Exhibit 10.3  
Execution Version  
FOURTH AMENDMENT TO CREDIT AGREEMENT  
FOURTH AMENDMENT TO CREDIT AGREEMENT, dated as of November 1, 2024 (this “Fourth Amendment”), by and among Celanese Corporation, a Delaware corporation (“Holdings”), Celanese US Holdings LLC, a Delaware limited liability company (the “Company”), the Subsidiary Guarantors party hereto, Bank of America, N.A., as administrative agent (in such capacity, the “Administrative Agent”) for the Lenders (as defined below) and each of the Consenting Lenders (as defined below).  
W I T N E S S E T H:  
WHEREAS, Holdings, the Company, each lender from time to time party thereto (the “Lenders”) and the Administrative Agent have entered into the Term Loan Credit Agreement, dated as of March 18, 2022 (as amended by that certain First Amendment to Credit Agreement dated as of February 21, 2023, that certain Second Amendment to Credit Agreement dated as of August 9, 2023, that certain Third Amendment to Credit Agreement dated as of February 16, 2024 and as further amended, restated, amended and restated, modified or supplemented from time to time through the date hereof, the “Credit Agreement”; capitalized terms not otherwise defined in this Fourth Amendment have the same meanings assigned thereto in the Credit Agreement); and  
WHEREAS, pursuant to Section 10.01 of the Credit Agreement, the Company has requested that the Lenders consent to the amendment of certain provisions of the Credit Agreement as set forth in this Fourth Amendment, and subject to the satisfaction of the conditions set forth herein, the Lenders party hereto (collectively, the “Consenting Lenders”) constituting not less than the Required Lenders and the Required 5-Year Tranche Lenders are willing to do so, on the terms set forth herein; and  
WHEREAS, BofA Securities, Inc. is engaged by the Company to act as the lead arranger for the transactions contemplated under this Fourth Amendment (in such capacity, the “Fourth Amendment Lead Arranger”);  
NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, the parties hereto hereby agree as follows:  
SECTION 1. Amendments to Credit Agreement. On the Fourth Amendment Effective Date (as defined below), the Credit Agreement shall be amended as set forth in the pages of the Credit Agreement attached as Exhibit A hereto (with text in the Credit Agreement attached as Exhibit A hereto indicated as being (I) deleted or “stricken text” textually in the same manner as the following example: stricken text; and (II) new or added textually in the same manner as the following example: underlined text).  
SECTION 2. Conditions of Effectiveness of the Fourth Amendment. This Fourth Amendment shall become effective on such date (the “Fourth Amendment Effective Date”) when the following conditions precedent have been satisfied:  
(a)            the Administrative Agent shall have received an executed counterpart (which may include a facsimile or other electronic transmission) of this Fourth Amendment from Holdings, the Company, each Subsidiary Guarantor and the Consenting Lenders constituting not less than the Required Lenders and the Required 5-Year Tranche Lenders;  
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(b)            as of the Fourth Amendment Effective Date, (i) no Default or Event of Default shall exist, or would result from the transactions contemplated by this Fourth Amendment and (ii) the representations and warranties contained in Article V of the Credit Agreement and in each other Loan Document shall be true and correct in all material respects (provided that representations already qualified by “materiality” or “Material Adverse Effect” shall be true and correct in all respects) on and as of the Fourth Amendment Effective Date (without regard to any earlier date referred to in the Credit Agreement);  
(c)            the Administrative Agent shall have received a certificate signed by a Responsible Officer of Holdings certifying that the condition in Section 2(b) is satisfied as of the Fourth Amendment Effective Date;  
(d)            (i) the Fourth Amendment Lead Arranger shall have received all fees payable to such Fourth Amendment Lead Arranger as separately agreed by the Company in writing and (ii) the Administrative Agent shall have received, for the ratable account of each Consenting Lender, all fees payable to such Consenting Lender as separately agreed by the Company in writing;  
(e)            the Administrative Agent shall have received all fees, charges and disbursements of counsel to the Administrative Agent and the Fourth Amendment Lead Arranger required to be reimbursed by this Fourth Amendment or the Credit Agreement (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to the Fourth Amendment Effective Date; and  
(f)            prior to or substantially simultaneously with the Fourth Amendment Effective Date, the Revolving Credit Agreement shall have been amended in a manner reasonably consistent with this Fourth Amendment;  
Without limiting the generality of the provisions of the last paragraph of Section 9.03 of the Credit Agreement, for purposes of determining compliance with the conditions specified in this Section 2, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required hereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the Fourth Amendment Effective Date specifying its objection thereto.  
SECTION 3. Reference to and Effect on the Credit Agreement and the other Loan Documents.  
(a)            On and after the Fourth Amendment Effective Date, each reference in the Credit Agreement to “this Agreement,” “hereunder,” “hereof” or words of like import referring to the Credit Agreement shall mean and be a reference to the Credit Agreement, as amended by this Fourth Amendment.  
(b)            The Credit Agreement, as specifically amended by this Fourth Amendment, and each of the other Loan Documents are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed.  
(c)            The execution, delivery and effectiveness of this Fourth Amendment shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender or the Administrative Agent under any of the Loan Documents, nor constitute a waiver of any provision of, or Default or Event of Default under, any of the Loan Documents. On and after the Fourth Amendment Effective Date, this Fourth Amendment shall for all purposes constitute a Loan Document.  
(d)            Each Loan Party hereby expressly acknowledges and consents to the terms of this Fourth Amendment and reaffirms, as of the date hereof, (i) the covenants and agreements contained in each Loan Document to which it is a party, including, in each case, such covenants and agreements as in effect immediately after giving effect to this Fourth Amendment and the transactions contemplated hereby and (ii) its guarantee of the Obligations under the Guaranty to which it is a party. The execution of this Fourth Amendment shall not serve to effect a novation of the Obligations.  
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SECTION 4. Costs and Expenses. The Company hereby agrees to reimburse each of the Administrative Agent and the Fourth Amendment Lead Arranger for its reasonable and documented out-of-pocket expenses in connection with this Fourth Amendment in accordance with Section 10.04 of the Credit Agreement (with respect to the Fourth Amendment Lead Arranger, as though references in such Section to the Arranger in such Section were to the Fourth Amendment Lead Arranger, mutatis mutandis).  
SECTION 5. Counterparts. This Fourth Amendment may be in the form of an Electronic Record and may be executed using Electronic Signatures (including, without limitation, facsimile and .pdf) and shall be considered an original, and shall have the same legal effect, validity and enforceability as a paper record. This Fourth Amendment may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same agreement. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Administrative Agent of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent has agreed to accept such Electronic Signature, the Administrative Agent shall be entitled to rely on any such Electronic Signature without further verification and (b) upon the request of the Administrative Agent any Electronic Signature shall be promptly followed by a manually executed, original counterpart. For purposes hereof, “Electronic Record” and “Electronic Signature” shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.  
SECTION 6. Fourth Amendment Lead Arranger. The terms and provisions of Sections 9.08 and 10.16 are incorporated herein by reference as if set forth herein in their entirety and shall apply to this Amendment for the benefit of the Fourth Amendment Leader Arranger, mutatis mutandis (as though references therein to the Arrangers in such Sections were to the Fourth Amendment Lead Arranger).  
SECTION 7. Headings. Section headings herein are included for convenience of reference only and shall not affect the interpretation of this Fourth Amendment.  
SECTION 8. Miscellaneous. Each of the parties hereto hereby agrees that Sections 10.12, 10.14 and 10.15 of the Credit Agreement are incorporated by reference herein, mutatis mutandis, and shall have the same force and effect with respect to this Fourth Amendment as if originally set forth herein.  
[Signature Pages Follow]  
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IN WITNESS WHEREOF, the parties hereto have caused this Fourth Amendment to be executed by their respective officers thereunto duly authorized, as of the date first above written.  
CELANESE CORPORATION, as Holdings  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
CELANESE US HOLDINGS LLC, as the Company  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
[Signature Page to Fourth Amendment (Term Loan)]  
CELANESE AMERICAS LLC, as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
CELANESE ACETATE LLC, as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
CELANESE CHEMICALS, INC., as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
CNA HOLDINGS LLC, as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
CELANESE INTERNATIONAL CORPORATION, as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
[Signature Page to Fourth Amendment (Term Loan)]  
CELTRAN, INC., as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
KEP AMERICAS ENGINEERING PLASTICS, LLC, as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
TICONA FORTRON INC., as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
TICONA POLYMERS, INC., as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
TICONA LLC, as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
[Signature Page to Fourth Amendment (Term Loan)]  
CELANESE GLOBAL RELOCATION LLC, as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
CELANESE LTD., as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
CELANESE SALES U.S. LTD., as a Subsidiary Guarantor  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title:   Vice President and Treasurer  
[Signature Page to Fourth Amendment (Term Loan)]  
Acknowledged:  
BANK OF AMERICA, N.A., as Administrative Agent  
By: /s/ Xxxxxxx Xxxx  
Name: Xxxxxxx Xxxx  
Title: DIR – EC/GIG  
[Signature Page to Fourth Amendment (Term Loan)]  
BANK OF AMERICA, N.A., as a Consenting Lender  
By: /s/ Xxxxxxx Xxxx  
Name: Xxxxxxx Xxxx  
Title: DIR – EC/GIG  
[Signature Page to Fourth Amendment (Term Loan)]  
First Independence Bank, as a Consenting Lender  
By: /s/ Xxxxxx Xxxxxx  
Name: Xxxxxx Xxxxxx  
Title: Chief Credit Officer  
[Signature Page to Fourth Amendment (Term Loan)]  
XXXXXXX XXXXX BANK USA, as a Consenting Lender  
By: /s/ Xxxxxxxxxx Xxxxxxx  
Name: Xxxxxxxxxx Xxxxxxx  
Title: Authorized Signatory  
[Signature Page to Fourth Amendment (Term Loan)]  
MEGA INTERNATIONAL COMMERCIAL BANK CO., LTD.,  
NEW YORK XXXXX, as a Consenting Lender  
By: /s/ XXXXX-XXX, XXXX  
Name: XXXXX-XXX, XXXX  
Title: AVP  
[Signature Page to Fourth Amendment (Term Loan)]  
MUFG Bank, Ltd., as a Consenting Lender  
By: /s/ Xxxxx Xxxxxxxxx  
Name: Xxxxx Xxxxxxxxx  
Title: Director  
[Signature Page to Fourth Amendment (Term Loan)]  
PNC BANK, NATIONAL ASSOCIATION, as a Consenting Lender  
By: /s/ Xxxxxxxxx Xxxxx  
Name: Xxxxxxxxx Xxxxx  
Title: Vice President  
[Signature Page to Fourth Amendment (Term Loan)]  
Santander Bank, NA, as a Consenting Lender  
By: /s/ Xxxxx Xxxxxx  
Name: Xxxxx Xxxxxx  
Title: SVP  
[Signature Page to Fourth Amendment (Term Loan)]  
TAIWAN BUSINESS BANK, LOS ANGELES BRANCH,  
as a Consenting Lender  
By: /s/ Xxxxxxx Xxxxx  
Name: Xxxxxxx Xxxxx  
Title: V.P. & General Manager  
[Signature Page to Fourth Amendment (Term Loan)]  
THE TORONTO-DOMINION BANK,  
NEW YORK BRANCH, as a Consenting Lender  
By: /s/ Xxxxxxxx Xxxxxxx  
Name:Xxxxxxxx Xxxxxxx  
Title: Authorized Signatory  
[Signature Page to Fourth Amendment (Term Loan)]  
TRUIST BANK, as a Consenting Lender  
By: /s/ Xxxxxxxxx Xxxxxxxx  
Name: Xxxxxxxxx Xxxxxxxx  
Title: Director  
[Signature Page to Fourth Amendment (Term Loan)]  
UniCredit Bank GmbH, New York Branch,  
as a Consenting Lender  
By: /s/ Xxxxxxxx Xxxxx  
Name: Xxxxxxxx Xxxxx  
Title: Managing Director  
By: /s/ Xxxxx Xxxxxx  
Name: Xxxxx Xxxxxx  
Title: Sr. Associate  
[Signature Page to Fourth Amendment (Term Loan)]  
U.S. BANK NATIONAL ASSOCIATION,  
as a Consenting Lender  
By: /s/ Xxxx X. Xxx Xxxxx  
Name: Xxxx X. Xxx Xxxxx  
Title: Senior Vice President  
[Signature Page to Fourth Amendment (Term Loan)]  
Exhibit A  
Amended Credit Agreement  
[See Attached]  
Conformed Copy Reflecting:  
First Amendment to Credit Agreement, dated as of February 21, 2023,  
Second Amendment to Credit Agreement, dated as of August 9, 2023 and,  
Third Amendment to Credit Agreement, dated as of February 16, 2024 and  
Fourth Amendment to Credit Agreement, dated as of November 1, 2024  
Published Deal CUSIP Number: 00000XXX0  
Published 364-Day Tranche CUSIP Number: 00000XXX0  
Published 5-Year Tranche CUSIP Number: 00000XXX0  
TERM LOAN CREDIT AGREEMENT  
Dated as of March 18, 2022  
among  
CELANESE CORPORATION,  
as Holdings,  
CELANESE US HOLDINGS LLC,  
as the Company,  
BANK OF AMERICA, N.A.,  
as Administrative Agent,  
and  
The Other Lenders Party Hereto,  
with  
BOFA SECURITIES, INC.,  
as Sole Lead Arranger and Sole Bookrunner  
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CREDIT AGREEMENT  
This CREDIT AGREEMENT (this “Agreement”) is entered into as of March 18, 2022, among Celanese Corporation, a corporation incorporated under the laws of Delaware (“Holdings”), Celanese US Holdings LLC, a limited liability company incorporated under the laws of Delaware (the “Company”), each lender from time to time party hereto (collectively, the “Lenders” and individually, a “Lender”) and Bank of America, N.A., as Administrative Agent.  
The Company has requested that the Lenders make Loans to the Company and the Lenders are willing to do so on the terms and conditions set forth herein.  
In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:  
ARTICLE I.  
DEFINITIONS AND ACCOUNTING TERMS  
1.01        Defined Terms. As used in this Agreement, the following terms shall have the meanings set forth below:  
“2024 Term Loan Credit Agreement” means that certain Credit Agreement, dated as of November 1, 2024 (as in effect on November 1, 2024), among Holdings, the Company, certain Subsidiaries of the Company, as guarantors, the lenders from time to time party thereto and Bank of America, as administrative agent.  
“3-Year Existing Term Loan Facility” means the $750,000,000 3-year senior unsecured term loan facility under the 3-Year Term Loan Credit Agreement.  
“364-Day Tranche Borrowing” means a borrowing consisting of simultaneous 364-Day Tranche Loans of the same Type, and, in the case of Term SOFR Loans, having the same Interest Period made by each of the 364-Day Tranche Lenders pursuant to Section 2.01.  
“364-Day Tranche Commitment” means, as to each 364-Day Tranche Lender, its obligation to make 364-Day Tranche Loans to the Company pursuant to Section 2.01, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such 364-Day Tranche Lender’s name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such 364-Day Tranche Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate principal amount of 364-Day Tranche Commitments as of the Effective Date is $500,000,000.  
“364-Day Tranche Lender” means a Lender with a 364-Day Tranche Commitment or holding 364-Day Tranche Loans.  
“364-Day Tranche Loan” has the meaning specified in Section 2.01.  
“364-Day Tranche Maturity Date” means the date that is 364 days after the Closing Date.  
“5-Year Tranche Borrowing” means a borrowing consisting of simultaneous 5-Year Tranche Loans of the same Type, and, in the case of Term SOFR Loans, having the same Interest Period made by each of the 5-Year Tranche Lenders pursuant to Section 2.01.  
“5-Year Tranche Commitment” means, as to each 5-Year Tranche Lender, its obligation to make 5-Year Tranche Loans to the Company pursuant to Section 2.01, in an aggregate principal amount at any one time outstanding not to exceed the amount set forth opposite such 5-Year Tranche Lender’s name on Schedule 2.01 or in the Assignment and Assumption pursuant to which such 5-Year Tranche Lender becomes a party hereto, as applicable, as such amount may be adjusted from time to time in accordance with this Agreement. The aggregate principal amount of 5-Year Tranche Commitments as of the Effective Date is $1,000,000,000.  
