indebtedness outstanding
5850 solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an
5851 incurrence of Liens for purposes of this Section 8.01.

5852 Section 8.02. *Investments*. Make or permit to exist any Investments, except:

5853 (a) cash and Cash Equivalents;

5854 (b) Investments (including intercompany Investments) existing on the Closing
5855 Date or committed to be made pursuant to an agreement existing on the Closing Date, in each
5856 case listed on Schedule 8.02, or an Investment consisting of any extension, modification,
5857 replacement, renewal or reinvestment of any such Investment or binding commitment existing on
5858 the Closing Date; *provided* that the amount of any such Investment or binding commitment may
5859 be increased (i) as required by the terms of such Investment or binding commitment as in
5860 existence on the Closing Date (including as a result of the accrual or accretion of interest or
5861 original issue discount or the issuance of pay-in-kind securities) or (ii) as otherwise permitted
5862 under this Credit Agreement;

5863 (c) to the extent not prohibited by applicable Law, (i) advances to officers,
5864 directors, employees, managers, consultants and independent contractors of the Borrower and its
5865 Restricted Subsidiaries for travel, entertainment, relocation and other ordinary business purposes,
5866 (ii) loans and advances to officers, directors, employees, managers, consultants and independent
5867 contractors of the Borrower or any of its Restricted Subsidiaries to finance the purchase of
5868 Capital Stock of the Borrower and (iii) loans and advances to, or guarantees of Indebtedness of,
5869 officers, directors, employees, managers, consultants and independent contractors; *provided* that
5870 that the aggregate amount outstanding at any time under clauses (ii) and (iii) shall not exceed the
5871 greater of (x) \$5,000,000 and (y) 0.75% of Total Assets;

5872 (d) (i) Investments consisting of extensions of credit in the nature of accounts
5873 receivable or notes receivable arising from the grant of trade credit in the ordinary course of
5874 business, (ii) Investments received in satisfaction or partial satisfaction thereof from financially
5875 troubled account debtors and (iii) Investments received in satisfaction of judgments against other
5876 Persons;

5877 (e) any Investments in the Borrower or any of its Restricted Subsidiaries;
5878 *provided* that the aggregate amount of Investments by Credit Parties in Restricted Subsidiaries
5879 that are not Credit Parties (other than any Investment, the proceeds of which are used directly or
5880 indirectly in connection with an Acquisition by such non-Credit Parties) shall not exceed,

5881 together with the aggregate amount of cash or property provided by Credit Parties pursuant to
5882 Section 8.02(f)(A)(2), at the time of the making of any such Investment, an aggregate amount
5883 outstanding at any time equal to the greater of (i) \$15,000,000 and (ii) 2.25% of Total Assets;

5884 (f) any Acquisition by the Borrower or any of its Restricted Subsidiaries and
5885 any Investment that is part of the assets acquired in such Acquisition or otherwise held by a
5886 Person that is, directly or indirectly, a target of such Acquisition; *provided* that, with respect to
5887 each such Acquisition made pursuant to this Section 8.02(f):

5888 (A) (1) each applicable Credit Party and any such newly
5889 created or acquired Subsidiary shall, or will within the times specified
5890 therein, have complied with the applicable requirements of Section 7.12 to
5891 the extent required thereby, and (2) the aggregate amount of cash or
5892 property provided by Credit Parties to make any such purchase or
5893 acquisition of assets that are not purchased or acquired (or do not become
5894 owned) by a Credit Party or in Capital Stock in Persons that do not
5895 become Credit Parties upon consummation of such purchase or acquisition
5896 shall not exceed at any time outstanding, together with Investments
5897 pursuant to Section 8.02(e), the greater of (i) \$15,000,000 and (ii) 2.25%
5898 of Total Assets; *provided, however*, that the limitation related to assets that
5899 are not acquired by a Credit Party or Persons that do not become Credit
5900 Parties under this clause (A)(2) shall not apply to any acquisition to the
5901 extent the ultimate Person so acquired (or the Person owning the assets so
5902 acquired) becomes a Credit Party even though such Credit Party owns
5903 Capital Stock in Persons that are not otherwise required to become Credit
5904 Parties, if, for such acquisition, not less than 90.0% of the Consolidated
5905 EBITDA of the Person(s) acquired (for this purpose and for the
5906 component definitions used therein, determined on a consolidated basis for
5907 such Persons and their Subsidiaries) is directly generated by Person(s) that
5908 become Credit Parties (i.e., disregarding all such Consolidated EBITDA
5909 generated by Subsidiaries of such Guarantors that are shall not become
5910 Credit Parties); *provided, further*, that for the avoidance of doubt, such
5911 limitations on cash or property provided by Credit Parties shall exclude
5912 consideration provided in the form of Capital Stock of the Borrower;

5913 (B) immediately after giving Pro Forma Effect to any such
5914 purchase or other acquisition, (1) no Event of Default (or if such Permitted
5915 Acquisition is not conditioned on the availability of, or on obtaining third
5916 party financing any Event of Default under Section 9.01(a) or (f)) shall
5917 have occurred and be continuing and (2) the Consolidated Total Net
5918 Leverage Ratio is not greater than the Consolidated Total Net Leverage
5919 Ratio permitted under Section 8.11(b) as of the most recently ended Test
5920 Period for which financial statements have been delivered pursuant to
5921 Section 7.01 less 0.25x; and

5922 (C) the Borrower shall have delivered to the Administrative
5923 Agent, no later than five (5) Business Days (or such later date as

5924 acceptable to the Administrative Agent in its sole discretion) after the date
5925 on which any such purchase or other acquisition is consummated, a
5926 certificate of a Responsible Officer certifying that all of the requirements
5927 set forth in this clause (f) have been satisfied or will be satisfied on or
5928 prior to the consummation of such purchase or other acquisition;

5929 (g) Investments to the extent that payment for such investments is made with
5930 the Capital Stock of the Borrower;

5931 (h) Investments in respect of Swap Contracts permitted under Section 8.03(d);

5932 (i) Investments consisting of purchases and acquisitions of assets or services
5933 in the ordinary course of business;

5934 (j) Investments in prepaid expenses, negotiable instruments held for
5935 collection and lease, utility and workers compensation, performance and similar deposits entered
5936 into as a result of the operations of the business;

5937 (k) Investments in the ordinary course of business consisting of Uniform
5938 Commercial Code Article 3 endorsements for collection or deposit and Article 4 customary trade
5939 arrangements with customers;

5940 (l) Investments consisting of purchases or other acquisitions of inventory,
5941 supplies, services, material or equipment or the licensing or contribution of intellectual property
5942 pursuant to joint marketing arrangements with other Persons;

5943 (m) Investments in an outstanding amount not to exceed, at the time any such
5944 Investment is made, the sum of (x) the greater of (i) \$22,500,000 and (ii) 3.50% of Total Assets
5945 and (y) the Cumulative Equity Credit so long as, in each case, no Event of Default shall exist or
5946 result immediately after giving effect thereto;

5947 (n) Investments to the extent that, at the time any such Investments are made,
5948 the Payment Conditions are satisfied; and

5949 (o) Investments by the Borrower and its Subsidiaries in any Escrow Borrower
5950 for purposes of funding original issue discount, upfront fees, redemption or repayment premium
5951 and interest with respect to any Escrow Incremental Term Loans or debt securities issued
5952 pursuant to escrow arrangements, in each case, to the extent such Escrow Incremental Term
5953 Loans and debt securities are intended to provide a portion of the funds to finance an Acquisition
5954 permitted under this Agreement.

5955 For purposes of determining whether an Investment is a permitted to be made pursuant to
5956 this Section 8.02, in the event that an Investment (or any portion thereof) meets the criteria of
5957 more than one of any provision of Section 8.02, the Borrower, in its sole discretion, will classify
5958 such Investment (or any portion thereof) in any one or more of the types of Investments
5959 described in any applicable clause in Section 8.02 and will only be required to include the
5960 amount and type of such Investment in such of the above clauses in this Section 8.02 as
5961 determined by the Borrower at such time.

5962 Section 8.03. *Indebtedness*. Create, incur, assume or suffer to exist any Indebtedness,
5963 except:

5964 (a) Indebtedness under the Credit Documents;

5965 (b) Indebtedness outstanding on the Closing Date and listed on Schedule 8.03
5966 and any Permitted Refinancing thereof;

5967 (c) [reserved];

5968 (d) obligations (contingent or otherwise) of the Borrower or any Restricted
5969 Subsidiary existing or arising under any Swap Contract; *provided* that such obligations are
5970 entered into by such Person in the ordinary course of business for the purpose of directly
5971 mitigating risks associated with liabilities, commitments, investments, assets, or property held or
5972 reasonably anticipated by such Person, or changes in the value of securities issued by such
5973 Person, and not for purposes of speculation or taking a “market view”;

5974 (e) Indebtedness of the Borrower and its Restricted Subsidiaries owing to the
5975 Borrower or any Restricted Subsidiary to the extent permitted by Section 8.02; *provided* that any
5976 such Indebtedness owed by a Credit Party to a Restricted Subsidiary that is not a Credit Party
5977 shall be subject to the Intercompany Note;

5978 (f) Indebtedness (including Indebtedness under Capitalized Leases and
5979 purchase money obligations) incurred to provide all or a portion of the purchase price (or cost of
5980 construction, acquisition, repair, lease or improvement), in each case, for capital assets and
5981 refinancings, refundings, renewals or extensions thereof, *provided* that the aggregate principal
5982 amount of all such Indebtedness shall not at any time outstanding exceed the greater of (i)
5983 \$15,000,000 and (ii) 2.25% of Total Assets;

5984 (g) unsecured Indebtedness or Indebtedness secured by a Lien, that, in the
5985 case of a Lien on the assets of a Credit Party, such Lien on the Collateral is junior to the Lien
5986 securing the Obligations, so long as, after giving effect to the incurrence of such Indebtedness
5987 (whether or not secured), the Consolidated Total Net Leverage Ratio is not greater than the
5988 Consolidated Total Net Leverage Ratio permitted under Section 8.11(b) as of the most recently
5989 ended Test Period for which financial statements have been delivered pursuant to Section 7.01
5990 less 0.50x (“**Ratio Debt**”); *provided* that (i) such Ratio Debt does not mature prior to the date
5991 that is 91 days following the Latest Maturity Date of the Term Loan Facility or have a Weighted
5992 Average Life to Maturity less than the Term Loan Facility, (ii) such Ratio Debt does not have
5993 mandatory prepayment, redemption or offer to purchase events that are earlier than the Maturity
5994 Date of the Term Loan Facility (but may include customary change of control and asset sale
5995 proceeds offers), (i) such Ratio Debt either (a) does not have financial maintenance covenants or
5996 (b) contains financial maintenance covenants that are no more restrictive than the Financial
5997 Covenants, (iv) to the extent such Ratio Debt is subordinated to the Facilities, is subject to
5998 subordination terms reasonably satisfactory to the Administrative Agent and (v) to the extent
5999 such Ratio Debt is secured by a Lien which is junior to the Lien securing the Obligations, it is
6000 subject to a lien subordination and intercreditor arrangement reasonably satisfactory to the
6001 Borrower and the Administrative Agent; *provided, further*, that any such Indebtedness incurred

6002 by a Restricted Subsidiary that is not a Credit Party, together with Indebtedness incurred by a
6003 Restricted Subsidiary that is not a Credit Party pursuant to Section 8.03(h), does not exceed in
6004 the aggregate at any time outstanding the greater of (a) \$20,000,000 and (b) 3.00% of Total
6005 Assets;

6006 (h) Indebtedness of the Borrower or any Restricted Subsidiary assumed
6007 (including Acquired Indebtedness) in connection with, but not incurred in contemplation of, any
6008 Acquisition so long as, after giving Pro Forma Effect thereto and any related transactions, the
6009 Borrower could incur \$1.00 of Ratio Debt; *provided* that any such Indebtedness incurred by a
6010 Restricted Subsidiary that is not a Credit Party does not exceed, together with Indebtedness
6011 incurred by a Restricted Subsidiary that is not a Credit Party pursuant to Section 8.03(g), in the
6012 aggregate at any time outstanding the greater of (i) \$20,000,000 and (ii) 3.00% of Total Assets;

6013 (i) Support Obligations by the Borrower and its Restricted Subsidiaries in
6014 respect of Indebtedness otherwise permitted hereunder; *provided* that Support Obligations by the
6015 Credit Parties with respect to Indebtedness of Restricted Subsidiaries that are not Credit Parties is
6016 an Investment permitted by Section 8.02;

6017 (j) Indebtedness (i) representing deferred compensation to employees of the
6018 Borrower or any of its Restricted Subsidiaries incurred in the ordinary course of business
6019 (including, for the avoidance of doubt, in connection with the Transactions or any Acquisition
6020 permitted hereunder), or (ii) to current or former officers, managers, consultants, directors and
6021 employees, and their respective estates, spouses or former spouses to finance the purchase or
6022 redemption of Capital Stock or other equity-based awards of the Borrower permitted by
6023 Section 8.06;

6024 (k) Indebtedness of Restricted Subsidiaries that are not Credit Parties in an
6025 aggregate principal amount at any time outstanding not to exceed the greater of (i) \$15,000,000
6026 and (ii) 2.25% of Total Assets;

6027 (l) Treasury Management Obligations and other Indebtedness in respect of
6028 netting services, automatic clearinghouse arrangements, overdraft protections, employee credit
6029 card programs and other cash management and similar arrangements in the ordinary course of
6030 business and any Guaranties thereof;

6031 (m) Indebtedness consisting of (i) the financing of insurance premiums or (ii)
6032 take-or-pay obligations contained in supply arrangements, in each case, incurred in the ordinary
6033 course of business;

6034 (n) obligations in respect of performance, bid, appeal and surety bonds and
6035 performance and completion guarantees and similar obligations provided by the Borrower or any
6036 of its Restricted Subsidiaries or obligations in respect of letters of credit, bank guarantees or
6037 similar instruments related thereto, in each case in the ordinary course of business or consistent
6038 with past practice;

6039 (o) (A) Indebtedness of the Borrower or any Restricted Subsidiary in an
6040 aggregate principal amount not to exceed the amount of the net cash proceeds received by the
6041 Borrower since the Closing Date from the issuance or sale of Capital Stock of the Borrower or

6042 cash contributed to the capital of the Borrower (in each case, other than proceeds of Disqualified
6043 Stock or sales of Capital Stock to the Borrower or any of its Subsidiaries) as determined in
6044 accordance with clauses (a) and (b) of the definition of "Cumulative Equity Credit" to the extent
6045 such net cash proceeds have not been applied pursuant to such clauses to make Investments
6046 pursuant to Section 8.02, Restricted Payments pursuant to Section 8.06 or to prepay, redeem,
6047 purchase, defease or satisfy Indebtedness pursuant to Section 8.12, so long as (i) such
6048 Indebtedness is incurred within one year following the receipt by the Borrower of such net cash
6049 proceeds, and (ii) such Indebtedness is designated as "Contribution Indebtedness" on the date
6050 incurred and (B) any Permitted Refinancing thereof;

6051 (p) Indebtedness pursuant to any Plan or owed to any Person providing health,
6052 retirement, disability or other employee benefits;

6053 (q) (A) Indebtedness in respect of one or more series of senior or subordinated
6054 notes or loans (which may be unsecured or secured on a junior lien basis to the Obligations), and,
6055 in the case of notes, issued in a public offering, Rule 144A or other private placement or bridge
6056 in lieu of the foregoing, in each case, that are issued or made in lieu of Incremental Revolving
6057 Commitments and/or Incremental Term Commitments (the "**Incremental Equivalent Debt**");
6058 *provided* that (i) the aggregate principal amount of such Incremental Equivalent Debt shall be
6059 subject to the limitations set forth under Section 2.18(c)(ii) as if such Incremental Equivalent
6060 Debt constituted Incremental Term Loans incurred in compliance therewith; (ii) such
6061 Incremental Equivalent Debt shall not be subject to any Guaranty by any Person other than a
6062 Credit Party, (iii) if such Incremental Equivalent Debt is secured, the obligations in respect
6063 thereof shall not be secured by any Lien on any asset of the Borrower or any Restricted
6064 Subsidiary other than any asset constituting Collateral, (iv) no Default or Event of Default shall
6065 have occurred and be continuing or would exist immediately after giving effect to such
6066 incurrence, (v) if such Incremental Equivalent Debt is secured, the security agreements and other
6067 collateral documents relating to such Incremental Equivalent Debt shall be substantially similar
6068 to the Collateral Documents (with such differences as are reasonably satisfactory to the
6069 Administrative Agent), (vi) (a) if such Incremental Equivalent Debt is secured, then such
6070 Incremental Equivalent Debt shall be subject to a lien subordination and intercreditor
6071 arrangement satisfactory to the Borrower and the Administrative Agent or (b) if such
6072 Incremental Equivalent Debt is unsecured and subordinated to the Obligations, then such
6073 Incremental Equivalent Debt shall be subject to a subordination agreement satisfactory to the
6074 Borrower and the Administrative Agent, (vii) such Incremental Equivalent Debt shall have a
6075 final maturity date which is no earlier than 91 days after the Maturity Date of the Initial Term
6076 Loans, (viii) such Incremental Equivalent Debt shall have no scheduled amortization prior to the
6077 final scheduled maturity date of the Initial Term Loans, (ix) such Incremental Equivalent Debt
6078 shall not be subject to any mandatory redemption or prepayment provisions or rights (except
6079 offers to repurchase and prepayment events upon a change of control, asset sale or event of loss
6080 and a customary acceleration right after an event of default), in each case prior to the Maturity
6081 Date of the Initial Term Loans, (x) such Incremental Equivalent Debt shall (a) have financial
6082 maintenance covenants that are not more restrictive than the Financial Covenants or (b) not have
6083 any financial maintenance covenants, and (xi) except as otherwise set forth in this clause (g),
6084 such Incremental Equivalent Debt shall have terms and conditions (other than with respect to
6085 pricing, fees, rate floors and optional prepayment or redemption terms) substantially similar to,
6086 or (taken as a whole) no more favorable (as reasonably determined by the Borrower in good

6087 faith) to the lenders or holders providing such Incremental Equivalent Debt, than those
6088 applicable to the Initial Term Loans (except for covenants or other provisions applicable only to
6089 periods after the Latest Maturity Date at the time of the issuance or incurrence of such
6090 Incremental Equivalent Debt) and (B) any Permitted Refinancing thereof;

6091 (r) (x) Indebtedness of the Borrower in the form of or more series of senior or
6092 subordinated notes of loans (which may be unsecured or secured on a junior lien basis to the
6093 Obligations), and, in the case of notes, issued in a public offering, Rule 144A or other private
6094 placement in lieu of the foregoing and, in each case, any Permitted Refinancing thereof (the
6095 "**Refinancing Equivalent Debt**"), in each case, in exchange for, or to extend, renew, replace,
6096 repurchase, retire or refinance, in whole or in part, any Refinanced Debt; *provided* that any
6097 Refinancing Equivalent Debt: (A) (1) shall not have a Maturity Date prior to the 91 days after
6098 the Maturity Date of the Initial Term Loans, (2) if in the form of term loans, shall not have a
6099 Weighted Average Life to Maturity shorter than the remaining Weighted Average Life to
6100 Maturity of the Refinanced Debt, (3) shall not have scheduled amortization prior to the Maturity
6101 Date of the Initial Term Loans, (4) shall not be subject to mandatory redemption, repurchase,
6102 prepayment or sinking fund obligations (except with respect to offers to repurchase and
6103 prepayment events upon a change of control, asset sale or event of loss and a customary
6104 acceleration right after an event of default), in each case prior to the Maturity Date of the Initial
6105 Term Loans, (4) shall not be guaranteed by Persons other than Guarantors, (5) (A) if secured,
6106 shall be subject to a lien subordination and intercreditor arrangement satisfactory to the Borrower
6107 and the Administrative Agent or (B) if unsecured and subordinated to the Obligations, shall be
6108 subject to a subordination agreement satisfactory to the Borrower and the Administrative Agent,
6109 (6) if secured, shall be subject to security agreements relating to such Refinancing Equivalent
6110 Debt that are substantially the same as or more favorable to the Credit Parties than the Collateral
6111 Documents (with such differences as are reasonably satisfactory to the Administrative Agent),
6112 (7) if secured shall be secured by the Collateral on a junior lien basis with the Obligations under
6113 Term Loans and Revolving Credit Loans and shall not be secured by any property or assets of
6114 the Borrower or any Restricted Subsidiary other than the Collateral, (8) shall not have a greater
6115 principal amount than the principal amount of the Refinanced Debt plus accrued and unpaid
6116 interest, fees, premiums (if any) and penalties thereon and reasonable fees, expenses, OID and
6117 upfront fees associated with the refinancing, (9) (A) shall have financial maintenance covenants
6118 that are not more restrictive than the Financial Covenants or (B) shall not have financial
6119 maintenance covenants, and (10) except as otherwise set forth in this clause (f)(ii), shall have
6120 terms and conditions (other than with respect to pricing, fees, rate floors and optional
6121 prepayment or redemption terms) substantially similar to, or (taken as a whole) no more
6122 favorable (as determined by the Borrower in good faith) to the lenders or holders providing such
6123 Refinancing Equivalent Debt, than those applicable to the Initial Term Loans (except for
6124 covenants or other provisions applicable only to periods after the Latest Maturity Date at the
6125 time of the issuance or incurrence of such Refinancing Equivalent Debt) and (B) shall be
6126 incurred solely to repay, repurchase, retire or refinance substantially concurrently the Refinanced
6127 Debt and (y) any Permitted Refinancing thereof;

6128 (s) other Indebtedness in an aggregate principal amount at any time
6129 outstanding not to exceed the greater of (i) \$22,500,000 and (ii) 3.50% of Total Assets; and

6130 (t) all premiums (if any), interest (including post-petition interest), fees,
6131 expenses, charges and additional or contingent interest on obligations described in clauses (a)
6132 through (t) above.

