

THOMSON REUTERS PRACTICAL LAW

Term Sheet: Syndicated Loan, Senior Secured Credit Facilities

by Practical Law Finance

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A standard form of term sheet for syndicated senior secured credit facilities (including a revolving credit loan and term loans). This Standard Document has integrated notes with important explanations and drafting and negotiating tips.

CONFIDENTIAL [EXHIBIT [A]]
[NAME OF BORROWER]
\$[AMOUNT][SENIOR][SECURED][CREDIT FACILITIES]
SUMMARY OF PRINCIPAL TERMS AND CONDITIONS

READ THIS BEFORE USING DOCUMENT

Scope of Term Sheet

This standard document is a typical term sheet used in corporate [syndicated](#) leveraged loans, but the terms should be tailored to the specific transaction and supplemented where required to reflect the business agreement of the parties.

Assumptions Used in This Term Sheet

The following assumptions are reflected in the term sheet (which should be revised to fit the facts of your deal):

- This is a senior secured leveraged loan that consists of one or more [term loans](#) and a [revolving loan](#). The revolving loan has a sublimit for [letters of credit](#) and for [swingline loans](#). You can easily tailor this standard document to fit the facts of your deal by adding or deleting additional loans. If your deal does not include a letter of credit or swingline sub-facility under the revolving credit facility, delete all references to those sub-facilities.
- There is a [parent](#) of the borrower ([PARENT]) and [subsidiary](#) guarantors; they are collectively referred to as Loan Parties.
- The loan is syndicated and there is an [administrative agent](#) acting for multiple lenders.
- This term sheet can be used for an acquisition financing by selecting the appropriate acquisition-related clauses, as indicated.
- This is a domestic loan transaction with a US borrower.
- This is not a [borrowing base](#) facility. Additional terms are required for borrowing-base loans (see [Practice Note, Asset-Based Lending: Overview](#)).

Bracketed Items

Complete all square bracketed items (in all capitalized letters) with the facts of your deal. All square bracketed items (in all lowercase letters) are optional language to be selected or deleted depending on the specifics of your transaction.

For More Information on Term Sheets and Lending

For more information, see Practice Notes:

- [Term Sheets Overview: Lending.](#)
- [Sponsor/Lender Negotiating Issues in Acquisition Finance: Term Sheets.](#)
- [Lending: Overview.](#)
- [Loan Agreement: Overview.](#)

Set forth below in this term sheet (the "**Term Sheet**") is a summary of the principal terms and conditions for the Facilities. [Capitalized terms used but not defined in this Exhibit [A] shall have the meanings set forth in the Commitment Letter to which this Exhibit [A] is attached (the "**Commitment Letter**").]

Note: [Exhibit to Commitment Letter](#)

Borrower: [NAME OF BORROWER], a [JURISDICTION OF FORMATION] [TYPE OF ENTITY] (the "**Borrower**").

[On or promptly following the Closing Date (as defined below) the Borrower shall be merged with [NAME] (the "**Company**") and the surviving entity of such merger (the "**Merger**") shall thereafter be the Borrower.]

Guarantor[s]: All obligations under the Facilities (defined below) [and under any interest rate protection or other hedging arrangements entered into with, or cash management obligations owing to, the Administrative Agent, any Lender or any affiliates of the foregoing] shall be fully and unconditionally guaranteed by each of the Borrower's existing and future domestic [(and, to the extent no material adverse tax consequences to the Borrower would result therefrom, foreign)] subsidiaries [(including, without limitation, [the [Target]]][and][any parent holding companies (each, a "**Holdco**") of the Borrower]] (collectively, the "**Guarantors**"; and together with the Borrower, the "**Loan Parties**") [, subject to limited exceptions (if any) to be agreed].

Note: [Guarantors](#)

[Joint/Sole] Lead Arranger[s] and [Joint/Sole] Bookrunner[s]: [NAME OF INSTITUTION] ("**ABBREVIATED NAME**") [and [NAME OF ADDITIONAL INSTITUTION] ("**ABBREVIATED NAME**") (in such capacity, [collectively,] the "**Arranger[s]**").

Note: [Arrangers](#)

Administrative Agent: [NAME OF INSTITUTION] (in such capacity, the "**Administrative Agent**").

Collateral Agent: [NAME OF INSTITUTION] (in such capacity, the "**Collateral Agent**").

Lenders: A syndicate of financial institutions, including [NAME OF ADMINISTRATIVE AGENT OR ITS LENDING AFFILIATE], arranged by the Arrangers [and subject to prior [written] consent of the Borrower (not to be unreasonably withheld)/in consultation with the Borrower/reasonably acceptable to the Borrower] (collectively, the "**Lenders**").

Note: [Borrower Consent](#)

Transaction: [DESCRIBE THE TRANSACTION BEING FINANCED BY THE LOANS. INCLUDE ANY RELEVANT DEFINED TERMS, SUCH AS "**Acquisition**", "**Acquisition Agreement**", "**Refinancing**", "**Sponsor**", "**Target**", "**Facilities**" (as defined below) AND "**Transaction**", AS APPLICABLE.]

Note: [Transaction](#)

Closing Date: The date [on or before [DATE]] on which all conditions precedent set forth on Schedule A hereto are satisfied (the "**Closing Date**").

Note: [Limited Duration](#)

Facilities: [Up to] \$[AMOUNT] of [senior][secured] credit facilities (the "**Facilities**"), consisting of:

Note: [When to Include "Up to"](#)

(a) A term [A] loan facility (the "**Term [A] Facility**") in an aggregate principal amount of [up to] \$[AMOUNT][, subject to reductions as set forth under the heading "Mandatory Prepayments and Commitment Reductions"]. [The Term [A] Facility will be offered to Lenders with [100/200/[AMOUNT]] basis points of original issue discount or upfront fees on the amount thereof.]

Note: [Term A Loans](#)

(b) A Term [B/C] loan facility (the "**Term [B/C] Facility**"[, and together with the Term [A] Facility, the "**Term Facilities**"]) in an aggregate principal amount of [up to] \$[AMOUNT][, subject to reductions as set forth under the heading "Mandatory Prepayments and Commitment Reductions"]. [The Term [B/C] Facility will be offered to Lenders with [100/200/[AMOUNT]] basis points of original issue discount or upfront fees on the amount thereof.]

(c) A revolving credit facility (the "**Revolving Facility**") in an aggregate principal amount of [up to] \$[AMOUNT][, of which (i) \$[AMOUNT]/an amount to be mutually agreed] will be available for the issuance of letters of credit ("**Letters of Credit**") and (ii) \$[AMOUNT]/an amount to be mutually agreed] will be available as a swingline sub-facility (the "**Swingline Facility**").