“5-Year Tranche Lender” means a Lender with a 5-Year Tranche Commitment or holding 5-Year Tranche Loans.  
“5-Year Tranche Loan” has the meaning specified in Section 2.01.  
“5-Year Tranche Maturity Date” means the date that is five years after the Closing Date.  
“2023 Notes” means the Company’s 1.125% notes due 2023.  
“2024 Notes” means the Company’s 3.500% notes due 2024 and 5.900% notes due 2024.  
“2025 Notes” means the Company’s 6.050% notes due 2025.  
“Acquired Business” means the majority of the Mobility & Materials segment of DuPont de Nemours, Inc. to be acquired, directly or indirectly, by Holdings pursuant to the Transaction Agreement.  
“Acquisition Representations” means, the representations and warranties made by or with respect to the Acquired Business in the Transaction Agreement as are material to the interests of the Lenders (in their capacities as such) but only to the extent that the accuracy of such representations and warranties is a condition to Holdings’ or any of its affiliates’ obligation to consummate the DuPont Acquisition or to the extent that Holdings has the right to terminate its (or any of its affiliates has the right to terminate its) obligations (or otherwise does not have an obligation to close), under the Transaction Agreement (without giving effect to notice or lapse of time or both) as a result of a breach of such representations and warranties in the Transaction Agreement.  
“Administrative Agent” means Bank of America in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.  
“Administrative Agent’s Office” means the Administrative Agent’s address and account as set forth on Schedule 10.02, or such other address or account as the Administrative Agent may from time to time notify to the Company and the Lenders.  
“Administrative Questionnaire” means an Administrative Questionnaire in substantially the form of Exhibit E-2 or any other form approved by the Administrative Agent.  
“Affected Financial Institution” means (a) any EEA Financial Institution or (b) any UK Financial Institution.  
“Affiliate” means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.  
2  
“Agent Parties” has the meaning set forth in Section 10.02(c).  
“Aggregate Commitments” means the Commitments of all the Lenders.  
“Aggregate 364-Day Tranche Commitments” means the 364-Day Tranche Commitments of all the 364-Day Tranche Lenders.  
“Aggregate 5-Year Tranche Commitments” means the 5-Year Tranche Commitments of all the 5-Year Tranche Lenders.  
“Agreement” has the meaning specified in the introductory paragraph hereto.  
“Anti-Money Laundering Laws” means the Patriot Act, the Money Laundering Control Act of 1986, the Bank Secrecy Act, and the rules and regulations promulgated thereunder, and corresponding laws of the jurisdictions in which the Company or any of its Subsidiaries operates or in which the proceeds of the Loans will be used.  
“Applicable 364-Day Tranche Loan Percentage” means, with respect to any 364-Day Tranche Lender at any time, such 364-Day Tranche Lender’s Applicable Loan Percentage at such time.  
“Applicable 364-Day Tranche Percentage” means, with respect to any 364-Day Tranche Lender at any time, such 364-Day Tranche Lender’s Applicable Percentage at such time.  
“Applicable 5-Year Tranche Loan Percentage” means, with respect to any 5-Year Tranche Lender at any time, such 5-Year Tranche Lender’s Applicable Loan Percentage at such time.  
“Applicable 5-Year Tranche Percentage” means, with respect to any 5-Year Tranche Lender at any time, such 5-Year Tranche Lender’s Applicable Percentage at such time.  
“Applicable Loan Percentage” means (i) with respect to any 364-Day Tranche Lender at any time, the percentage (carried out to the ninth decimal place) of the aggregate Outstanding Amount of all 364-Day Tranche Loans represented by the aggregate Outstanding Amount of such 364-Day Tranche Lender’s 364-Day Tranche Loans at such time, and (ii) with respect to any 5-Year Tranche Lender at any time, the percentage (carried out to the ninth decimal place) of the aggregate Outstanding Amount of all 5-Year Tranche Loans represented by the aggregate Outstanding Amount of such 5-Year Tranche Lender’s 5-Year Tranche Loans at such time.  
“Applicable Percentage” means, (i) with respect to any 364-Day Tranche Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate 364-Day Tranche Commitments represented by such 364-Day Tranche Lender’s 364-Day Tranche Commitment at such time, and (ii) with respect to any 5-Year Tranche Lender at any time, the percentage (carried out to the ninth decimal place) of the Aggregate 5-Year Tranche Commitments represented by such 5-Year Xxxxxxx Xxxxxx’s 5-Year Tranche Commitment at such time, subject in each case to adjustment as provided in Section 2.17. If the commitment of each 364-Day Tranche Lender to make 364-Day Tranche Loans has been terminated pursuant to Section 8.02 or if the Aggregate 364-Day Tranche Commitments have expired, in each case prior to the funding of the Loans, then the Applicable Percentage of each 364-Day Tranche Lender shall be determined based on the Applicable Percentage of such 364-Day Tranche Lender most recently in effect, giving effect to any subsequent assignments; and if the commitment of each 5-Year Tranche Lender to make 5-Year Tranche Loans has been terminated pursuant to Section 8.02 or if the Aggregate 5-Year Tranche Commitments have expired, in each case prior to the funding of the Loans, then the Applicable Percentage of each 5-Year Tranche Lender shall be determined based on the Applicable Percentage of such 5-Year Tranche Lender most recently in effect, giving effect to any subsequent assignments. The initial Applicable Percentage of each 364-Day Tranche Lender is set forth opposite the name of such 364- Day Tranche Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such 364-Day Tranche Lender becomes a party hereto, as applicable, and the initial Applicable Percentage of each 5-Year Tranche Lender is set forth opposite the name of such 5-Year Tranche Lender on Schedule 2.01 or in the Assignment and Assumption pursuant to which such 5-Year Tranche Lender becomes a party hereto, as applicable.  
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“Applicable Rate” means, from time to time, the following percentages per annum, based upon the Debt Rating as set forth below:  
Applicable Rate for 364-Day Tranche Commitments and 364-Day Tranche Loans  
Pricing  
Level   Debt Ratings S&P / Xxxxx’x / Xxxxx   Ticking  
Fee     Term SOFR Loan Margin     Base Rate Margin  
1   A- / A3 / A- or better     0.090 %     1.000 %     0.000 %  
2   BBB+ / Baa1 / BBB+     0.100 %     1.125 %     0.125 %  
3   BBB / Baa2 / BBB     0.125 %     1.250 %     0.250 %  
4   BBB- / Baa3 / BBB-     0.175 %     1.375 %     0.375 %  
5   BB+ / Ba1 / BB+     0.225 %     1.625 %     0.625 %  
6   BB / Ba2 / BB or worse     0.350 %     2.000 %     1.000 %  
Applicable Rate for 5-Year Tranche Commitments and 5-Year Tranche Loans  
Pricing  
Level   Debt Ratings S&P / Xxxxx’x / Xxxxx   Ticking  
Fee     Term SOFR Loan Margin     Base Rate Margin  
1   A- / A3 / A- or better     0.090 %     1.125 %     0.125 %  
2   BBB+ / Baa1 / BBB+     0.100 %     1.250 %     0.250 %  
3   BBB / Baa2 / BBB     0.125 %     1.375 %     0.375 %  
4   BBB- / Baa3 / BBB-     0.175 %     1.500 %     0.500 %  
5   BB+ / Ba1 / BB+     0.225 %     1.750 %     0.750 %  
6   BB / Ba2 / BB or worse     0.350 %     2.125 %     1.125 %  
Initially, the Applicable Rate shall be determined based upon the Debt Rating specified in the certificate delivered pursuant to Section 4.01(a)(vii). Thereafter, each change in the Applicable Rate resulting from a publicly announced change in the Debt Rating shall be effective, in the case of an upgrade, during the period commencing on the date of delivery by the Company to the Administrative Agent of notice thereof pursuant to Section 6.03 and ending on the date immediately preceding the effective date of the next such change and, in the case of a downgrade, during the period commencing on the date of the public announcement thereof and ending on the date immediately preceding the effective date of the next such change. If the rating system of Moody’s, S&P or Fitch shall change, or if either such rating agency shall cease to be in the business of rating corporate debt obligations, the Company and the Lenders shall negotiate in good faith to amend this definition to reflect such changed rating system or the unavailability of ratings from such rating agency and, pending the effectiveness of any such amendment, the Applicable Rate shall be determined by reference to the rating most recently in effect prior to such change or cessation.  
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“Appropriate Lender” means, at any time, (a) with respect to any of the 364-Day Tranche Loans, a 364-Day Tranche Lender, and (b) with respect to any of the 5-Year Tranche Loans, a 5-Year Tranche Lender.  
“Arranger” means BofA Securities, Inc., in its capacity as sole lead arranger and sole bookrunner.  
“Asset Sale” means any sale, transfer or other disposition of assets (including pursuant to a sale and leaseback transaction or by way of merger or consolidation) of any asset of Holdings or any of its Subsidiaries (including any issuance or sale of Equity Interests in any Subsidiary of Holdings to a Person other than Holdings or any of its Subsidiaries) but excluding (i) any disposition of assets in the ordinary course of business of Holdings or any Subsidiary and not as part of a financing, (ii) any disposition of inventory, used or surplus equipment, and cash or cash equivalents, (iii) any disposition of assets that individually results in Net Asset Sale Proceeds to Holdings and its Subsidiaries of $100,000,000 or less, (iv) any disposition of assets to Holdings or any Subsidiary or other Affiliate of Holdings, (v) sales, transfers, leases and other dispositions of property no longer used or useful in the conduct of the business of Holdings and its Subsidiaries, (vi) dispositions resulting from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, and transfers of property arising from foreclosure or similar action with regard to, any asset of Holdings or any Subsidiary, (vii) sales, transfers or other dispositions of Receivables Assets in connection with Permitted Receivables Financings, (viii) sales, transfers or other dispositions of any assets (including Equity Interests) (A) acquired in connection with any acquisition or other investment, which assets are not used or useful to the core or principal business of Holdings and its Subsidiaries and/or (B) made to obtain the approval of any applicable antitrust authority in connection with an acquisition or divestiture, and (ix) the unwinding or early termination or settlement of any Swap Contract.  
“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by Section 10.06(b)), and accepted by the Administrative Agent, in substantially the form of Exhibit E-1 or any other form (including electronic documentation generated by use of an electronic platform) approved by the Administrative Agent.  
“Attributable Indebtedness” means, on any date, (a) in respect of any capital lease of any Person, the capitalized amount thereof that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments under the relevant lease that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such lease were accounted for as a capital lease.  
“Audited Financial Statements” means the audited consolidated balance sheet of Holdings and its consolidated subsidiaries for the fiscal year ended December 31, 2021, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for such fiscal year of Holdings and its consolidated subsidiaries, including the notes thereto.  
“Availability Period” means the period from and including the Effective Date to the earliest of (a) the Commitment Termination Date, (b) the date of termination of the Aggregate Commitments in full pursuant to Section 2.06, and (c) the date that the Transaction Agreement is terminated by the Company in a signed writing in accordance with its terms.  
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“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.  
“Bail-In Legislation” means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).  
“Bank of America” means Bank of America, N.A. and its successors.  
“Base Rate” means for any day, for Loans denominated in Dollars a fluctuating rate per annum equal to the highest of (a) the Federal Funds Rate plus 1/2 of 1%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate,” and (c) the Term SOFR for an Interest Period of one month plus 1.00%; provided that Base Rate shall not be less than 0.00% per annum. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the Base Rate is being used as an alternate rate of interest pursuant to Section 3.03 hereof, then the Base Rate shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.  
“Base Rate Loan” means a Loan that bears interest at the Base Rate.  
“Beneficial Ownership Certification” means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.  
“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.  
“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.  
“Borrower Materials” has the meaning specified in Section 6.02.  
“Borrowing” means a 364-Day Tranche Borrowing or a 5-Year Tranche Borrowing, as the context may require.  
“Bridge Commitment Letter” means that certain Bridge Facility Commitment Letter, dated February 17, 2022, among Bank of America, N.A., BofA Securities, Inc. and Holdings.  
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“Bridge Facility” means the $11,000,000,000 senior unsecured bridge credit facility contemplated by the Bridge Commitment Letter.  
“Business Day” means any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close under the Laws of, or are in fact closed in, the state where the Administrative Agent’s Office is located.  
“Capital Raise” means any (a) Debt Offering or (b) issuance of any Equity Interests or equity-linked securities in a capital raising transaction (in any event under this clause (b) not including any such issuances pursuant to (i) bond hedging programs, (ii) employee stock plans, dividend reinvestment or other benefit or employee incentive arrangements, (iii) grants to employees, officers or directors in the ordinary course of business, (iv) director’s or officer’s qualifying shares and/or other nominal amounts required to be held by Holdings or any of its Subsidiaries under applicable law or pursuant to a policy of Holdings or any of its Subsidiaries, (v) customer stock ownership plans and (vi) issuances among members of the Group), in each case of clause (a) and (b), by Holdings, the Company or any other member of the Group.  
“Capitalized Lease Obligations” means, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease or finance lease that would at such time be required to be capitalized and reflected as a liability on a balance sheet (excluding the foot-notes thereto) in accordance with GAAP; provided that (a) any lease that was treated as an operating lease under GAAP at the time it was entered into that later becomes a capital lease or finance lease as a result of a change in GAAP during the life of such lease, including any renewals, and (b) any lease that would have been considered an operating lease under the provisions of GAAP in effect as of December 31, 2018, in each case, shall be treated as an operating lease for all purposes under this Agreement.  
“Change in Law” means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.  
“Change of Control” means an event or series of events by which:  
(a)            any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”)), directly or indirectly, of 50% or more of the equity securities of Holdings entitled to vote for members of the board of directors or equivalent governing body of Holdings on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right);  
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(b)            during any period of 12 consecutive months, a majority of the members of the board of directors or other equivalent governing body of Holdings cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or  
(c)            Holdings shall fail to own, directly or indirectly, beneficially and of record, 100% of the issued and outstanding equity securities of the Company.  
“Closing Date” means the first date all the conditions precedent in Section 4.02 are satisfied or waived in accordance with Section 10.01.  
“CME” means CME Group Benchmark Administration Limited.  
“Code” means the Internal Revenue Code of 1986, as amended.  
“Commitment” means, as to each Lender, the sum of its 364-Day Tranche Commitment and its 5-Year Tranche Commitment.  
“Commitment Termination Date” means the earlier to occur of (i) the consummation of the DuPont Acquisition without using the Loans and (ii) 11:59 p.m. (New York City time) on the date that is five (5) Business Days after the “Outside Date” (as defined in the Transaction Agreement as in effect on February 17, 2022, including any extensions pursuant to Section 8.1(d) thereof).  
“Communication” means this Agreement, any Loan Document and any document, any amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to any Loan Document.  
“Company” has the meaning specified in the introductory paragraph hereto.  
“Compliance Certificate” means a certificate substantially in the form of Exhibit D.  
“Conforming Changes” means, with respect to the use, administration of or any conventions associated with SOFR or any proposed Successor Rate or Term SOFR, as applicable, any conforming changes to the definitions of “Base Rate”, “SOFR”, “Term SOFR” and “Interest Period”, timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definitions of “Business Day” and “U.S. Government Securities Business Day”, timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the discretion of the Administrative Agent, to reflect the adoption and implementation of such applicable rate(s) and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such rate exists, in such other manner of administration as the Administrative Agent determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).  