6133 For purposes of determining compliance with Section 8.03, in the event that an item of
6134 Indebtedness (or any portion thereof) at any time, whether at the time of incurrence meets the
6135 criteria of more than one of the categories of permitted Indebtedness described in Section 8.03(a)
6136 through (t) above, the Borrower, in its sole discretion, will classify such item of indebtedness (or
6137 any portion thereof) in any one or more of the types of Indebtedness described in Section 8.03(a)
6138 through (t) and will only be required to include the amount and type of such Indebtedness in such
6139 of the above clauses as determined by the Borrower at such time. The Borrower will be entitled
6140 to divide and classify an item of Indebtedness in more than one of the types of Indebtedness
6141 described in Section 8.03(a) through (t). Notwithstanding the foregoing, Indebtedness incurred
6142 (a) under the Credit Documents, any Incremental Commitments, any Incremental Loans, any
6143 Refinancing Commitments and any Refinancing Loans shall only be classified as incurred under
6144 Section 8.03(a), (b) as Incremental Equivalent Debt shall only be classified as incurred under
6145 Section 8.03(q), and (c) as Refinancing Equivalent Debt shall only be classified as incurred
6146 under Section 8.03(r).

6147 For purposes of determining compliance with any Dollar-denominated restriction on the
6148 incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated
6149 in a foreign currency shall be calculated based on the relevant currency exchange rate in effect
6150 on the date such Indebtedness was incurred, in the case of term debt, or first committed, in the
6151 case of revolving credit debt; *provided* that if such Indebtedness is incurred to extend, replace,
6152 refund, refinance, renew or defease other Indebtedness denominated in a foreign currency, and
6153 such extension, replacement, refunding, refinancing, renewal or defeasance would cause the
6154 applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency
6155 exchange rate in effect on the date of such extension, replacement, refunding, refinancing,
6156 renewal or defeasance, such Dollar-denominated restriction shall be deemed not to have been
6157 exceeded so long as the principal amount of such refinancing Indebtedness does not exceed the
6158 principal amount of such Indebtedness being extended, replaced, refunded, refinanced, renewed
6159 or defeased, plus the aggregate amount of fees, underwriting discounts, premiums (including
6160 tender premiums) and other costs and expenses (including OID) incurred in connection with such
6161 refinancing.

6162 The accrual of interest or the accretion of accreted value shall not be deemed to be an
6163 incurrence of Indebtedness for purposes of this Section 8.03.

6164 Section 8.04. *Mergers and Dissolutions*. Enter into a transaction of merger or
6165 consolidation; provided that:

6166 (a) the Borrower and its Restricted Subsidiaries may merge or consolidate
6167 with any Credit Party; *provided* that (i) if the Borrower is a party to the merger or consolidation,
6168 it shall be the surviving entity and (ii) if the Borrower is not a party to the merger or
6169 consolidation, then a Credit Party thereto shall be the surviving entity;

6170 (b) a Restricted Subsidiary of the Borrower that is not a Credit Party may
6171 merge or consolidate with any other Subsidiary that is not a Credit Party; or

6172 (c) the Borrower and its Restricted Subsidiaries may merge or consolidate
6173 with Persons that are not Credit Parties; *provided* that (i) if the Borrower is a party to the merger
6174 or consolidation, it shall be the surviving entity and (ii) if a Restricted Subsidiary of the
6175 Borrower that is a Credit Party is a party to the merger or consolidation, either (I) the Restricted
6176 Subsidiary that is a Credit Party will be the surviving entity, or (II) such transaction shall be an
6177 Investment permitted under Section 8.02;

6178 (d) So long as no Default has occurred and is continuing or would result
6179 therefrom, the Borrower may merge or consolidate with any other Person; *provided* that (i) the
6180 Borrower shall be the continuing or surviving corporation or (ii) if the Person formed by or
6181 surviving any such merger or consolidation is not the Borrower (any such Person, the
6182 “**Successor Company**”), (A) the Successor Company shall be an entity organized or existing
6183 under the Laws of the United States, any state thereof, the District of Columbia or any territory
6184 thereof, (B) the Successor Company shall expressly assume all the obligations of the Borrower
6185 under this Agreement and the other Credit Documents to which the Borrower is a party pursuant
6186 to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent,
6187 (C) each Guarantor, unless it is the other party to such merger or consolidation, shall have
6188 confirmed that its Guaranty shall apply to the Successor Company’s obligations under the Credit
6189 Documents, (D) each Guarantor, unless it is the other party to such merger or consolidation, shall
6190 have by a supplement to the Security Agreement and other applicable Collateral Documents
6191 confirmed that its obligations thereunder shall apply to the Successor Company’s obligations
6192 under the Credit Documents, (E) if requested by the Administrative Agent, each mortgagor of a
6193 Mortgaged Property, unless it is the other party to such merger or consolidation, shall have by an
6194 amendment to or restatement of the applicable Mortgage (or other instrument reasonably
6195 satisfactory to the Administrative Agent) confirmed that its obligations thereunder shall apply to
6196 the Successor Company’s obligations under the Credit Documents, and (F) the Borrower shall
6197 have delivered to the Administrative Agent an officer’s certificate and an opinion of counsel,
6198 each stating that such merger or consolidation and such supplement to this Agreement or any
6199 Collateral Document comply with this Agreement; *provided, further*, that if the foregoing are
6200 satisfied, the Successor Company will succeed to, and be substituted for, the Borrower under this
6201 Agreement;

6202 (e) any Restricted Subsidiary may Dispose of all or substantially all of its
6203 assets (upon voluntary liquidation or otherwise) to the Borrower or to another Restricted
6204 Subsidiary; *provided* that if the transferor in such a transaction is a Credit Party, then (i) the
6205 transferee must be a Credit Party or (ii) to the extent constituting an Investment, such Investment
6206 must be an Investment permitted by Section 8.02;

6207 (f) Credit Parties (other than the Borrower) may (i) be dissolved or liquidated
6208 into another Credit Party or (ii) otherwise have their existence terminated to the extent that the
6209 assets of such Credit Party are distributed, upon such termination, to one or more Credit Parties
6210 or to a Restricted Subsidiary that is not a Credit Party so long as such transaction shall be an
6211 Investment permitted under Section 8.02;

6212 (g) Restricted Subsidiaries that are not Credit Parties may be dissolved,
6213 liquidated or otherwise have their existence terminated; and

6214 (h) so long as no Event of Default has occurred and is continuing or would
6215 result therefrom, a merger, consolidation, amalgamation, dissolution, liquidation, consolidation
6216 or Disposition, the purpose of which is to effect a Disposition permitted pursuant to Section 8.05.

6217 Section 8.05. *Dispositions*. Make any Disposition, except:

6218 (a) (i) Dispositions between and among Credit Parties, (ii) Dispositions
6219 between and among Restricted Subsidiaries that are not Credit Parties and (iii) Dispositions
6220 between Credit Parties, on the one hand, and Restricted Subsidiaries that are not Credit Parties,
6221 on the other hand, *provided* that in the case of any disposition by a Credit Party to a Restricted
6222 Subsidiary that is not a Credit Party, such Disposition shall be an Investment permitted by
6223 Section 8.02;

6224 (b) Dispositions by the Borrower or any Restricted Subsidiary; *provided* that
6225 (i) at the time of such Disposition, no Event of Default shall exist or would result from such
6226 Disposition, (ii) the aggregate book value of all property Disposed of in reliance on this clause
6227 (b) in any fiscal year shall not exceed an amount equal to ten percent (10%) of Total Assets of
6228 the Borrower and its Restricted Subsidiaries as of the last day of the immediately preceding
6229 fiscal year, and (iii) with respect to any Disposition for a purchase price in excess of \$5,000,000,
6230 the consideration for any such Disposition shall be at least 75% cash or Cash Equivalents;
6231 *provided, however*, that for the purposes of this clause (iii), the following shall be deemed to be
6232 cash: (A) any liabilities (as shown on the Borrower's most recent balance sheet provided
6233 hereunder or in the footnotes thereto) of the Borrower or such Restricted Subsidiary, other than
6234 liabilities that are by their terms subordinated to the payment in cash of the Obligations, that (i)
6235 are assumed by the transferee with respect to the applicable Disposition or (ii) are otherwise
6236 cancelled or terminated in connection with the transaction with such transferee (other than
6237 intercompany debt owed to the Borrower or its Restricted Subsidiaries) and, in each case, for
6238 which the Borrower and all of its Restricted Subsidiaries shall have been validly released by all
6239 applicable creditors in writing, (B) any securities, notes or other obligations or assets received by
6240 the Borrower or the applicable Restricted Subsidiary from such transferee that are converted by
6241 the Borrower or such Restricted Subsidiary into cash or Cash Equivalents (to the extent of the
6242 cash or Cash Equivalents received) within 180 days following the closing of the applicable
6243 Disposition, and (C) aggregate non-cash consideration received by the Borrower or the
6244 applicable Restricted Subsidiary having an aggregate fair market value (determined as of the
6245 closing of the applicable Disposition for which such non-cash consideration is received) not to
6246 exceed the greater of (x) \$7,500,000 and (y) 1.25% of Total Assets (net of any non-cash
6247 consideration converted into cash and Cash Equivalents) and (ii) such Disposition shall be for at
6248 least the fair market value (as determined by the Borrower in good faith) of the assets or property
6249 subject to such Disposition;

6250 (c) Dispositions consisting of the licensing or sublicensing of intellectual
6251 property and licenses, leases or subleases of other property, in each case in the ordinary course of
6252 business or Dispositions of intellectual property, in the Borrower's reasonable business

6253 judgment, that are not material to the business of the Borrower and its Restricted Subsidiaries,
6254 taken as a whole;

6255 (d) Dispositions permitted by Section 8.04, that constitute a Lien permitted by
6256 Section 8.01, that constitute an Investment permitted by Section 8.02 and that constitute a
6257 Restricted Payment permitted by Section 8.06;

6258 (e) to the extent allowable under Section 1031 of the Code (or comparable or
6259 successor provision), any exchange of like property (excluding any boot thereon permitted by
6260 such provision);

6261 (f) any swap of assets in exchange for services or other assets in the ordinary
6262 course of business of comparable or greater value or usefulness to the business of the Borrower
6263 and its Subsidiaries as a whole, as determined in good faith by the management of the Borrower;

6264 (g) any sale of Capital Stock in, or Indebtedness or other securities of, an
6265 Unrestricted Subsidiary;

6266 (h) Dispositions of Investments (including equity interests) in joint ventures to
6267 the extent required by, or made pursuant to customary buy/sell arrangements between, the joint
6268 venture parties set forth in joint venture arrangements and similar binding arrangements;

6269 (i) the lapse or abandonment in the ordinary course of business of any
6270 registrations or applications for registration of any immaterial IP Rights;

6271 (j) Dispositions of non-core assets acquired in any Acquisition consummated
6272 after the Closing Date; *provided* that the aggregate value of any property Disposed of after any
6273 Acquisition shall not exceed 20% of the aggregate consideration for such Acquisition; and

6274 (k) Dispositions by any Credit Party to any wholly-owned Restricted
6275 Subsidiary of the type described in clauses (d), (h) and (i) of the definition of "Excluded
6276 Subsidiary" to the extent consisting of contributions or other Dispositions of Capital Stock in
6277 other Subsidiaries of the type described in clauses (d), (h) or (i) of the definition of "Excluded
6278 Subsidiary" to such wholly-owned Restricted Subsidiary.

6279 To the extent any Collateral is Disposed of as expressly permitted by this Section 8.05 to
6280 any Person other than the Borrower or a Credit Party, such Collateral shall be sold free and clear
6281 of the Liens created by the Credit Documents, and the Administrative Agent shall be authorized
6282 to take any actions deemed appropriate in order to effect the foregoing.

6283 Section 8.06. *Restricted Payments.* Declare or make, directly or indirectly, any
6284 Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

6285 (a) Restricted Subsidiaries of the Borrower may pay dividends and make
6286 distributions in respect of their Capital Stock ratably to their equity holders;

6287 (b) the Borrower may declare and make dividend payments or other
6288 distributions payable solely in the common stock or other common equity interests of the
6289 Borrower;

6290 (c) repurchases of Capital Stock in the Borrower or any Restricted Subsidiary
6291 of the Borrower deemed to occur upon exercise of stock options or warrants or the settlement or
6292 vesting of other equity-based awards if such Capital Stock represents a portion of the exercise
6293 price of, or tax withholdings with respect to, such options, warrants or other equity-based
6294 awards;

6295 (d) the Borrower may purchase, redeem or otherwise acquire shares of its
6296 common stock or other common equity interests or warrants or options to acquire any such
6297 shares with the proceeds received from the substantially concurrent issue of new shares of its
6298 common stock or other common equity interests to the extent such proceeds have not been
6299 applied as a utilization of the Cumulative Equity Credit;

6300 (e) the Borrower and each Restricted Subsidiary may pay for the repurchase,
6301 retirement or other acquisition or retirement for value of Capital Stock or settlement of equity-
6302 based awards of such Restricted Subsidiary (or of the Borrower) held by any future, present or
6303 former employee, officer, director, manager, consultant or independent contractor (or any
6304 spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of
6305 any of the foregoing) of such Restricted Subsidiary (or the Borrower) or any of its Subsidiaries,
6306 in each case, upon the death, disability, retirement or termination of employment or services, as
6307 applicable, of any such Person or pursuant to any equity plan, stock option plan or any other
6308 benefit or incentive plan or any agreement (including any stock subscription agreement,
6309 shareholder agreement or stockholders' agreement) with any employee, director, officer,
6310 manager, consultant or independent contractor of such Restricted Subsidiary (or the Borrower) or
6311 any of its Restricted Subsidiaries; *provided* that the aggregate amount of Restricted Payments
6312 made pursuant to this clause (e) shall not exceed the greater of (x) \$5,000,000 and (y) 0.75% of
6313 Total Assets determined as of the last day of the immediately preceding fiscal year in any
6314 calendar year (with 100% of the unused amounts in any calendar year being carried over to the
6315 next two succeeding calendar years); *provided, further*, that the foregoing amount shall be
6316 increased by the Net Cash Proceeds of key man life insurance policies received by the Borrower
6317 or its Restricted Subsidiaries less the amount of Restricted Payments previously made with the
6318 cash proceeds of such key man life insurance policies;

6319 (f) the Borrower or any of the Restricted Subsidiaries may pay cash in lieu of
6320 fractional Capital Stock in connection with any dividend, split or combination thereof or any
6321 Acquisition;

6322 (g) so long as no Event of Default shall have occurred and be continuing at
6323 the time, Restricted Payments in an aggregate amount per annum not to exceed an amount equal
6324 to 6% of the net proceeds received by (or contributed to) the Borrower and its Restricted
6325 Subsidiaries from all Equity Offerings after the Closing Date;

6326 (h) so long as no Event of Default shall have occurred and be continuing at
6327 the time, Restricted Payments in an aggregate amount not to exceed, together with the aggregate

6328 amount of all prepayments of Junior Debt made pursuant to Section 8.12(a)(iii), at the time any
6329 such Restricted Payment is made, the sum of (x) the greater of (i) \$15,000,000 and (ii) 2.25% of
6330 Total Assets and (y) the Cumulative Equity Credit;

6331 (i) Restricted Payments may be made by the Borrower so long as, at the time
6332 any such Restricted Payment is made, the Payment Conditions are satisfied; and

6333 (j) to the extent constituting Restricted Payment, the Borrower or any of its
6334 Restricted Subsidiaries may enter into and consummate transactions expressly permitted by any
6335 provision of Section 8.04 and Section 8.09 (other than Section 8.09(d)).

6336 Section 8.07. *Change in Nature of Business.* Engage in any material line of business
6337 substantially different from those lines of business conducted by the Borrower and its Restricted
6338 Subsidiaries on the Closing Date (or that would be conducted after giving effect to the
6339 Transactions) or any business substantially related, complementary, synergistic, ancillary or
6340 incidental thereto (including related, complementary, synergistic, ancillary or incidental
6341 technologies) or reasonable extensions thereof.

6342 Section 8.08. *Change in Fiscal Year.* Change its fiscal year (except, on one occasion, to
6343 change its fiscal year to a fiscal year ending September 30 or December 31); provided, however,
6344 that the Borrower may, upon written notice to the Administrative Agent, change its fiscal year to
6345 any other fiscal year reasonably acceptable to the Administrative Agent, in which case, the
6346 Borrower and the Administrative Agent will, and are hereby authorized by the Lenders to, make
6347 any adjustments to this Agreement that are necessary to reflect such change in fiscal year.

6348 Section 8.09. *Transactions with Affiliates.* Enter into any transaction of any kind with
6349 any Affiliate of the Borrower involving aggregate payments or consideration in excess of
6350 \$1,000,000 for any individual transaction or series of related transactions, whether or not in the
6351 ordinary course of business, other than (a) transactions on fair and reasonable terms substantially
6352 as favorable to the Borrower or such Restricted Subsidiary as would be obtainable by the
6353 Borrower or such Restricted Subsidiary at the time in a comparable arm's length transaction with
6354 a Person other than an Affiliate, (b) transactions amongst the Borrower and its Restricted
6355 Subsidiaries or any entity that becomes a Restricted Subsidiary as a result of such transaction, (c)
6356 payment of reasonable compensation (including reasonable salary, bonus and other reasonable
6357 incentive arrangements) and stock option and other equity or incentive award plans and
6358 employee benefit plans, practices and arrangements for directors, officers, employees, managers,
6359 consultants and independent contractors, (d) directors' fees and reasonable out of pocket costs to,
6360 and indemnities provided on behalf of, directors, officers, employees, consultants and
6361 independent contractors of the Borrower and its Restricted Subsidiaries, (e) Restricted Payments
6362 permitted pursuant to Section 8.06, (f) Investments permitted by Section 8.02(b), Section 8.02(c),
6363 Section 8.02(g), Section 8.02(o), (g) Dispositions permitted by Section 8.05(h), (h) transactions
6364 pursuant to agreements, instruments or arrangements in existence on the Closing Date and set
6365 forth in Schedule 8.09 or any amendment thereto to the extent such an amendment is not adverse
6366 to the Lenders in any material respect, (i) transactions with customers, clients, joint venture
6367 partners, suppliers or purchasers or sellers of goods or services, in each case in the ordinary
6368 course of business and otherwise in compliance with the terms of this Agreement that are fair to
6369 the Borrower and its Restricted Subsidiaries, in the reasonable determination of the Board of

6370 Directors or the senior management of the Borrower, or are on terms at least as favorable as
6371 might reasonably have been obtained at such time from a Person that is not an Affiliate, (j)
6372 transactions in which the Borrower or any of the Restricted Subsidiaries, as the case may be,
6373 deliver to the Administrative Agent a letter from an independent financial advisor stating that
6374 such transaction is fair to the Borrower or such Restricted Subsidiary from a financial point of
6375 view or meets the requirements of clause (a) of this Section 8.08, (k) payments to or from, and
6376 transactions with, joint ventures (to the extent any such joint venture is only an Affiliate as a
6377 result of Investments by the Borrower and its Restricted Subsidiaries in such joint venture) to the
6378 extent otherwise constituting an Investment or Restricted Payment permitted under this
6379 Agreement, (l) Indebtedness permitted by Section 8.03(j), and (m) transactions with an Escrow
6380 Borrower, including any Escrow Funding Assignment, any Escrow Assumption and the entrance
6381 into any agreements related thereto so long as the proceeds of any related Indebtedness of the
6382 assets or Capital Stock acquired therewith are promptly contributed or otherwise transferred to
6383 the Borrower or a Subsidiary promptly upon the use of such proceeds.