Note: [Facilities](#)

[Letters of Credit:] [Letters of Credit issued under the Revolving Facility ("**Letters of Credit**") will be issued by one or more Lenders acceptable to the Borrower and the Arrangers (the "**L/C Issuer**") and shall be subject to the customary procedures of the L/C Issuer. Each Letter of Credit will reduce availability under the Revolving Facility on a dollar-for-dollar basis. Each Lender under the Revolving Facility shall be irrevocably and unconditionally required to purchase, under certain circumstances, a participation in each Letter of Credit on a pro rata basis.

Each Letter of Credit shall expire on or before the earlier of (a) twelve months after the original date of issuance unless consented to by the L/C Issuer and the Administrative Agent, and (b) the fifth business day prior to the Revolving Loan Maturity Date (as defined below); *provided* that, at the discretion of the L/C Issuer, any Letter of Credit may provide for renewal for additional one-year periods (which may not extend beyond the Revolving Loan Maturity Date) subject to customary conditions to be agreed].

Drawings under any Letter of Credit shall be reimbursed by the Borrower (which [can/cannot] be made with the proceeds of the Revolving Facility) on the [same/next] business day.]

Note: [Letter of Credit Sub-Facility](#)

[Swingline Loans:] [A portion of the Revolving Facility shall be available for swingline loans (the "**Swingline Loans**") from the Administrative Agent (in such capacity, the "**Swingline Lender**") on same-day notice. Any Swingline Loans will reduce availability under the Revolving Facility on a dollar-for-dollar basis. Each Lender under the Revolving Facility shall be irrevocably and unconditionally required to purchase, under certain circumstances, a participation in each Swingline Loan on a pro rata basis.]

Note: [Swingline Loan Sublimit](#)

Maturity and Amortization: **Term [A] Facility:** The Term [A] Facility shall mature on the [fifth/[OTHER]] anniversary of the Closing Date (the "Term [A] Loan Maturity Date").

Term [B/C] Facility: The Term [B/C] Facility shall mature on the [sixth/seventh/[OTHER]] anniversary of the Closing Date (the "Term [B/C] Loan Maturity Date").

Note: [Term Loans](#)

The loans under the Term [A] Facility (the "**Term [A] Loans**") shall be repayable in equal consecutive quarterly installments in an aggregate annual amount equal to the applicable percentage set forth below of the original principal amount of the Term [A] Facility:

Year	Amortization
1	[PERCENTAGE]%
2	[PERCENTAGE]%
3	[PERCENTAGE]%
4	[PERCENTAGE]%
5	[PERCENTAGE]%
[OTHER]	[PERCENTAGE]%

The loans under the Term [B/C] Facility (the "**Term [B/C] Loans**", and together with the Term [A] Loans, the "**Term Loans**") shall be repayable in equal consecutive quarterly installments in an aggregate annual amount equal to the applicable percentage set forth below of the original principal amount of the Term [B/C] Facility:

Year	Amortization
1	[PERCENTAGE]%
2	[PERCENTAGE]%
3	[PERCENTAGE]%
4	[PERCENTAGE]%
5	[PERCENTAGE]%
[6]	[PERCENTAGE]%
[7]	[PERCENTAGE]%
[OTHER]	[PERCENTAGE]%

Note: [Amortization Schedules](#)

Revolving Facility: The Revolving Facility shall mature on the [fifth] anniversary of the Closing Date (the "**Revolving Loan Maturity Date**"). There shall be no amortization of loans under the Revolving Facility (the "**Revolving Loans**"; the Term [A/B/C] Loans and the Revolving Loans, each a "**Loan**" and collectively, the "**Loans**").

Note: [Revolving Facility](#)

Purpose and Availability:

Term [A] Facility: The Term [A] Facility shall be available [in a single borrowing on the Closing Date/in [up to] [3] borrowings at any time on or before [NUMBER] [days/months] following the Closing Date], and shall be used to [DESCRIBE USE OF PROCEEDS]/(a) finance the Transaction and (b) pay fees and expenses [(including upfront fees and original issue discount with respect to the Facilities)] incurred in connection with the Transaction [in an amount not to exceed \$[AMOUNT]] (the "**Transaction Costs**"). Once repaid, the Term [A] Loans may not be reborrowed.

Term [B/C] Facility: The Term [B/C] Facility shall be available in a single borrowing on the Closing Date, and shall be used to [DESCRIBE USE OF PROCEEDS]/(a) finance the Transaction and (b) pay fees and expenses [(including upfront fees and original issue discount with respect to the Facilities)] incurred in connection with the Transaction [in an amount not to exceed \$[AMOUNT]] (the "**Transaction Costs**")/pay Transaction Costs]. Once repaid, the Term [B/C] Loans may not be reborrowed.

Revolving Facility: The Revolving Loans shall be available [on/after] the Closing Date for the Borrower's [and its subsidiaries'] working capital requirements and other general corporate purposes. Revolving Loans may be borrowed, repaid and reborrowed.

Note: *Delayed Draw Term Loans*

Term [B/C] Facility: The Term [B/C] Facility shall be available in a single borrowing on the Closing Date, and shall be used to [DESCRIBE USE OF PROCEEDS]/(a) finance the Transaction and (b) pay fees and expenses [(including upfront fees and original issue discount with respect to the Facilities)] incurred in connection with the Transaction [in an amount not to exceed \$[AMOUNT]] (the "**Transaction Costs**")/pay Transaction Costs]. Once repaid, the Term [B/C] Loans may not be reborrowed.

Revolving Facility: The Revolving Loans shall be available [on/after] the Closing Date for the Borrower's [and its subsidiaries'] working capital requirements and other general corporate purposes. Revolving Loans may be borrowed, repaid and reborrowed.

Note: *Closing Date Draws*

[Incremental Loan Facility:]

[On or before [the maturity date of each of the Facilities/[SPECIFY TIME PERIOD], the Borrower shall have the right, but not the obligation, to increase the amount of the Facilities by incurring an incremental term loan facility (an "**Incremental Term Facility**") in an aggregate amount not to exceed \$[AMOUNT] or increasing the Revolving Facility (an "**Incremental Revolving Facility**"; and together with the Incremental Term Facility the "**Incremental Facilities**") in an aggregate amount not to exceed \$[AMOUNT] under terms and conditions to be determined; *provided* that (a) no event of default or default exists or would exist after giving effect thereto, (b) the representations and warranties in the Loan Documentation shall be true and correct in all material respects on and as of the date of the incurrence of the Incremental Facilities (although any representations and warranties which expressly relate to a given date shall be required only to be true and correct in all material respects as of the respective date), (c) the loans under any Incremental Revolving Facility will mature no earlier than the Revolving Loan Maturity Date, (d) any Incremental Revolving Facility shall have no scheduled amortization or mandatory commitment reduction prior to the Revolving Loan Maturity Date, (e) the maturity date applicable to any Incremental Term Facility will not be earlier than the [latest] maturity date of the existing Term [A/B/C] Facility, (f) the weighted average life to maturity of any Incremental Term Facility shall be no shorter than the weighted average life to maturity of the Term [A/B/C] Facility, (g) all other terms of the Incremental Facilities, if inconsistent with the terms of the existing Facilities, shall be acceptable to the Borrower and the Administrative Agent, [(h) the leverage ratio shall be no greater than [RATIO] after giving pro forma effect to such Incremental Facility] and [(i) the interest margins for any Incremental Term Facility shall be determined by the Borrower and the lenders of the Incremental Term Facility; *provided* that in the event that the interest margins for any Incremental Term Facility are greater than the Interest Margins for the Term [A/B/C] Facility, then the Interest Margins for the Term [A/B/C] Facility shall be increased to the extent necessary so that the Interest Margins for the Term [A/B/C] Facility are [equal to/not more than [50] basis points below] the interest margins for the Incremental Term Facility; *provided, further*, that in determining the Interest Margins applicable to the Term [A/B/C] Facility and the Incremental Term Facility, (i) original issue discount ("**OID**") or upfront fees (which shall be deemed to be like amounts of OID)