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“Consolidated EBITDA” means, for any period, for Holdings and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus (a) the following to the extent deducted in calculating such Consolidated Net Income: (i) Consolidated Interest Charges for such period, (ii) the provision for Federal, state, local and foreign income taxes payable by Holdings and its Subsidiaries for such period, (iii) depreciation and amortization expense, (iv)  non-cash asset impairment charges and non-cash write downs and write-offs of assets, (v) debt refinancing cost and debt retirement cost, in either case, incurred in connection with permitted acquisitions, investments and divestitures, (vi) non-cash stock based compensation expense, (vii) charges relating to employee termination benefits, plant and office closures, restructuring, business optimization and integration in an aggregate amount not to exceed $200,000,000 for any period of four consecutive fiscal quarters, (viii) other non-recurring expenses of Holdings and its Subsidiaries reducing such Consolidated Net Income which do not represent a cash item in such period or any future period, (ix) fees, costs, charges and expenses paid or incurred in connection with this Agreement, the DuPont Acquisition (including any securities offering or debt incurrence in connection with the financing thereof), and other acquisitions, investments, securities offerings, debt incurrences and similar transactions and (x) for each fiscal quarter ending before the closing or the termination of the DuPont Acquisition, foreign exchange losses pursuant to ASC 830 related to the capital markets notes pre-funded to finance the DuPont Acquisition, minus (b) the following to the extent included in calculating such Consolidated Net Income: (i) Federal, state, local and foreign income tax credits of Holdings and its Subsidiaries for such period and (ii) all non-recurring, non-cash items increasing Consolidated Net Income for such period; provided that the following (to the extent included in the calculation of Consolidated Net Income for such period) shall be excluded: (1) any gain or loss attributable to mark-to-market adjustments in the valuation of pension liabilities, including actuarial gain or loss on pension and postretirement plans, curtailments and settlements, prior service cost adjustments, all in accordance with ASC 715 (or any successor codification), (2) net unrealized mark-to-market gain or loss in respect of Swap Contracts and (3) for each fiscal quarter ending before the closing or the termination of the DuPont Acquisition, foreign exchange gains pursuant to ASC 830 related to the capital markets notes pre-funded to finance the DuPont Acquisition. For the purpose of calculating Consolidated EBITDA for any period, if during such period the Company or any Subsidiary shall have made an acquisition or disposition involving aggregate consideration of $100,000,000 or more, Consolidated EBITDA for such period shall be calculated after giving pro forma effect thereto as if such acquisition or disposition, as the case may be, occurred on the first day of such period.  
“Consolidated Funded Indebtedness” means, as of any date of determination, for Holdings and its Subsidiaries on a consolidated basis, the sum (without duplication) of the following: (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments, (b) all purchase money Indebtedness, (c) all non-contingent obligations arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments, (d) all obligations in respect of the deferred purchase price of property or services (other than (x) trade accounts payable in the ordinary course of business and (y) any contingent earn-out payments until required to be reflected on the applicable consolidated balance sheet in accordance with GAAP), (e) Attributable Indebtedness in respect of capital leases, (f) any Receivables Net Investment (other than the portion thereof consisting of undrawn letters of credit), (g) Guarantees with respect to outstanding Indebtedness of the types specified in clauses (a) through (f) above of Persons other than Holdings or any Subsidiary (to the extent required to be reflected on a consolidated balance sheet of Holdings and its Subsidiaries in accordance with GAAP) and (h) all Indebtedness of the types referred to in clauses (a) through (g) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company or similar entity organized in any non-US jurisdiction) in which Holdings or any Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to Holdings and each Subsidiary. Notwithstanding the foregoing, “Consolidated Funded Indebtedness” shall exclude (1) any indebtedness that is excluded from the definition of “Indebtedness” pursuant to the last sentence of such definition and (2) any Indebtedness of a Person, other than Holdings and its Subsidiaries, that is consolidated on the financial statements of Holdings in accordance with GAAP (except as provided in clause (h) above). Notwithstanding any provision to the contrary in this definition, “Consolidated Funded Indebtedness” shall include Indebtedness and any Guaranty (without duplication) incurred pursuant to Section 7.02(i).  
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“Consolidated Interest Charges” means, for any period, for Holdings and its Subsidiaries on a consolidated basis, the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses of Holdings and its Subsidiaries in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, (b) the portion of rent expense of Holdings and its Subsidiaries with respect to such period under capital leases that is treated as interest in accordance with GAAP and (c) the interest component of any Synthetic Lease Obligations, all in accordance with GAAP. For the purpose of calculating Consolidated Interest Charges for any period, if during such period the Company or any Subsidiary shall have made an acquisition or disposition involving aggregate consideration of $100,000,000 or more, Consolidated Interest Charges for such period shall be calculated after giving pro forma effect thereto as if such acquisition or disposition, as the case may be, occurred on the first day of such period. In addition, Consolidated Interest Charges shall exclude (x) any interest expense on Indebtedness of a third party that is not an Affiliate of Holdings or any of its Subsidiaries and that is attributable to supply or lease arrangements as a result of consolidation under ASC 810-10 or attributable to take-or-pay contracts that are accounted for in a manner similar to a capital lease under ASC 842-10 or ASC 842-40 in either case so long as the underlying obligations under any such supply or lease arrangement or under any such take-or-pay contract are not treated as Indebtedness as provided in the last sentence of the definition of Indebtedness and (y) any interest expense attributable to any Person, other than Holdings and its Subsidiaries that is consolidated on Holdings’ financial statements pursuant to GAAP (except if the corresponding Indebtedness would be included in clause (g) of Consolidated Funded Indebtedness).  
“Consolidated Leverage Ratio” means, as of any date of determination, the ratio of (a) Consolidated Funded Indebtedness as of such date to (b) Consolidated EBITDA for the period of the four fiscal quarters ending on such date; provided, that (i) unrestricted cash and cash equivalents of Holdings and its Subsidiaries in excess of $200,000,000 and cash deposited into escrow for purposes of debt repayment, shall, in each case, be deducted from Consolidated Funded Indebtedness when calculating the Consolidated Leverage Ratio, (ii) the Receivables Net Investment for any Permitted Receivables Financing shall not be included in the calculation of Consolidated Funded Indebtedness for purposes of the Consolidated Leverage Ratio, to the extent such Receivables Net Investment is de-recognized from the consolidated balance sheet of Holdings and its Subsidiaries pursuant to ASC 860-10-40-5 (or any successor thereto under GAAP) and (iii) the calculation of Consolidated Funded Indebtedness for purposes of the Consolidated Leverage Ratio shall exclude capital markets notes pre-funded to finance the DuPont Acquisition or another acquisition or similar transaction that has not been consummated or terminated or funded to finance a redemption, repayment or repurchase of existing notes which has not yet been consummated or terminated (without duplication of any netting of cash deposited in escrow for debt repayment pursuant to clause (i) above) and if such Indebtedness is not funded in to escrow, an amount equal to the principal excluded under this clause (iii) shall be excluded from cash and cash equivalents netted pursuant to clause (i).  
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“Consolidated Net Income” means, for any period, for Holdings and its Subsidiaries on a consolidated basis, the net income of Holdings and its Subsidiaries (excluding extraordinary gains and extraordinary losses) for that period; provided, that the net income for such period of any Person other than Holdings and its Subsidiaries that is consolidated on Holdings’ financial statements pursuant to GAAP shall be included only to the extent of the amount of dividends or distributions or other payments paid in cash (or to the extent converted into cash) to Holdings or a Subsidiary in respect of such period.  
“Consolidated Net Tangible Assets” means, at any particular time, Consolidated Tangible Assets at such time after deducting therefrom all current liabilities, except for (i) notes and loans payable, and (ii) current maturities of the principal component of obligations in respect of capitalized leases, all as set forth on the most recent consolidated balance sheet of Holdings and its consolidated Subsidiaries and computed in accordance with GAAP.  
“Consolidated Tangible Assets” means, at any particular time, the aggregate amount of all assets (less applicable reserves and other properly deductible items) after deducting therefrom all goodwill, trade names, trademarks, patents, unamortized debt discount and expenses (to the extent included in said aggregate amount of assets) and other like intangibles, as set forth on the most recent consolidated balance sheet of Holdings and its consolidated Subsidiaries and computed in accordance with GAAP.  
“Contractual Obligation” means, as to any Person, any provision of any security issued by such Person or of any agreement, instrument or other undertaking to which such Person is a party or by which it or any of its property is bound.  
“Control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings correlative thereto.  
“Covenant Increase Period” has the meaning set forth in Section 7.07(b).  
“Covenant Relief Period” means the period commencing on the First Amendment Effective Date and ending on (and including) the date of delivery of the Compliance Certificate for the fiscal quarter ending MarchDecember 31, 2026; provided that if as of any Test Date the Consolidated Leverage Ratio is not greater than 3.50:1.00 and the Company has delivered a Compliance Certificate in accordance with Section 6.02(a) demonstrating a Consolidated Leverage Ratio of not greater than 3.50:1.00 as of such applicable Test Date, the Company may elect in its sole discretion to terminate the Covenant Relief Period as of the next Business Day following such applicable Test Date by delivering written notice to the Administrative Agent of such termination.  
“Daily Simple SOFR” with respect to any applicable determination date means the SOFR published on such date on the Federal Reserve Bank of New York’s website (or any successor source).  
“Debt Offering” means any incurrence of debt for borrowed money (including any issuance of the New Notes or any other senior unsecured notes or junior subordinated notes through a public offering or in a Rule 144A or other private placement, debt securities convertible or exchangeable into equity securities, issued in a public offering, private placement or otherwise, or bank loans (including loans under the Facility) by Holdings or any of its Subsidiaries (including into escrow (but only to the extent that the conditions to release thereof are in no way less favorable to the Company than the conditions to availability and the initial funding of the Facility)), other than Excluded Debt.  
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“Debt Rating” means, as of any date of determination, the rating as determined by S&P, Moody’s or Fitch (collectively, the “Debt Ratings”) of the Company’s non-credit-enhanced, senior unsecured long-term debt; provided that, in the case of non-uniform ratings (a) if there are three Debt Ratings available and any two Debt Ratings are in the same level, such matching level shall apply; (b) if there are three Debt Ratings available and each of the Debt Ratings is in a different level, the level that is the middle level shall apply; (c) if only two Debt Ratings are available and there is a split in such ratings, the higher rating (with the Debt Rating for Pricing Level 1 being the highest and the Debt Rating for Pricing Level 6 being the lowest) will apply, unless the split in such Debt Ratings is more than one level apart, in which case the rating that is one level lower than the higher rating will apply; (d) if only one Debt Rating is available, the Pricing Level that is one level lower than that of such Debt Rating shall apply; and (e) if the Company does not have any Debt Rating, Pricing Level 6 shall apply.  
“Debtor Relief Laws” means the Bankruptcy Code of the United States, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief Laws of the United States or other applicable jurisdictions from time to time in effect.  
“Deemed Public Materials” has the meaning specified in Section 6.02.  
“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.  
“Default Rate” means an interest rate equal to (i) the Base Rate plus (ii) the Applicable Rate, if any, applicable to Base Rate Loans plus (iii) 2% per annum; provided, however, that with respect to a Term SOFR Loan, the Default Rate shall be an interest rate equal to the interest rate (including any Applicable Rate) otherwise applicable to such Loan plus 2% per annum.  
“Defaulting Lender” means, subject to Section 2.18(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two Business Days of the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and the Company in writing that such failure is the result of such Lender’s determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within two Business Days of the date when due, (b) has notified the Company or the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender’s obligation to fund a Loan hereunder and states that such position is based on such Lender’s determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three Business Days after written request by the Administrative Agent or the Company, to confirm in writing to the Administrative Agent and the Company that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Company), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any Equity Interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and of the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.18(b)) as of the date established therefor by the Administrative Agent in a written notice of such determination, which shall be delivered by the Administrative Agent to the Company and each other Lender promptly following such determination.  
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“Delaware Divided LLC” means any Delaware LLC which has been formed upon consummation of a Delaware LLC Division.  
“Delaware LLC” means any limited liability company organized or formed under the laws of the State of Delaware.  
“Delaware LLC Division” means the statutory division of any Delaware LLC into two or more Delaware LLCs pursuant to Section 18-217 of the Delaware Limited Liability Company Act.  
“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition (including any sale and leaseback transaction) of any property by any Person, including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith and including any disposition of property to a Delaware Divided LLC pursuant to a Delaware LLC Division.  
“Dollar” and “$” mean lawful money of the United States.  
“DuPont Acquisition” means the acquisition of the majority of the Mobility & Materials segment from DuPont De Nemours, Inc., as contemplated under the Transaction Agreement.  
“DuPont Acquisition Step-Up” has the meaning set forth in Section 7.07(b).  
“EEA Financial Institution” means (a) any institution established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any institution established in an EEA Member Country which is a Subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.  
“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.  
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“EEA Resolution Authority” means any public administrative authority or any Person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.  
“Effective Date” means the first date all the conditions precedent in Section 4.01 are satisfied or waived in accordance with Section 10.01.  
“Electronic Record” and “Electronic Signature” shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.  
“Eligible Assignee” means any Person that meets the requirements to be an assignee under Section 10.06(b)(iii) and (v) (subject to such consents, if any, as may be required under Section 10.06(b)(iii)).  
“Environmental Laws” means any and all international, foreign, Federal, state and local statutes, treaties, laws (including common law), rules, guidelines, regulations, ordinances, codes, administrative or judicial precedents or authorities (including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof), judgments, injunctions, notices, orders (including administrative orders), directed duties, requests, authorizations, decrees, permits, concessions, grants, franchises, licenses, agreements or governmental restrictions, whether now or hereinafter in effect, relating in any way to pollution and the protection of the environment or the release of any materials into the environment, including those related to hazardous substances or wastes, air emissions and discharges to waste or public systems, or to health and safety matters.  
“Environmental Liability” means any liability, contingent or otherwise (including any liability for damages, costs of environmental remediation, fines, penalties or indemnities), of the Company, any other Loan Party or any of their respective Subsidiaries directly or indirectly resulting from or based upon (a) violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) exposure to any Hazardous Materials, (d) the release or threatened release of any Hazardous Materials into the environment or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed or imposed with respect to any of the foregoing.  
“Equity Interests” means, with respect to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.  
“ERISA” means the Employee Retirement Income Security Act of 1974, as the same may be amended from time to time, and the rules and regulations promulgated thereunder.  
“ERISA Affiliate” any trade or business (whether or not incorporated) that, together with Holdings, the Company or any of their Subsidiaries, is treated as a single employer under Section 414(b) or (c) of the Code, or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.  
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“ERISA Event” means (a) any Reportable Event; (b) with respect to a Plan, the failure to satisfy the minimum funding standard of Section 412 of the Code or Section 302 of ERISA, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, (d) the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or the failure to make any required contribution to a Multiemployer Plan; (e) the incurrence by Holdings, the Company, their Subsidiaries or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan; (f) the receipt by Holdings, the Company, their Subsidiaries or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or to appoint a trustee to administer any Plan under Section 4042 of ERISA; (g) the incurrence by Holdings, the Company, a Subsidiary or any ERISA Affiliate of any Withdrawal Liability with respect to any Multiemployer Plan; (h) the incurrence by Holdings, the Company, their Subsidiaries or any ERISA Affiliate of any liability under Section 4062(e) or Section 4063 of ERISA with respect to a Plan; (i) the receipt by Holdings, the Company, their Subsidiaries or any ERISA Affiliate of any notice concerning the imposition of Withdrawal Liability or a determination by Holdings, the Company, their Subsidiaries or any ERISA Affiliate that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA (j) Holdings, the Company, any of their Subsidiaries or any ERISA Affiliate shall engage in any nonexempt “prohibited transaction” (as defined in Section 406 of ERISA or Section 4975 of the Code) involving any Plan or (k) the occurrence of a Foreign Plan Event.  
“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.  
“Event of Default” has the meaning specified in Section 8.01.  
“Excluded Debt” means (i) intercompany indebtedness among the Group, (ii) credit extensions (including borrowings and issuances of letters of credit provided thereunder) under the Existing Credit Agreement and other existing credit facilities of Holdings and its Subsidiaries and amendments, replacements, extensions, refinancings and renewals thereof; (iii) any indebtedness permitted to be incurred by the Acquired Business under the Transaction Agreement (and extensions, refinancings and renewals thereof to the extent permitted under the Transaction Agreement), (iv) commercial paper issuances, (v) working capital facilities of Foreign Subsidiaries and other ordinary course bilateral working capital or overdraft facilities, capital leases, letters of credit and purchase money and equipment financings, and other similar debt, (vi) trade debt, (vii) the refinancing or replacement of Holdings’ 4.625% senior unsecured notes due 2022 and (viii) other indebtedness (except indebtedness incurred for the purpose of financing the DuPont Acquisition) in an aggregate principal amount up to $100,000,000.  