6384 Section 8.10. *[Reserved]*.

6385 Section 8.11. *Financial Covenants*.

6386 (a) *Consolidated Cash Interest Coverage Ratio*. Permit the Consolidated
6387 Cash Interest Coverage Ratio as of the last day of any Test Period (commencing with the Test
6388 Period ending September 30, 2016) to be less than 3.00:1.00.

6389 (b) *Consolidated Total Net Leverage Ratio*. Permit the Consolidated Total
6390 Net Leverage Ratio as of the last day of any Test Period (commencing with the Test Period
6391 ending September 30, 2016) to be greater than (x) 3.75:1.00 or (y) for any Test Period ending
6392 after June 30, 2017, 3.25:1.00

6393 Section 8.12. *Prepayments etc. of Indebtedness*.

6394 (a) Prepay, redeem, purchase, defease or otherwise satisfy prior to the
6395 scheduled maturity thereof in any manner (it being understood that payments of regularly
6396 scheduled principal, interest and mandatory prepayments shall be permitted) any Incremental
6397 Equivalent Debt, any Refinancing Equivalent Debt, any Ratio Debt or any other Indebtedness for
6398 borrowed money of a Credit Party, in each case, that is (x) unsecured or (y) subordinated in right
6399 of payment to the Loan Obligations expressly by its terms or to the Lien securing the Collateral
6400 expressly by its terms (other than Indebtedness among the Borrower and its Restricted
6401 Subsidiaries) to the extent permitted by any applicable subordination provisions (collectively,
6402 "**Junior Debt**"), except (i) any Permitted Refinancing thereof, (ii) the conversion of any such
6403 Junior Debt to Capital Stock (other than Disqualified Stock) of the Borrower from the
6404 substantially concurrent issuance of new shares of its common stock or other common equity
6405 interests, (iii) prepayments, redemptions, purchases, defeasances and other repayments in respect
6406 to Junior Debt in an aggregate amount not to exceed, together with the aggregate amount of all
6407 Restricted Payments made pursuant to Section 8.06(h), at the time any such prepayment,
6408 redemption, purchase, defeasance or other repayment is made, the sum of (x) the greater of (a)
6409 \$15,000,000 and (b) 2.25% of Total Assets and (y) the Cumulative Equity Credit, and (iv)
6410 prepayments, redemptions, purchases, defeasances and other repayments in respect of Junior

6411 Debt so long as, after giving effect to such prepayments, redemptions, purchases, defeasances
6412 and other repayments, the Payment Conditions are satisfied.

6413 (b) Amend, modify or change in any manner materially adverse to the
6414 interests of the Lenders, as determined in good faith by the Borrower, any term or condition of
6415 any Junior Debt having an aggregate outstanding principal amount in excess of \$15,000,000
6416 (other than as a result of any Permitted Refinancing in respect thereof) without the consent of the
6417 Administrative Agent (which consent shall not be unreasonably withheld, conditioned or
6418 delayed).

6419 Section 8.13. *Burdensome Agreements.* Enter into, incur or permit to exist any
6420 agreement or other arrangement that prohibits, restricts or imposes any condition upon (i) the
6421 ability of the Borrower or any Credit Party to create, incur or permit to exist any Lien upon any
6422 of its property or assets to secure the Obligations or (ii) the ability of any Restricted Subsidiary
6423 that is not a Credit Party to pay dividends or other distributions with respect to any of its Capital
6424 Stock; provided that (A) the foregoing shall not apply to restrictions and conditions imposed by
6425 Law, or by any Credit Document, or with respect to clause (ii) above any document evidencing
6426 any Ratio Debt, Incremental Equivalent Debt or Refinancing Equivalent Debt (or any Permitted
6427 Refinancing thereof), (B) the foregoing shall not apply to customary provisions in joint venture
6428 agreements and other similar agreements applicable to joint ventures constituting Investments
6429 permitted hereunder and applicable solely to such joint venture, (C) the foregoing shall not apply
6430 to restrictions and conditions imposed on any Restricted Subsidiary that is not a Credit Party by
6431 the terms of any Indebtedness of such Restricted Subsidiary that is not a Credit Party permitted
6432 to exist or be incurred hereunder, (D) clause (i) of the foregoing shall not apply to restrictions or
6433 conditions imposed by any agreement relating to secured Indebtedness permitted hereunder if
6434 such restrictions or conditions apply only to the property or assets financed by such
6435 Indebtedness, (E) clause (i) of the foregoing shall not apply to customary provisions in leases,
6436 licenses, purchase money contracts and other contracts (including joint venture agreements)
6437 restricting the assignment, sublease or sublicense thereof, (F) the foregoing shall not apply to
6438 restrictions that arise in connection with cash or other deposits imposed by customers under
6439 contracts entered into in the ordinary course of business and not prohibited hereunder, (G) the
6440 foregoing shall not apply to Contractual Obligations which (x) exist on the Closing Date and (to
6441 the extent not otherwise permitted by this Section 8.13) are listed in Schedule 8.13 and (y) to the
6442 extent Contractual Obligations permitted by clause (x) are set forth in an agreement evidencing
6443 Indebtedness, are set forth in any agreement evidencing any permitted modification,
6444 replacement, renewal, extension or refinancing of such Indebtedness so long as such
6445 modification, replacement, renewal, extension or refinancing does not expand the scope of such
6446 Contractual Obligation, (H) the foregoing shall not apply to Contractual Obligations which are
6447 binding on a Restricted Subsidiary at the time such Restricted Subsidiary first becomes a
6448 Restricted Subsidiary of the Borrower, so long as such Contractual Obligations were not entered
6449 into solely in contemplation of such Person becoming a Restricted Subsidiary of the Borrower or
6450 entered into for the purpose of creating such prohibition or restrictions, (I) the foregoing shall not
6451 apply to Contractual Obligations which arise in connection with cash or other deposits permitted
6452 under Sections 8.01, and limited to such cash or deposits, (J) the foregoing shall not apply to
6453 Contractual Obligations which comprise restrictions imposed by any agreement relating to
6454 secured Indebtedness permitted pursuant to Section 8.03(f), (k) (with respect to clause (i)), (h)
6455 and (m)(i) to the extent that such restrictions apply only to the property or assets subject to such

6456 Indebtedness or, in the case of Section 8.03(h), to the Restricted Subsidiaries incurring or
6457 guaranteeing such Indebtedness, (K) the foregoing shall not apply to Contractual Obligations
6458 which are customary restrictions that arise in connection with (x) any Lien permitted by Sections
6459 8.01(g), (h), (p), (r), (x)(i), (x)(ii), (y) and (z) and relate to the property subject to such Lien or
6460 (y) arise in connection with any Disposition permitted by Section 8.04 or 8.05 and relate solely
6461 to the assets or Person subject to such Disposition, (L) the foregoing shall not apply to
6462 Contractual Obligations which comprise restrictions imposed by any agreement governing
6463 Indebtedness entered into on or after the Closing Date and permitted under Section 8.03 that are,
6464 taken as a whole, in the good faith judgment of the Borrower, no more restrictive in any material
6465 respect with respect to the Borrower or any Restricted Subsidiary than those encumbrances and
6466 other restrictions that are in effect on the Closing Date pursuant to agreements and instruments in
6467 effect on the Closing Date or, if applicable, on the date on which such Restricted Subsidiary
6468 became a Restricted Subsidiary pursuant to agreements and instruments in effect on such date.

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ARTICLE 9
EVENTS OF DEFAULT AND REMEDIES

6471 Section 9.01. *Events of Default.* Any of the following shall constitute an Event of
6472 Default:

6473 (a) *Non-Payment.* The Borrower or any other Credit Party fails to pay (i)
6474 when and as required to be paid herein and in the currency required hereunder, any amount of
6475 principal of any Loan or any L/C Obligation, or (ii) within five (5) Business Days after the same
6476 becomes due, any interest on any Loan or on any L/C Obligation, any fee due hereunder or any
6477 other amount payable hereunder or under any other Credit Document; or

6478 (b) *Specific Covenants.* The Borrower or any other Credit Party fails to
6479 perform or observe any term, covenant or agreement contained in any of Sections 7.03(a),
6480 7.05(a) (solely with respect to the Borrower), 7.11, 7.15 or Article 8; or

6481 (c) *Other Defaults.* The Borrower or any other Credit Party fails to perform
6482 or observe any other covenant or agreement (not specified in subsection (a) or (b) above)
6483 contained in any Credit Document on its part to be performed or observed and such failure
6484 continues for 30 days after the date upon which written notice thereof is given by the
6485 Administrative Agent; or

6486 (d) *Representations and Warranties.* Any representation, warranty,
6487 certification or statement of fact made or deemed made by or on behalf of the Borrower or any
6488 other Credit Party herein, in any other Credit Document, or in any document delivered in
6489 connection herewith or therewith shall be false or misleading in any material respect when made
6490 or deemed made; or

6491 (e) *Cross-Default.* The Borrower or any Restricted Subsidiary (A) fails to
6492 make any payment when due (whether by scheduled maturity, required prepayment, acceleration,
6493 demand, or otherwise, but after giving effect to any applicable grace period) in respect of any
6494 Indebtedness (other than Indebtedness hereunder) having an aggregate outstanding principal
6495 amount (including amounts owing to all creditors under any combined or syndicated credit

6496 arrangement) of more than \$15,000,000, or (B) fails to observe or perform any other agreement
6497 or condition relating to any such Indebtedness or contained in any instrument or agreement
6498 evidencing, securing or relating thereto (in each case, after giving effect to any applicable grace
6499 period), or any other event occurs (other than, in any case pursuant to this clause (B) with respect
6500 to Indebtedness consisting of Swap Contracts, termination events or equivalent events pursuant
6501 to the terms of such Swap Contracts and not as a result of any other default thereunder by any
6502 Credit Party), the effect of which default or other event is to cause, or to permit the holder or
6503 holders of such Indebtedness (or a trustee or agent on behalf of such holder or holders) to cause,
6504 with the giving of notice if required, such Indebtedness to be demanded or to become due or to
6505 be repurchased, prepaid, defeased or redeemed (automatically or otherwise), or an offer to
6506 repurchase, prepay, defease or redeem such Indebtedness to be made, prior to its stated maturity
6507 but only to the extent that such failure is unremedied and is not waived by the holders of such
6508 Indebtedness prior to any termination of the Revolving Credit Commitments or acceleration of
6509 the Loans pursuant to Section 9.02; or

6510 (f) *Insolvency Proceedings, Etc.* The Borrower or any Restricted Subsidiary
6511 that is a Material Subsidiary institutes or consents to the institution of any proceeding under any
6512 Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents
6513 to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or
6514 similar officer for it or for all or any material part of its property; or any receiver, trustee,
6515 custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the
6516 application or consent of such Person and the appointment continues undischarged or unstayed
6517 for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person
6518 or to all or any material part of its property is instituted without the consent of such Person and
6519 continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any
6520 such proceeding; or

6521 (g) *Inability to Pay Debts; Attachment.* (i) The Borrower or any Restricted
6522 Subsidiary that is a Material Subsidiary becomes unable or admits in writing its inability or fails
6523 generally to pay its debts as they become due, or (ii) any writ or warrant of attachment or
6524 execution or similar process is issued or levied against all or any material part of the property of
6525 any such Person and is not released, vacated or fully bonded within 60 days after its issue or
6526 levy; or

6527 (h) *Judgments.* There is entered against the Borrower or any Restricted
6528 Subsidiary a final judgment or order for the payment of money in an aggregate amount
6529 exceeding \$15,000,000 (to the extent not covered by independent third-party insurance as to
6530 which the insurer does not dispute coverage), and (i) enforcement proceedings are commenced
6531 by any creditor upon such judgment or order, or (ii) there is a period of 60 consecutive days
6532 during which (1) a stay of enforcement of such judgment, by reason of a pending appeal or
6533 otherwise, is not in effect or (2) the same is not discharged, satisfied or vacated; or

6534 (i) *ERISA.* (i) An ERISA Event occurs with respect to a Pension Plan or
6535 Multiemployer Plan that has resulted or would reasonably be expected to result in liability of a
6536 Credit Party under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in
6537 an aggregate amount which could reasonably be expected to result in a Material Adverse Effect,
6538 or (ii) a Credit Party or any ERISA Affiliate fails to pay when due, after the expiration of any

6539 applicable grace period, any installment payment with respect to its withdrawal liability under
6540 Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount which could
6541 reasonably be expected to result in a Material Adverse Effect; or

6542 (j) *Invalidity of Credit Documents.* Any material provision of any Credit
6543 Document, at any time after its execution and delivery and for any reason other than as expressly
6544 permitted hereunder or satisfaction in full of all the Obligations, ceases to be in full force and
6545 effect; or any Credit Party contests in any manner the validity or enforceability of any Credit
6546 Document; or any Credit Party denies that it has any or further liability or obligation under any
6547 Credit Document, or purports to revoke, terminate or rescind any Credit Document; or

6548 (k) *Collateral Documents.* (i) Any Collateral Document after delivery thereof
6549 pursuant to Section 5.01, 7.11, 7.13 or 7.15 shall for any reason (other than pursuant to the terms
6550 hereof or thereof including as a result of a transaction not prohibited under this Agreement) cease
6551 to create a valid and perfected Lien, with the priority required by the Collateral Documents on
6552 and security interest in any material portion of the Collateral purported to be covered thereby,
6553 subject to Liens permitted under Section 8.01, (x) except to the extent that any such perfection or
6554 priority is not required pursuant to the Collateral and Guarantee Requirement or results from the
6555 failure of the Administrative Agent to maintain possession of certificates actually delivered to it
6556 representing securities pledged under the Collateral Documents or to file the original Uniform
6557 Commercial Code financing statements provided to it on the Closing Date or to file Uniform
6558 Commercial Code continuation statements and (y) except as to Collateral consisting of real
6559 property to the extent that such losses are covered by a lender's title insurance policy and such
6560 insurer has not denied coverage or (ii) any Lien created or purported to be created by the
6561 Collateral Documents shall cease to have the lien priority established or purported to be
6562 established by the applicable intercreditor agreement; or

6563 (l) *Change of Control.* There occurs any Change of Control.

6564 Section 9.02. *Remedies Upon Event of Default.* If any Event of Default occurs and is
6565 continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the
6566 Required Lenders, take any or all of the following actions:

6567 (a) declare the Commitments of the Lenders to make Loans and the obligation
6568 of the L/C Issuer to make L/C Credit Extensions to be terminated, whereupon such
6569 Commitments and obligation shall be terminated;

6570 (b) declare the unpaid principal amount of all outstanding Loans, all interest
6571 accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any
6572 other Credit Document to be immediately due and payable, without presentment, demand,
6573 protest or other notice of any kind, all of which are hereby expressly waived by the Borrower;

6574 (c) require that the Borrower Cash Collateralize the L/C Obligations (in an
6575 amount equal to 103% of the then Outstanding Amount thereof); and

6576 (d) exercise on behalf of itself and the Lenders all rights and remedies
6577 available to it or to the Lenders under the Credit Documents or applicable Law; *provided* that
6578 upon the occurrence of an Event of Default under Section 9.01(f), the obligation of each Lender

6579 to make Loans and any obligation of the L/C Issuer to make L/C Credit Extensions shall
6580 automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and
6581 other amounts as aforesaid shall automatically become due and payable, and the obligation of the
6582 Borrower to Cash Collateralize the L/C Obligations as aforesaid shall automatically become
6583 effective, in each case without further act of the Administrative Agent or any Lender.

6584 Section 9.03. *Application of Funds.* After the exercise of remedies provided for in
6585 Section 9.02 (or after the Loans have automatically become immediately due and payable and
6586 the L/C Obligations have automatically been required to be Cash Collateralized as set forth in the
6587 proviso to Section 9.02(d)), any amounts received on account of the Obligations shall be applied
6588 by the Administrative Agent in the following order:

6589 *First*, to payment of that portion of the Obligations constituting fees, indemnities,
6590 expenses and other amounts (including reasonable attorneys' fees and disbursements and
6591 amounts payable under Article 3) payable to the Administrative Agent in its capacity as such;

6592 *Second*, to payment of that portion of the Obligations constituting fees, indemnities and
6593 other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders
6594 (including reasonable attorneys' fees and disbursements and amounts payable under Article 3),
6595 ratably among the Lenders in proportion to the amounts described in this clause Second payable
6596 to them;

6597 *Third*, to payment of that portion of the Obligations constituting accrued and unpaid
6598 Letter of Credit Fees, interest on the Loans and L/C Borrowings, ratably among the Lenders and
6599 the L/C Issuer in proportion to the respective amounts described in this clause Third payable to
6600 them;

6601 *Fourth*, to (i) payment of that portion of the Obligations constituting unpaid principal of
6602 the Loans, L/C Borrowings and other Obligations, (ii) payment of fees, premiums, scheduled
6603 periodic payments, breakage, termination and any interest accrued thereon or other amounts
6604 owing in respect of any Swap Contract between the Borrower and any of its Restricted
6605 Subsidiaries and any Lender, or any Affiliate of a Lender, to the extent that such Swap Contract
6606 is permitted hereunder, (iii) payments of amounts due under any Treasury Management
6607 Agreement between the Borrower or any of its Restricted Subsidiaries and any Lender, or any
6608 Affiliate of a Lender and (iv) the Administrative Agent for the account of the L/C Issuer, to Cash
6609 Collateralize that portion of the L/C Obligations comprised of the aggregate undrawn amount of
6610 Letters of Credit, ratably among such parties in proportion to the respective amounts described in
6611 this clause Fourth payable to them;

6612 *Last*, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to
6613 the Borrower or as otherwise required by Law; *provided* that, subject to Section 2.03, amounts
6614 used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause
6615 Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If
6616 any amount remains on deposit as Cash Collateral after all Letters of Credit have either been
6617 fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any,
6618 in the order set forth above, and if not so applied shall be returned to the Borrower.

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ARTICLE 10
ADMINISTRATIVE AGENT

6621 Section 10.01. *Appointment and Authorization of Administrative Agent.*

6622 (a) Each of the Lenders and the L/C Issuer hereby irrevocably appoints (i)
6623 Bank of America to act on its behalf as the Administrative Agent and Collateral Agent hereunder
6624 and under the other Credit Documents and (ii) authorizes the Administrative Agent to take such
6625 actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by
6626 the terms hereof or thereof, together with such actions and powers as are reasonably incidental
6627 thereto. The provisions of this Article 10 (other than Section 10.06 (solely with respect to the
6628 removal and consent/consultation rights set forth therein) and Section 10.10) are solely for the
6629 benefit of the Administrative Agent, the Lenders and the L/C Issuer, and the Credit Parties shall
6630 not have rights as a third party beneficiary of any of such provisions.