payable by the Borrower to the Lenders of the Term [A/B/C] Facility or the Incremental Term Facility in the primary syndication shall be included (with OID being equated to interest based on an assumed [four]-year life to maturity), (ii) customary arrangement or commitment fees payable to the Arrangers (or their Affiliates) in connection with the Term [A/B/C] Facility or to the arrangers (or their affiliates) of the Incremental Term Facility shall be excluded and (iii) any LIBOR floor applicable to the Term [A/B/C] Facility or any Incremental Term Facility shall be equated to yield to the extent such floor would have the effect of increasing LIBOR on the Term [A/B/C] Facility or such Incremental Term Facility at the time such Incremental Term Facility is implemented]. Such increased amounts will be provided by existing Lenders or new entities that become Lenders under the Incremental Facilities; *provided* that no existing Lender will be obligated to provide any such Incremental Facility.]

Note: *Incremental Loans*

[Refinancing Facility:]

[The Borrower shall have the right, but not the obligation, to refinance all or part of the loans under the Term [B] Facility from time to time with one or more new term loan facilities (each, a "**Refinancing Facility**"), under (a) the Loan Documents with the consent of the Borrower, the Administrative Agent and the lenders providing such Refinancing Facility or (b) with one or more series of senior unsecured loans or notes or senior secured notes that will be secured by the Collateral on a pari passu basis with the Facilities or second lien secured loans or notes that will be secured on a "silent" subordinated basis to the Facilities, which will be subject to customary intercreditor agreements reasonably satisfactory to the Administrative Agent (such notes or loans, the "**Refinancing Notes**" and, together with the Refinancing Facility, the "**Refinancing Indebtedness**"); *provided* that (i) no Refinancing Facility will have a maturity date that is earlier than the maturity date of, or have a shorter weighted average life to maturity than, loans under the Term [B] Facility being refinanced, (ii) no Refinancing Notes will have a maturity date that is earlier than the date that is [91] days after the maturity date of the Term [B] Facility or be subject to any amortization or mandatory redemption or prepayment prior to the final maturity date [(except for customary asset sale or change of control provisions)], (iii) the other terms and conditions of such Refinancing Facility or Refinancing Notes (other than pricing (as to which no "most favored nation" clause shall apply) and optional prepayment or redemption provisions) will be substantially identical to, or no more favorable to the lenders providing such Refinancing Facility or Refinancing Notes, as applicable, than, those applicable to the Term [B] Facility and (iv) the proceeds of such Refinancing Indebtedness shall be applied to prepay loans outstanding under the Term [B] Facility on a pro rata basis.]

Note: *Refinancing Facilities*

Interest:

The Loans will bear interest based on the Base Rate ("**Base Rate Loans**") or LIBOR ("**LIBOR Loans**"), at the Borrower's option, except that all Swingline Loans will bear interest based only on the Base Rate:

(a) Base Rate Loans:

Interest on Base Rate Loans will accrue at the Base Rate plus the applicable Interest Margin referred to below. It will be calculated on the basis of the actual number of days elapsed in a 365-day year (or a 366-day year in a leap year) and payable quarterly in arrears.

"**Base Rate**" means the highest of (i) the Federal Funds Effective Rate plus 1/2 of 1.00%, (ii) the rate of interest publicly announced by the Administrative Agent as its prime rate in effect at its principal office in New York City, and (iii) LIBOR for an interest period of one month beginning on such day plus 1.00%]; *provided* that the Base Rate shall not be less than [2.50]% per annum].

Base Rate Loans may be borrowed with same day notice in minimum amounts to be agreed.

(b) LIBOR Loans:

Interest on LIBOR Loans will be determined for periods selected by the Borrower ("**Interest Periods**") of one, two, three or six months (or, with the consent of each applicable Lender, twelve months or a period less than one month) and will be at an annual rate equal to the London Interbank Offered Rate ("**LIBOR**") for corresponding deposits of US dollars, plus the applicable Interest Margin referred to below; *provided* that LIBOR shall not be less than [1.50]% per annum].

Note: **LIBOR**

LIBOR will be determined by reference to the rate published by ICE Benchmark Administration Limited for the applicable interest period, and will be adjusted for maximum statutory reserve requirements, if any. LIBOR borrowings will require three business days' prior notice and will be in minimum amounts to be agreed.

The definitive loan documentation will include customary LIBOR replacement language [that is reasonably acceptable to the Administrative Agent].

There may be no more than [NUMBER] LIBOR Loans outstanding at any one time. No Loan may be converted to or continued as a LIBOR Loan at any time when a default or event of default exists.

Interest will be paid at the end of each Interest Period or, for Interest Periods longer than three months, quarterly, and will be calculated on the basis of the actual number of days elapsed in a 360-day year.

(c) Interest Margins:

The applicable Interest Margin will be the following percentages:

Type of Facility	Base Rate Loans	LIBOR Loans
Term [A] Facility	[PERCENTAGE]%	[PERCENTAGE]%
Term [B/C] Facility	[PERCENTAGE]%	[PERCENTAGE]%
Revolving Facility	[PERCENTAGE]%	[PERCENTAGE]%

Note: **Rates**

From and after the date on which the Borrower delivers financial statements for the first fiscal quarter ending at least [six] months after the Closing Date (the "**Trigger Date**"), and provided no event of default shall have occurred and be continuing, the Interest Margins for the [Revolving Facility/Facilities] will be subject to reduction in accordance with a [leverage-based] grid to be agreed.

Overdue amounts of principal under the Facilities shall bear interest at 2% above the otherwise applicable rate. Overdue interest, fees and other amounts shall bear interest at 2% above the rate applicable to Base Rate Loans. All such interest shall be due on demand.