“Excluded Taxes” means, with respect to any Recipient of any payment to be made by or on account of any obligation of the Company hereunder, (a) Taxes imposed on (or measured by) its net income or franchise Taxes (i) imposed by the jurisdiction under the laws of which such Recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable Lending Office is located or (ii) that are Other Connection Taxes, (b) any branch profits Tax or any similar Tax that is imposed by any jurisdiction described in clause (a) above, (c) in the case of a Lender (other than an assignee pursuant to a request by the Company), any United States federal withholding Tax that is in effect and would apply to amounts payable hereunder to such Lender at the time such Lender becomes a party to this Agreement (or designates a new Lending Office), except to the extent that such Lender (or its assignor, if any) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the Company with respect to any United States federal withholding Tax pursuant to Section 3.01, (d) Taxes attributable to such Recipient’s failure to comply with Section 3.01(f) and (e) any United States federal withholding Tax imposed pursuant to FATCA.  
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“Existing Credit Agreement” means that certain Credit Agreement, dated as of January 7, 2019 (as amended, modified or otherwise supplemented from time to time prior to the date of this Agreement), among Holdings, the Company, certain Subsidiaries of the Company, as borrowers and guarantors, the lenders from time to time party thereto and Bank of America, as administrative agent.  
“Existing Notes” means, collectively, the Company’s (i) 4.625% notes due 2022, (ii) 1.125% notes due 2023, (iii) 3.500% notes due 2024, (iv) 1.250% notes due 2025, (v) 1.400% notes due 2026, (vi) 2.125% notes due 2027 and (vii) 0.625% notes due 2028.  
“Facility” means, at any time, the aggregate amount of the Lenders’ Commitments at such time.  
“FASB ASC” means the Accounting Standards Codification of the Financial Accounting Standards Board.  
“FATCA” means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any applicable intergovernmental agreements between a non-U.S. jurisdiction and the United States with respect thereto, any law, regulations, or other official guidance enacted in a non-U.S. jurisdiction relating to an intergovernmental agreement related thereto, and any agreements entered into pursuant to Section 1471(b)(1) of the Code as such Code provision is enacted as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with).  
“Federal Funds Rate” means, for any day, the rate per annum calculated by the Federal Reserve Bank of New York based on such day’s federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided that if the Federal Funds Rate as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.  
“Fee Letter” means the fee letter agreement, dated February 17, 2022, among Holdings, the Arranger and the Administrative Agent.  
“Financial Covenant” has the meaning set forth in Section 7.07(b).  
“First Amendment Effective Date” means February 21, 2023.  
“Fitch” means Fitch, Inc. and any successor thereto.  
“Foreign Plan” means each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA), program or agreement that is not subject to U.S. law and is maintained or contributed to by, or entered into with Holdings, the Company, any of their Subsidiaries, or any other entity to the extent Holdings could have any liability in respect of its current or former employees, other than any employee benefit plan, program or agreement that is sponsored or maintained exclusively by a Governmental Authority.  
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“Foreign Plan Event” means, with respect to any Foreign Plan, (a) the failure to make or, if applicable, accrue in accordance with normal accounting practices, any contributions or payments required by applicable law or by the terms of such Foreign Plan; (b) the failure to register or loss of good standing with applicable Governmental Authorities of any such Foreign Plan required to be registered with such Governmental Authorities; or (c) the failure of any Foreign Plan to comply with any material provisions of applicable law and regulations or with the material terms of such Foreign Plan.  
“Foreign Subsidiary” means any Subsidiary that is organized under the laws of a jurisdiction other than the United States, a State thereof or the District of Columbia.  
“FRB” means the Board of Governors of the Federal Reserve System of the United States.  
“Fund” means any Person (other than a natural Person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.  
“GAAP” means generally accepted accounting principles in the United States set forth in the Financial Accounting Standards Board Accounting Standards Codification or such other principles as may be approved by a significant segment of the accounting profession in the United States, that are applicable to the circumstances as of the date of determination, consistently applied.  
“Governmental Authority” means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).  
“Group” means Holdings and its Subsidiaries (which, for the avoidance of doubt, will not include the Acquired Business prior to the consummation of the DuPont Acquisition on the Closing Date).  
“Guarantee” means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term “Guarantee” as a verb has a corresponding meaning.  
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“Guaranties” means the Parent Guaranty and the Subsidiary Guaranty.  
“Hazardous Materials” means all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, per- and polyfluoroalkyl substances, radon gas, infectious or medical wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.  
“Holdings” has the meaning specified in the introductory paragraph hereto.  
“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:  
(a)            all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;  
(b)            all direct or contingent obligations of such Person arising under letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments;  
(c)            net obligations of such Person under any Swap Contract;  
(d)            all obligations of such Person to pay the deferred purchase price of property or services (other than (x) trade accounts payable in the ordinary course of business and (y) any contingent earn-out payments until required to be reflected on the applicable consolidated balance sheet in accordance with GAAP);  
(e)            indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse (but if such Indebtedness has not been assumed by, and is otherwise non-recourse to, such Person, only to the extent of the lesser of the fair market value of the assets of such Person subject to such Lien and the amount of such Indebtedness);  
(f)            Capitalized Lease Obligations and Synthetic Lease Obligations;  
(g)            all obligations of such Person to purchase, redeem, retire, defease or otherwise make any payment in respect of any Equity Interest in such Person or any other Person, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; and  
(h)            all Guarantees of such Person in respect of any of the foregoing.  
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For all purposes hereof, the Indebtedness of any Person shall include the Indebtedness of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company or similar entity organized in any non-US jurisdiction) in which such Person is a general partner or a joint venturer, unless such Indebtedness is expressly made non-recourse to such Person. The amount of any net obligation under any Swap Contract on any date shall be deemed to be the Swap Termination Value thereof as of such date. The amount of any capital lease or Synthetic Lease Obligation as of any date shall be deemed to be the amount of Attributable Indebtedness in respect thereof as of such date. Indebtedness shall exclude any Indebtedness of a third party that is not an Affiliate of Holdings or any of its subsidiaries and that is attributable to supply or lease arrangements as a result of consolidation under ASC 810-10 or attributable to take-or-pay contracts that are accounted for in a manner similar to a capital lease under ASC 842-10 or ASC 842-40 in either case so long as (x) such supply or lease arrangements or such take-or-pay contracts are entered into in the ordinary course of business and (y) notwithstanding anything to the contrary contained in the definition of Consolidated EBITDA, the related expense under any such supply or lease arrangement or under any such take-or-pay contract is treated as an operating expense that reduces Consolidated EBITDA.  
“Indemnified Taxes” means all Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Loan Party under any Loan Document.  
“Indemnitees” has the meaning specified in Section 10.04(b).  
“Information” has the meaning specified in Section 10.07.  
“Interest Payment Date” means, (a) as to any Term SOFR Loan, the last day of each Interest Period applicable to such Loan and the applicable Maturity Date; provided, however, that if any Interest Period for a Term SOFR Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any Base Rate Loan, the last Business Day of each March, June, September and December and the applicable Maturity Date.  
“Interest Period” means as to each Term SOFR Loan, the period commencing on the date such Term SOFR Loan is disbursed or converted to or continued as a Term SOFR Loan and ending on the date one or three months thereafter (in each case, subject to availability), as selected by the Company in its Loan Notice; provided that:  
(i)            any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Term SOFR Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;  
(ii)            any Interest Period pertaining to a Term SOFR Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and  
(iii)            no Interest Period shall extend beyond the applicable Maturity Date.  
“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of capital stock or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person that constitute a business unit. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.  
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“IRS” means the United States Internal Revenue Service.  
“Laws” means, collectively, all international, foreign, Federal, state and local statutes, treaties, rules, guidelines, regulations, ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof, and all applicable administrative orders, directed duties, requests, licenses, authorizations and permits of, and agreements with, any Governmental Authority, in each case whether or not having the force of law.  
“Lender” has the meaning specified in the introductory paragraph hereto and, as the context requires, includes a Lender in its capacity as a 364-Day Tranche Lender and as a 5-Year Tranche Lender.  
“Lending Office” means, as to any Lender, the office or offices of such Lender described as such in such Lender’s Administrative Questionnaire, or such other office or offices as a Lender may from time to time notify the Company and the Administrative Agent which office may include any Affiliate of such Lender or any domestic or foreign branch of such Lender or such Affiliate. Unless the context otherwise requires each reference to a Lender shall include its applicable Lending Office.  
“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or other security interest or preferential arrangement in the nature of a security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any financing lease having substantially the same economic effect as any of the foregoing).  
“Loan” has the meaning specified in Section 2.01(b).  
“Loan Documents” means this Agreement, including schedules and exhibits hereto, each Note, the Fee Letter, and the Guaranties and any amendments, modifications or supplements hereto or to any other Loan Document or waivers hereof or to any other Loan Document.  
“Loan Notice” means a notice of (a) a Borrowing, (b) a conversion of Loans from one Type to the other or (c) a continuation of Term SOFR Loans pursuant to Section 2.02(a), which shall be substantially in the form of Exhibit A or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer of the Company.  
“Loan Parties” means, collectively, Holdings, the Company and each Subsidiary Guarantor.  
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“Material Adverse Effect” means (a) a material adverse change in, or a material adverse effect on, the business, results of operations, assets or financial condition of Holdings and its Subsidiaries, taken as a whole; (b) a material impairment of the rights and remedies of the Administrative Agent or any Lender under the Loan Documents, or of the ability of any Loan Party to perform its obligations under the Loan Documents to which it is a party; or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of the Loan Documents to which it is a party.  
“Material Indebtedness” means Indebtedness of Holdings or the Company (other than Indebtedness owed to a Subsidiary of the Company) that individually, or in the aggregate (with respect to any Subsidiary providing a Guarantee thereof when taken together with all other Indebtedness of Holdings or the Company Guaranteed by such Subsidiary), is outstanding in an aggregate principal amount of $100,000,000 or more.  
“Material Subsidiary” means each Subsidiary that is a Loan Party or that is a “significant subsidiary” of Holdings, as the term “significant subsidiary” is defined in Regulation S-X promulgated by the Securities and Exchange Commission.  
“Maturity Date” means (a) the 364-Day Tranche Maturity Date in the case of the 364-Day Tranche Loans and (b) the 5-Year Tranche Maturity Date in the case of the 5-Year Tranche Loans; provided, however, that, in each case, if such date is not a Business Day, the applicable Maturity Date shall be the next preceding Business Day.  
“Maximum Rate” has the meaning set forth in Section 10.09.  
“Moody’s” means Moody’s Investors Service, Inc. and any successor thereto.  
“Multiemployer Plan” means any employee benefit plan of the type described in Section 4001(a)(3) of ERISA, to which Holdings, the Company or any ERISA Affiliate makes or is obligated to make contributions, or during the preceding six plan years, has made or been obligated to make contributions.  
“Net Asset Sale Proceeds” means in connection with any Asset Sale by Holdings or any Subsidiary, (a) the cash (which term, for purposes of this definition, shall include cash equivalents) proceeds actually received by Holdings or its Subsidiaries in respect of such event, including any cash received in respect of any non-cash proceeds, but only as and when received, net of (b) the sum, without duplication, of (i) all fees and expenses incurred in connection with such event by Holdings and its Subsidiaries to third parties, including attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and brokerage, consultant and other customary fees, in each case, actually incurred in connection therewith, (ii) in the case of a sale, transfer, lease or other disposition (including pursuant to a sale and leaseback transaction) of an asset, the amount of all payments required to be made by Holdings and its Subsidiaries as a result of such event to repay Indebtedness secured by such asset, (iii) the amount of all taxes paid (or reasonably estimated to be payable) by Holdings and its Subsidiaries, and the amount of any reserves established by Holdings and its Subsidiaries in accordance with generally accepted accounting principles to fund purchase price adjustment, indemnification and similar contingent liabilities reasonably estimated to be payable, in each case during the year that such event occurred or the next succeeding year and that are directly attributable to the occurrence of such event (as determined reasonably and in good faith by Holdings), provided that, in the event any contingent liability reserve established with respect to any event as described in clause (b)(iii) above shall be reduced, the amount of such reduction shall, except to the extent that such reduction is made as a result of a payment having been made in respect of the contingent liabilities with respect to which such reserve has been established, be deemed to be receipt, on the date of such reduction, of cash proceeds in respect of such event, (iv) payments to retire any Indebtedness that is required to be repaid in connection with such event, (v) the pro rata portion of proceeds thereof attributable to minority interests and not available for distribution to or for the account of Holdings or any Subsidiary as a result thereof and (vi) the amount of any liabilities directly associated with such asset and retained by Holdings or any Subsidiary and including pension and other post-employment benefit liabilities and liabilities related to environmental matters.  
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“Net Cash Proceeds” means in connection with any Capital Raise by Holdings or any Subsidiary, the cash proceeds received from such issuance or incurrence, net of (i) attorneys’ fees, investment banking fees, accountants’ fees, underwriting discounts and commissions and other fees and expenses and taxes actually incurred in connection therewith and (ii) amounts (if any) applied to refinance the principal amounts of the 2023 Notes, or the 2024 Notes or, solely with regard to any mandatory prepayment of the 5-Year Tranche Loans that would otherwise be required, the 2025 Notes.  
“New Notes” means senior unsecured notes issued by Holdings pursuant to one or more registered public offerings or private placements under Rule 144A and/or Regulation S under the Securities Act of 1933, as amended, or other private placements (with respect to any private placement of notes, whether or not pursuant to Rule 144A, in each case with or without registration rights) to finance the cash consideration for the DuPont Acquisition.  
“Non-Consenting Lender” means any Lender that does not approve any consent, waiver or amendment that (i) requires the approval of all Lenders or all affected Lenders in accordance with the terms of Section 10.01 and (ii) has been approved by the Required Lenders.  
“Non-Defaulting Lender” means, at any time, each Lender that is not a Defaulting Lender at such time.  
“Note” means a promissory note made by the Company in favor of a Lender evidencing Loans, substantially in the form of Exhibit C.  
“Notice of Loan Prepayment” means a notice of prepayment with respect to a Loan, which shall be substantially in the form of Exhibit M or such other form as may be approved by the Administrative Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent), appropriately completed and signed by a Responsible Officer.  
“Obligations” means all advances to, and debts, liabilities, obligations, covenants and duties of, any Loan Party arising under any Loan Document or otherwise with respect to any Loan, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest and fees that accrue after the commencement by or against any Loan Party or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest and fees are allowed claims in such proceeding.  
“OFAC” has the meaning specified in Section 5.16(b).  
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“Organization Documents” means, (a) with respect to any corporation, the charter or certificate or articles of incorporation and the bylaws (or equivalent or comparable constitutive documents with respect to any non-U.S. jurisdiction); (b) with respect to any limited liability company, the certificate or articles of formation or organization and operating or limited liability agreement; and (c) with respect to any partnership, joint venture, trust or other form of business entity, the partnership, joint venture or other applicable agreement of formation or organization and any agreement, instrument, filing or notice with respect thereto filed in connection with its formation or organization with the applicable Governmental Authority in the jurisdiction of its formation or organization and, if applicable, any certificate or articles of formation or organization of such entity.  
“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Loan or Loan Document).  
“Other Taxes” means any and all present or future stamp or documentary taxes or similar Taxes arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, the Loan Documents, and any and all interest and penalties related thereto, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 3.06(b)).  
“Outstanding Amount” means with respect to Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any borrowings and prepayments or repayments of such Loans occurring on such date.  
“Overnight Rate” means, for any day, the greater of (i) the Federal Funds Rate and (ii) an overnight rate determined by the Administrative Agent, in accordance with banking industry rules on interbank compensation; provided that if the Overnight Rate as so determined is negative, it shall be deemed to be 0.00%.  
“Parent Guaranty” means the Guaranty made by Holdings in favor of the Administrative Agent and the Lenders, substantially in the form of Exhibit G-1.  
“Participant” has the meaning specified in Section 10.06(d).  
“Participant Register” has the meaning specified in Section 10.06(d).  
“Patriot Act” means the Uniting and Strengthening America By Providing Appropriate Tools Required To Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as amended.  
“PBGC” means the Pension Benefit Guaranty Corporation or any successor thereto.  