6631 (b) Each Lender hereby irrevocably appoints, designates and authorizes the
6632 Collateral Agent to take such action on its behalf under the provisions of this Credit Agreement
6633 and each other Credit Document and to exercise such powers and perform such duties as are
6634 expressly delegated to it by the terms of this Credit Agreement or any other Credit Document,
6635 together with such powers as are reasonably incidental thereto. In connection herewith, the
6636 Administrative Agent, as Collateral Agent, and any co-agents, sub-agents and attorneys-in-fact
6637 appointed by the Administrative Agent pursuant to Section 10.05 for purposes of holding or
6638 enforcing any Lien on the Collateral (or any portion thereof) granted under the Credit
6639 Documents, or for exercising any rights and remedies thereunder at the direction of the
6640 Administrative Agent, shall be entitled to the benefits of all provisions of this Article 10 and
6641 Article 11 (including Section 11.04, as though such co-agents, sub-agents and attorneys-in-fact
6642 were the Collateral Agent under the Credit Documents) as if set forth in full herein with respect
6643 thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any
6644 other Credit Document, the Collateral Agent shall not have any duties or responsibilities, except
6645 those expressly set forth herein or therein, nor shall the Collateral Agent have or be deemed to
6646 have any fiduciary relationship with any Lender or participant, and no implied covenants,
6647 functions, responsibilities, duties, obligations or liabilities shall be read into this Credit
6648 Agreement or any other Credit Document or otherwise exist against the Collateral Agent.
6649 Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and
6650 in the other Credit Documents with reference to the Collateral Agent is not intended to connote
6651 any fiduciary or other implied (or express) obligations arising under agency doctrine of any
6652 applicable Law. Instead, such term is used merely as a matter of market custom, and is intended
6653 to create or reflect only an administrative relationship between independent contracting parties.
6654 The Collateral Agent shall act on behalf of the Lenders with respect to the Collateral and the
6655 Credit Documents, and the Collateral Agent shall have all of the benefits and immunities (i)
6656 provided to the Administrative Agent under the Credit Documents with respect to any acts taken
6657 or omissions suffered by the Collateral Agent in connection with any Collateral or the Collateral
6658 Documents as fully as if the term "Administrative Agent" as used in such Credit Documents
6659 included the Collateral Agent with respect to such acts or omissions, and (ii) as additionally
6660 provided herein or in the other Credit Documents with respect to the Collateral Agent.

6661 Section 10.02. *Rights as a Lender.* The Person serving as the Administrative Agent
6662 hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender
6663 and may exercise the same as though it were not the Administrative Agent and the term “Lender”
6664 or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires,
6665 include the Person serving as the Administrative Agent hereunder in its individual capacity.
6666 Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as
6667 the financial advisor or in any other advisory capacity for and generally engage in any kind of
6668 business with the Borrower or any Subsidiary or other Affiliate thereof as if such Person were
6669 not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

6670 Section 10.03. *Exculpatory Provisions.* The Administrative Agent shall not have any
6671 duties or obligations except those expressly set forth herein and in the other Credit Documents,
6672 and its duties hereunder shall be administrative in nature. Without limiting the generality of the
6673 foregoing, the Administrative Agent:

6674 (a) shall not be subject to any fiduciary or other implied duties, regardless of
6675 whether a Default or Event of Default has occurred and is continuing;

6676 (b) shall not have any duty to take any discretionary action or exercise any
6677 discretionary powers, except discretionary rights and powers expressly contemplated hereby or
6678 by the other Credit Documents that the Administrative Agent is required to exercise as directed
6679 in writing by the Required Lenders (or such other number or percentage of the Lenders as shall
6680 be expressly provided for herein or in the other Credit Documents); *provided* that the
6681 Administrative Agent shall not be required to take any action that, in its opinion or the opinion of
6682 its counsel, may expose the Administrative Agent to liability or that is contrary to any Credit
6683 Document or applicable Law, including for the avoidance of doubt any action that may be in
6684 violation of the automatic stay under any Debtor Relief Law or that may affect a forfeiture,
6685 modification or termination of property of a Defaulting Lender in violation of any Debtor Relief
6686 Law;

6687 (c) shall not, except as expressly set forth herein and in the other Credit
6688 Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any
6689 information relating to the Borrower or any of its Affiliates that is communicated to or obtained
6690 by the Person serving as the Administrative Agent or any of its Affiliates in any capacity; and

6691 (d) shall not be responsible or have any liability for, or have any duty to
6692 ascertain, inquire into, monitor the list or identities of, or enforce, compliance with the provisions
6693 hereof relating to Disqualified Institutions.

6694 Without limiting the generality of the foregoing, the Administrative Agent shall not (x)
6695 be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or
6696 prospective Lender or Participant is a Disqualified Institution or (y) have any liability with
6697 respect to or arising out of any assignment or participation of Loans, or disclosure of confidential
6698 information, to any Disqualified Institution.

6699 The Administrative Agent shall not be liable for any action taken or not taken by it (i)
6700 with the consent or at the request of the Required Lenders (or such other number or percentage

6701 of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith
6702 shall be necessary, under the circumstances as provided in Sections 11.01 and 9.02) or (ii) in the
6703 absence of its own gross negligence, bad faith or willful misconduct as determined by a court of
6704 competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be
6705 deemed not to have knowledge of any Default or Event of Default unless and until notice
6706 describing such Default is given to the Administrative Agent in writing by the Borrower, a
6707 Lender or the L/C Issuer.

6708 The Administrative Agent shall not be responsible for or have any duty to ascertain or
6709 inquire into (1) any statement, warranty or representation made in or in connection with this
6710 Credit Agreement or any other Credit Document, (2) the contents of any certificate, report or
6711 other document delivered hereunder or thereunder or in connection herewith or therewith, (3) the
6712 performance or observance of any of the covenants, agreements or other terms or conditions set
6713 forth herein or therein or the occurrence of any Default or Event of Default, (4) the validity,
6714 enforceability, effectiveness or genuineness of this Credit Agreement, any other Credit
6715 Document or any other agreement, instrument or document, or the creation, perfection or priority
6716 of any Lien purported to be created by the Collateral Documents, (5) the value or sufficiency of
6717 any Collateral, or (6) the satisfaction of any condition set forth in Article 5 or elsewhere herein,
6718 other than to confirm receipt of items expressly required to be delivered to the Administrative
6719 Agent.

6720 Section 10.04. *Reliance by Administrative Agent.* The Administrative Agent shall be
6721 entitled to rely upon, and shall not incur any liability for relying upon, any notice, request,
6722 certificate, consent, statement, instrument, document or other writing (including any electronic
6723 message, Internet or intranet website posting or other distribution) believed by it to be genuine
6724 and to have been signed, sent or otherwise authenticated by the proper Person. The
6725 Administrative Agent also may rely upon any statement made to it orally or by telephone and
6726 believed by it to have been made by the proper Person, and shall not incur any liability for
6727 relying thereon. In determining compliance with any condition hereunder to the making of a
6728 Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must
6729 be fulfilled to the satisfaction of a Lender or the L/C Issuer, the Administrative Agent may
6730 presume that such condition is reasonable satisfactory to such Lender or the L/C Issuer unless the
6731 Administrative Agent shall have received notice to the contrary from such Lender or the L/C
6732 Issuer prior to the making of such Loan or the issuance of such Letter of Credit. The
6733 Administrative Agent may consult with legal counsel (who may be counsel for the Borrower),
6734 independent accountants and other experts selected by it, and shall not be liable for any action
6735 taken or not taken by it in accordance with the advice of any such counsel, accountants or
6736 experts.

6737 Section 10.05. *Delegation of Duties.* The Administrative Agent may perform any and all
6738 of its duties and exercise its rights and powers hereunder or under any other Credit Document by
6739 or through any one or more sub-agents appointed by the Administrative Agent; provided,
6740 however, that any such sub-agent receiving payments from the Credit Parties shall be a "U.S.
6741 person" and a "financial institution" within the meaning of Treasury Regulations 1.1441-1. The
6742 Administrative Agent and any such sub-agent may perform any and all of its duties and exercise
6743 its rights and powers by or through their respective Related Parties. The exculpatory provisions
6744 of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative

6745 Agent and any such sub-agent, and shall apply to their respective activities in connection with
6746 the syndication of the credit facilities provided for herein as well as activities as Administrative
6747 Agent.

6748 Section 10.06. *Resignation of the Administrative Agent.* The Administrative Agent may
6749 at any time give notice of its resignation to the Lenders, the L/C Issuer and the Borrower. If the
6750 Administrative Agent is subject to an Agent-Related Distress Event, the Required Lenders may
6751 remove the Administrative Agent upon ten (10) days' notice. Upon receipt of any such notice of
6752 resignation or upon such removal of the Administrative Agent, the Required Lenders shall have
6753 the right, in consultation with the Borrower, to appoint a successor, which shall be a bank with
6754 an office in the United States, or an Affiliate of any such bank with an office in the United
6755 States; provided that such successor shall be a "U.S. person" and a "financial institution" within
6756 the meaning of Treasury Regulations Section 1.1441-1. If no such successor shall have been so
6757 appointed by the Required Lenders and shall have accepted such appointment within 30 days
6758 after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall
6759 be agreed to by the Required Lenders) (the "**Resignation Effective Date**"), then the retiring
6760 Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the L/C
6761 Issuer, appoint a successor Administrative Agent meeting the qualifications set forth above
6762 subject to the consultation rights of the Borrower in connection with such appointment. Whether
6763 or not a successor has been appointed, such resignation shall become effective in accordance
6764 with such notice on the Resignation Effective Date.

6765 Commencing on the Resignation Effective Date (1) the retiring Administrative Agent
6766 shall be discharged from its duties and obligations hereunder and under the other Credit
6767 Documents (except that in the case of any collateral security held by the Administrative Agent
6768 on behalf of the Lenders or the L/C Issuer under any of the Credit Documents, the retiring or
6769 removed Administrative Agent shall continue to hold such collateral security until such time as a
6770 successor Administrative Agent is appointed) and (2) all payments, communications and
6771 determinations provided to be made by, to or through the Administrative Agent shall instead be
6772 made by or to each Lender and the L/C Issuer directly, until such time, if any, as the Required
6773 Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon
6774 the acceptance of a successor's appointment as Administrative Agent hereunder, such successor
6775 shall succeed to and become vested with all of the rights, powers, privileges and duties of the
6776 retiring or removed Administrative Agent, and the retiring or removed Administrative Agent
6777 shall be discharged from all of its duties and obligations hereunder or under the other Credit
6778 Documents (if not already discharged therefrom as provided above in this Section). The fees
6779 payable by the Borrower to a successor Administrative Agent shall be the same as those payable
6780 to its predecessor unless otherwise agreed to between the Borrower and such successor. After
6781 the retiring Administrative Agent's resignation or the removed Administrative Agent's removal
6782 hereunder and under the other Credit Documents, the provisions of this Article and Section 11.04
6783 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-
6784 agents and their respective Related Parties in respect of any actions taken or omitted to be taken
6785 by any of them while the retiring or removed Administrative Agent was acting as Administrative
6786 Agent.

6787 Any resignation by or removal of Bank of America as Administrative Agent pursuant to
6788 this Section shall also constitute its resignation or removal as the Collateral Agent, the L/C Issuer

6789 and the Swingline Lender. Upon the acceptance of a successor's appointment as Administrative
6790 Agent hereunder, (i) such successor shall succeed to and become vested with all of the rights,
6791 powers, privileges and duties of the retiring Collateral Agent, L/C Issuer and Swingline Lender,
6792 (ii) the retiring Collateral Agent, L/C Issuer and Swingline Lender shall be discharged from all of
6793 their respective duties and obligations hereunder or under the other Credit Documents, and (iii)
6794 the successor L/C Issuer shall issue letters of credit in substitution for the Letters of Credit, if any,
6795 outstanding at the time of such succession or make other arrangements reasonable satisfactory to
6796 the retiring L/C Issuer to effectively assume the obligations of the retiring L/C Issuer with
6797 respect to such Letters of Credit.

6798 Section 10.07. *Non-Reliance on Administrative Agent and Other Lenders.* Each Lender
6799 and the L/C Issuer acknowledges that it has, independently and without reliance upon the
6800 Administrative Agent or any other Lender or any of their Related Parties and based on such
6801 documents and information as it has deemed appropriate, made its own credit analysis and
6802 decision to enter into this Credit Agreement. Each Lender and the L/C Issuer also acknowledges
6803 that it will, independently and without reliance upon the Administrative Agent or any other
6804 Lender or any of their Related Parties and based on such documents and information as it shall
6805 from time to time deem appropriate, continue to make its own decisions in taking or not taking
6806 action under or based upon this Credit Agreement, any other Credit Document or any related
6807 agreement or any document furnished hereunder or thereunder.

6808 Section 10.08. *No Other Duties.* Anything herein to the contrary notwithstanding, none
6809 of the Arrangers, book managers or syndication or documentation agents listed on the cover page
6810 hereof shall have any powers, duties or responsibilities under this Credit Agreement or any of the
6811 other Credit Documents, except in its capacity, as applicable, as the Administrative Agent, a
6812 Lender or the L/C Issuer hereunder.

6813 Section 10.09. *Administrative Agent May File Proofs of Claim; Credit Bidding.* In case
6814 of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding
6815 relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of
6816 any Loan or L/C Obligation shall then be due and payable as herein expressed or by declaration
6817 or otherwise and irrespective of whether the Administrative Agent shall have made any demand
6818 on the Borrower) shall be entitled and empowered (but not obligated), by intervention in such
6819 proceeding or otherwise:

6820 (a) to file and prove a claim for the whole amount of the principal and interest
6821 owing and unpaid in respect of the Loans, L/C Obligations and all other Obligations (other than
6822 obligations under Swap Contracts or Treasury Management Agreements to which the
6823 Administrative Agent is not a party) that are owing and unpaid and to file such other documents
6824 as may be necessary or advisable in order to have the claims of the Lenders, the L/C Issuer and
6825 the Administrative Agent (including any claim for the reasonable compensation, expenses,
6826 disbursements and advances of the Lenders, the L/C Issuer and the Administrative Agent and
6827 their respective agents and counsel and all other amounts due the Lenders, the L/C Issuer and the
6828 Administrative Agent under Sections 2.09 and 11.04) allowed in such judicial proceeding; and

6829 (b) to collect and receive any monies or other property payable or deliverable
6830 on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee,

6831 liquidator, sequestrator or other similar official in any such judicial proceeding is hereby
6832 authorized by each Lender and the L/C Issuer to make such payments to the Administrative
6833 Agent and, in the event that the Administrative Agent shall consent to the making of such
6834 payments directly to the Lenders and the L/C Issuer, to pay to the Administrative Agent any
6835 amount due for the reasonable compensation, expenses, disbursements and advances of the
6836 Administrative Agent and its agents and counsel, and any other amounts due to the
6837 Administrative Agent under Sections 2.09 and 11.04.

6838 Nothing contained herein shall be deemed to authorize the Administrative Agent to
6839 authorize or consent to or accept or adopt on behalf of any Lender or the L/C Issuer any plan of
6840 reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of
6841 any Lender or the L/C Issuer to authorize the Administrative Agent to vote in respect of the
6842 claim of any Lender in any such proceeding.

6843 The Secured Parties hereby irrevocably authorize the Administrative Agent, at the
6844 direction of the Required Lenders, to credit bid all or any portion of the Secured Obligations
6845 (including accepting some or all of the Collateral in satisfaction of some or all of the Secured
6846 Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase
6847 (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a)
6848 at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States,
6849 including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any
6850 similar Laws in any other jurisdictions to which a Credit Party is subject, (b) at any other sale or
6851 foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the
6852 direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance
6853 with any applicable Law. In connection with any such credit bid and purchase, the Secured
6854 Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a
6855 ratable basis (with Secured Obligations with respect to contingent or unliquidated claims
6856 receiving contingent interests in the acquired assets on a ratable basis that would vest upon the
6857 liquidation of such claims in an amount proportional to the liquidated portion of the contingent
6858 claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in
6859 the Capital Stock or debt instruments of the acquisition vehicle or vehicles that are used to
6860 consummate such purchase). In connection with any such bid (i) the Administrative Agent shall
6861 be authorized to form one or more acquisition vehicles to make a bid, (ii) to adopt documents
6862 providing for the governance of the acquisition vehicle or vehicles (*provided* that any actions by
6863 the Administrative Agent with respect to such acquisition vehicle or vehicles, including any
6864 disposition of the assets or Capital Stock thereof shall be governed, directly or indirectly, by the
6865 vote of the Required Lenders, irrespective of the termination of this Agreement and without
6866 giving effect to the limitations on actions by the Required Lenders contained in clauses (a)
6867 through (e) of Section 11.01 of this Agreement, (iii) the Administrative Agent shall be authorized
6868 to assign the relevant Secured Obligations to any such acquisition vehicle pro rata by the Lenders,
6869 as a result of which each of the Lenders shall be deemed to have received a pro rata portion of
6870 any Capital Stock and/or debt instruments issued by such an acquisition vehicle on account of
6871 the assignment of the Secured Obligations to be credit bid, all without the need for any Secured
6872 Party or acquisition vehicle to take any further action, and (iv) to the extent that Secured
6873 Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any
6874 reason (as a result of another bid being higher or better, because the amount of Secured
6875 Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the

6876 acquisition vehicle or otherwise), such Secured Obligations shall automatically be reassigned to
6877 the Lenders pro rata and the Capital Stock and/or debt instruments issued by any acquisition
6878 vehicle on account of the Secured Obligations that had been assigned to the acquisition vehicle
6879 shall automatically be cancelled, without the need for any Secured Party or any acquisition
6880 vehicle to take any further action.

6881 Section 10.10. *Collateral and Guaranty Matters.* Each of the Lenders and the L/C Issuer
6882 irrevocably authorize the Administrative Agent and the Collateral Agent:

6883 (a) to automatically release any Lien on any property granted to or held by the
6884 Collateral Agent under any Credit Document (i) upon termination of the Aggregate
6885 Commitments and payment in full of all Obligations (other than (i) contingent indemnification
6886 obligations as to which no claim has been asserted and (ii) Obligations described in clauses (b)
6887 and (c) of the definition thereof) and the expiration or termination of all Letters of Credit (other
6888 than Letters of Credit that have been Cash Collateralized or back-stopped by a letter of credit in
6889 form, amount and substance reasonably satisfactory to the Administrative Agent and the L/C
6890 Issuer or a deemed reissuance under another facility or as to which other arrangements
6891 reasonable satisfactory to the Administrative Agent and the L/C Issuer shall have been made),
6892 (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in
6893 connection with any sale or other disposition permitted hereunder or under any other Credit
6894 Document to a Person that is not a Credit Party, (iii) subject to Section 11.01, if approved,
6895 authorized or ratified in writing by the Required Lenders, (iv) if the property subject to such Lien
6896 is owned by a Guarantor, upon release of such Guarantor from its obligations under its Guaranty
6897 pursuant to subsection (c) below or (v) if such property becomes Excluded Property;

6898 (b) to subordinate any Lien on any property granted to or held by the
6899 Collateral Agent under any Credit Document to the holder of any Lien on such property that is
6900 permitted by Section 8.01(k); and

6901 (c) to release any Guarantor from its obligations under any Guaranty pursuant
6902 to Section 4.09.

6903 Upon request by the Administrative Agent or the Collateral Agent at any time, the
6904 Required Lenders will confirm in writing the authority of the Collateral Agent to release or
6905 subordinate its interest in particular property and of the Administrative Agent to release any
6906 Guarantor from its obligations hereunder pursuant to this Section 10.10. In each case as
6907 specified in this Section 10.10, the Administrative Agent and the Collateral Agent will (and each
6908 Lender irrevocably authorizes the Administrative Agent and the Collateral Agent to), at the
6909 Borrower's expense, execute and deliver to the applicable Credit Party such documents as such
6910 Credit Party may reasonably request to evidence the release of such item of Collateral from the
6911 assignment and security interest granted under the Collateral Documents or to subordinate its
6912 interest in such item, or to evidence the release of such Guarantor from its obligations under the
6913 Guaranty, in each case in accordance with the terms of the Credit Documents and this
6914 Section 10.10.