Note: **Pricing Grids**

Overdue amounts of principal under the Facilities shall bear interest at 2% above the otherwise applicable rate. Overdue interest, fees and other amounts shall bear interest at 2% above the rate applicable to Base Rate Loans. All such interest shall be due on demand.

Note: **Default Interest**

Commitment Fees:

The Borrower shall pay a commitment fee on the daily unused amount of the commitments under the Revolving Facility (calculated based on the actual number of days elapsed in a 360-day year) payable quarterly in arrears, from the Closing Date until the termination or expiration of the Revolving Facility, equal to [[0.50/0.75]% per annum/the rate per annum (a) until the Trigger Date, [0.50/0.75]%, and (b) on and after the Trigger Date, a rate based upon a [leverage-based] grid to be agreed]. [For purposes of computing such fee, Swingline Loans shall not be deemed to be amounts drawn under the Revolving Facility.]

Note: **Commitment Fees**

[Letter of Credit Fees:]

[The Borrower shall pay a fee on all outstanding Letters of Credit at a rate equal to the Interest Margin then in effect for LIBOR Revolving Loans on the face amount of each undrawn and unreimbursed Letter of Credit. Such fee shall be shared ratably among the Lenders participating in the Revolving Facility and shall be payable quarterly in arrears and calculated based on the actual number of days elapsed in a 360-day year.

Note: *Letter of Credit Fees*

Voluntary Prepayments and Commitment Reductions:

Loans may be prepaid and commitments may be reduced, in whole or in part [without premium or penalty/subject to the call premium specified below], in minimum amounts to be agreed, at the option of the Borrower at any time upon one day's (or, in the case of a prepayment of LIBOR Loans, three days') prior notice, subject to reimbursement of the Lenders' breakage costs in the case of a prepayment of LIBOR Loans prior to the last day of the relevant interest period.

Note: *Voluntary Prepayments*

Mandatory Prepayments and Commitment Reductions:

The following amounts shall be applied to prepay the Loans [(or, after the date of the Commitment Letter (the "Execution Date")) but prior to the Closing Date, to reduce the Commitments]]:

Note: *Mandatory Prepayments*

(a) [100]% of the net cash proceeds of all [non-ordinary course] asset sales or other dispositions of property by the Borrower or any of its subsidiaries (including insurance and condemnation proceeds) after the [Execution Date/Closing Date][in excess of an amount to be agreed][and subject to the right of the borrower to reinvest 100% of such proceeds, if such proceeds are reinvested [(or committed to be reinvested)] within [12] months [and, if so committed to be reinvested, so long as such reinvestment is actually completed within [180] days thereafter]], and other exceptions to be agreed;

Note: *Asset Sales*

(b) [100]% of the net cash proceeds received by the Borrower or any of its subsidiaries from the issuance of debt after the [Execution Date/Closing Date](other than exceptions to be agreed); [and]

Note: *Debt Incurrence*

[(c) [100%]/[50]% of the net cash proceeds received by the Borrower or any of its subsidiaries from the issuance of equity securities after the [Execution Date/Closing Date]], subject to reductions [to 25% and to 0%] based on a leverage ratio to be agreed;] [and]

Note: *Equity Issuances*

[(d) [commencing with the first full fiscal year of the Borrower to occur after the [Execution Date/Closing Date], and for each fiscal year thereafter,] [50]% of excess cash flow (to be defined) of the Borrower and its subsidiaries[, subject to reductions [to 25% [and to 0%]] based on a leverage ratio to be agreed;] [and]

Note: *Cash Flow*

[(e) [100]% of all extraordinary receipts (including, without limitation, tax refunds, pension plan reversions, insurance proceeds, indemnity payments, purchase price adjustments (excluding working capital adjustments) under acquisition agreements, litigation proceeds and other similar receipts) received by the Borrower or any of its subsidiaries after the [Execution; Date/Closing Date] (other than exceptions to be agreed).]

Note: [Extraordinary Receipts](#)

All mandatory prepayments will be applied on a pro rata basis to the remaining amortization payments under the Term [A/B/C] Facilities in [inverse] order of maturity. When there are no longer outstanding loans under the Term [A/B/C] Facilities, mandatory prepayments will be applied first, to prepay outstanding loans under the Revolving Facility and second, to cash collateralize outstanding letters of credit, in each case, with [no/a] corresponding permanent reduction of commitments under the Revolving Facility.

Note: [Order of Application](#)

[Notwithstanding the foregoing, each Lender under the Term [B/C] Facility shall have the right to reject its pro rata share of any mandatory prepayments. Any remaining amounts [may be retained by the Borrower/will be applied to the prepayment of the Term [A] Loans].]

Note: [Declining Lenders](#)

Call Premium:

All voluntary prepayments of the Term [A/B/C] Facility [and any permanent reductions in Revolving Facility commitments] [in the [first/first two] year[s] after the Closing Date] will be subject to the premiums set forth below:

[Prepayment/Commitment Reduction] Date	Premium
Year 1	[2.00]%
Year 2	[1.00]%
Thereafter	0%

Note: [Call Premiums](#)

Collateral:

The Facilities [and any hedging arrangements with and cash management obligations owed to the Administrative Agent, Lenders or affiliates of Lenders] will be secured by a valid and perfected first priority lien (subject to liens permitted under the Loan Documents referred to below) on substantially all assets of the Borrower and each Loan Party, whether owned on the Closing Date or thereafter acquired (collectively, the "**Collateral**"), including, without limitation:

Note: [Collateral](#)

[(a) All equity interests in the Borrower.]

Note: [Equity Interest in the Borrower](#)

(b) All equity interests and debt held by the Borrower or any other Loan Party (which, in the case of equity interests of any foreign subsidiary, shall be limited to 100% of the non-voting capital stock and [65%/66%] of the voting capital stock of such subsidiary [to the extent the pledge of any greater percentage would result in adverse tax consequences to the Borrower under Section 956 of the US Internal Revenue Code]).

Note: [Pledge of Foreign Subsidiary Stock](#)

(c) Substantially all tangible and intangible assets of the Borrower and the other Loan Parties including but not limited to, inventory, accounts receivable, equipment, real property (owned [and leased]), fixtures, general intangibles (including **contract** rights), intercompany debt, chattel paper, insurance policies, licenses, permits,

intellectual property, documents, instruments, indemnification rights, tax refunds, commercial tort claims, letter of credit rights, hedge agreements, investment property, deposit and securities accounts and cash, wherever located (subject to exclusions and limitations to be agreed).

(d) All proceeds and products of the foregoing.

All pledges, security interests and mortgages covering the Collateral shall be created on terms and pursuant to documentation reasonably satisfactory to the [Administrative Agent/Lenders].