“Permitted Receivables Documents” means all documents and agreements evidencing, relating to or otherwise governing a Permitted Receivables Financing.  
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“Permitted Receivables Financing” means one or more transactions pursuant to which (i) Receivables Assets or interests therein are sold to or financed by one or more Special Purpose Receivables Subsidiaries, and (ii) such Special Purposes Receivables Subsidiaries finance their acquisition or maintenance of such Receivables Assets or interests therein, or the financing thereof, by selling or borrowing against such Receivables Assets; provided that (A) recourse to Holdings or any Subsidiary (other than Special Purposes Receivables Subsidiaries) in connection with such transactions shall be limited to the extent customary for similar transactions in the applicable jurisdictions (including, to the extent applicable, in a manner consistent with the delivery of a “true sale” or “absolute transfer” opinion with respect to any transfer by Holdings or any Subsidiary (other than a Special Purpose Receivables Subsidiary) and purchase price percentages shall be (x) on market terms (as determined in good faith by the Company) or (y) no less favorable to Holdings and its Subsidiaries than the receivables financing existing on the Closing Date pursuant to that certain Amended and Restated Purchase and Sale Agreement, dated as of February 2, 2015, by and among Celanese U.S. Sales LLC, Celanese Ltd. and Ticona Polymers, Inc. as originators, the other originators party thereto from time to time, Celanese International Corporation, as servicer, and CE Receivables LLC, as buyer (as amended prior to the Closing Date and, together with financing documentation relating thereto, as in effect on the Closing Date, the “Existing Receivables Financing”) and (B) the aggregate Receivables Net Investment shall not exceed (x) during the Covenant Relief Period, $650,000,000 at any time and (y) otherwise, $750,000,000 at any time. It is agreed that the Existing Receivables Financing is a Permitted Receivables Financing, subject to the requirements of clause (B) of the proviso to the immediately preceding sentence are satisfied.  
“Person” means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.  
“Plan” means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code and in respect of which Holdings, the Company, any of their Subsidiaries or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.  
“Platform” has the meaning specified in Section 6.02.  
“PTE” means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.  
“Public Lender” has the meaning specified in Section 6.02.  
“Qualifying Acquisition” means any acquisition by the Holdings or any of its Subsidiaries of any assets of or equity interests in another Person, including any acquisition of equity interests in a joint venture or other non-wholly owned entity, for which the aggregate consideration (including Indebtedness assumed in connection therewith and obligations in respect of the deferred purchase price thereof) exceeds $500,000,000.  
“Qualifying Disposition” means a Disposition (not including the sale or discount of receivables and related assets in connection with receivables financing, securitization or factoring arrangements permitted under this Agreement), by Holdings or any of its Subsidiaries to any other Person (other than another Group member), that yields gross proceeds to Holdings and its Subsidiaries of $300,000,000 or more.  
“Receivables Assets” means accounts receivable (including any bills of exchange) and related assets and property from time to time originated, acquired or otherwise owned by Holdings or any Subsidiary.  
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“Receivables Net Investment” means the aggregate cash amount paid by the lenders to, or purchasers of Receivables Assets from, Loan Parties under any Permitted Receivables Financing in connection with their purchase of, or the making of loans or issuance of letters of credit secured by, Receivables Assets or interests therein, as the same may be reduced from time to time by collections with respect to such Receivables Assets and the amount of such Receivables Assets that become defaulted accounts receivable or otherwise in accordance with the terms of the Permitted Receivables Documents; provided, however, that if all or any part of such Receivables Net Investment shall have been reduced by application of any distribution and thereafter such distribution is rescinded or must otherwise be returned for any reason, such Receivables Net Investment shall be increased by the amount of such distribution, all as though such distribution had not been made.  
“Recipient” means the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of any Loan Party hereunder.  
“Register” has the meaning specified in Section 10.06(c).  
“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person’s Affiliates.  
“Relevant Governmental Body” means the FRB and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB and/or the Federal Reserve Bank of New York, or, in each case, any successor thereto.  
“Reportable Event” means any of the events set forth in Section 4043(c) of ERISA with respect to a Plan, other than events for which the 30 day notice period has been waived.  
“Request for Credit Extension” means with respect to a Borrowing, conversion or continuation of Loans, a Loan Notice.  
“Required Lenders” means, at any time, Lenders having Total Credit Exposures representing more than 50% of the Total Credit Exposures of all Lenders. The Total Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.  
“Required 364-Day Tranche Lenders” means, at any time, 364-Day Tranche Lenders having Total 364-Day Tranche Credit Exposures representing more than 50% of the Total 364-Day Tranche Credit Exposures of all 364-Day Tranche Lenders. The Total 364-Day Tranche Credit Exposure of any Defaulting Lender shall be disregarded in determining Required 364-Day Tranche Lenders at any time.  
“Required 5-Year Tranche Lenders” means, at any time, 5-Year Tranche Lenders having Total 5-Year Tranche Credit Exposures representing more than 50% of the Total 5-Year Tranche Credit Exposures of all 5-Year Tranche Lenders. The Total 5-Year Tranche Credit Exposure of any Defaulting Lender shall be disregarded in determining Required 5-Year Tranche Lenders at any time.  
“Rescindable Amount” has the meaning as defined in Section 2.12(b)(ii).  
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“Resolution Authority” means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.  
“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of a Loan Party (or an equivalent or comparable person in the case of any Foreign Subsidiary that is a Loan Party), solely for purposes of the delivery of incumbency certificates pursuant to Section 4.01, the secretary or any assistant secretary of a Loan Party (or an equivalent or comparable person in the case of any Foreign Subsidiary that is a Loan Party) and, solely for purposes of notices given pursuant to Article II, any other officer or employee (or, in the case of any Foreign Subsidiary, other person performing the relevant functions, such as a manager or director) of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee (or, in the case of any Foreign Subsidiary, other person performing the relevant functions, such as a manager or director) of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.  
“Restricted Payment” means any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption retirement, acquisition, cancellation or termination of any Equity Interest of Holdings.  
“Revolving Credit Agreement” means that certain Credit Agreement, dated as of March 18, 2022 (as amended, modified or otherwise supplemented from time to time), among Holdings, the Company, certain Subsidiaries of the Company, as borrowers and guarantors, the lenders from time to time party thereto and Bank of America, as administrative agent.  
“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of S&P Global Inc. and any successor thereto.  
“Same Day Funds” means immediately available funds.  
“Scheduled Unavailability Date” has the meaning specified in Section 3.03(c).  
“SEC” means the Securities and Exchange Commission, or any Governmental Authority succeeding to any of its principal functions.  
“SOFR” means the Secured Overnight Financing Rate as administered by the Federal Reserve Bank of New York (or a successor administrator).  
“SOFR Adjustment” with respect to Daily Simple SOFR means 0.10%; and with respect to Term SOFR means 0.10%.  
“SOFR Administrator” means the Federal Reserve Bank of New York, as the administrator of SOFR, or any successor administrator of SOFR designated by the Federal Reserve Bank of New York or other Person acting as the SOFR Administrator at such time.  
“Solvent” means, as of any date, after giving effect to the consummation of the DuPont Acquisition to occur on the Closing Date, including the making of each Loan to be made on the Closing Date, and after giving effect to the application of the proceeds thereof: (i) the fair value of the assets of Holdings and its Subsidiaries, on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of Holdings and its Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured (taking into account refinancing alternatives); (iii) Holdings and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such liabilities become absolute and matured (taking into account refinancing alternatives); and (iv) Holdings and its Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital.  
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“Special Purpose Receivables Subsidiary” shall mean a direct or indirect Subsidiary of the Company established in connection with a Permitted Receivables Financing for the acquisition of Receivables Assets or interests therein, and which is organized in a manner intended to reduce the likelihood that it would be substantively consolidated with Holdings or any of the Subsidiaries (other than Special Purpose Receivables Subsidiaries) in the event Holdings or any such Subsidiary becomes subject to a proceeding under the Bankruptcy Code of the United States (or other insolvency law).  
“Specified Representations” means the representations made by any Loan Party under Sections 5.01, 5.02 (except with respect to Section 5.02(b)(i), only with respect to indebtedness for borrowed money of the Company or its Subsidiaries (tested on the Closing Date after giving pro forma effect to the DuPont Acquisition) in a committed or outstanding principal amount of $100,000,000 or greater), 5.04, 5.13, 5.16 (with respect to the use of proceeds of the Loans) and 5.17.  
“Subsidiary” of a Person means a corporation, partnership, joint venture, limited liability company or other business entity (i) of which a majority of the shares of securities or other interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or (ii) the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person; provided that, (x) for the avoidance of doubt, Fairway Methanol LLC (“Fairway”) shall not constitute a Subsidiary and (y) any Person that Holdings or any of its Subsidiaries invests in after the date hereof which does not satisfy the requirement of clause (i) above and for which the direct or indirect control rights of Holdings are no greater, taken as a whole, than such control rights with respect to Fairway as of the date hereof, as reasonably determined by the Administrative Agent, shall not constitute a Subsidiary, other than, with respect to clauses (x) and (y), for purposes of the definition of “Consolidated Funded Indebtedness” and Section 7.02 if and to the extent that any Indebtedness of such Person is recourse to Holdings or any of Holdings’ Subsidiaries not described in clause (x) or (y). Unless otherwise specified, all references herein to a “Subsidiary” or to “Subsidiaries” shall refer to a Subsidiary or Subsidiaries of Holdings.  
“Subsidiary Guarantors” or “Guarantors” means, collectively, each Subsidiary party to the Subsidiary Guaranty.  
“Subsidiary Guaranty” means the Guaranty made by the Subsidiary Guarantors in favor of the Administrative Agent and the Lenders, substantially in the form of Exhibit G-2.  
“Successor Rate” has the meaning specified in Section 3.03(b).  
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“Swap Contract” means any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement.  
“Swap Termination Value” means, in respect of any one or more Swap Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Contracts, (a) for any date on or after the date such Swap Contracts have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Contracts (which may include a Lender or any Affiliate of a Lender).  
“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease, or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but which, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).  
“Taxes” means any and all present or future taxes, levies, imposts, duties, deductions, charges (including ad valorem charges), assessments, fees or withholdings (including backup withholding) imposed by any Governmental Authority and any and all interest, additions to tax and penalties related thereto.  
“Term SOFR” means:  
(a) for any Interest Period with respect to a Term SOFR Loan, the rate per annum equal to the Term SOFR Screen Rate two U.S. Government Securities Business Days prior to the commencement of such Interest Period with a term equivalent to such Interest Period; provided that if the rate is not published prior to 11:00 a.m. on such determination date then Term SOFR means the Term SOFR Screen Rate on the first U.S. Government Securities Business Day immediately prior thereto, in each case, plus the SOFR Adjustment for such Interest Period; and  
(b) for any interest calculation with respect to a Base Rate Loan on any date, the rate per annum equal to the Term SOFR Screen Rate with a term of one month commencing that day;  
provided that if the Term SOFR determined in accordance with either of the foregoing provisions (a) or (b) of this definition would otherwise be less than zero, the Term SOFR shall be deemed zero for purposes of this Agreement.  
“Term SOFR Loan” means a Loan that bears interest at a rate based on clause (a) of the definition of Term SOFR.  
“Term SOFR Replacement Date” has the meaning specified in Section 3.03(b).  
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“Term SOFR Screen Rate” means the forward-looking SOFR term rate administered by CME (or any successor administrator satisfactory to the Administrative Agent) and published on the applicable Reuters screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time).  
“Term SOFR Successor Rate” has the meaning specified in Section 3.03(b).  
“Test Date” has the meaning set forth in Section 7.07(b).  
“Third Amendment Effective Date” means February [16], 2024.  
“Threshold Amount” means $100,000,000.  
“Total Credit Exposure” means, as to any Lender at any time, the sum of unused Commitments and aggregate Outstanding Amount of Loans held by such Lender at such time.  
“Total 364-Day Tranche Credit Exposure” means, as to any 364-Day Tranche Lender at any time, the aggregate Outstanding Amount of 364-Day Tranche Loans held by such 364-Day Tranche Lender at such time.  
“Total 364 Day Tranche Outstandings” means the aggregate Outstanding Amount of all 364-Day Tranche Loans.  
“Total 5-Year Tranche Credit Exposure” means, as to any 5-Year Tranche Lender at any time, the aggregate Outstanding Amount of 5-Year Tranche Loans held by such 5-Year Tranche Lender at such time.  
“Total 5-Year Tranche Outstandings” means the aggregate Outstanding Amount of all 5-Year Tranche Loans.  
“Tranche” means the 364-Day Tranche Commitments or 364-Day Tranche Loans, or the 5-Year Tranche Commitments or the 5-Year Tranche Loans, as the context may require.  
“Transaction Agreement” means that certain Transaction Agreement, dated as of February 17, 2022, among DuPont De Nemours, Inc. and DuPont E&I Holding, Inc., as sellers and Holdings, as buyer.  
“Type” means, with respect to a Loan, its character as a Base Rate Loan or a Term SOFR Loan.  
“UK Financial Institution” means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended form time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.  
“UK Resolution Authority” means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.  
“United States” and “U.S.” mean the United States of America.  
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“U.S. Government Securities Business Day” means any Business Day, except any Business Day on which any of the Securities Industry and Financial Markets Association, the New York Stock Exchange or the Federal Reserve Bank of New York is not open for business because such day is a legal holiday under the federal laws of the United States or the laws of the State of New York, as applicable.  
“U.S. Person” means any Person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.  
“U.S. Tax Compliance Certificate” has the meaning specified in Section 3.01(f)(ii).  
“Unreimbursed Amount” has the meaning specified in Section 2.03(c)(i).  
“Withdrawal Liability” shall mean liability to a Multiemployer Plan pursuant to Section 4203 or Section 4205 of ERISA as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined under Section 4203 or Section 4205 of ERISA.  
“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.  
1.02        Other Interpretive Provisions. With reference to this Agreement and each other Loan Document, unless otherwise specified herein or in such other Loan Document:(a)      The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including any Organization Document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person’s successors and assigns, (iii) the words “hereto,” “herein,” “hereof” and “hereunder,” and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words “asset” and “property” shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.  
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(b)            In the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including;” the words “to” and “until” each mean “to but excluding;” and the word “through” means “to and including.”  
(c)            Section headings herein and in the other Loan Documents are included for convenience of reference only and shall not affect the interpretation of this Agreement or any other Loan Document.  
(i)            [Reserved].  
(d)            Any reference herein to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity). If Holdings or the Company undertakes any Division, each entity resulting from such Division shall be deemed to be a successor in interest with joint and several liability for Holdings’ or the Company’s (as applicable), Obligations hereunder.  
1.03        Accounting Terms. (a) Generally. All accounting terms not specifically or completely defined herein shall be construed in conformity with, and all financial data (including financial ratios and other financial calculations) required to be submitted pursuant to this Agreement shall be prepared in conformity with, GAAP as in effect from time to time, except as otherwise specifically prescribed herein. Notwithstanding the foregoing, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Company and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 on financial liabilities shall be disregarded.  
(b)            Changes in GAAP. If at any time any change in GAAP would affect the computation of any financial ratio or requirement (including any negative covenant or utilization of any “basket”) set forth in any Loan Document, and either the Company or the Required Lenders shall so request, the Administrative Agent, the Lenders and the Company shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (A) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (B) the Company shall provide to the Administrative Agent and the Lenders financial information and calculations as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP.  
1.04        Rounding. Any financial ratios required to be maintained by Holdings pursuant to this Agreement shall be calculated by dividing the appropriate component by the other component, carrying the result to one place more than the number of places by which such ratio is expressed herein and rounding the result up or down to the nearest number (with a rounding-up if there is no nearest number).  
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1.05        Exchange Rates; Currency Equivalents.  
(a)           [Reserved].  
(b)           The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of “Term SOFR” or with respect to any comparable or successor rate thereto.  
1.06        [Reserved].  
1.07        [Reserved].  
1.08        Times of Day. Unless otherwise specified, all references herein to times of day shall be references to the time in New York City.  
1.09        [Reserved].  