6915 Section 10.11. *Swap Contracts and Treasury Management Agreements.* No Lender or
6916 any Affiliate of a Lender that is party to any Swap Contract or any Treasury Management

6917 Agreement permitted hereunder that obtains the benefits of Section 9.03 or any Collateral by
6918 virtue of the provisions hereof or of any other Credit Document shall have any right to notice of
6919 any action or to consent to, direct or object to any action hereunder or under any other Credit
6920 Document or otherwise in respect of the Collateral (including the release or impairment of any
6921 Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly
6922 provided in the Credit Documents. Notwithstanding any other provision of this Article 10 to the
6923 contrary, the Administrative Agent shall not be required to verify the payment of, or that other
6924 reasonable satisfactory arrangements have been made with respect to, Obligations arising under
6925 Swap Contracts and Treasury Management Agreements unless the Administrative Agent has
6926 received written notice of such Obligations, together with such supporting documentation as the
6927 Administrative Agent may request, from the applicable Lender or Affiliate of a Lender that is
6928 party to such Swap Contract or such Treasury Management Agreement, as the case may be.

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6930

ARTICLE 11
MISCELLANEOUS

6931 Section 11.01. *Amendments, Etc.* Except as expressly provided in, Section 2.18, 2.19 and
6932 2.20 and herein below, no amendment or waiver of, or any consent to deviation from, any
6933 provision of this Credit Agreement or any other Credit Document shall be effective unless in
6934 writing and signed by the Required Lenders (or by the Administrative Agent on behalf of the
6935 Required Lenders upon receipt of a consent and direction letter from the Required Lenders) and
6936 the Borrower and other Credit Parties, as the case may be, and acknowledged by the
6937 Administrative Agent in its role as such (such acknowledgment not to be unreasonably withheld,
6938 delayed or conditioned), and each such amendment, waiver or consent shall be effective only in
6939 the specific instance and for the specific purpose for which it is given; provided that:

6940 (a) no such amendment, waiver or consent (however characterized) shall:

6941 (i) extend or increase the Commitment of any Lender (or reinstate any
6942 Commitment terminated pursuant to Section 9.02) (it being understood and
6943 agreed that amendment or waiver of any condition precedent set forth in Section
6944 5.02 or of any Default or Event of Default shall not be considered an extension or
6945 increase in Commitments for purposes hereof) without the written consent of such
6946 Lender;

6947 (ii) waive non-payment or postpone any date fixed by this Credit
6948 Agreement or any other Credit Document for any payment (excluding mandatory
6949 prepayments) of principal, interest, fees or other amount due to the Lenders (or
6950 any of them) hereunder or under any other Credit Document without the written
6951 consent of each Lender directly and adversely affected thereby;

6952 (iii) reduce the principal of, or the rate of interest specified herein on,
6953 any Loan or L/C Borrowing (it being understood that any change to the definition
6954 of "Consolidated Total Net Leverage Ratio" or in the component definitions
6955 thereof shall not constitute a reduction in any rate of interest), or any fees or other
6956 amounts payable hereunder or under any other Credit Document, in each case
6957 without the written consent of each Lender directly and adversely affected

6958 thereby; *provided* that only (A) the consent of the Required Lenders shall be
6959 necessary to amend the definition of “Default Rate,” (B) the consent of the
6960 applicable Required Facility Lenders shall be necessary to waive any obligation
6961 of the Borrower to pay interest at the Default Rate with respect to Loans under
6962 any Facility, and (C) the consent of the Required Revolving Credit Lenders shall
6963 be necessary to waive any obligation of the Borrower to pay Letter of Credit Fees
6964 at the Default Rate;

6965 (iv) change any provision of this Section 11.01(a) or the definitions of
6966 “Aggregate Commitment Percentage,” “Required Lenders” or any other provision
6967 hereof specifying the number or percentage of Lenders required to amend, waive
6968 or otherwise modify any rights hereunder or make any determination or grant any
6969 consent hereunder without the written consent of each Lender directly and
6970 adversely affected thereby; *provided* that the definitions of “Required Revolving
6971 Credit Lenders,” and “Required Term Lenders,” may only be amended with the
6972 written consent of each Lender under the applicable Facility;

6973 (v) release all or substantially all of the Guarantors from their
6974 obligations under the Credit Documents (other than as provided herein or as
6975 appropriate in connection with transactions permitted hereunder) without the
6976 written consent of each Lender;

6977 (vi) except in connection with a transaction permitted under Section
6978 8.04 or Section 8.05 or as permitted by Section 10.10, release all or substantially
6979 all of the Collateral without the written consent of each Lender;

6980 (vii) change Section 2.12 or Section 9.03 in a manner that would alter
6981 the pro rata sharing of amounts required thereby without the written consent of
6982 each Lender directly and adversely affected thereby;

6983 (viii) (a) waive any condition set forth in Section 5.02 as to any Credit
6984 Extension under one or more Classes of Revolving Credit Commitments or (b)
6985 amend, waive or otherwise modify any term or provision which directly and
6986 adversely affects Lenders under one or more Classes of Revolving Credit
6987 Commitments and does not adversely affect Lenders under any other Class, in
6988 each case, without the written consent of the Required Revolving Credit Lenders
6989 under such applicable Class or Classes of Revolving Credit Commitments (and in
6990 the case of multiple Classes which are affected, such Required Revolving Credit
6991 Lenders shall consent together as one Class) (it being understood that any
6992 amendment to the conditions of effectiveness of Incremental Commitments set
6993 forth in Section 2.18 shall be subject to clause (ix) below); *provided, however*,
6994 that the waivers described in this clause (viii) shall not require the consent of any
6995 Lenders other than (A) the Required Revolving Credit Lenders under such Class
6996 or Classes and (B) in the case of any waiver that otherwise would be subject to
6997 clause (i), (ii), (iii), (iv) or (v) above, each Lender or each directly and adversely
6998 affected Lender (as specified in clause (i), (ii), (iii), (iv) or (v) above) under the
6999 applicable Class or Classes of Revolving Credit Commitments;

7000 (ix) amend, waive or otherwise modify any term or provision
7001 (including the availability and conditions to funding under Section 2.18 with
7002 respect to Incremental Term Loans and Incremental Revolving Commitments and
7003 the rate of interest applicable thereto) which directly affects Lenders of one or
7004 more Incremental Term Loans or Incremental Revolving Commitments (including
7005 Loans extended under such Commitments) and does not adversely affect Lenders
7006 under any other Class, in each case, without the written consent of the Required
7007 Facility Lenders under such applicable Class of Incremental Term Loans or
7008 Incremental Revolving Commitments; *provided, however*, that the waivers
7009 described in this clause (ix) shall not require the consent of any Lenders other
7010 than (A) the Required Facility Lenders under such applicable Class of
7011 Incremental Term Loans or Incremental Revolving Commitments and (B) in the
7012 case of any waiver that otherwise would be subject to clause (i), (ii), (iii), (iv) or
7013 (v) above, each Lender, each directly affected Lender or each directly and
7014 adversely affected Lender (as specified in clause (i), (ii), (iii), (iv) or (v) above)
7015 under the applicable Class or Classes of Incremental Term Loans or Incremental
7016 Revolving Commitments (including Loans extended under such Commitments);

7017 (b) unless also consented to in writing by the L/C Issuer, no such amendment,
7018 waiver or consent shall affect the rights or duties of the L/C Issuer under this Credit Agreement
7019 or any Issuer Document relating to any Letter of Credit issued or to be issued by it or the
7020 definition of "Alternative Currency";

7021 (c) unless also consented to in writing by the Swingline Lender, no such
7022 amendment, waiver or consent shall affect the rights or duties of the Swingline Lender under this
7023 Credit Agreement;

7024 (d) unless also consented to in writing by the Administrative Agent, no such
7025 amendment, waiver or consent shall affect the rights or duties of the Administrative Agent under
7026 this Credit Agreement or any other Credit Document; and

7027 (e) unless also consented to in writing by the Collateral Agent, no such
7028 amendment, waiver or consent shall affect the rights or duties of the Collateral Agent under this
7029 Credit Agreement or any other Credit Document;

7030 *provided* that notwithstanding anything to the contrary contained herein, (1) no Defaulting
7031 Lender shall have any right to approve or disapprove any amendment, waiver or consent
7032 hereunder (any amendment, waiver or consent which by its terms requires the consent of all
7033 Lenders or each affected Lender may be effected with the consent of the applicable Lenders
7034 other than Defaulting Lenders), except that (a) the Revolving Credit Commitment of such
7035 Defaulting Lender may not be increased or extended without the consent of such Defaulting
7036 Lender and (b) any waiver, amendment or modification requiring the consent of all Lenders or
7037 each affected Lender that by its terms affects any Defaulting Lender more adversely than other
7038 affected Lenders shall require the consent of such Defaulting Lender, (2) each Lender is entitled
7039 to vote as such Lender sees fit on any bankruptcy or insolvency reorganization plan that affects
7040 the Loans, and (3) each Lender acknowledges that the provisions of Section 1126(c) of the
7041 Bankruptcy Code supersede the unanimous consent provisions set forth herein. Notwithstanding

7042 anything to the contrary herein, this Agreement may be amended (or amended and restated) with
7043 the written consent of the Required Lenders, the Administrative Agent and the Borrower (a) to
7044 add one or more additional credit facilities to this Agreement and to permit the extensions of
7045 credit from time to time outstanding thereunder and the accrued interest and fees in respect
7046 thereof to share ratably in the benefits of this Agreement and the other Credit Documents with
7047 the Term Loans, Revolving Credit Loans, Swingline Loans and L/C Obligations and the accrued
7048 interest and fees in respect thereof and (b) to include appropriately the Lenders holding such
7049 credit facilities in any determination of the Required Lenders.

7050 In addition, notwithstanding the foregoing, this Agreement may be amended with the
7051 written consent of the Administrative Agent, the Borrower and the Lenders providing the
7052 Replacement Term Loans (as defined below) to permit the refinancing of all outstanding Term
7053 Loans of any Class ("**Replaced Term Loans**") with replacement term loans ("**Replacement**
7054 **Term Loans**") hereunder; *provided* that (a) the aggregate principal amount of such Replacement
7055 Term Loans shall not exceed the aggregate principal amount of such Replaced Term Loans, plus
7056 accrued interest, fees, premiums (if any) and penalties thereon and reasonable fees and expenses
7057 associated with such Replacement Term Loans, (b) the all-in yield with respect to such
7058 Replacement Term Loans (or similar interest rate spread applicable to such Replacement Term
7059 Loans) shall not be higher than the all-in yield for such Refinanced Debt (or similar interest rate
7060 spread applicable to such Refinanced Debt) immediately prior to such refinancing, (c) the
7061 Weighted Average Life to Maturity of such Replacement Term Loans shall not be shorter than
7062 the Weighted Average Life to Maturity of such Replaced Term Loans at the time of such
7063 refinancing (except by virtue of amortization or prepayment of the Replaced Term Loans prior to
7064 the time of such incurrence) and (d) all other terms applicable to such Replacement Term Loans
7065 shall be substantially identical to, or less favorable to the Lenders providing such Replacement
7066 Term Loans than, those applicable to such Replaced Term Loans, except to the extent necessary
7067 to provide for covenants and other terms applicable to any period after the Latest Maturity Date
7068 of the Term Loans in effect immediately prior to such refinancing. Each amendment to this
7069 Agreement providing for Replacement Term Loans may, without the consent of any other
7070 Lenders, effect such amendments to this Agreement and the other Credit Documents as may be
7071 necessary or appropriate, in the opinion of the Administrative Agent and the Borrower to effect
7072 the provisions of this paragraph, and for the avoidance of doubt, this paragraph shall supersede
7073 any other provisions in this Section 11.01 to the contrary.

7074 If the Administrative Agent and the Borrower shall have jointly identified an obvious
7075 error (including, but not limited to, an incorrect cross-reference) or any error or omission of a
7076 technical or immaterial nature, in each case, in any provision of this Agreement or any other
7077 Credit Document (including, for the avoidance of doubt, any exhibit, schedule or other
7078 attachment to any Credit Document), then the Administrative Agent (acting in its sole discretion)
7079 and the Borrower or any other relevant Credit Party shall be permitted to amend such provision
7080 and such amendment shall be deemed approved by the Lenders if the Lenders shall have
7081 received five Business Days' prior written notice of such change and the Administrative Agent
7082 shall not have received, within five Business Days of the date of such notice to the Lenders, a
7083 written notice from the Required Lenders stating that the Required Lenders object to such
7084 amendment.

7085 Notwithstanding any provision herein to the contrary, this Agreement may be amended
7086 with the written consent of the Administrative Agent, the L/C Issuer and the Borrower to amend
7087 the definition of "Alternative Currency" solely to add additional currency options and the
7088 applicable interest rate with respect thereto, in each case solely to the extent permitted pursuant
7089 to Section 1.11.

7090 Section 11.02. *Notices; Effectiveness; Electronic Communications.*

7091 (a) *Notices Generally.* Except in the case of notices and other
7092 communications expressly permitted to be given by telephone (and except as provided in
7093 subsection (b) below), all notices and other communications provided for herein shall be in
7094 writing and shall be delivered by hand or overnight courier service, mailed by certified or
7095 registered mail or sent by telecopier or electronic mail as follows, and all notices and other
7096 communications expressly permitted hereunder to be given by telephone shall be made to the
7097 applicable telephone number, as follows:

7098 (i) if to any Credit Party, the Administrative Agent, the L/C Issuer or
7099 the Swingline Lender, to the address, telecopier number, electronic mail address
7100 or telephone number specified for such Person on Schedule 11.02 or as provided
7101 pursuant to subsection (d) below; and

7102 (ii) if to any other Lender, to the address, telecopier number, electronic
7103 mail address or telephone number specified in its Administrative Questionnaire
7104 (including, as appropriate, notices delivered solely to the Person designated by a
7105 Lender on its Administrative Questionnaire then in effect for the delivery of
7106 notices that may contain material non-public information relating to the Credit
7107 Parties) or as provided pursuant to subsection (d) below.

7108 Notices and other communications sent by hand or overnight courier service, or
7109 mailed by certified or registered mail, shall be deemed to have been given when received;
7110 notices and other communications sent by telecopier shall be deemed to have been given
7111 when sent (except that, if not given during normal business hours for the recipient, shall
7112 be deemed to have been given at the opening of business on the next Business Day for
7113 the recipient). Notices and other communications delivered through electronic
7114 communications to the extent provided in subsection (b) below shall be effective as
7115 provided in such subsection (b).

7116 (b) *Electronic Communications.* Notices and other communications to the
7117 Lenders and the L/C Issuer hereunder may be delivered or furnished by electronic
7118 communication (including e-mail, FpML messaging, and Internet or intranet websites) pursuant
7119 to procedures approved by the Administrative Agent, *provided* that the foregoing shall not apply
7120 to notices to any Lender or the L/C Issuer pursuant to Article 2 if such Lender or the L/C Issuer,
7121 as applicable, has notified the Administrative Agent that it is incapable of receiving notices
7122 under such Article by electronic communication. The Administrative Agent or the Borrower
7123 each may, in its discretion, agree to accept notices and other communications to it hereunder by
7124 electronic communications pursuant to procedures approved by it, *provided* that approval of such
7125 procedures may be limited to particular notices or communications.

7126 Unless the Administrative Agent otherwise prescribes, (i) notices and other
7127 communications sent to an e-mail address shall be deemed received upon the sender's receipt of
7128 an acknowledgement from the intended recipient (such as by the "return receipt requested"
7129 function, as available, return e-mail or other written acknowledgement), *provided* that if such
7130 notice or other communication is not sent during the normal business hours of the recipient, such
7131 notice or communication shall be deemed to have been sent at the opening of business on the
7132 next Business Day for the recipient, and (ii) notices or communications posted to an Internet or
7133 intranet website shall be deemed received upon the deemed receipt by the intended recipient at
7134 its e-mail address as described in the foregoing clause (i) of notification that such notice or
7135 communication is available and identifying the website address therefor.

7136 (c) *The Platform.* THE PLATFORM IS PROVIDED "AS IS" AND "AS
7137 AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE
7138 ACCURACY OR COMPLETENESS OF THE CREDIT PARTY MATERIALS OR THE
7139 ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR
7140 ERRORS IN OR OMISSIONS FROM THE CREDIT PARTY MATERIALS. NO
7141 WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY
7142 WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-
7143 INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR
7144 OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH
7145 THE CREDIT PARTY MATERIALS OR THE PLATFORM. In no event shall the
7146 Administrative Agent or any of its Related Parties (collectively, the "**Agent Parties**") have any
7147 liability to the Borrower or any other Credit Party, any Lender, the L/C Issuer or any other
7148 Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract
7149 or otherwise) arising out of the Borrower's or any other Credit Party's or the Administrative
7150 Agent's transmission of Credit Party Materials through the Internet, except to the extent that
7151 such losses, claims, damages, liabilities or expenses are determined by a court of competent
7152 jurisdiction by a final and nonappealable judgment to have resulted from the gross negligence,
7153 bad faith or willful misconduct of such Agent Party; *provided, however*, that in no event shall
7154 any Agent Party have any liability to the Borrower or any other Credit Party, any Lender, the
7155 L/C Issuer or any other Person for indirect, special, incidental, consequential or punitive
7156 damages (as opposed to direct or actual damages).

7157 (d) *Change of Address, Etc.* Each of the Borrower, the Administrative Agent,
7158 the L/C Issuer and the Swingline Lender may change its address, telecopier or telephone number
7159 for notices and other communications hereunder by notice to the other parties hereto. Each other
7160 Lender may change its address, telecopier or telephone number for notices and other
7161 communications hereunder by notice to the Borrower, the Administrative Agent, the L/C Issuer
7162 and the Swingline Lender. In addition, each Lender agrees to notify the Administrative Agent
7163 from time to time to ensure that the Administrative Agent has on record (1) an effective address,
7164 contact name, telephone number, telecopier number and electronic mail address to which notices
7165 and other communications may be sent and (2) accurate wire instructions for such Lender.
7166 Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such
7167 Public Lender to at all times have selected the "Private Side Information" or similar designation
7168 on the content declaration screen of the Platform in order to enable such Public Lender or its
7169 delegate, in accordance with such Public Lender's compliance procedures and applicable Law,
7170 including United States federal and state securities Laws, to make reference to Credit Party

7171 Materials that are not made available through the “Public Side Information” portion of the
7172 Platform and that may contain material non-public information with respect to the Borrower or
7173 its securities for purposes of United States federal or state securities Laws.

7174 (e) *Reliance by Administrative Agent, L/C Issuer and Lenders.* The
7175 Administrative Agent, the L/C Issuer and the Lenders shall be entitled to rely and act upon any
7176 notices (including telephonic Loan Notices) purportedly given by or on behalf of the Borrower or
7177 any other Credit Party even if (1) such notices were not made in a manner specified herein, were
7178 incomplete or were not preceded or followed by any other form of notice specified herein, or (2)
7179 the terms thereof, as understood by the recipient, varied from any confirmation thereof. The
7180 Borrower shall indemnify the Administrative Agent, the L/C Issuer, each Lender and the Related
7181 Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance
7182 by such Person on each notice purportedly given by or on behalf of the Borrower or any other
7183 Credit Party in the absence of gross negligence, bad faith or willful misconduct of such Person,
7184 as determined by a court of competent jurisdiction in a final and non-appealable judgment. All
7185 telephonic notices to and other telephonic communications with the Administrative Agent may
7186 be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such
7187 recording.

7188 Section 11.03. *No Waiver; Cumulative Remedies; Enforcement.* No failure by any
7189 Lender, the L/C Issuer, the Swingline Lender or the Administrative Agent to exercise, and no
7190 delay by any such Person in exercising, any right, remedy, power or privilege hereunder shall
7191 operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power
7192 or privilege hereunder or under any other Credit Document (including the imposition of the
7193 Default Rate) preclude any other or further exercise thereof or the exercise of any other right,
7194 remedy, power or privilege. The rights, remedies, powers and privileges herein provided and
7195 provided under each other Credit Document are cumulative and not exclusive of any rights,
7196 remedies, powers and privileges provided by Law.