[Notwithstanding the foregoing, the following assets will be excluded from Collateral: (i) [all leasehold interests,] (ii) all motor vehicles and other assets subject to certificates of title, (iii) [all fee-owned property that has a value less than an amount to be agreed], (iv) all **contracts**, licenses and permits to the extent the grant of a security interest therein is prohibited by law or by the terms of such **contracts**, licenses and permits, in each case after giving effect to the Uniform Commercial Code, and (v) upon the Borrower's request, assets for which the Administrative Agent [reasonably] determines that the cost, burden or consequences (including adverse tax consequences) of obtaining a perfected security interest in such assets [substantially] exceeds the practical benefit of such collateral to the Lenders.]

Note: *Exceptions*

Loan Documentation:

The definitive loan documentation for the Facilities (the "**Loan Documents**") shall contain the terms and conditions set forth herein [and in the Commitment Letter to which this Term Sheet is attached] and such other terms as the Borrower and the Arrangers shall agree. [The only conditions to funding the Loans on the Closing Date will be those set forth below under "Conditions Precedent to Initial Borrowings".][The representations and warranties, covenants and events of default included in the Loan Documents shall be, in each case, applicable to the Borrower and its subsidiaries and with exceptions for baskets, materiality, thresholds and exceptions substantially similar to those contained in [other senior credit facilities with affiliates of [the Sponsor]/[DESCRIBE SPONSOR PRECEDENT] and other exceptions to be agreed.]

OR

[The definitive loan documentation for the Facilities (the "**Loan Documents**") shall be negotiated in good faith to finalize the Loan Documents[, giving effect to the Certain Funds Provision,] as promptly as reasonably practicable, shall be based on the definitive documentation for [DESCRIBE PRECEDENT] [with changes determined to be [reasonably] necessary by the Arrangers in light of current market conditions (provided that such modifications shall be consistent with the terms and conditions set forth in this Exhibit)], shall contain the terms and conditions set forth in this Exhibit and, to the extent any terms are not set forth in this Exhibit, shall otherwise be usual and customary for transactions of this kind, reflecting the operational and strategic requirements of the Borrower and its subsidiaries in light of their size, industries, practices and the Borrower's proposed business plan [and with baskets and exceptions commensurate with the increased size of Borrower after giving effect to the Transaction] (collectively, the "**Documentation Principles**").]

Note: *Loan Documentation*

Conditions Precedent to Initial Borrowings:

The effectiveness of the loan agreement and funding the initial Loans on the Closing Date shall be subject to the conditions precedent set forth [in the Commitment Letter and] on Schedule A hereto.

Note: *Conditions Precedent*

Conditions Precedent to all Borrowings:

Each extension of credit ([including/excluding] continuations of Loans or conversions of Loans from one [Type] to another) under the Facilities shall be subject to:

(a) Receipt of a notice of borrowing [or letter of credit request].

(b) Absence of any default or event of default before, or after giving effect to, such borrowing.

(c) The accuracy [in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that are already qualified or modified by materiality in the text thereof)] of the representations and warranties of the Borrower [and the other Loan Parties].

Note: *Conditions Precedent to All Borrowings*

Representations and Warranties

Representations and warranties applicable to the Borrower and its subsidiaries [customary and usual for financings of this type] shall [include, without limitation/be limited to] the following (subject to thresholds and/or exceptions to be agreed [taking into consideration the Documentation Principles]): corporate existence; corporate power and authority; non-contravention; authorization and enforceability of the loan documentation; no conflicts with law or contractual obligations; accuracy and completeness of financial and other information (including pro forma financial information); no material adverse change with respect to the Borrower and its subsidiaries; compliance with applicable laws and regulations, including ERISA, the PATRIOT Act, OFAC and anti-corruption laws, environmental laws and Federal Reserve regulations; accuracy and completeness of disclosure; consents and approvals (including with respect to the Transaction); ownership of property; intellectual property; subsidiaries; insurance; casualty events; labor matters; no liens; no material litigation; inapplicability of the Investment Company Act of 1940; solvency of the Borrower and its subsidiaries on a consolidated basis; use of proceeds; payment of taxes and other obligations; no default or event of default; [and] validity, priority and perfection of liens and security interests in the Collateral; and, status as senior debt].

Note: *Representations and Warranties*

Affirmative Covenants:

Affirmative covenants applicable to the Borrower and its subsidiaries [customary and usual for financings of this type] shall [include, without limitation/be limited to] the following (subject to exceptions to be agreed [taking into consideration the Documentation Principles]): delivery of annual audited financial statements, quarterly [and monthly] unaudited financial statements [and financial projections]; delivery of certificates, notices and other information (including information required under the PATRIOT Act, notices of default, litigation, ERISA events and material adverse change); compliance with applicable laws and regulations (including ERISA, environmental laws and Federal Reserve regulations); payment of taxes and other obligations; use of proceeds; preservation of existence, permits, licenses and approvals; visitation and inspection rights; keeping of books and records; maintenance of properties and insurance coverage; performance of material **contracts**; entering into hedging arrangements satisfactory to the Administrative Agent; [and] further assurances; and [use of commercially reasonable efforts to] maintain a [public corporate credit rating/family rating/rating of the Facilities] from each of S&P and Moody's].

Note: *Affirmative Covenants*

Negative Covenants:

Negative covenants applicable to the Borrower and its subsidiaries [customary and usual for financings of this type] shall [include, without limitation/be limited to] the following (subject to exceptions and baskets to be agreed [taking into consideration the Documentation Principles]):

Note: *Negative Covenants*

(a) Limitations on debt, guarantees and hedging arrangements (including the subordination of all intercompany indebtedness on terms [reasonably] satisfactory to the Administrative Agent).

Note: *Debt*

(b) Limitations on liens and further negative pledges.

Note: *Liens*

(c) Limitations on sale-leaseback transactions.

(d) Limitations on voluntary prepayments, redemptions or repurchases of debt (other than permitted refinancings and other exceptions to be agreed).

Note: *Prepayments of Debt*

(e) Limitations on mergers, consolidations and other fundamental changes.

(f) Limitations on sales, transfers and other dispositions of assets.

(g) Limitations on loans and investments; [provided that acquisitions shall be permitted if (i) no default or event of default exists or would result therefrom, (ii) the Borrower would be in pro forma compliance with the financial covenants after giving effect thereto, and the Borrower's total leverage ratio shall not exceed [RATIO]/[0.25:1.00 inside the then-applicable leverage ratio covenant in effect at such time], (iii) the Borrower's corporate credit/family ratings shall not be adversely affected and (iv) the total consideration for [such acquisition/all such acquisitions [in any fiscal year]] shall not exceed \$[AMOUNT] million].

Note: *Investments*

(h) Limitations on dividends and other distributions, stock repurchases and redemptions and other restricted payments.

Note: *Restricted Payments*

(i) Limitations on creating new subsidiaries or becoming a general partner in any partnership.

(j) Limitations on capital expenditures.