1.10        Interest Rates. The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to any reference rate referred to herein or with respect to any rate (including, for the avoidance of doubt, the selection  of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or the effect of any of the foregoing, or of any Conforming Changes. The Administrative Agent and its affiliates or other related entities may engage in transactions or other activities that affect any reference rate referred to herein, or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing) or any related spread or other adjustments thereto, in each case, in a manner adverse to the Company.  The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any reference rate referred to herein or any alternative, successor or replacement rate (including, without limitation, any Successor Rate) (or any component of any of the foregoing), in each case pursuant to the terms of this Agreement, and shall have no liability to the Company, any Lender or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or other action or omission related to or affecting the selection, determination, or calculation of any rate (or component thereof) provided by any such information source or service.  
ARTICLE II.  
THE COMMITMENTS AND BORROWINGS  
2.01        Loans. (a) 364-Day Tranche Borrowings. Subject to the terms and conditions set forth herein, each 364-Day Tranche Lender severally agrees to make loans (each such loan, a “364-Day Tranche Loan”) to the Company in Dollars, on the Closing Date, in an aggregate amount not to exceed at any time outstanding the amount of such 364-Day Tranche Lender’s 364-Day Tranche Commitment. 364-Day Tranche Loans borrowed under this Section 2.01(a) and paid or prepaid may not be reborrowed. 364-Day Tranche Loans may be Base Rate Loans or Term SOFR Loans, as further provided herein.  
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(b)           5-Year Tranche Borrowings. Subject to the terms and conditions set forth herein, each 5-Year Tranche Lender severally agrees to make loans (each such loan, a “5-Year Tranche Loan”, and each 5-Year Tranche Loan and each 364-Day Tranche Loan, a “Loan”) to the Company in Dollars, on the Closing Date, in an aggregate amount not to exceed at any time outstanding the amount of such 5-Year Tranche Lender’s 5-Year Tranche Commitment. 5-Year Tranche Loans borrowed under this Section 2.01(a) and paid or prepaid may not be reborrowed. 5-Year Tranche Loans may be Base Rate Loans or Term SOFR Loans, as further provided herein.  
2.02        Borrowings, Conversions and Continuations of Loans.  
(a)           Each Borrowing, each conversion of Loans from one Type to the other, and each continuation of Term SOFR Loans shall be made upon the Company’s irrevocable notice to the Administrative Agent, which may be given by (A) telephone or (B) a Loan Notice; provided that any telephonic notice must be confirmed immediately by delivery to the Administrative Agent of a Loan Notice. Each such Loan Notice must be received by the Administrative Agent not later than 1:00 p.m. (i) three Business Days prior to the requested date of any Borrowing of, conversion to or continuation of Term SOFR Loans or of any conversion of Term SOFR Loans to Base Rate Loans, and (ii) on the requested date of any Borrowing of Base Rate Loans. Each Borrowing of, conversion to or continuation of Term SOFR Loans shall be in a principal amount of $5,000,000 or a whole multiple of $1,000,000 in excess thereof. Except as provided in Sections 2.03(c) and 2.04(c), each Borrowing of or conversion to Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof. Each Loan Notice shall specify (i) whether the Company is requesting a Borrowing, a conversion of Loans from one Type to the other, or a continuation of Term SOFR Loans, (ii) the requested date of the Borrowing, conversion or continuation, as the case may be (which shall be a Business Day), (iii) the principal amount of Loans to be borrowed, converted or continued, (iv) the Type of Loans to be borrowed or to which existing Loans are to be converted and (v) if applicable, the duration of the Interest Period with respect thereto. If the Company fails to specify a Type of Loan in a Loan Notice or if the Company fails to give a timely notice requesting a conversion or continuation, then the applicable Loans shall be made as, or converted to, Base Rate Loans. Any automatic conversion to Base Rate Loans shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Term SOFR Loans. If the Company requests a Borrowing of, conversion to, or continuation of Term SOFR Loans in any such Loan Notice, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one month.  
(b)           Following receipt of a Loan Notice, the Administrative Agent shall promptly notify each Appropriate Lender of the amount of its Applicable Percentage of the applicable Loans, and if no timely notice of a conversion or continuation is provided by the Company, the Administrative Agent shall notify each Appropriate Lender of the details of any automatic conversion to Base Rate Loans. In the case of any Borrowing, each Appropriate Lender shall make the amount of its Loan available to the Administrative Agent in Same Day Funds at the Administrative Agent’s Office not later than 1:00 p.m. on the Business Day specified in the applicable Loan Notice. Upon satisfaction of the applicable conditions set forth in Section 4.02, the Administrative Agent shall make all funds so received available to the Company in like funds as received by the Administrative Agent either by (i) crediting the account of the Company on the books of Bank of America with the amount of such funds or (ii) wire transfer of such funds, in each case in accordance with instructions provided to (and reasonably acceptable to) the Administrative Agent by the Company.  
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(c)           Except as otherwise provided herein, a Term SOFR Loan may be continued or converted only on the last day of an Interest Period for such Loan. During the existence of an Event of Default, (i) no 364-Day Tranche Loans may be requested as, converted to or continued as Term SOFR Loans if the Required 364-Day Tranche Lenders elect not to permit such conversion or continuation and (ii) no 5-Year Tranche Loans may be requested as, converted to or continued as Term SOFR Loans if the Required 5-Year Tranche Lenders elect not to permit such conversion or continuation.  
(d)           The Administrative Agent shall promptly notify the Company and the Appropriate Lenders of the interest rate applicable to any Interest Period for Term SOFR Loans upon determination of such interest rate.  
(e)           After giving effect to all Borrowings, all conversions of Loans from one Type to the other, and all continuations of Loans as the same Type, there shall not be more than ten Interest Periods in effect with respect to Loans.  
(f)            Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all of the portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the Company, the Administrative Agent, and such Lender.  
(g)           With respect to SOFR or Term SOFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Company and the Lenders reasonably promptly after such amendment becomes effective.  
2.03        [Reserved].  
2.04        Mandatory Prepayments.  
(a)           2.05 .. During the Covenant Relief Period, if Holdings or any Subsidiary consummates any Capital Raise, the Company shall prepay, or cause to be prepaid, Loans in an aggregate principal amount equal to 100% of all Net Cash Proceeds received therefrom on or prior to the date that is 5 Business Days after the receipt by Holdings or such Subsidiary of such Net Cash Proceeds; provided, that notwithstanding the foregoing no prepayment pursuant to this Section 2.04 shall be required with respect to any 5-year Tranche Loan until the payment in full of all outstanding “Obligations” under and as defined in the 3-Year Existing Term Loan Facility and all outstanding Obligations in respect of the 364-Day Tranche Loans (in each case, other than any contingent obligations for which no claim has been made or notice given). Each such prepayment of Loans shall be applied to the principal amount of the Loans of the Lenders in accordance with their respective Applicable Loan Percentages. Any prepayment of a Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05.  
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(b)           During the Covenant Relief Period, if Holdings or any Subsidiary consummates any Asset Sale, the Company shall prepay, or cause to be prepaid, Loans in an aggregate principal amount equal to 100% of all Net Asset Sale Proceeds received therefrom on or prior to the date that is 5 Business Days after the receipt by Holdings or such Subsidiary of such Net Asset Sale Proceeds; provided, that notwithstanding the foregoing, the Company may apply a ratable portion of the Net Asset Sale Proceeds to prepay term loans under the 2024 Term Credit Agreement (calculated based on the aggregate principal amount outstanding of (i) Loans and (ii) term loans under the 2024 Term Credit Agreement on the date of such prepayment). Each such prepayment of Loans shall be applied to the principal amount of the Loans of the Lenders in accordance with their respective Applicable Loan Percentages. Any prepayment of a Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Notwithstanding anything herein to the contrary, (A) to the extent that any of or all of the Net Asset Sale Proceeds of any Asset Sale of a Foreign Subsidiary of Holdings giving rise to a prepayment pursuant to Section 2.04(b) (a “Foreign Prepayment Event”) are prohibited or delayed by applicable local law from being repatriated to Holdings or a Subsidiary of Holdings organized in the United States or any political subdivision thereof, the portion of such Net Asset Sale Proceeds so affected will not be required to be taken into account in determining the amount to be applied to repay Loans at the times provided in Section 2.04(b), and such amounts may be retained by such Foreign Subsidiary, and once Holdings has determined in good faith that such repatriation of any of such affected Net Asset Sale Proceeds is permitted under the applicable local law, then the amount of such Net Asset Sale Proceeds will be taken into account as soon as practicable in determining the amount to be applied (net of additional taxes payable or reserved if such amounts were repatriated) to the repayment of the Loans pursuant to Section 2.04(b), (B) to the extent that and for so long as Holdings has determined in good faith that repatriation of any of or all the Net Asset Sale Proceeds of any Foreign Prepayment Event would have a material adverse tax or cost consequence with respect to such Net Asset Sale Proceeds, the amount of Net Asset Sale Proceeds so affected will not be required to be taken into account in determining the amount to be applied to repay Loans at the times provided in Section 2.04(b), and such amounts may be retained by such Foreign Subsidiary; provided that when Holdings determines in good faith that repatriation of any of or all the Net Asset Sale Proceeds would no longer have a material adverse tax consequence with respect to such Net Asset Sale Proceeds, such Net Asset Sale Proceeds shall be taken into account as soon as practicable in determining the amount to be applied (net of additional taxes payable or reserved against if such amounts were repatriated) to the repayment of the Loans pursuant to Section 2.04(b), and (C) to the extent that and for so long as Holdings has determined in good faith that repatriation of any of or all the Net Asset Sale Proceeds of any Foreign Prepayment Event would give rise to a risk of liability for the directors of such Foreign Subsidiary, the Net Asset Sale Proceeds so affected will not be required to be taken into account in determining the amount to be applied to repay Loans at the times provided in Section 2.04(b), as the case may be, and such amounts may be retained by such Foreign Subsidiary; provided that when Holdings determines in good faith that repatriation of any of or all the Net Asset Sale Proceeds of any Foreign Prepayment Event would no longer give rise to liability for the directors of such Foreign Subsidiary, such Net Asset Sale Proceeds shall be taken into account as soon as practicable in determining the amount to be applied (net of additional taxes payable or reserved against if such amounts were repatriated) to the repayment of the Loans pursuant to Section 2.04(b).  
2.05        [Reserved].  
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2.06        Voluntary Prepayments. (a) The Company may, upon notice to the Administrative Agent, at any time or from time to time voluntarily prepay Loans in whole or in part without premium or penalty; provided that (i) such notice must be a Notice of Loan Prepayment and be received by the Administrative Agent not later than 11:00 a.m. (A) three Business Days prior to any date of prepayment of Term SOFR Loans, (B) [reserved], and (C) on the date of prepayment of Base Rate Loans (or, in each case, such shorter period as the Administrative Agent may agree in its sole discretion); (ii) any prepayment of Term SOFR Loans shall be in a principal amount of $5,000,000 or a whole multiple of $1,000,000 in excess thereof; (iii) [reserved]; and (iv) any prepayment of Base Rate Loans shall be in a principal amount of $500,000 or a whole multiple of $100,000 in excess thereof or, in each case, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) and Tranche of Loans to be prepaid and, if Term SOFR Loans are to be prepaid, the Interest Period(s) of such Loans. The Administrative Agent will (1) promptly notify each 364-Day Tranche Lender of its receipt of each such notice in respect of any 364-Day Tranche Loans, and of the amount of such 364-Day Tranche Lender’s Applicable 364-Day Tranche Loan Percentage of such prepayment and (2) promptly notify each 5-Year Tranche Lender of its receipt of each such notice in respect of any 5-Year Tranche Loans, and of the amount of such 5-Year Tranche Lender’s Applicable 5-Year Tranche Loan Percentage of such prepayment. If such notice is given by the Company, the Company shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein; provided that if such notice is given in connection with a full or partial refinancing of the Facilities, such notice may condition the prepayment upon the effectiveness of such refinancing Indebtedness, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the date of such prepayment) if such condition is not satisfied; provided that the Company shall pay any amounts required pursuant to Section 3.05. Any prepayment of a Term SOFR Loan shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 3.05. Each such prepayment of 364-Day Tranche Loans shall be applied to the 364-Day Tranche Loans of the 364-Day Tranche Lenders in accordance with their respective Applicable 364-Day Tranche Loan Percentages and each such prepayment of 5-Year Tranche Loans shall be applied to the 5-Year Tranche Loans of the 5-Year Tranche Lenders in accordance with their respective Applicable 5-Year Tranche Loan Percentages. Any prepayment of Loans pursuant to this Section 2.05 shall be applied to reduce the subsequent scheduled repayments of Loans of the applicable Tranche to be made pursuant to Section 2.07 as directed in writing by the Company or, if no such direction has been provided, in direct order of maturity.  
2.07        Termination or Reduction of Commitments.  
(a)  The Company may, upon notice to the Administrative Agent, terminate the Aggregate 364-Day Tranche Commitments, or from time to time permanently reduce the Aggregate 364-Day Tranche Commitments; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three Business Days prior to the date of termination or reduction (or such shorter period as the Administrative Agent may agree in its sole discretion) and (ii) any such partial reduction shall be in an aggregate amount of $10,000,000 or any whole multiple of $1,000,000 in excess thereof. The Administrative Agent will promptly notify the 364-Day Tranche Lenders of any such notice of termination or reduction of the Aggregate 364-Day Tranche Commitments. If such notice from the Company described above in this paragraph is given in connection with a full or partial refinancing of the 364-Day Tranche Commitments, such notice may condition the reduction or termination upon the effectiveness of such refinancing, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the date of the effectiveness of such termination) if such condition is not satisfied. Any reduction of the Aggregate 364-Day Tranche Commitments shall be applied to the 364-Day Tranche Commitment of each Lender according to its Applicable 364-Day Tranche Percentage. All fees accrued until the effective date of any termination of the Aggregate 364-Day Tranche Commitments shall be paid on the effective date of such termination.  
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(b)  The Company may, upon notice to the Administrative Agent, terminate the Aggregate 5-Year Tranche Commitments, or from time to time permanently reduce the Aggregate 5-Year Tranche Commitments; provided that (i) any such notice shall be received by the Administrative Agent not later than 11:00 a.m. three Business Days prior to the date of termination or reduction (or such shorter period as the Administrative Agent may agree in its sole discretion) and (ii) any such partial reduction shall be in an aggregate amount of $10,000,000 or any whole multiple of $1,000,000 in excess thereof. The Administrative Agent will promptly notify the 5-Year Tranche Lenders of any such notice of termination or reduction of the Aggregate 5-Year Tranche Commitments. If such notice from the Company described above in this paragraph is given in connection with a full or partial refinancing of the 5-Year Tranche Commitments, such notice may condition the reduction or termination upon the effectiveness of such refinancing, in which case such notice may be revoked by the Company (by notice to the Administrative Agent on or prior to the date of the effectiveness of such termination) if such condition is not satisfied. Any reduction of the Aggregate 5-Year Tranche Commitments shall be applied to the 5-Year Tranche Commitment of each Lender according to its Applicable 5-Year Tranche Percentage. All fees accrued until the effective date of any termination of the Aggregate 5-Year Tranche Commitments shall be paid on the effective date of such termination.  
(c)  To the extent not previously terminated, all unused Commitments hereunder shall terminate on the earlier of (i) the Closing Date (after giving effect to the Loans made on such date) and (ii) the expiry of the Availability Period. The Company shall provide the Administrative Agent prompt written notice of any commitment reduction pursuant to clause (ii) hereof.  