7197 Notwithstanding anything to the contrary contained herein or in any other Credit
7198 Document, the authority to enforce rights and remedies hereunder and under the other Credit
7199 Documents against the Credit Parties or any of them shall be vested exclusively in, and all
7200 actions and proceedings at law in connection with such enforcement shall be instituted and
7201 maintained exclusively by, the Administrative Agent in accordance with Section 9.02 for the
7202 benefit of all the Lenders and the L/C Issuer; *provided*; that the foregoing shall not prohibit (i)
7203 the Administrative Agent from exercising on its own behalf the rights and remedies that inure to
7204 its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Credit
7205 Documents, (ii) the L/C Issuer or the Swingline Lender from exercising the rights and remedies
7206 that inure to their benefit (solely in their capacity as L/C Issuer or Swingline Lender, as the case
7207 may be) hereunder and under the other Credit Documents, (iii) any Lender from exercising setoff
7208 rights in accordance with Section 11.08 (subject to the terms of Section 2.12), or (iv) any Lender
7209 from filing proofs of claim or appearing and filing pleadings on its own behalf during the
7210 pendency of a proceeding relative to any Credit Party under any Debtor Relief Law and *provided*,
7211 *further*, that if at any time there is no Person acting as Administrative Agent hereunder and under
7212 the other Credit Documents, then (1) the Required Lenders shall have the rights otherwise
7213 ascribed to the Administrative Agent pursuant to Section 9.02 and (2) in addition to the matters
7214 set forth in clauses (i), (ii) and (iii) of the preceding proviso and subject to Section 2.12, any

7215 Lender may, with the consent of the Required Lenders, enforce any rights and remedies available
7216 to it and as authorized by the Required Lenders.

7217 Section 11.04. *Expenses; Indemnity; Damage Waiver.*

7218 (a) *Costs and Expenses.* The Borrower shall pay (1) all reasonable and
7219 documented out-of-pocket expenses incurred by the Administrative Agent, the Collateral Agent
7220 and their respective Affiliates (including the reasonable and documented out-of-pocket fees,
7221 charges and disbursements of one counsel for the Administrative Agent and the Collateral
7222 Agent), in connection with the syndication of the credit facilities provided for herein, the
7223 preparation, negotiation, execution, delivery and administration of this Credit Agreement and the
7224 other Credit Documents or any amendments, modifications or waivers of the provisions hereof or
7225 thereof (whether or not the transactions contemplated thereby shall be consummated), (2) all
7226 reasonable and documented out-of-pocket expenses incurred by the L/C Issuer in connection
7227 with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for
7228 payment thereunder and (3) all reasonable and documented out-of-pocket expenses incurred by
7229 the Administrative Agent, the Collateral Agent, any Lender or the L/C Issuer in connection with
7230 the enforcement or protection of its rights (a) in connection with this Credit Agreement and the
7231 other Credit Documents, including its rights under this Section, or (b) in connection with the
7232 Loans made or Letters of Credit issued hereunder, including all such reasonable and documented
7233 out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of
7234 such Loans or Letters of Credit (provided that with respect the fees and disbursements of
7235 counsel, all such Persons shall be represented by one primary counsel and (x) any special counsel
7236 and local counsel in each relevant jurisdiction retained by the Administrative Agent and (y)
7237 solely in the case of a conflict of interest, one additional counsel in each relevant jurisdiction to
7238 the affected Person similarly situated, and for each of clauses (i) and (ii) herein, such amounts
7239 shall be limited to those reasonable and documented out-of-pocket fees and actual disbursements
7240 of such counsel).

7241 (b) *Indemnification by the Borrower.* The Borrower shall indemnify the
7242 Administrative Agent (and any sub-agent thereof), each Arranger, the Collateral Agent, each
7243 Lender and the L/C Issuer, and each Related Party of any of the foregoing Persons (each such
7244 Person being called an “**Indemnitee**”) against, and hold each Indemnitee harmless from, any and
7245 all losses, claims, damages, liabilities and related out-of-pocket expenses (including the
7246 reasonable and documented out-of-pocket fees, charges and disbursements of one counsel for all
7247 Indemnitees), incurred by any Indemnitee or asserted against any Indemnitee by the Borrower,
7248 any other Credit Party or any other Person arising out of, in connection with, or as a result of (i)
7249 the execution, enforcement or delivery of this Credit Agreement, any other Credit Document or
7250 any agreement or instrument contemplated hereby or thereby, the performance by the parties
7251 hereto of their respective obligations hereunder or thereunder or the consummation of the
7252 transactions contemplated hereby or thereby, the syndication of the credit facilities provided for
7253 herein, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related
7254 Parties only, the administration of this Credit Agreement and the other Credit Documents, (i) any
7255 Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any
7256 refusal by the L/C Issuer to honor a demand for payment under a Letter of Credit if the
7257 documents presented in connection with such demand do not strictly comply with the terms of
7258 such Letter of Credit), (ii) any actual or alleged presence or Release of Hazardous Materials at,

7259 on, under or from any property currently or formerly owned, leased or operated by the Borrower
7260 or any of its Restricted Subsidiaries or any of their respective predecessors, or any
7261 Environmental Liability related in any way to the Borrower or any of its Restricted Subsidiaries,
7262 or any of their respective predecessors, in each case relating to any of the foregoing or (iii) any
7263 actual or prospective claim, litigation, investigation or proceeding relating to any of the
7264 foregoing, whether based on contract, tort or any other theory, whether brought by a third party
7265 or by the Borrower or any other Credit Party, and regardless of whether any Indemnitee is a party
7266 thereto, **IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE
7267 OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE
7268 NEGLIGENCE OF THE INDEMNITEE**, nor shall any Indemnitee, Related Party, Credit
7269 Party or any Subsidiary have any liability for any special, punitive, indirect or consequential
7270 damages relating to this Agreement or any other Credit Document or arising out of its activities
7271 in connection herewith or therewith (whether before or after the Closing Date) (other than, in the
7272 case of any Credit Party, in respect of any such damages incurred or paid by an Indemnitee to a
7273 third party, or which are included in a third-party claim); *provided* that such indemnity shall not,
7274 as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or
7275 related expenses (x) are determined by a court of competent jurisdiction by final and
7276 nonappealable judgment to have resulted from the gross negligence, bad faith or willful
7277 misconduct or material breach of such Person's obligations under any Credit Document of such
7278 Indemnitee or (y) result from a claim brought by the Borrower or any other Credit Party against
7279 an Indemnitee for material breach of such Indemnitee's obligations hereunder or under any other
7280 Credit Document, if the Borrower or other such Credit Party has obtained a final and
7281 nonappealable judgment in its favor on such claim as determined by a court of competent
7282 jurisdiction or (z) arise from disputes solely among Indemnites, and in such event solely to the
7283 extent that the underlying dispute does not (i) arise as a result of an action, inaction or
7284 representation of, or information provided by or on behalf of, the Credit Parties or their
7285 Subsidiaries or Affiliates as determined by a court of competent jurisdiction by a final and
7286 nonappealable judgment, or (ii) relate to any action of such Indemnitee in its capacity as
7287 Administrative Agent or Arranger; *provided, further*, that each Indemnitee shall promptly refund
7288 any amount received pursuant to this Section to the extent that there is a final judicial or arbitral
7289 determination that such Indemnitee was not entitled to indemnification rights with respect to
7290 such payment pursuant to the express terms of this Section 11.04. This Section 11.04(b) shall
7291 not apply with respect to Taxes other than any Taxes that represent losses, claims, and damages
7292 arising from any non-Tax claim. Payments under this Section 11.04(b) shall be made by the
7293 Borrower to the Administrative Agent for the benefit of the relevant Indemnitee.

7294 (c) *Reimbursement by Lenders.* To the extent that the Borrower for any
7295 reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to
7296 be paid by them to the Administrative Agent (or any sub-agent thereof), the Collateral Agent, the
7297 L/C Issuer or any Related Party of any of the foregoing, each Lender severally agrees to pay to
7298 the Administrative Agent (or any such sub-agent), the Collateral Agent, the L/C Issuer or such
7299 Related Party, as the case may be, such Lender's pro rata share (determined in each case as of the
7300 time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid
7301 amount; *provided* that the unreimbursed expense or indemnified loss, claim, damage, liability or
7302 related expense, as the case may be, was incurred by or asserted against the Administrative
7303 Agent (or any such sub-agent), the Collateral Agent, the L/C Issuer in its capacity as such, or
7304 against any Related Party of any of the foregoing acting for the Administrative Agent (or any

7305 such sub-agent), the Collateral Agent or the L/C Issuer in connection with such capacity. The
7306 obligations of the Lenders under this subsection (c) are subject to the provisions of Section
7307 2.11(b).

7308 (d) *Waiver of Consequential Damages, Etc.* To the fullest extent permitted by
7309 applicable Law, no Credit Party shall assert, and hereby waives, any claim against any
7310 Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as
7311 opposed to direct or actual damages) arising out of, in connection with, or as a result of, this
7312 Credit Agreement, any other Credit Document or any agreement or instrument contemplated
7313 hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use
7314 of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any
7315 damages arising from the use by unintended recipients of any information or other materials
7316 distributed by it through telecommunications, electronic or other information transmission
7317 systems in connection with this Credit Agreement or the other Credit Documents or the
7318 transactions contemplated hereby or thereby other than for such direct or actual damages
7319 resulting from the gross negligence, bad faith or willful misconduct of such Indemnitee or from a
7320 breach in bad faith of such Indemnitee's obligations hereunder or under any Credit Document, in
7321 any case, as determined by a final and nonappealable judgment of a court of competent
7322 jurisdiction.

7323 (e) *Payments.* All amounts due under this Section shall be payable not later
7324 than 10 Business Days after demand therefor.

7325 (f) *Survival.* The agreements in this Section shall survive the resignation of
7326 the Administrative Agent, the L/C Issuer and the Swingline Lender, the replacement of any
7327 Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or
7328 discharge of all the other obligations hereunder or under any other Credit Document.

7329 Section 11.05. *Payments Set Aside.* To the extent that any payment by or on behalf of the
7330 Borrower is made to the Administrative Agent, the L/C Issuer or any Lender, or the
7331 Administrative Agent, the L/C Issuer or any Lender exercises its right of setoff, and such
7332 payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared
7333 to be fraudulent or preferential, set aside or required (including pursuant to any settlement
7334 entered into by the Administrative Agent, the L/C Issuer or such Lender in its discretion) to be
7335 repaid to a trustee, receiver or any other party, in connection with any proceeding under any
7336 Debtor Relief Law or otherwise, then to the extent of such recovery, the obligation or part
7337 thereof originally intended to be satisfied shall be revived and continued in full force and effect
7338 as if such payment had not been made or such setoff had not occurred, and each Lender and the
7339 L/C Issuer severally agrees to pay to the Administrative Agent on demand its applicable share
7340 (without duplication) of any amount so recovered from or repaid by the Administrative Agent,
7341 plus interest thereon from the date of such demand to the date such payment is made at a rate per
7342 annum equal to the applicable Overnight Rate from time to time in effect, in the applicable
7343 currency of such recovery or payment. The obligations of the Lenders and the L/C Issuer under
7344 clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the
7345 termination of this Credit Agreement.

7346 Section 11.06. *Successors and Assigns.*

7347 (a) *Successors and Assigns Generally.* The provisions of this Credit
7348 Agreement and the other Credit Documents shall be binding upon and inure to the benefit of the
7349 parties hereto and thereto and their respective successors and assigns permitted hereby, except
7350 that neither the Borrower nor any other Credit Party may assign or otherwise transfer any of their
7351 respective rights or obligations hereunder without the prior written consent of the Administrative
7352 Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or
7353 obligations hereunder except (i) to an Assignee pursuant to an assignment made in accordance
7354 with the provisions of Section 11.06(b) (such an assignee, an “**Eligible Assignee**”), (ii) by way
7355 of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by
7356 way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of
7357 this Section (and any other attempted assignment or transfer by any party hereto shall be null and
7358 void). Nothing in this Credit Agreement, express or implied, shall be construed to confer upon
7359 any Person (other than the parties hereto, their respective successors and assigns permitted
7360 hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent
7361 expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the L/C
7362 Issuer and the Lenders) any legal or equitable right, remedy or claim under or by reason of this
7363 Credit Agreement.

7364 (b) *Assignments by Lenders.* Any Lender may at any time assign to one or
7365 more assignees (“**Assignees**”) all or a portion of its rights and obligations under this Credit
7366 Agreement and the other Credit Documents (including all or a portion of its Commitment and the
7367 Loans (including for purposes of this subsection (b), participations in L/C Obligations and in
7368 Swingline Loans) at the time owing to it); *provided* that any such assignment shall be subject to
7369 the following conditions:

7370 (i) *Minimum Amounts.* (A) In the case of an assignment of the entire
7371 remaining amount of the assigning Lender’s Commitment and the related Loans
7372 at the time owing to it or in the case of an assignment to a Lender, an Affiliate of
7373 a Lender or an Approved Fund, no minimum amount need be assigned and (B) in
7374 any case not described in subsection (b)(i), the aggregate amount of the
7375 Commitment (which for this purpose includes Loans outstanding thereunder) or,
7376 if the Commitment is not then in effect, the principal outstanding balance of the
7377 Loans of the assigning Lender subject to each such assignment, determined as of
7378 the date the Assignment and Assumption with respect to such assignment is
7379 delivered to the Administrative Agent or, if “Trade Date” is specified in the
7380 Assignment and Assumption, as of the Trade Date, shall not be less than
7381 \$5,000,000 and integral multiples thereof (or if less, all of such Lender’s
7382 remaining Loans or Commitments in respect of such Class), in the case of an
7383 assignment of the Revolving Credit Commitments (and the Revolving Credit
7384 Loans relating thereto), and \$5,000,000 and integral multiples thereof, in the case
7385 of an assignment of the Term Commitments (or, from and after the Closing Date,
7386 the Term Loans); *provided* that concurrent assignments to members of an
7387 Assignee Group and concurrent assignments from members of an Assignee Group
7388 to a single Eligible Assignee (or to an Eligible Assignee and members of its
7389 Assignee Group) will be treated as a single assignment for purposes of
7390 determining whether such minimum amount has been met;

7391 (ii) *Proportionate Amounts.* Each partial assignment shall be made as
7392 an assignment of a proportionate part of all the assigning Lender's rights and
7393 obligations under this Credit Agreement with respect to the Loans or the
7394 Commitment assigned, except that this clause (ii) shall not (A) apply to the
7395 Swingline Lender's rights and obligations in respect of Swingline Loans or (B)
7396 prohibit any Lender from assigning all or a portion of its rights and obligations
7397 among separate Facilities on a non-pro rata basis;

7398 (iii) *Required Consents.* No consent shall be required for any
7399 assignment except to the extent required by subsection (b)(i) of this Section and,
7400 in addition:

7401 (A) the consent of the Borrower (such consent not to be
7402 unreasonably withheld, conditioned or delayed) shall be required unless
7403 (1) an Event of Default under Section 9.01(a) or (f) (solely with respect to
7404 the Borrower) has occurred and is continuing at the time of such
7405 assignment or (2) in the case of an assignment of Term Loans, such
7406 assignment is to a Lender, an Affiliate of a Lender or an Approved Fund;
7407 *provided* that the Borrower shall be deemed to have consented to any such
7408 assignment unless it shall object thereto by written notice to the
7409 Administrative Agent within 10 Business Days after having received
7410 notice thereof;

7411 (B) the consent of the Administrative Agent (such consent not
7412 to be unreasonably withheld, conditioned or delayed) shall be required for
7413 assignments in respect of (1) the Revolving Credit Commitments (and the
7414 Revolving Credit Loans relating thereto) if such assignment is to a Person
7415 that is not a Lender with a Revolving Credit Commitment (for holding
7416 Revolving Credit Loans), an Affiliate of such Lender or an Approved
7417 Fund with respect to such Lender or (2) any Term Loan to a Person that is
7418 not a Lender, an Affiliate of a Lender or an Approved Fund; and

7419 (C) the consent of the Swingline Lender and the L/C Issuer
7420 (such consents not to be unreasonably withheld, conditioned or delayed)
7421 shall be required for any assignment in respect of the Revolving Credit
7422 Commitments (and the Revolving Credit Obligations relating thereto).

7423 (iv) *Assignment and Assumption.* The parties to each assignment shall
7424 execute and deliver to the Administrative Agent an Assignment and Assumption,
7425 together with a processing and recordation fee in the amount of \$3,500 (other than
7426 an assignment from a Lender to one or more of its Affiliates or pursuant to
7427 Section 11.13); *provided* that the Administrative Agent may, in its sole discretion,
7428 elect to waive such processing and recordation fee in the case of any assignment.
7429 The assignee, if it is not a Lender, shall deliver to the Administrative Agent an
7430 Administrative Questionnaire;

7431 (v) *No Assignment to Certain Persons.* No such assignment shall be
7432 made (A) to the Borrower or any of the Borrower's Affiliates or Subsidiaries,
7433 except as set forth in Section 11.06(i), (B) to any Defaulting Lender or any of its
7434 Subsidiaries, or any Person who, upon becoming a Lender hereunder, would
7435 constitute any of the foregoing Persons described in this clause (iv), (C) to a
7436 natural person or (D) to any Disqualified Institution; and

7437 (vi) *Certain Additional Payments.* In connection with any assignment
7438 of rights and obligations of any Defaulting Lender hereunder, no such assignment
7439 shall be effective unless and until, in addition to the other conditions thereto set
7440 forth herein, the parties to the assignment shall make such additional payments to
7441 the Administrative Agent in an aggregate amount sufficient, upon distribution
7442 thereof as appropriate (which may be outright payment, purchases by the assignee
7443 of participations or subparticipations, or other compensating actions, including
7444 funding, with the consent of the Borrower and the Administrative Agent, the
7445 applicable pro rata share of Loans previously requested but not funded by the
7446 Defaulting Lender, to each of which the applicable assignee and assignor hereby
7447 irrevocably consent), to (x) pay and satisfy in full all payment liabilities then
7448 owed by such Defaulting Lender to the Administrative Agent or any Lender
7449 hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate)
7450 its full pro rata share of all Loans and participations in Letters of Credit and
7451 Swingline Loans in accordance with its Aggregate Commitment Percentage.
7452 Notwithstanding the foregoing, in the event that any assignment of rights and
7453 obligations of any Defaulting Lender hereunder shall become effective under
7454 applicable Law without compliance with the provisions of this paragraph, then the
7455 assignee of such interest shall be deemed to be a Defaulting Lender for all
7456 purposes of this Credit Agreement until such compliance occurs.

7457 Subject to acceptance and recording thereof by the Administrative Agent pursuant
7458 to subsection (c) of this Section, from and after the effective date specified in each
7459 Assignment and Assumption, the Eligible Assignee thereunder shall be a party to this
7460 Credit Agreement and, to the extent of the interest assigned by such Assignment and
7461 Assumption, have the rights and obligations of a Lender under this Credit Agreement,
7462 and the assigning Lender thereunder shall, to the extent of the interest assigned by such
7463 Assignment and Assumption, be released from its obligations under this Credit
7464 Agreement (and, in the case of an Assignment and Assumption covering all of the
7465 assigning Lender's rights and obligations under this Credit Agreement, such Lender shall
7466 cease to be a party hereto) but shall continue to be entitled to the benefits of Sections
7467 3.01, 3.04, 3.05 and 11.04 with respect to facts and circumstances occurring prior to the
7468 effective date of such assignment. Upon request, the Borrower (at its expense) shall
7469 execute and deliver a Note to the assignee Lender. Any assignment or transfer by a
7470 Lender of rights or obligations under this Credit Agreement that does not comply with
7471 this subsection shall be treated for purposes of this Credit Agreement as a sale by such
7472 Lender of a participation in such rights and obligations in accordance with subsection (d)
7473 of this Section.

7474 (c) *Register.* The Administrative Agent, acting solely for this purpose as an
7475 agent of the Borrower (and such agency being solely for tax purposes), shall maintain at the
7476 Administrative Agent's Office in the United States a copy of each Assignment and Assumption
7477 delivered to it and a register for the recordation of the names and addresses of the Lenders, and
7478 the Commitments of, and principal amounts of the Loans and L/C Obligations owing to, each
7479 Lender pursuant to the terms hereof from time to time (the "**Register**"). The entries in the
7480 Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent
7481 and the Lenders may treat each Person whose name is recorded in the Register pursuant to the
7482 terms hereof as a Lender and the owner of the amounts owing to it under the Credit Documents
7483 as reflected in the Register for all purposes of the Credit Documents, notwithstanding notice to
7484 the contrary. In addition, the Administrative Agent shall maintain on the Register information
7485 regarding the designation, and revocation of designation, of any Lender as a Defaulting Lender.
7486 The Register shall be available for inspection by any of the Borrower, the L/C Issuer and the
7487 Lenders at any reasonable time and from time to time upon reasonable prior notice.