Note: *Capital Expenditures (CapX)*

(k) Limitations on restrictions affecting subsidiaries.

Note: *Subsidiary Restrictions*

(l) Limitations on transactions with affiliates.

Note: *Transaction with Affiliates*

(m) Limitations on change in (i) the nature of their business, (ii) accounting policies or (iii) fiscal periods.

(n) No modification or waiver of material documents (including, without limitation, charter documents of the Borrower and its subsidiaries or any other material debt) in a manner materially adverse to the Lenders.

[(o) Limitations on activities of [PARENT].]

Note: *Parent Activities*

Financial Covenants:

Financial covenants applicable to the Borrower and its subsidiaries shall [include, without limitation/be limited to] the following (in each case, to be defined):

Note: *Financial Covenants*

(a) Maintenance of a maximum [total/senior/senior secured/first lien] leverage ratio ([DEBT] to EBITDA).

Note: *Leverage Ratios*

(b) Maintenance of a minimum interest coverage ratio (EBITDA to cash interest expense).

[(c) Maintenance of a minimum fixed charge coverage ratio (EBITDA to fixed charges).]

[(d) Maintenance of an excess of total [tangible] assets over total liabilities.]

[(e) Maintenance of a minimum amount of EBITDA.]

Note: *Cushions and Hardwired EBITDA Numbers*

[For purposes of determining compliance with the financial covenants, any cash capital contribution or cash common equity investment made in the Borrower by [SPONSOR/PARENT] after the Closing Date and not later than 10 days after the date financial statements are required to be delivered for a fiscal quarter will, at the request of the Borrower, be included in the calculation of EBITDA for purposes of determining compliance with financial covenants at the end of such fiscal quarter and applicable subsequent periods (each an "**Equity Contribution**"); *provided* that (a) in each [four] fiscal quarter period there shall be at least [two/three] [consecutive] fiscal quarters in which no Equity Contribution is made, [(b) in each [eight] fiscal quarter period there shall be at least [four] fiscal quarters in which no Equity Contribution is made,] [(c) there shall be a maximum of [three/four/five/six] Equity Contributions made during the term of the Loans,] (d) the amount of any Equity Contribution shall not exceed the amount required to comply with the financial covenants, and (e) Equity Contributions will not be included for purposes of determining covenants baskets in the Loan Documents.]

Note: *Equity Cure*

Events of Default:

Events of default applicable to the Borrower and its subsidiaries [customary and usual for financings of this type] shall [include, without limitation/be limited to] the following (subject to grace periods, thresholds and exceptions to be agreed [taking into consideration the Documentation Principles]): failure to pay principal when due or interest or other amounts after [three/five] business days; breach of representations, warranties or covenants (subject, in the case of certain affirmative covenants to a grace period of [20/30] days after the earlier of (a) actual knowledge by a responsible party of any Loan Party and (b) receipt of written notice from the Administrative Agent); cross-default and cross-acceleration [to material debt]; bankruptcy and insolvency events; [material] judgment defaults; actual or asserted invalidity or impairment of any guarantees or security documents [or subordination provisions]; [a change of control (to be defined)]; [occurrence of a material adverse change (to be defined)]; [and] [customary ERISA defaults].

Note: *Events of Default*

Amendments:

Amendments and waivers of the provisions of the Loan Documents shall require the approval of Lenders holding more than 50% of the aggregate principal amount of the Loans and unused commitments under the Facilities; *provided* that (a) the consent of each directly [and adversely] affected Lender shall be required for, among other things, (i) increases in the commitment of such Lender; (ii) reductions of principal, interest or fees of such Lender; (iii) extensions of scheduled amortization or the final maturity date of the Loans or commitments of such Lender; and (iv) releases of all or substantially all of the Collateral or all or substantially all of the value of the guarantees; (b) the consent of 100% of the Lenders shall be required for modifications to any of the voting requirements (or any applicable related definitions) and modifications to pro rata treatment; and (c) consent of the Lenders holding not less than 50% of any class of Loans under the Facilities shall be required for, among other things, any amendment or waiver that by its terms adversely affects the rights of such class in respect of payments or Collateral in a manner different than such amendment or waiver affects another class.

The Loan Documents shall contain customary provisions for replacing non-consenting Lenders in connection with amendments and waivers requiring the consent of all Lenders, so long as Lenders holding more than 50% of the aggregate amount of the Loans and unused commitments have consented thereto.

Notwithstanding anything to the contrary set forth herein, the Loan Documents will provide that at any time and from time to time the Borrower may request that the scheduled maturity dates of part or all of any Loans be extended with the consent of each extending Lender, subject to terms and conditions to be agreed and reasonably satisfactory to the Administrative Agent.

Note: [Amendments and Waivers](#)

Defaulting Lenders:

The Loan Documents shall contain customary provisions relating to Defaulting Lenders (to be defined on terms reasonably satisfactory to the Administrative Agent), including, without limitation, (a) reduction, termination or assignment of commitments or Loans of such Lenders, including the non-pro rata removal or replacement of any Lender that has [(or whose parent has)] been deemed insolvent or become subject to a bankruptcy, insolvency, receivership or other similar proceeding, or has otherwise defaulted under other credit agreements to which it is a party, (b) provisions relating to providing cash collateral to support swingline loans or letters of credit, (c) the suspension of voting rights, and (d) rights to receive certain fees.

Note: [Defaulting Lenders](#)

Assignments and Participations:

Each Lender may assign all or part (subject to minimum amounts to be agreed) of its Loans and commitments with the consent of the Borrower (other than for assignments to Lenders, affiliates of Lenders and approved funds or during [a default/an event of default]) and the Administrative Agent [and, in the case of assignments of Revolving Loans or commitments, the L/C Issuer and the Swingline Lender] (each such consent not to be unreasonably withheld or delayed). The Administrative Agent shall receive a processing fee of \$[AMOUNT] (which may be waived or reduced at the sole discretion of the Administrative Agent) in connection with all assignments.

Note: [Assignments and Participations](#)

Each Lender may sell participations in all or part of its Loans and commitments under one or more of the Facilities; *provided* that no participant shall have direct or indirect voting rights under the Facilities except for certain unanimous issues. Participants shall have the same benefits as the Lenders with respect to yield protection and increased cost provisions.

Notwithstanding anything to the contrary set forth herein, the Loan Documents will provide that Term Loans may be purchased by and assigned to the Borrower [and its affiliates [and the Sponsor and its affiliates]] without any consent on a non-pro rata basis through Dutch auction or similar procedures to be agreed; *provided* that (i) the option to sell Term Loans is offered to all applicable Lenders on a pro rata basis in accordance with customary procedures and subject to customary terms and conditions to be agreed, (ii) any such Term Loans acquired by the Borrower shall be retired and promptly cancelled, (iii) the aggregate principal amount of Term Loans acquired by [the Borrower/such parties] shall not exceed \$[[AMOUNT]/an amount to be agreed] in any fiscal year, and (iv) the proceeds from Revolving Loans may not be used to acquire such Term Loans.