(d)  The Aggregate Commitments shall be automatically and permanently reduced by the amounts set forth below:  
(i)  Following the termination in full of commitments under the Bridge Facility, 100% of the net cash proceeds of any Debt Offering or issuance of any equity securities or equity-linked securities in a capital raising transaction (in any event not including any such issuances pursuant to (i) bond hedging programs, (ii) employee stock plans, dividend reinvestment or other benefit or employee incentive arrangements, (iii) grants to employees, officers or directors in the ordinary course of business, (iv) director’s or officer’s qualifying shares and/or other nominal amounts required to be held by Holdings or any of its Subsidiaries under applicable law or pursuant to a policy of Holdings or any of its Subsidiaries, (v) customer stock ownership plans and (vi) issuances among members of the Group), in each case, on or after February 17, 2022 by the Group; and  
(ii)  100% of the net cash proceeds (including cash equivalents) actually received of any sale or other disposition (including as a result of casualty or condemnation) of any assets outside the ordinary course of business on or after February 17, 2022 by any member of the Group (other than net cash proceeds that are reinvested in or applied in the replacement, repair, restoration, construction or improvement of assets to be used in the business of the Group within 6 months of receipt of such proceeds (or in the case of any casualty or condemnation event, such longer period as may be reasonably required to replace or repair the affected asset)), except for (i) sales or other dispositions between or among Group members, (ii) sales or other dispositions the net cash proceeds of which do not exceed $700,000,000 in the aggregate (it being agreed, for the avoidance of doubt, that only any relevant net cash proceeds in excess of such amount in the aggregate shall be required to be applied to commitment reductions hereunder), (iii) the sale or discount of receivables and related assets in connection with receivables financing, securitization or factoring arrangements, (iii) sale and leaseback transactions, the net cash proceeds of which do not exceed $100,000,000, and (iv) net cash proceeds that are instead applied to reduce the commitments in respect of the Bridge Facility;  
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provided, that Holdings shall notify the Administrative Agent within three Business Days of any receipt by any Group member of the proceeds described in this Section 2.06(d) which are required to be applied to reduce commitments hereunder; provided, further that all mandatory commitment reductions pursuant to this Section 2.06(d) shall be applied without penalty or premium and will be applied on a pro rata basis amongst the 364-Day Tranche Commitments and the 5-Year Tranche Commitments.  
2.08        Amortization; Repayment of Loans. (a) The Company shall repay to the Administrative Agent for the ratable account of the 5-Year Tranche Lenders (which repayments shall be adjusted from time to time pursuant to Section 2.05), (i) on the last Business Day of each March, June, September and December occurring during the term of this Agreement (commencing with the first full quarter after the Closing Date), a principal amount in respect of the 5-Year Tranche Loans equal to the outstanding principal amount of the 5-Year Tranche Loans on the Closing Date multiplied by the applicable per annum percentage set forth below, in equal quarterly installments:  
Year 1     0.0 %  
Year 2     0.0 %  
Year 3     15.0 %  
Year 4     15.0 %  
Year 5     15.0 %  
(b)           The Company shall repay to the 364-Day Tranche Lenders on the 364-Day Tranche Maturity Date the aggregate principal amount of 364-Day Tranche Loans made to the Company outstanding on such date. For the avoidance of doubt, there shall be no amortization applicable to any 364-Day Tranche Loans.  
(c)           The Company shall repay to the 5-Year Tranche Lenders on the 5-Year Tranche Maturity Date the aggregate principal amount of 5-Year Tranche Loans made to the Company outstanding on such date.  
2.09        Interest. Subject to the provisions of subsection (b) below, (i) each Term SOFR Loan shall bear interest on the outstanding principal amount thereof for each Interest Period at a rate per annum equal to the Term SOFR for such Interest Period plus the Applicable Rate and (ii) each Base Rate Loan shall bear interest on the outstanding principal amount thereof from the applicable borrowing date at a rate per annum equal to the Base Rate plus the Applicable Rate.  
(a)           (i) If any amount of principal of any Loan is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.  
(ii)            If any amount (other than principal of any Loan) payable by the Company under any Loan Document is not paid when due (without regard to any applicable grace periods), whether at stated maturity, by acceleration or otherwise, then upon the request of the Required Lenders, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.  
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(iii)            Upon the request of the Required Lenders, while any Event of Default exists (other than as set forth in clauses (b)(i) and (b)(ii) above), the Company shall pay interest on the principal amount of all outstanding Loans and any overdue other Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by applicable Laws.  
(iv)            Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.  
(b)            Interest on each Loan shall be due and payable in arrears on each Interest Payment Date applicable thereto and at such other times as may be specified herein. Interest hereunder shall be due and payable in accordance with the terms hereof before and after judgment, and before and after the commencement of any proceeding under any Debtor Relief Law.  
2.10        Fees. In addition to certain fees described in subsections (h) and (i) of Section 2.03:  
(a)           Ticking Fees.  
(i)            The Company shall pay to the Administrative Agent for the account of each 364-Day Tranche Lender in accordance with its Applicable 364-Day Tranche Percentage, a ticking fee (the “364-Day Tranche Ticking Fee”) equal to the Applicable Rate times the actual daily outstanding principal amount of the unused Aggregate 364-Day Tranche Commitments. The 364-Day Tranche Ticking Fee shall accrue commencing on the later of (i) the Effective Date and (ii) May 18, 2022, and ending on the earlier of (i) the Closing Date and (ii) the end of the Availability Period, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, and upon the earlier of (i) the Closing Date and (ii) the end of the Availability Period. The 364-Day Tranche Ticking Fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.  
(ii)            The Company shall pay to the Administrative Agent for the account of each 5-Year Tranche Lender in accordance with its Applicable 5-Year Tranche Percentage, a ticking fee (the “5-Year Tranche Ticking Fee”) equal to the Applicable Rate times the actual daily outstanding principal amount of the unused Aggregate 5-Year Tranche Commitments. The 5-Year Tranche Ticking Fee shall accrue commencing on the later of (i) the Effective Date and (ii) May 18, 2022, and ending on the earlier of (i) the Closing Date and (ii) the end of the Availability Period, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, and upon the earlier of (i) the Closing Date and (ii) the end of the Availability Period. The 5-Year Tranche Ticking Fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Rate during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.  
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(b)            Other Fees. The Company shall pay to the Arranger and the Administrative Agent for their own respective accounts, in Dollars, fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.  
2.11        Computation of Interest and Fees. All computations of interest for Base Rate Loans (including Base Rate Loans determined by reference to Term SOFR) shall be made on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed. All other computations of fees and interest shall be made on the basis of a 360-day year and actual days elapsed (which results in more fees or interest, as applicable, being paid than if computed on the basis of a 365-day year). Interest shall accrue on each Loan for the day on which the Loan is made, and shall not accrue on a Loan, or any portion thereof, for the day on which the Loan or such portion is paid, provided that any Loan that is repaid on the same day on which it is made shall, subject to Section 2.12(a), bear interest for one day. Each determination by the Administrative Agent of an interest rate or fee hereunder shall be conclusive and binding for all purposes, absent manifest error.  
2.12        Evidence of Debt. The Borrowings made by each Lender shall be evidenced by one or more accounts or records maintained by such Lender and by the Administrative Agent in the ordinary course of business. The accounts or records maintained by the Administrative Agent and each Lender shall be conclusive absent manifest error of the amount of the Borrowings made by the Lenders to the Company and the interest and payments thereon. Any failure to so record or any error in doing so shall not, however, limit or otherwise affect the obligation of the Company hereunder to pay any amount owing with respect to the Obligations. In the event of any conflict between the accounts and records maintained by any Lender and the accounts and records of the Administrative Agent in respect of such matters, the accounts and records of the Administrative Agent shall control in the absence of manifest error. Upon the request of any Lender to the Company made through the Administrative Agent, the Company shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender’s Loans to the Company in addition to such accounts or records. Each Lender may attach schedules to a Note and endorse thereon the date, Type (if applicable), amount, currency and maturity of its Loans and payments with respect thereto.  
2.13        Payments Generally; Administrative Agent’s Clawback. (a) General. All payments to be made by the Company shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. Except as otherwise expressly provided herein, all payments by the Company hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the applicable Administrative Agent’s Office in Dollars and in Same Day Funds not later than 2:00 p.m. on the date specified herein. Without limiting the generality of the foregoing, the Administrative Agent may require that any payments due under this Agreement be made in the United States. The Administrative Agent will promptly distribute to each Appropriate Lender its Applicable Loan Percentage (or other applicable share as provided herein) of such payment in like funds as received by wire transfer to such Lender’s Lending Office. All payments received by the Administrative Agent after 2:00 p.m. shall be deemed received on the next succeeding Business Day and any applicable interest or fee shall continue to accrue. If any payment to be made by the Company 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)           (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from an Appropriate Lender prior to the proposed date of any Borrowing of Term SOFR 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 Appropriate Lender will not make available to the Administrative Agent such Lender’s share of such Borrowing, the Administrative Agent may assume that such Appropriate 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 Appropriate 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 Company 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 Appropriate Lender and the Company severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in Same Day Funds with interest thereon, for each day from and including the date such amount is made available to the Company but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Appropriate Lender, the Overnight Rate, plus any administrative, processing or similar fees customarily charged by the Administrative Agent in connection with the foregoing, and (B) in the case of a payment to be made by the Company, the interest rate applicable to Base Rate Loans. If the Company and such Appropriate Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Company the amount of such interest paid by the Company 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 Company shall be without prejudice to any claim the Company may have against a Lender that shall have failed to make such payment to the Administrative Agent.  
(ii)            Payments by the Company; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Company prior to the date on which any payment is due to the Administrative Agent for the account of the Appropriate Lenders hereunder that the Company will not make such payment, the Administrative Agent may assume that the Company has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders the amount due.  
With respect to any payment that the Administrative Agent makes for the account of the Lenders as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the “Rescindable Amount”): (1) the Company has not in fact made such payment; (2) the Administrative Agent has made a payment in excess of the amount so paid by the Company (whether or not then owed); or (3) the Administrative agent has for any reason otherwise erroneously made such payment; then each of the Lenders severally agree to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Lender, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.  
A notice of the Administrative Agent to any Lender or the Company with respect to any amount owing under this subsection (b) shall be conclusive, absent manifest error.  
(c)            Failure to Satisfy Conditions Precedent. If any Lender makes available to the Administrative Agent funds for any Loan to be made by such Lender to the Company as provided in the foregoing provisions of this Article II, and such funds are not made available to the Company by the Administrative Agent because the conditions to the applicable Borrowings set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.  
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(d)            Obligations of Lenders Several. The obligations of the Lenders hereunder to make Loans and to make payments pursuant to Section 10.04(c) are, in each case, several and not joint. The failure of any Lender to make any Loan, to fund any such participation or to make any payment under Section 10.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Loan, to purchase its participation or to make its payment under Section 10.04(c).  
(e)            Funding Source. Nothing herein shall be deemed to obligate any Lender to obtain the funds for any Loan in any particular place or manner or to constitute a representation by any Lender that it has obtained or will obtain the funds for any Loan in any particular place or manner.  
2.14        Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of the Loans made by it under the Facility resulting in such Lender’s receiving payment of a proportion of the aggregate amount of such Loans or participations and accrued interest thereon greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans in the Tranche in respect of which it is an Appropriate Lender, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them, provided that the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of the Company pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender) or (y) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than an assignment to Holdings or any Subsidiary thereof (as to which the provisions of this Section shall apply).  
Each Loan Party consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Loan Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Loan Party in the amount of such participation.  
2.15        [Reserved].  
2.16        [Reserved].  
2.17        [Reserved].  
2.18        [Reserved].  
2.19        Defaulting Lenders.  
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(a)           Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable Law:  
(i)            Waivers and Amendments. Such Defaulting Lender’s right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of “Required Lenders” and Section 10.01.  
(ii)            Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VIII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 10.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, [reserved]; third, [reserved]; fourth, as the Company may request (so long as no Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Company, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lender’s potential future funding obligations with respect to Loans under this Agreement; sixth, to the payment of any amounts owing to the Lenders as a result of any judgment of a court of competent jurisdiction obtained by any Lender against such Defaulting Lender as a result of such Defaulting Lender’s breach of its obligations under this Agreement; seventh, so long as no Default exists, to the payment of any amounts owing to the Company as a result of any judgment of a court of competent jurisdiction obtained by the Company against such Defaulting Lender as a result of such Defaulting Lender’s breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Loans in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of such Defaulting Lender until such time as all Loans are held by the Lenders pro rata in accordance with the Commitments hereunder. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender pursuant to this Section 2.18(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.  
(b)            Defaulting Lender Cure. If the Company and the Administrative Agent agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans to be held on a pro rata basis by the Lenders in accordance with their Applicable Percentages), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Company while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender’s having been a Defaulting Lender.  
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ARTICLE III.  
TAXES, YIELD PROTECTION AND ILLEGALITY  
3.01        Taxes.  
(a)           Any and all payments by or on account of any obligation of any Loan Party hereunder shall be made free and clear of and without deduction or withholding for any Taxes, except as required by applicable law; provided that if an applicable withholding agent shall be required to deduct or withhold any Tax from such payments, then (i) if such Tax is an Indemnified Tax or Other Tax, the sum payable shall be increased by an applicable Loan Party as necessary so that after making all required deduction or withholding (including deduction or withholding applicable to additional sums payable under this Section) each Recipient, as applicable, receives an amount equal to the sum it would have received had no such deduction or withholding been made, (ii) such withholding agent shall make such deduction or withholding and (iii) such withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law.  
(b)           In addition, the Loan Parties shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.  
(c)           Each Loan Party shall indemnify each Recipient, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by such Recipient, as applicable, on or with respect to any payment by or on account of any obligation of such Loan Party hereunder (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any reasonable expense arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to such Loan Party by a Lender, or by the Administrative Agent on its own behalf, on behalf of another agent or on behalf of a Lender, shall be conclusive absent manifest error.  
(d)           Each Lender shall severally indemnify the Administrative Agent, within 10 days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender’s failure to comply with the provisions of Section 10.06(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this subparagraph (d).  
(e)           As soon as practicable after any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority pursuant to this Section 3.01, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.  
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(f)            (i) Any Lender that is entitled to an exemption from or reduction of withholding Tax under the law of the jurisdiction in which the Company is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Company (with a copy to the Administrative Agent), to the extent such Lender is legally entitled to do so, at the time or times prescribed by applicable law or reasonably requested by the Company or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Company or Administrative Agent as will permit such payments to be made without such withholding tax or at a reduced rate. In addition, any Lender, if reasonably requested by the Company or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Company or the Administrative Agent as will enable the Company or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, no Lender shall have any obligation under this paragraph (f) with respect to any withholding Tax imposed by any jurisdiction other than the United States if in the reasonable judgment of such Lender such compliance would subject such Lender to any material unreimbursed cost or expense or would otherwise materially prejudice the legal or commercial position of such Lender.  
(ii)            Without limiting the generality of the foregoing, in the event that the Company is a U.S. Person,  
(A)            any Lender that is a U.S. Person shall deliver to the Company and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Administrative Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;  
(B)            any Lender that is not a U.S. Person shall, to the extent it is legally entitled to do so, deliver to the Company and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Administrative Agent), whichever of the following is applicable:  
(1)            in the case of a Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;  
(2)            executed copies of IRS Form W-8ECI;  
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(3)            in the case of a Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit L-1 to the effect that such Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the Company within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN or W-8BEN-E, as applicable; or  
(4)            to the extent a Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate, substantially in the form of Exhibit L-2 or Exhibit L-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Lender is a partnership and one or more direct or indirect partners of such Lender are claiming the portfolio interest exemption, such Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit L-4 on behalf of each such direct and indirect partner;  
(C)            any Lender that is not a U.S. Person shall, to the extent it is legally entitled to do so, deliver to the Company and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Company or the Administrative Agent), executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Company or the Administrative Agent to determine the withholding or deduction required to be made  
(iii)            If a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Company and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Company or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Company or the Administrative Agent as may be necessary for the Company and the Administrative Agent to comply with their obligations under FATCA and to determine whether such Lender has complied with such Lender’s obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (iii), “FATCA” shall include any amendments made to FATCA after the date hereof.  
(iv)            Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Company and the Administrative Agent in writing of its legal inability to do so.  
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(g)           If a Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Indemnified Taxes or Other Taxes as to which it has been indemnified by a Loan Party or with respect to which such Loan Party has paid additional amounts pursuant to this Section 3.01, it shall pay over such refund to such Loan Party (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under this Section 3.01 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of such Recipient (including any Taxes imposed with respect to such refund) and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that such Loan Party, upon the request of such Recipient, agrees to repay as soon as reasonably practicable the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to such Recipient in the event such Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the Recipient be required to pay any amount to an Loan Party pursuant to this paragraph (g) the payment of which would place the Recipient in a less favorable net after-Tax position than the Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This Section shall not be construed to require any Recipient to make available its Tax returns (or any other information relating to its Taxes which it deems confidential) to the Loan Parties or any other Person.  