7488 (d) *Participations.* Any Lender may at any time (without notice to, or the
7489 consent of, any Person) sell participations to any Person (other than a natural person, a
7490 Disqualified Institution, a Defaulting Lender or the Borrower or the Borrower's Affiliates or
7491 Subsidiaries) (each, a "**Participant**") in all or a portion of such Lender's rights and/or
7492 obligations under this Credit Agreement (including all or a portion of its Commitment and/or the
7493 Loans (including such Lender's participations in L/C Obligations and/or Swingline Loans)
7494 owing to it); *provided* that (i) such Lender's obligations under this Credit Agreement shall
7495 remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for
7496 the performance of such obligations and (iii) the Borrower, the Administrative Agent, the
7497 Lenders and the L/C Issuer shall continue to deal solely and directly with such Lender in
7498 connection with such Lender's rights and obligations under this Credit Agreement.

7499 Any agreement or instrument pursuant to which a Lender sells such a participation shall
7500 provide that such Lender shall retain the sole right to enforce this Credit Agreement and to
7501 approve any amendment, modification or waiver of any provision of this Credit Agreement;
7502 *provided* that such agreement or instrument may provide that such Lender will not, without the
7503 consent of the Participant, agree to any amendment, waiver or other modification described in
7504 the second proviso of Section 11.01 that affects such Participant. Subject to subsection (e) of
7505 this Section, the Borrower agree that each Participant shall be entitled to the benefits of Sections
7506 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by
7507 assignment pursuant to subsection (b) of this Section; *provided* that such Participant agrees to be
7508 subject to the provisions of Sections 3.06 as if it were an assignee under paragraph (b) of this
7509 Section. To the extent permitted by Law, each Participant also shall be entitled to the benefits of
7510 Section 11.08 as though it were a Lender, *provided* that such Participant agrees to be subject to
7511 Section 2.12 as though it were a Lender.

7512 (e) *Limitations on Participant Rights.* A Participant shall not be entitled to
7513 receive any greater payment under Section 3.01 or 3.04 than the applicable Lender would have
7514 been entitled to receive with respect to the participation sold to such Participant, unless the sale
7515 of the participation to such Participant is made with the Borrower's prior written consent. A
7516 Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits
7517 of Section 3.01 unless the Borrower is notified of the participation sold to such Participant and

7518 such Participant agrees, for the benefit of the Borrower, to comply with Section 3.01(e) as
7519 though it were a Lender.

7520 Each Lender that sells a participation shall, acting solely for this purpose as an agent of
7521 the Borrower, maintain a register on which it enters the name and address of each Participant and
7522 the principal amounts (and stated interest) of each Participant's interest in the Loans or other
7523 obligations under the Credit Documents (the "**Participant Register**"); *provided* that no Lender
7524 shall have any obligation to disclose all or any portion of the Participant Register (including the
7525 identity of any Participant or any information relating to a Participant's interest in any
7526 Commitments, Loans, Letters of Credit or of its other Obligations under any Credit Document)
7527 to any Person except to the extent that such disclosure is necessary to establish that such
7528 Commitment, Loan, Letter of Credit or other Obligation is in registered form under Section
7529 5f.103-1(c) of the U.S. Treasury Regulations, or is otherwise required thereunder. The entries in
7530 the Participant Register shall be conclusive absent manifest error, and such Lender shall treat
7531 each Person whose name is recorded in the Participant Register as the owner of such
7532 participation for all purposes of this Agreement notwithstanding any notice to the contrary. For
7533 the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall
7534 have no responsibility for maintaining a Participant Register.

7535 (f) *Certain Pledges.* Any Lender may at any time pledge or assign a security
7536 interest in all or any portion of its rights under this Credit Agreement (including under its
7537 Note(s), if any) to secure obligations of such Lender, including any pledge or assignment to
7538 secure obligations to a Federal Reserve Bank or other central bank having jurisdiction over such
7539 Lender; *provided* that no such pledge or assignment shall release such Lender from any of its
7540 obligations hereunder or substitute any such pledgee or assignee for such Lender as a party
7541 hereto.

7542 (g) *[Reserved]*.

7543 (h) *Resignation as L/C Issuer or Swingline Lender after Assignment.*
7544 Notwithstanding anything to the contrary contained herein, if at any time Bank of America
7545 assigns all of its Revolving Credit Commitment and Revolving Credit Loans pursuant to
7546 subsection (b) above. Bank of America may, (i) upon 30 days' notice to the Borrower and the
7547 Revolving Credit Lenders, resign as the L/C Issuer and/or (ii) upon 30 days' notice to the
7548 Borrower, resign as the Swingline Lender. In the event of any such resignation as the L/C Issuer
7549 or the Swingline Lender, the Borrower shall be entitled to appoint from among the Revolving
7550 Credit Lenders, a successor L/C Issuer or Swingline Lender hereunder; *provided* that no failure
7551 by the Borrower to appoint any such successor shall affect the resignation of Bank of America as
7552 the L/C Issuer or the Swingline Lender, as the case may be. If Bank of America resigns as the
7553 L/C Issuer, it shall retain all the rights, powers, privileges and duties of the L/C Issuer hereunder
7554 with respect to all Letters of Credit outstanding as of the effective date of its resignation as the
7555 L/C Issuer and all L/C Obligations with respect thereto (including the right to require the
7556 Revolving Credit Lenders to make Base Rate Loans or fund risk participations in L/C
7557 Unreimbursed Amounts pursuant to Section 2.03(c)). If Bank of America resigns as the
7558 Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder
7559 with respect to Swingline Loans made by it and outstanding as of the effective date of such
7560 resignation, including the right to require the Revolving Credit Lenders to make Base Rate Loans

7561 or fund risk participations in outstanding Swingline Loans pursuant to Section 2.04(c). Upon the
7562 appointment of a successor L/C Issuer and/or Swingline Lender, (a) such successor shall succeed
7563 to and become vested with all of the rights, powers, privileges and duties of the retiring L/C
7564 Issuer or Swingline Lender, as the case may be, and (b) the successor L/C Issuer shall issue
7565 letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such
7566 succession or make other arrangements reasonable satisfactory to Bank of America to effectively
7567 assume the obligations of Bank of America with respect to such Letters of Credit.

7568 (i) *Assignments to the Borrower and its Subsidiaries.* Notwithstanding
7569 anything to the contrary contained in this Section 11.06 or any other provision of this
7570 Agreement, so long as no Event of Default has occurred and is continuing or would result
7571 therefrom, each Term Lender shall have the right at any time to sell, assign or transfer all or a
7572 portion of the Term Loans owing to it to the Borrower or any of its Subsidiaries on a non-pro
7573 rata basis, subject to the following limitations:

7574 (i) Such sale, assignment or transfer shall be pursuant to one or more
7575 modified Dutch auctions conducted by the Borrower (each, an “**Auction**”) to
7576 repurchase all or any portion of the Term Loans; *provided* that (A) notice of and
7577 the option to participate in the Auction shall be provided to all Term Lenders and
7578 (B) the Auction shall be conducted pursuant to such procedures as the Auction
7579 Manager may establish, which are consistent with this Section 11.06(i) and the
7580 Auction Procedures and are otherwise reasonably acceptable to the Borrower, the
7581 Auction Manager and the Administrative Agent;

7582 (ii) With respect to all repurchases made by the Borrower or any of its
7583 Subsidiaries pursuant to this Section 11.06(i), (A) the Borrower shall (x) represent
7584 and warrant to the Term Lenders that, as of the launch date of the related Auction
7585 and the effective date of any such repurchase, it does not possess material non-
7586 public information with respect to the Borrower and its Subsidiaries that has not
7587 been disclosed to the Administrative Agent and the non-Public Lenders or (y)
7588 make a statement that it cannot make such representation and warranty, (B) the
7589 Borrower or any of its Subsidiaries shall not use the proceeds of any Revolving
7590 Credit Loans to repurchase such Term Loans and (C) the assigning Term Lender
7591 and the Borrower or its applicable Subsidiary shall execute and deliver to the
7592 Auction Manager an Assignment and Assumption with respect to such
7593 repurchase; and

7594 (iii) Following a repurchase by the Borrower or any of its Subsidiaries
7595 pursuant to this Section 11.06(i), the Term Loans so repurchased shall, without
7596 further action by any Person, be deemed canceled and no longer outstanding (and
7597 may not be resold by the Borrower or any of its Subsidiaries) for all purposes of
7598 this Credit Agreement and all other Credit Documents, including, but not limited
7599 to (A) the making of, or the application of, any payments to the Term Lenders
7600 under this Credit Agreement or any other Credit Document, (B) the making of any
7601 request, demand, authorization, direction, notice, consent or waiver under this
7602 Credit Agreement or any other Credit Document or (C) the determination of the
7603 Required Lenders or the Required Term Lenders, or for any similar or related

7604 purpose, under this Credit Agreement or any other Credit Document. If any Term
7605 Loan is purchased and canceled in accordance with this Section 11.06(i), all such
7606 prepayments shall be applied to the remaining scheduled installments of principal
7607 of the relevant Class of Term Loans pursuant to Section 2.05(a) on a pro rata basis
7608 across such installments. In connection with any Term Loans repurchased and
7609 canceled pursuant to this Section 11.06(i), the Administrative Agent is authorized
7610 to make appropriate entries in the Register to reflect any such cancellation.

7611 (j) If any assignment is made to any Disqualified Institution without the
7612 Borrower's prior consent in violation of clause (b)(v) above, the Borrower may, at its sole
7613 expense and effort, upon notice to the applicable Disqualified Institution and the Administrative
7614 Agent, notwithstanding anything to the contrary in Section 2.07 or Section 2.12, (A) terminate
7615 any Revolving Credit Commitment of such Disqualified Institution and repay all Obligations of
7616 the Borrower owing to such Disqualified Institution in connection with such Revolving Credit
7617 Commitment, (B) in the case of outstanding Term Loans held by Disqualified Institutions,
7618 prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the
7619 amount that such Disqualified Institution paid to acquire such Term Loans, in each case plus
7620 accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it
7621 hereunder and under the other Credit Documents and/or (C) require such Disqualified Institution
7622 to assign and delegate, without recourse (in accordance with and subject to the restrictions
7623 contained in this Section 11.06), all of its interest, rights and obligations under this Agreement
7624 and related Credit Documents to an Eligible Assignee that shall assume such obligations at the
7625 lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution
7626 paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued
7627 fees and all other amounts (other than principal amounts) payable to it hereunder and other the
7628 other Credit Documents; provided that (i) such assignment does not conflict with applicable
7629 Laws and (ii) in the case of clause (B), the Borrower shall not use the proceeds from any Loans
7630 to prepay Term Loans held by Disqualified Institutions.

7631 (k) Notwithstanding anything to the contrary contained in this Agreement, the
7632 Disqualified Institutions (A) will not (x) have the right to receive information, reports or other
7633 materials provided to Lenders by the Borrower, the Administrative Agent or any other Lender,
7634 (y) attend or participate in meetings attended by the Lenders and the Administrative Agent, or (z)
7635 access any electronic site established for the Lenders or confidential communications from
7636 counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for
7637 purposes of any consent to any amendment, waiver or modification of any action under, and for
7638 the purpose of any direction to the Administrative Agent or any Lender to undertake any action
7639 (or refrain from taking any action) under this Agreement or any other Credit Document, each
7640 Disqualified Institution will be deemed to have consented in the same proportion as the Lenders
7641 that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting on
7642 any plan of reorganization or plan of liquidation pursuant to any Debtor Relief Laws (a
7643 "**Reorganization Plan**") each Disqualified Institution party hereto hereby agrees (1) not to vote
7644 on such Reorganization Plan, (2) if such Disqualified Institution does vote on such
7645 Reorganization Plan notwithstanding the restriction in the foregoing clause (1), such vote will be
7646 deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the
7647 Bankruptcy Code (or any similar provision in any other Debtor Relief Laws), and such vote shall
7648 not be counted in determining whether the applicable class has accepted or rejected such

7649 Reorganization Plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar
7650 provision in any other Debtor Relief Laws) and (3) not to contest any request by any party for a
7651 determination by the Bankruptcy Court (or other applicable court of competent jurisdiction)
7652 effectuating the foregoing clause (2).

7653 Section 11.07. *Treatment of Certain Information; Confidentiality.* Each of the
7654 Administrative Agent, the Lenders and the L/C Issuer agrees to maintain the confidentiality of
7655 the Information (as defined below), except that Information may be disclosed to its Affiliates and
7656 to its and its Affiliates' respective partners, directors, officers, employees, agents, trustees,
7657 advisors and representatives (it being understood that the Persons to whom such disclosure is
7658 made will be informed of the confidential nature of such Information and instructed to keep such
7659 Information confidential), to the extent requested by any regulatory authority purporting to have
7660 jurisdiction over it (including any self-regulatory authority), to the extent required by applicable
7661 Laws or regulations or by any subpoena or similar legal process (in which case such Person, to
7662 the extent practicable and so long as it is permitted by Law and except in connection with any
7663 order or request as part of a regulatory examination or audit, agrees to inform the Borrower
7664 promptly thereof), to any other party hereto, in connection with the exercise of any remedies
7665 hereunder or under any other Credit Document or any action or proceeding relating to this Credit
7666 Agreement or any other Credit Document or the enforcement of rights hereunder or thereunder,
7667 subject to an agreement containing provisions substantially the same as those of this Section, to
7668 (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its
7669 rights or obligations under this Credit Agreement or any Eligible Assignee invited to become a
7670 Lender pursuant to Section 11.06(b), (ii) any actual or prospective counterparty (or its advisors)
7671 to any swap or derivative transaction relating to the Borrower and its obligations, with the
7672 consent of the Borrower or to the extent such Information, (iii) becomes publicly available other
7673 than as a result of a breach of this Section, (iv) to the extent that such information is
7674 independently developed by the Administrative Agent, a Lender, L/C Issuer or such parties
7675 Affiliates, in each case, so long as not based on information obtained in a manner that would
7676 otherwise violate this provision, (v) becomes available to the Administrative Agent, any Lender,
7677 the L/C Issuer or any of their respective Affiliates on a nonconfidential basis from a source other
7678 than the Borrower or (vi) with the Borrower's consent.

7679 For purposes of this Section, "**Information**" means all information received from the
7680 Credit Parties or their Subsidiaries or Affiliates relating to the Credit Parties or their Subsidiaries
7681 or Affiliates or any of their respective businesses, other than any such information that is
7682 available to the Administrative Agent, any Lender or the L/C Issuer on a nonconfidential basis
7683 prior to disclosure by the Credit Parties or their Subsidiaries or Affiliates; *provided* that all
7684 information received after the Closing Date from the Borrower or any of its Subsidiaries shall be
7685 deemed confidential unless such information is clearly identified at the time of delivery as not
7686 being confidential. Any Person required to maintain the confidentiality of Information as
7687 provided in this Section shall be considered to have complied with its obligation to do so if such
7688 Person has exercised the same degree of care to maintain the confidentiality of such Information
7689 as such Person would accord to its own confidential information.

7690 Each of the Administrative Agent, the Lenders and the L/C Issuer acknowledges that (a)
7691 the Information may include material non-public information concerning the Credit Parties or
7692 their Subsidiaries or Affiliates, as the case may be, (b) it has developed compliance procedures

7693 regarding the use of material non-public information and (c) it will handle such material non-
7694 public information in accordance with applicable Law, including federal and state securities
7695 Laws.

7696 Section 11.08. *Right of Setoff*. If an Event of Default shall have occurred and be
7697 continuing, each Lender, the L/C Issuer and each of their respective Affiliates is hereby
7698 authorized at any time and from time to time, to the fullest extent permitted by applicable Law,
7699 to set off and apply any and all deposits (general or special, time or demand, provisional or final,
7700 in whatever currency) at any time held and other obligations (in whatever currency) at any time
7701 owing by such Lender, the L/C Issuer or any such Affiliate to or for the credit or the account of
7702 the Borrower or any other Credit Party against any and all of the obligations of the Borrower or
7703 such Credit Party now or hereafter existing under this Credit Agreement or any other Credit
7704 Document to such Lender or the L/C Issuer, irrespective of whether or not the Lender or the L/C
7705 Issuer shall have made any demand under this Credit Agreement or any other Credit Document
7706 and although such obligations of the Borrower or such Credit Party may be contingent or
7707 unmaturing or are owed to a branch or office of such Lender or the L/C Issuer different from the
7708 branch or office holding such deposit or obligated on such indebtedness; provided that in the
7709 event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off
7710 shall be paid over immediately to the Administrative Agent for further application in accordance
7711 with the provisions of Section 2.17 and, pending such payment, shall be segregated by such
7712 Defaulting Lender from its other funds and deemed held in trust for the benefit of the
7713 Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to
7714 the Administrative Agent a statement describing in reasonable detail the Obligations owing to
7715 such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender,
7716 the L/C Issuer and their respective Affiliates under this Section are in addition to other rights and
7717 remedies (including other rights of setoff) that such Lender, the L/C Issuer or their respective
7718 Affiliates may have. Each Lender and the L/C Issuer agrees to notify the Borrower and the
7719 Administrative Agent promptly after any such setoff and application; provided that the failure to
7720 give such notice shall not affect the validity of such setoff and application.

7721 Section 11.09. *Interest Rate Limitation*. Notwithstanding anything to the contrary
7722 contained in any Credit Document, the interest paid or agreed to be paid under the Credit
7723 Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable
7724 Law (the "Maximum Rate"). If the Administrative Agent or any Lender shall receive interest in
7725 an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal
7726 of the Loans or, if it exceeds such unpaid principal, refunded to the Borrower. In determining
7727 whether the interest contracted for, charged, or received by the Administrative Agent or a Lender
7728 exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law,
7729 characterize any payment that is not principal as an expense, fee, or premium rather than interest,
7730 exclude voluntary prepayments and the effects thereof, and amortize, prorate, allocate, and
7731 spread in equal or unequal parts the total amount of interest throughout the contemplated term of
7732 the Obligations hereunder.

7733 Section 11.10. *Counterparts; Integration*. This Credit Agreement may be executed in
7734 counterparts (and by different parties hereto in different counterparts), each of which shall
7735 constitute an original, but all of which when taken together shall constitute a single contract.
7736 This Credit Agreement and the other Credit Documents constitute the entire contract among the

7737 parties relating to the subject matter hereof and supersede any and all previous agreements and
7738 understandings, oral or written, relating to the subject matter hereof. Delivery of an executed
7739 counterpart of a signature page of this Credit Agreement by telecopy or other electronic imaging
7740 means shall be effective as delivery of a manually executed counterpart of this Credit
7741 Agreement.

7742 Section 11.11. *Survival of Representations and Warranties.* All representations and
7743 warranties made hereunder and in any other Credit Document or other document delivered
7744 pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and
7745 delivery hereof and thereof. Such representations and warranties have been or will be relied
7746 upon by the Administrative Agent and each Lender, regardless of any investigation made by the
7747 Administrative Agent or any Lender or on their behalf and notwithstanding that the
7748 Administrative Agent or any Lender may have had notice or knowledge of any Default or Event
7749 of Default at the time of any Credit Extension, and shall continue in full force and effect as long
7750 as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied (other than any
7751 Obligations under any Swap Contract Obligation, Treasury Management Obligation or
7752 contingent indemnity obligations, in any such case not then due and payable) or any Letter of
7753 Credit shall remain outstanding (unless the such Letter of Credit has been Cash Collateralized or
7754 back-stopped by a letter of credit in form, amount and substance reasonably satisfactory to the
7755 Administrative Agent or a deemed reissuance under another facility or as to which other
7756 arrangements reasonable satisfactory to the Administrative Agent and the L/C Issuer shall have
7757 been made).