Note: [Loan Buybacks](#)

Expenses and Indemnification: The Borrower shall pay (a) all reasonable out-of-pocket expenses of the Administrative Agent and the Arrangers incurred in connection with the syndication of the Facilities and the preparation, execution, delivery, administration, amendment or waiver of the Loan Documents (including the reasonable fees, disbursements and other charges of [one firm of] counsel to the Administrative Agent and the Arrangers [and, if necessary, of one special counsel and one local counsel in any relevant jurisdiction]); and (b) all [reasonable] out-of-pocket expenses of the Administrative Agent and the Lenders (including the fees, disbursements and other charges of [one firm of] counsel to the Administrative Agent and the Lenders [and, if necessary, of one special counsel and one local

counsel in any relevant jurisdiction]) in connection with the enforcement of the Loan Documents, including in connection with workouts or restructurings.

The Administrative Agent, the Arrangers and the Lenders (and their affiliates and their respective officers, directors, employees, advisors and agents) will be indemnified and held harmless against any loss, liability, cost or expense (including the reasonable fees, disbursements and other charges of [one firm of] counsel to the indemnified parties [and, if a conflict of interest exists, one additional counsel to the affected indemnified parties] [and, if necessary, of one special counsel and one local counsel in any relevant jurisdiction,] incurred in connection with the financing contemplated hereby or the use of proceeds of the Facilities, except to the extent they result from such person's gross negligence, willful misconduct or [breach in bad faith/a material breach by the indemnified party] of the Loan Documents.

Note: *Expenses and Indemnification*

Taxes, Yield Protection and Increased Costs:

The Loan Documents will contain customary provisions for facilities of this kind, including, without limitation, in respect of tax gross-ups, breakage and redeployment costs, increased costs, funding losses, capital adequacy and illegality.

Note: *Taxes, Yield Protection, and Increased Costs*

Governing Law and Forum: State of [New York].

Note: *Governing Law and Forum*

Waiver of Jury Trial:

All [Loan Parties/parties to the Loan Documents] waive the right to trial by jury.

Note: *Waiver of Jury Trial*

Counsel to the [Lead Arranger and] Administrative Agent: [NAME]

[THE ABOVE TERMS DO NOT CONSTITUTE OR IMPLY A COMMITMENT TO PROVIDE FUNDING BY ANY LENDER, NOR A REPRESENTATION THAT SUCH FUNDING WILL BE MADE AVAILABLE. ANY SUCH COMMITMENT WILL BE SUBJECT TO **CONTRACT**, CREDIT APPROVAL [AND SATISFACTORY DUE DILIGENCE] AND DOCUMENTATION.]

Note: *Non-Binding Nature*

SCHEDULE A

Conditions precedent to initial borrowings under the Facilities shall [include, without limitation/be limited to]:

Note: *Scope of Conditions Precedent*

(a) **Loan Documentation.** Delivery of executed loan documentation for the Facilities on terms reasonably acceptable to the Arrangers and consistent with the terms of this Term Sheet.

(b) **Guaranties and Collateral.** Delivery of executed [GUARANTIES] and [SECURITY AGREEMENT] required from the Loan Parties in form, scope and substance reasonably satisfactory to the Arrangers. [Subject to the limitations set forth in the Commitment Letter,] (i) the Collateral Agent shall have a first priority perfected security interest (subject to permitted liens) in all Collateral, (ii) all required filings, recordings and searches with respect to such security interests shall have been duly made, and (iii) all filings and recording fees and taxes shall have been duly paid.

Note: *Collateral*

(c) **Customary Ancillary Documents.** Delivery of (i) customary legal opinions, evidence of authority, corporate documents, documents from public officials, and officers' certificates as to the Borrower and each of the Guarantors; (ii) evidence of insurance; and (iii) a customary borrowing certificate, each in form and substance satisfactory to the Arrangers.

Note: [Customary Ancillary Documents](#)

(d) **Financial Statements.** Receipt by the Arrangers of (i) [at least [30] days prior to the Closing Date,] audited financial statements of the Borrower for the prior [three] completed fiscal years immediately preceding the Closing Date; (ii) [at least [5] days prior to the Closing Date,] unaudited financial statements for each subsequent fiscal quarter ended at least 45 days prior to the Closing Date; and (iii) customary pro forma financial statements for the twelve-month period ending on the last day of the most recently completed four fiscal quarter period ended at least [45] days prior to the Closing Date, prepared giving effect to the Transaction and the Facilities [prepared in accordance with Regulation S-X of the Securities Act of 1933, as amended (Regulation S-X) for Form S-1 registration statements].

Note: [Financial Statements](#)

(e) **Fees and Expenses.** Payment of all fees and expenses of the Lenders, the Administrative Agent and the Arrangers required to be paid by the Borrower on the Closing Date [pursuant to the [Commitment Letter] and the [Fee Letter]] [to the extent invoiced prior to the Closing Date].

Note: [Fees and Expenses](#)

[(f) **Litigation.** Absence of litigation with respect to the Transaction and the Facilities.]

Note: [Litigation](#)

[(g) **Approvals and Consents.** Receipt of all necessary governmental and material third party approvals and consents in connection with the Transaction and the Facilities.]

Note: [Approvals and Consents](#)

[(h) **Compliance with Laws.** Compliance in all material respects of the Transaction and the Facilities and the consummation thereof, with all applicable laws, including Regulations T, U and X of the Federal Reserve Board.]

Note: [Compliance with Laws](#)

[(i) **Due Diligence.** Completion by the Arrangers of their [confirmatory] business, operations, collateral, tax, accounting, legal, environmental, regulatory and [OTHER] due diligence review of the Borrower [and the [TARGET]] and [its/their respective] subsidiaries with results satisfactory to the Arrangers.]

Note: [Due Diligence](#)

(j) **Repayment of Existing Debt.** Repayment in full of all pre-existing debt of the Borrower and its subsidiaries, termination of all related commitments and release of all related liens, on terms satisfactory to the Arrangers, [other than (i) [DESCRIBE PERMITTED DEBT] and (ii) other limited debt to be agreed].

Note: [Repayment of Existing Debt](#)

(k) **Solvency.** Receipt by the Arrangers of a certificate from the chief financial officer of the Borrower [in form and substance satisfactory to the Arrangers] [in the form of Exhibit [] attached hereto] certifying that the Borrower and its subsidiaries, [on a consolidated basis] [after giving effect to the Transactions and the Facilities,] are solvent.

Note: [Solvency](#)

[(l) **Financial Ratio Tests.** Satisfaction of the Arrangers that, after giving pro forma effect to the Transaction, (i) the Leverage Ratio [(to be defined in the loan documentation)], shall be no more than [3.75] to 1.00, and (ii) EBITDA [(to be defined in the loan documentation)] of the Borrower and its subsidiaries shall not be less than \$[AMOUNT].]

Note: *Financial Ratios*

[(m) **Credit Ratings.** Receipt of credit ratings for the Facilities of at least (i) "[Baa3]" (with stable (or better) outlook) from Moody's and (ii) "[BBB-]" (with stable (or better) outlook) from S&P.]

Note: *Credit Ratings*

[(n) **No MAC.** Absence of any material adverse change in the business, operations, condition (financial or otherwise), [or] assets or liabilities (whether actual or contingent) [or prospects] of the Borrower and its subsidiaries [taken as a whole] since [DATE OF LAST AUDITED FINANCIAL STATEMENTS].]

Note: *No MAC*

[(o) **Revolver Availability.** On the Closing Date, the Loan Parties shall have [(i)] minimum availability under the Revolving Facility of \$[AMOUNT]/no amount outstanding under the Revolving Facility], [and (ii) cash in deposit accounts located in the United States, after giving effect to the initial use of proceeds (including the payment of all fees and expenses) of not less than \$[AMOUNT]].

Note: *Revolver Availability*

(p) **PATRIOT Act Information.** Receipt by the Arrangers [and Lenders], at least five business days prior to the Closing Date, of all information reasonably requested by them under applicable "know-your-customer" and anti-money laundering rules and regulations, including, without limitation, the PATRIOT Act.

Note: *PATRIOT Act Information*

RIDER 1

ADDITIONAL CONDITIONS PRECEDENT IN BANK/BOND DEALS AND ACQUISITION FINANCINGS

Note: *Additional Conditions Precedent*

Additional conditions precedent commonly included in acquisition financings are:

(a) **Acquisition.** The terms of the Acquisition Agreement (including the exhibits, schedules, disclosure letters and all related documents) will be reasonably satisfactory to the Arrangers; *provided* that the Arrangers acknowledge that the Acquisition Agreement draft dated as of [DATE] ([including/excluding] the related disclosure schedules) is reasonably acceptable to the Arrangers]. All conditions precedent to the consummation of the Acquisition in the Acquisition Agreement shall have been satisfied or waived, without giving effect to any amendments thereto or any waivers or consents that are materially adverse to the Arrangers or the Lenders in their capacities as Lenders, in each case without the consent of the Arrangers [(provided that any (i) change in the form of Acquisition consideration, (ii) any increase in the Acquisition consideration or (iii) any decrease in the Acquisition consideration that is not accompanied by a corresponding dollar-for-dollar reduction in the amount of the [Term [B] Facility/Facilities], shall be deemed to be materially adverse and require the consent of the Arrangers).]

Note: *Acquisition*

[(b) **Merger Certificate.** The certificate relating to the Merger (the "**Merger Certificate**") shall be filed with the [STATE] Secretary of State substantially concurrently with the initial funding. The Merger Certificate shall provide that the Merger shall become automatically effective at 12:01 a.m. (TIME ZONE) on the date following the filing of the Merger Certificate without any additional conditions to effectiveness.]

Note: *Merger Certificate*

(c) **Financial Statements.** Receipt by the Arrangers of (i) [at least [30] days prior to the Closing Date,] audited financial statements of the Borrower and the [TARGET] for the prior [three] completed fiscal years ended at least 90 days prior to the Closing Date; (ii) [at least [5] days prior to the Closing Date,] unaudited financial statements of the Borrower and the [TARGET] for each subsequent fiscal quarter ended at least 45 days prior to the Closing Date.

Note: [Financial Statements](#)

(d) **Pro Forma Financial Statements.** Receipt by the Arrangers of a pro forma consolidated balance sheet of the Borrower as at the end of the most recent fiscal year ended at least 90 days prior to the Closing Date and a pro forma statement of operations for each of (i) the most recent fiscal year of the Borrower ended at least 90 days prior to the Closing Date and (ii) the most recent interim quarterly period of the Borrower ending at least 45 days prior to the Closing Date, in each case adjusted to give effect to the consummation of the Transaction and the financings contemplated hereby as if such transactions had occurred on such date or on the first day of such period, as applicable. Such pro forma financial statements shall be prepared in accordance with Regulation S-X of the Securities Act of 1933, as amended ("**Regulation S-X**") for Form S-1 registration statements.

Note: [Pro Forma Financial Statements](#)

[(e) **Existing Indebtedness.** Pro forma for the consummation of the Transaction, all material pre-existing indebtedness of the [Borrower and the [TARGET]] (other than [DESCRIBE SURVIVING DEBT]) shall have been repaid in full, all related commitments terminated and all related liens released, on terms satisfactory to the Arrangers [and subject to exceptions to be mutually agreed]. [There shall not exist any default or event of default under the [SURVIVING DEBT] after giving effect to the Transaction.]

Note: [Surviving Debt](#)

[(f) **Equity Contribution.** The [SPONSORS] shall have contributed cash in an amount equal to not less than []% of the [total pro forma capitalization of the Borrower after giving effect to the Transaction].]

Note: [Equity Contribution](#)

(g) **Representations and Warranties.** The representations and warranties made by the [TARGET/SELLER] in the Acquisition Agreement to the extent that the [Borrower/Buyer] has a right not to consummate the transactions contemplated by the Acquisition Agreement or to terminate its obligations under the Acquisition Agreement as a result of a breach of such representations or warranties (the "**Acquisition Representations**") and each of the following Specified Representations (the "**Specified Representations**") contained in the Loan Documents shall be true and correct [in all material respects (except that such materiality qualifier shall not be applicable to any representations and warranties that are already qualified or modified by materiality in the text thereof)] on the Closing Date; ("**Specified Representations**" means the following representations and warranties set forth in the Loan Documents relating to corporate existence; power and authority to enter into the Loan Documents; due authorization, execution, delivery and enforceability of the Loan Documents; Federal Reserve margin regulations; no conflicts [of the Loan Documents] with organizational documents [or [material] applicable law]; the Investment Company Act of 1940; the USA PATRIOT Act; solvency [of the Borrower and its subsidiaries on a consolidated basis after giving effect to the transactions contemplated hereby]; and] creation, validity and perfection of security interests (subject to the limitations set forth in the Commitment Letter); and status as senior debt].

Note: [Representations and Warranties: SunGard Provisions](#)

(h) **Company MAC.** Since [DATE OF LAST AUDITED FINANCIALS OF THE TARGET], there shall not have occurred and be continuing a [Company Material Adverse Effect] (as that term is defined in the Acquisition Agreement).

Note: [Company MAC](#)

PRODUCTS

PLC US Corporate and M&A, PLC US Finance, PLC US Financial Services, PLC US Law Department

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