7758 Section 11.12. *Severability.* If any provision of this Credit Agreement or the other Credit
7759 Documents is held to be illegal, invalid or unenforceable, the legality, validity and enforceability
7760 of the remaining provisions of this Credit Agreement and the other Credit Documents shall not
7761 be affected or impaired thereby and the parties shall endeavor in good faith negotiations to
7762 replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect
7763 of which comes as close as possible to that of the illegal, invalid or unenforceable provisions.
7764 The invalidity of a provision in a particular jurisdiction shall not invalidate or render
7765 unenforceable such provision in any other jurisdiction. Without limiting the foregoing
7766 provisions of this Section 11.12, if and to the extent that the enforceability of any provisions in
7767 this Credit Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as
7768 determined in good faith by the Administrative Agent, the L/C Issuer or the Swingline Lender, as
7769 applicable, then such provisions shall be deemed to be in effect only to the extent not so limited.

7770 Section 11.13. *Replacement of Lenders.* If (a) any Lender requests compensation under
7771 Section 3.04, (b) the Borrower is required to pay any additional amount to any Lender or any
7772 Governmental Authority for the account of any Lender pursuant to Section 3.01, (c) any Lender
7773 gives a notice pursuant to Section 3.02, (d) any Lender does not consent to a proposed change,
7774 waiver, discharge or termination (a "Non-Consenting Lender") with respect to any Credit
7775 Document requiring the approval of all the Lenders or of all the Lenders directly affected thereby
7776 that has been approved by the applicable Required Facility Lenders or, to the extent applicable,
7777 the Required Lenders, or (e) any Lender is a Defaulting Lender, then the Borrower may, at its
7778 sole expense and effort, upon notice to such Lender and the Administrative Agent, require such
7779 Lender to assign and delegate, without recourse (in accordance with and subject to the
7780 restrictions contained in, and consents required by, Section 11.06), (i) all of such Lender's

7781 interests, rights and obligations under this Credit Agreement and the related Credit Documents,
7782 or (ii) solely in the case of a Non-Consenting Lender, all of such Lender's Class of Loans with
7783 respect to which such Lender is a Non-Consenting Lender, in each case to an assignee that shall
7784 assume such obligations (which assignee may be another Lender, if a Lender accepts such
7785 assignment); provided that:

7786 (i) the Borrower shall have paid to the Administrative Agent the
7787 assignment fee specified in Section 11.06(b)(iv);

7788 (ii) such Lender shall have received payment of an amount equal to the
7789 outstanding principal of its Loans and L/C Advances, accrued interest thereon,
7790 accrued fees and all other amounts payable to it hereunder and under the other
7791 Credit Documents (including any amounts under Section 3.05) that is to be
7792 assigned hereunder from the assignee (to the extent of such outstanding principal
7793 and accrued interest and fees) or the Borrower (in the case of all other amounts);

7794 (iii) in the case of any such assignment resulting from a claim for
7795 compensation under Section 3.04 or payments required to be made pursuant to
7796 Section 3.01, such assignment will result in a reduction in such compensation or
7797 payments thereafter;

7798 (iv) such assignment does not conflict with applicable Law;

7799 (v) in the case of any such assignment resulting from a Non-
7800 Consenting Lender's failure to consent to a proposed change, waiver, discharge or
7801 termination with respect to any Credit Document, the applicable assignee
7802 consents to the proposed change, waiver, discharge or termination; and

7803 (vi) the failure by any Lender described in clauses (a) – (e) above to
7804 execute and deliver an Assignment and Assumption shall not impair the validity
7805 of the removal of such Lender, and the assignment of such Lender's
7806 Commitments and outstanding Loans and participations in L/C Obligations and
7807 Swingline Loans pursuant to this Section 11.13 shall nevertheless be effective
7808 without the execution by such Lender of an Assignment and Assumption.

7809 A Lender shall not be required to make any such assignment or delegation if, prior
7810 thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the
7811 Borrower to require such assignment and delegation cease to apply.

7812 *Section 11.14. Governing Law; Jurisdiction; Etc.*

7813 (a) *GOVERNING LAW.* THIS CREDIT AGREEMENT AND ANY CLAIM,
7814 CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS CREDIT
7815 AGREEMENT (INCLUDING ANY CLAIMS SOUNDING IN CONTRACT LAW OR TORT
7816 LAW ARISING OUT OF THE SUBJECT MATTER HEREOF) SHALL BE GOVERNED BY,
7817 AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW
7818 YORK.

7819 (b) *SUBMISSION TO JURISDICTION.* EACH PARTY HERETO
7820 IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS
7821 PROPERTY, TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF
7822 NEW YORK SITTING IN THE BOROUGH OF MANHATTAN AND OF THE UNITED
7823 STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF SUCH STATE AND
7824 ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING
7825 ARISING OUT OF OR RELATING TO THIS CREDIT AGREEMENT OR ANY OTHER
7826 CREDIT DOCUMENT, AND, SUBJECT TO THE LAST SENTENCE OF THIS CLAUSE (B),
7827 EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY AGREES
7828 THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION OR PROCEEDING SHALL BE
7829 BROUGHT, HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO
7830 THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL
7831 COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN
7832 ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE
7833 ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY
7834 OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS CREDIT AGREEMENT OR
7835 IN ANY OTHER CREDIT DOCUMENT SHALL AFFECT ANY RIGHT THAT THE
7836 ADMINISTRATIVE AGENT, ANY LENDER OR THE L/C ISSUER MAY OTHERWISE
7837 HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS CREDIT
7838 AGREEMENT OR ANY OTHER CREDIT DOCUMENT AGAINST THE BORROWER OR
7839 ANY OTHER CREDIT PARTY OR ITS PROPERTIES IN THE COURTS OF ANY
7840 JURISDICTION.

7841 (c) *WAIVER OF VENUE.* EACH PARTY HERETO IRREVOCABLY AND
7842 UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY
7843 APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO
7844 THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR
7845 RELATING TO THIS CREDIT AGREEMENT OR ANY OTHER CREDIT DOCUMENT IN
7846 ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE
7847 PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT
7848 PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM
7849 TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.

7850 (d) *SERVICE OF PROCESS.* EACH PARTY HERETO IRREVOCABLY
7851 CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN
7852 SECTION 11.02. NOTHING IN THIS CREDIT AGREEMENT WILL AFFECT THE RIGHT
7853 OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED
7854 BY APPLICABLE LAW.

7855 Section 11.15. *Waiver of Jury Trial.* EACH PARTY HERETO HEREBY
7856 IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE
7857 LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL
7858 PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS
7859 CREDIT AGREEMENT OR ANY OTHER CREDIT DOCUMENT OR THE
7860 TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON
7861 CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES
7862 THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS

7863 REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD
7864 NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER
7865 AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE
7866 BEEN INDUCED TO ENTER INTO THIS CREDIT AGREEMENT AND THE OTHER
7867 CREDIT DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND
7868 CERTIFICATIONS IN THIS SECTION.

7869 Section 11.16. *USA Patriot Act Notice.* Each Lender that is subject to the Act (as
7870 hereinafter defined) and the Administrative Agent (for itself and not on behalf of any Lender)
7871 hereby notifies the Credit Parties that pursuant to the requirements of the USA Patriot Act (Title
7872 III of Pub. L. 107-56 (signed into law October 26, 2001)) (the “Act”), it is required to obtain,
7873 verify and record information that identifies the Credit Parties, which information includes the
7874 name and address of the Credit Parties and other information that will allow such Lender or the
7875 Administrative Agent, as applicable, to identify the Credit Parties in accordance with the Act.
7876 The Credit Parties shall, promptly following a request by the Administrative Agent or any
7877 Lender, provide all reasonable documentation and other information that the Administrative
7878 Agent or such Lender requests in order to comply with its ongoing obligations under applicable
7879 “know your customer” and anti-money laundering rules and regulations, including the Act.

7880 Section 11.17. *Termination.* Notwithstanding any other provision to the contrary, upon
7881 termination of the commitments hereunder and payment in full of all Obligations (other than (i)
7882 contingent indemnification obligations as to which no claim has been asserted and (ii)
7883 Obligations described in clauses (b) and (c) of the definition thereof) and the expiration or
7884 termination of all Letters of Credit (other than Letters of Credit as to which other arrangements
7885 reasonable satisfactory to the Administrative Agent and the L/C Issuer shall have been made),
7886 the Collateral Documents and the security interests created thereby shall terminate, all rights in
7887 the Collateral shall revert to the applicable Credit Party and the Administrative Agent and the
7888 Collateral Agent, at the request and sole expense of the Borrower, will execute and deliver such
7889 documents as the Borrower shall reasonably request to evidence such termination; provided that
7890 if an Event of Default shall have occurred and is continuing, no such termination will be
7891 effective unless arrangements reasonable satisfactory to the holders of the Swap Contract
7892 Obligations and Treasury Management Obligations shall have been made, and will not affect
7893 provisions which expressly survive termination.

7894 Section 11.18. *No Advisory or Fiduciary Responsibility.* In connection with all aspects of
7895 each transaction contemplated hereby (including in connection with any amendment, waiver or
7896 other modification hereof or of any other Credit Document), the Borrower and each other Credit
7897 Party acknowledge and agree, and acknowledge their respective Affiliates’ understanding, that:
7898 (i) the arranging and other services regarding this Credit Agreement provided by the
7899 Administrative Agent and the Arrangers are arm’s-length commercial transactions between the
7900 Borrower, each other Credit Party and their respective Affiliates, on the one hand, and the
7901 Administrative Agent and the Arrangers, on the other hand, (ii) each of the Borrower and the
7902 other Credit Parties has consulted its own legal, accounting, regulatory and tax advisors to the
7903 extent it has deemed appropriate, and (iii) each of the Borrower and each other Credit Party is
7904 capable of evaluating, and understands and accepts, the terms, risks and conditions of the
7905 transactions contemplated hereby and by the other Credit Documents; the Administrative Agent,
7906 each Arranger and each Lender each is and has been acting solely as a principal and, except as

7907 expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as
7908 an advisor, agent or fiduciary for the Borrower, any other Credit Party or any of their respective
7909 Affiliates, or any other Person and the Administrative Agent, the Arrangers and the Lenders shall
7910 not have any obligation to the Borrower, any other Credit Party or any of their respective
7911 Affiliates with respect to the transactions contemplated hereby except those obligations expressly
7912 set forth herein and in the other Credit Documents; and the Administrative Agent, the Arrangers
7913 and the Lenders and their respective Affiliates may be engaged in a broad range of transactions
7914 that involve interests that differ from those of the Borrower, the other Credit Parties and their
7915 respective Affiliates, and the Administrative Agent, the Arrangers and the Lenders shall not have
7916 any obligation to disclose any of such interests to the Borrower, any other Credit Party or any of
7917 their respective Affiliates. To the fullest extent permitted by Law, each of the Borrower and the
7918 other Credit Parties hereby waives and releases any claims that it may have against the
7919 Administrative Agent, the Arrangers and the Lenders with respect to any breach or alleged
7920 breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated
7921 hereby.

7922 Section 11.19. *Electronic Execution.* The words “execution,” “signed,” “signature,” and
7923 words of like import in in connection with this Agreement and the transaction contemplated
7924 hereby (including, without limitation any Assignment and Assumption, amendment or other
7925 modifications, Loan Notices, waivers and consent) shall be deemed to include electronic
7926 signatures or the keeping of records in electronic form, each of which shall be of the same legal
7927 effect, validity or enforceability as a manually executed signature or the use of a paper-based
7928 recordkeeping system, as the case may be, to the extent and as provided for in any applicable
7929 Law, including the Federal Electronic Signatures in Global and National Commerce Act, the
7930 New York State Electronic Signatures and Records Act, or any other similar state Laws based on
7931 the Uniform Electronic Transactions Act.

7932 Section 11.20. *Acknowledgment and Consent to Bail-In of EEA Financial Institutions.*
7933 Notwithstanding anything to the contrary in any Credit Document or in any other agreement,
7934 arrangement or understanding among any such parties, each party hereto acknowledges that any
7935 liability of any EEA Financial Institution arising under any Credit Document, to the extent such
7936 liability is unsecured, may be subject to the Write-Down and Conversion Powers of an EEA
7937 Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

7938 (a) the application of any Write-Down and Conversion Powers by an EEA
7939 Resolution Authority to any such liabilities arising hereunder which may be payable to it by any
7940 party hereto that is an EEA Financial Institution; and

7941 (b) the effects of any Bail-In Action on any such liability, including, if
7942 applicable:

7943 (i) a reduction in full or in part or cancellation of any such liability;

7944 (ii) a conversion of all, or a portion of, such liability into shares or
7945 other instruments of ownership in such EEA Financial Institution, its parent
7946 entity, or a bridge institution that may be issued to it or otherwise conferred on it,
7947 and that such shares or other instruments of ownership will be accepted by it in

7948 lieu of any rights with respect to any such liability under this Agreement or any
7949 other Credit Document; or

7950 (iii) the variation of the terms of such liability in connection with the
7951 exercise of the write-down and conversion powers of any EEA Resolution
7952 Authority.

7953 Section 11.21. *Judgment Currency*. If, for the purposes of obtaining judgment in any
7954 court, it is necessary to convert a sum due hereunder or any other Credit Document in one
7955 currency into another currency, the rate of exchange used shall be that at which in accordance
7956 with normal banking procedures the Administrative Agent could purchase the first currency with
7957 such other currency on the Business Day preceding that on which final judgment is given. The
7958 obligation of each Credit Party in respect of any such sum due from it to the Administrative
7959 Agent or any Lender hereunder or under the other Credit Documents shall, notwithstanding any
7960 judgment in a currency (the "Judgment Currency") other than that in which such sum is
7961 denominated in accordance with the applicable provisions of this Agreement (the "Agreement
7962 Currency"), be discharged only to the extent that on the Business Day following receipt by the
7963 Administrative Agent or such Lender, as the case may be, of any sum adjudged to be so due in
7964 the Judgment Currency, the Administrative Agent or such Lender, as the case may be, may in
7965 accordance with normal banking procedures purchase the Agreement Currency with the
7966 Judgment Currency. If the amount of the Agreement Currency so purchased is less than the sum
7967 originally due to the Administrative Agent or any Lender from any Credit Party in the
7968 Agreement Currency, such Credit Party agrees, as a separate obligation and notwithstanding any
7969 such judgment, to indemnify the Administrative Agent or such Lender, as the case may be,
7970 against such loss. If the amount of the Agreement Currency so purchased is greater than the sum
7971 originally due to the Administrative Agent or any Lender in such currency, the Administrative
7972 Agent or such Lender, as the case may be, agrees to return the amount of any excess to such
7973 Credit Party (or to any other Person who may be entitled thereto under applicable Law).

7974 [REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

7975 IN WITNESS WHEREOF, the parties hereto have caused this Credit Agreement to be
7976 duly executed as of the date first above written.

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Borrower

MERCURY SYSTEMS, INC.

By: _____

Name:

Title:

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Guarantors

MERCURY DEFENSE SYSTEMS, INC.

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By: _____
Name: Gerald M. Haines II
Title: Vice President, Chief Financial
Officer, Treasurer, and Secretary

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MICROSEMI LLC – RF INTEGRATED
SOLUTIONS

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By: _____
Name: Gerald M. Haines II
Title: Executive Vice President, Chief
Financial Officer, Treasurer, and
Secretary

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MICROSEMI CORP. – SECURITY SOLUTIONS

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By: _____
Name: Gerald M. Haines II
Title: Executive Vice President, Chief
Financial Officer, Treasurer, and
Secretary

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MICROSEMI CORP. – MEMORY AND STORAGE
SOLUTIONS

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By: _____
Name: Gerald M. Haines II
Title: Executive Vice President, Chief
Financial Officer, Treasurer, and
Secretary

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ARXAN RESEARCH, INC.

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By: _____
Name: Gerald M. Haines II
Title: Executive Vice President, Chief
Financial Officer, Treasurer, and
Secretary

[Credit Agreement]

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Administrative Agent

BANK OF AMERICA, N.A.,
as Administrative Agent and Collateral Agent

By: _____

Name:

Title:

[Credit Agreement]

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BANK OF AMERICA, N.A.,
as L/C Issuer and Swingline Lender

By: _____
Name:
Title:

[Credit Agreement]

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Lenders

[LENDERS],

By: _____
Name:
Title

[Credit Agreement]

FOR IMMEDIATE RELEASE

News Release

Mercury Systems Completes Previously Announced Acquisition of Embedded Security, RF and Microwave, and Custom Microelectronics Businesses from Microsemi Corporation

CHELMSFORD, Mass. – May 2, 2016 – Mercury Systems, Inc. (NASDAQ: MRCY, www.mrcy.com), today announced the completion of its previously reported acquisition of the embedded security, RF and microwave, and custom microelectronics businesses from Microsemi Corporation.

Pursuant to the terms of the Stock Purchase Agreement applicable to the acquisition, Mercury acquired these businesses for a total purchase price of \$300 million, subject to adjustment for certain working capital items. The acquisition and associated transaction expenses were funded with a combination of a new \$200 million bank term loan A facility and Mercury cash on hand, which includes net proceeds of approximately \$94 million from Mercury's recent issuance of common stock in an underwritten public offering. In addition to the term loan, Mercury has also put in place a new \$100 million revolving credit facility which remains undrawn.

"We're pleased that this transaction was completed on schedule; the next step is executing a seamless integration," said Mark Aslett, President and CEO of Mercury. "The acquisition is directly aligned with our strategy of expanding our capabilities, services and offerings along the sensor processing chain, and positions Mercury as the defense industry's largest commercial embedded secure processing company."

Rothschild served as Mercury's financial advisor for the equity offering, Morgan, Lewis & Bockius LLP served as Mercury's legal advisor for the acquisition and the equity offering, and Ropes & Gray LLP served as Mercury's legal advisor for the debt financing.

For more information on the acquisition, visit www.mrcy.com/acquisition.

Mercury Systems – Innovation That Matters™

Mercury Systems (NASDAQ:MRCY) is a leading commercial provider of secure processing subsystems designed and made in the USA. Optimized for customer and mission success, Mercury's solutions power a wide variety of critical defense and intelligence programs. Headquartered in Chelmsford, Mass., Mercury is pioneering a next-generation defense electronics business model specifically designed to meet the industry's current and emerging technology needs. To learn more, visit www.mrcy.com.

Forward-Looking Safe Harbor Statement

This press release contains certain forward-looking statements, as that term is defined in the Private Securities Litigation Reform Act of 1995, including those relating to the transactions described herein. You can identify these statements by the use of the words "may," "will," "could," "should," "would," "plans," "expects," "anticipates," "continue," "estimate," "project," "intend," "likely," "forecast," "probable," "potential," and similar expressions. These forward-looking statements involve risks and uncertainties that could cause actual results to differ materially from those projected or anticipated. Such risks and uncertainties include, but are not limited to, continued funding of defense programs, the timing and amounts of such funding, general economic and business conditions, including unforeseen weakness in the Company's markets, effects of continued geopolitical unrest and regional conflicts, competition, changes in technology and methods of marketing, delays in completing engineering and manufacturing programs, changes in customer order patterns, changes in product mix, continued success in technological advances and delivering technological innovations, changes in, or in the U.S. Government's interpretation of, federal export control or procurement rules and regulations, market acceptance of the Company's products, shortages in components, production delays or unanticipated expenses due to performance quality issues with outsourced components, inability to fully realize the expected benefits from acquisitions and restructurings, or delays in realizing such benefits, challenges in integrating acquired businesses and achieving anticipated synergies, changes to export regulations, increases in tax rates, changes to generally accepted accounting principles, difficulties in retaining key employees and customers, unanticipated costs under fixed-price service and system integration engagements, and various other factors beyond our control. These risks and uncertainties also include such additional risk factors as are discussed in the Company's filings with the U.S. Securities and Exchange Commission, including its Annual Report on Form 10-K for the fiscal year ended June 30, 2015. The Company cautions readers not to place undue reliance upon any such forward-looking statements, which speak only as of the date made. The Company undertakes no obligation to update any forward-looking statement to reflect events or circumstances after the date on which such statement is made.

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Contact:
Gerry Haines, CFO
Mercury Systems, Inc.
+1 978-967-1990

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201 Riverneck Road, Chelmsford, Massachusetts 01824-2820 U.S.A. • +1 978.256.1300 • www.mrcy.com • twitter: @MRCY