3.02        Illegality. If any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to SOFR or Term SOFR, or any Governmental Authority has imposed material restrictions on the authority of such Lender to engage in reverse repurchase of U.S. Treasury securities transactions of the type included in the determination of SOFR or Term SOFR, or to determine or charge interest rates based upon SOFR or Term SOFR, then, upon notice thereof by such Lender to the Company (through the Administrative Agent), (a) any obligation of such Lender to make or maintain Term SOFR Loans or to convert Base Rate Loans to Term SOFR Loans shall be, in each case, suspended, and (b) if such notice asserts the illegality of such Lender making or maintaining Base Rate Loans the interest rate on which is determined by reference to the Term SOFR component of the Base Rate, the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of the Base Rate, in each case until such Lender notifies the Administrative Agent and the Company that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (i) the Company shall, upon demand from such Lender (with a copy to the Administrative Agent), prepay all Term SOFR Loans or, if applicable, convert all Term SOFR Loans of such Lender to Base Rate Loans (the interest rate on which Base Rate Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Term SOFR component of the Base Rate), in each case, immediately and (ii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon SOFR, the Administrative Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Term SOFR component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon SOFR. Upon any such prepayment or conversion, the Company shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 3.05.  
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3.03        Inability to Determine Rates.  
(a)           If in connection with any request for a Term SOFR Loan or a conversion of Base Rate Loans to Term SOFR Loans or a continuation of any of such Loans, as applicable, (i) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that (A) no Successor Rate has been determined in accordance with Section 3.03(b), and the circumstances under clause (i) of Section 3.03(b) or the Scheduled Unavailability Date has occurred, or (B) adequate and reasonable means do not otherwise exist for determining the Term SOFR for any requested Interest Period with respect to a proposed Term SOFR Loan or in connection with an existing or proposed Base Rate Loan, or (ii) the Administrative Agent or the Required Lenders determine that for any reason that the Term SOFR for any requested Interest Period does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Administrative Agent will promptly so notify the Company and each Lender.  
Thereafter, (x) the obligation of the Lenders to make or maintain Term SOFR Loans, or to convert Base Rate Loans to Term SOFR Loans, shall be suspended in each case to the extent of the affected Term SOFR Loans or Interest Period and (y) in the event of a determination described in the preceding sentence with respect to the Term SOFR component of the Base Rate, the utilization of the Term SOFR component in determining the Base Rate shall be suspended, in each case until the Administrative Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of this Section 3.03(a), until the Administrative Agent upon instruction of the Required Lenders) revokes such notice.  
Upon receipt of such notice, (i) the Company may revoke any pending request for a Borrowing of, or conversion to, or continuation of Term SOFR Loans to the extent of the affected Term SOFR Loans or Interest Period, as applicable or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Loans in the amount specified therein and (ii) any outstanding Term SOFR Loans shall be deemed to have been converted to Base Rate Loans immediately at the end of their respective applicable Interest Period.  
(b)            Replacement of Term SOFR or Successor Rate. Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Company or Required Lenders notify the Administrative Agent (with, in the case of the Required Lenders, a copy to the Company) that the Company or Required Lenders (as applicable) have determined, that:  
(i)            adequate and reasonable means do not exist for ascertaining one month, three month and six month interest periods of Term SOFR, including, without limitation, because the Term SOFR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or  
(ii)            CME or any successor administrator of the Term SOFR Screen Rate or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator with respect to its publication of Term SOFR, in each case acting in such capacity, has made a public statement identifying a specific date after which one month, three month and six month interest periods of Term SOFR or the Term SOFR Screen Rate shall or will no longer be made available, or permitted to be used for determining the interest rate of U.S. dollar denominated syndicated loans, or shall or will otherwise cease, provided that, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide such interest periods of Term SOFR after such specific date (the latest date on which one month, three month and six month interest periods of Term SOFR or the Term SOFR Screen Rate are no longer available permanently or indefinitely, the “Scheduled Unavailability Date”);  
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then, on a date and time determined by the Administrative Agent (any such date, the “Replacement Date”), which date shall be at the end of an Interest Period or on the relevant interest payment date, as applicable, for interest calculated and, solely with respect to clause (ii) above, no later than the Scheduled Unavailability Date, Term SOFR will be replaced hereunder and under any Loan Document with Daily Simple SOFR plus the SOFR Adjustment for any payment period for interest calculated that can be determined by the Administrative Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document (the “Successor Rate). If the Successor Rate is Daily Simple SOFR plus the SOFR Adjustment, all interest payments will be payable on a monthly basis.  
Notwithstanding anything to the contrary herein, (i) if the Administrative Agent determines that Daily Simple SOFR is not available on or prior to the Term SOFR Replacement Date, or (ii) if the events or circumstances of the type described in Section 3.03(b)(i) or (ii) have occurred with respect to the Successor Rate then in effect, then in each case, the Administrative Agent and the Company may amend this Agreement solely for the purpose of replacing the Term SOFR or any then current Successor Rate in accordance with this Section 3.03, with an alternative benchmark rate giving due consideration to any evolving or then existing convention for similar credit facilities syndicated and agented in the United States for such alternative benchmarks. and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar credit facilities syndicated and agented in the United States for such benchmarks, which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated (any such proposed rate, including for the avoidance of doubt, any adjustment thereto, a “Successor Rate”). Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Company unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Administrative Agent written notice that such Required Lenders object to such amendment.  
The Administrative Agent will promptly (in one or more notices) notify the Company and each Lender of the implementation of any Successor Rate.  
Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.  
Notwithstanding anything else herein, if at any time any Successor Rate as so determined would otherwise be less than zero, the Successor Rate will be deemed to be zero for the purposes of this Agreement and the other Loan Documents.  
In connection with the implementation of a Successor Rate, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such Conforming Changes to the Company and the Lenders reasonably promptly after such amendment becomes effective.  
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3.04        Increased Costs; Reserve Requirements.  
(a)            Increased Costs Generally. If any Change in Law shall:  
(i)            impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 3.04(e), other than as set forth below);  
(ii)            subject any Recipient to any Taxes (other than Indemnified Taxes and Excluded Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or  
(iii)            impose on any Lender or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Term SOFR Loans made by such Lender;  
and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Loan (or of maintaining its obligation to make any such Loan), or to increase the cost to such Lender, or to reduce the amount of any sum received or receivable by such Lender (whether of principal, interest or any other amount) then, upon request of such Lender, the Company will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.  
(b)            Capital Requirements. If any Lender reasonably determines that any Change in Law affecting such Lender or any Lending Office of such Lender or such Lender’s holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender’s capital or on the capital of such Lender’s holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Loans made by such Lender, to a level below that which such Lender or such Lender’s holding company could have achieved but for such Change in Law (taking into consideration such Lender’s policies and the policies of such Lender’s holding company with respect to capital adequacy), then from time to time the Company will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender’s holding company for any such reduction suffered.  
(c)            Certificates for Reimbursement. A certificate of a Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Company shall be conclusive absent manifest error. The Company shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.  
(d)            Delay in Requests. Failure or delay on the part of any Lender to demand compensation pursuant to the foregoing provisions of this Section 3.04 shall not constitute a waiver of such Lender’s right to demand such compensation, provided that the Company shall not be required to compensate a Lender pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine months prior to the date that such Lender notifies the Company of the Change in Law giving rise to such increased costs or reductions and of such Lender’s intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine-month period referred to above shall be extended to include the period of retroactive effect thereof).  
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(e)            Additional Reserve Requirements. The Company shall pay to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including eurocurrency funds or deposits (currently known as “Eurocurrency liabilities”), additional interest on the unpaid principal amount of each Term SOFR Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Term SOFR Loans, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which in each case shall be due and payable on each date on which interest is payable on such Loan, provided the Company shall have received at least 10 days’ prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice 10 days prior to the relevant Interest Payment Date, such additional interest or costs shall be due and payable 10 days from receipt of such notice.  
3.05        Compensation for Losses. Upon demand of any Lender (with a copy to the Administrative Agent) from time to time, the Company shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of:  
(a)           any continuation, conversion, payment or prepayment of any Loan other than a Base Rate Loan on a day other than the last day of the Interest Period for such Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);  
(b)           any failure by the Company (for a reason other than the failure of such Lender to make a Loan) to prepay, borrow, continue or convert any Loan other than a Base Rate Loan on the date or in the amount notified by the Company;  
(c)           any failure by the Company to make payment of any Loan (or interest due thereon) on its scheduled due date or any payment thereof in a different currency; or  
(d)           any assignment of a Term SOFR Loan on a day other than the last day of the Interest Period therefor as a result of a request by the Company pursuant to Section 10.13;  
including any loss of anticipated profits, any foreign exchange losses and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Loan, from fees payable to terminate the deposits from which such funds were obtained or from the performance of any foreign exchange contract. The Company shall also pay any customary administrative fees charged by such Lender in connection with the foregoing.  
For purposes of calculating amounts payable by the Company to the Lenders under this Section 3.05, each Lender shall be deemed to have funded each Term SOFR Loan made by it at the Term SOFR, for such Loan by a matching deposit or other borrowing in the offshore interbank market for such currency for a comparable amount and for a comparable period, whether or not such Loan was in fact so funded.  
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3.06        Mitigation Obligations; Replacement of Lenders.  
(a)            Designation of a Different Lending Office. Each Lender may make any Borrowings to the Company through any Lending Office, provided that the exercise of this option shall not affect the obligation of the Company to repay the Borrowings in accordance with the terms of this Agreement. If any Lender requests compensation under Section 3.04, or requires the Company to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01, or if any Lender gives a notice pursuant to Section 3.02, then at the request of the Company such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.01 or 3.04, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 3.02, as applicable, and (ii) in each case, would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Company hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.  
(b)            Replacement of Lenders. If any Lender requests compensation under Section 3.04, or if the Company is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.01 and, in each case, such Lender has declined or is unable to designate a different Lending Office in accordance with Section 3.06(a), the Company may replace such Lender in accordance with Section 10.13.  
3.07         Survival. All obligations of the Loan Parties under this Article III shall survive termination of the Aggregate Commitments, repayment of all other Obligations hereunder, and resignation of the Administrative Agent.  
ARTICLE IV.  
CONDITIONS PRECEDENT  
4.01         Conditions of Effectiveness. The effectiveness of this Agreement is subject to satisfaction or waiver in accordance with Section 10.01 of the following conditions precedent:  
(a)            The Administrative Agent’s receipt of the following, each of which shall be (to the extent applicable) originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Loan Party, each dated the Effective Date (or, in the case of certificates of governmental officials, a recent date before the Effective Date) and each in form and substance reasonably satisfactory to the Administrative Agent and each of the Lenders:  
(i)              executed counterparts of this Agreement and the Guaranties;  
(ii)             Notes executed by the Company in favor of each Lender requesting Notes;  
(iii)            such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Loan Party as the Administrative Agent may require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Agreement and the other Loan Documents to which such Loan Party is a party;  
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(iv)            such documents and certifications as the Administrative Agent may reasonably require to evidence that each Loan Party is duly organized or formed, validly existing, in good standing (as applicable) and qualified to engage in business in the jurisdiction of its formation;  
(v)             a favorable opinion of each of (A) Gibson, Dunn & Crutcher LLP, counsel to the Loan Parties and (B) Michael Sullivan, internal counsel to the Loan Parties, in each case addressed to the Administrative Agent and each Lender;  
(vi)            [Reserved]; and  
(vii)            a certificate signed by a Responsible Officer of Holdings certifying that (A) the representations and warranties of (i) Holdings and the Company contained in Article V and (ii) each Loan Party contained in each other Loan Document, or which are contained in any document furnished at any time under or in connection herewith or therewith, shall be true and correct on and as of the Effective Date, (B) no Default exists or would result from the execution of the Loan Documents and (C) the current Debt Ratings;  
(b)            Any fees required to be paid by the Loan Parties on or before the Effective Date under the Loan Documents shall have been paid.  
(c)            Substantially concurrently with, or prior to, the Effective Date, the Company shall have obtained a revolving credit facility with commitments in the aggregate principal amount of $1,750,000,000, as described in that certain Commitment Letter, dated as of February 17, 2022, among Holdings, Bank of America, N.A. and BofA Securities, Inc.  
(d)            Unless waived by the Administrative Agent, the Company shall have paid all fees, charges and disbursements of counsel to the Administrative Agent and the Arranger required to be reimbursed by this Agreement (directly to such counsel if requested by the Administrative Agent) to the extent invoiced prior to or on the Effective Date, plus such additional amounts of such fees, charges and disbursements as shall constitute its reasonable estimate of such fees, charges and disbursements incurred or to be incurred by it through the closing proceedings (provided that such estimate shall not thereafter preclude a final settling of accounts between the Company and the Administrative Agent).  
(e)            The Lenders shall have received, at least five Business Days prior to the Effective Date, all information they shall have requested under anti-terrorism and anti-money-laundering laws and regulations, including the Patriot Act, and, at least ten Business Days prior to the Effective Date, any Loan Party that qualifies as a “legal entity customer” under the Beneficial Ownership Regulation shall have delivered, to each Lender that so requests, a Beneficial Ownership Certification in relation to such Loan Party.  
Without limiting the generality of the provisions of the last paragraph of Section 9.03, for purposes of determining compliance with the conditions specified in this Section 4.01, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Effective Date specifying its objection thereto.  
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4.02        Conditions to Closing Date. The obligation of each Lender to honor any request for a Loan on the Closing Date is subject to the occurrence of the Effective Date and satisfaction or waiver in accordance with Section 10.01 of the following conditions precedent:  
(a)           The DuPont Acquisition shall have been (or, substantially contemporaneously with the Closing Date, shall be) consummated in all material respects pursuant to the Transaction Agreement without giving effect to any modifications, consents, amendments or waivers thereto agreed to by Holdings that, in each case, are materially adverse to the interests of the Lenders (in their capacities as such), unless the Lenders shall have provided its written consent thereto, such consent not to be unreasonably withheld, delayed or conditioned (it being understood that (x) any decrease in the cash purchase consideration of 10% or more in respect of the DuPont Acquisition will be deemed to be materially adverse to the Lenders, (y) any increase in the cash purchase consideration of 10% or more for the DuPont Acquisition will be deemed to be materially adverse to the Lenders to the extent that any such increase is not funded with additional equity and (z) any reduction of the cash purchase price consideration shall be applied to reduce amounts to be funded under the Bridge Facility).  
(b)           Since February 17, 2022, there shall not have occurred a Business Material Adverse Effect (as defined in the Acquisition Agreement as in effect on February 17, 2022) that is still continuing.  
(c)           The Lenders shall have received (i) audited financial statements of Holdings for its three most recent fiscal years ended at least 60 days prior to the Closing Date, (ii) unaudited financial statements of Holdings for any quarterly (other than the fourth fiscal quarter) interim period or periods ended after the date of its most recently audited financial statements (and corresponding periods of any prior year), and more than 45 calendar days prior to the Closing Date, (iii) the audited carve-out financial statements of the Acquired Business for (x) each of the fiscal years ended December 31, 2020 and December 31, 2021 and (y) if the closing date of the DuPont Acquisition has not occurred prior to March 31, 2023, the fiscal year ended December 31, 2022, (iv) unaudited carve-out financial statements of the Acquired Business for any quarterly (other than the fourth fiscal quarter) interim period or periods ended after the date of its respective most recently audited financial statements (and corresponding periods of any prior year), and more than 45 calendar days prior to the Closing Date and (v) pro forma financial statements, giving effect to the DuPont Acquisition, for the last completed fiscal year covered by clause (iii) and for the latest interim period covered by clause (iv); in each case that, meet the requirements of Regulation S-X. The Lenders hereby acknowledge that Holdings’ public filing with the Securities and Exchange Commission of any required audited financial statements on Form 10-K or required unaudited financial statements on Form 10-Q, in each case, will satisfy the requirements under clauses (i) or (ii), as applicable, of this paragraph. The Lenders acknowledge that it has received (i) audited financial statements of Holdings for its fiscal years ended 2019, 2020 and 2021; (ii) unaudited financial statements of Holdings for the interim periods ended March 31, 2021, June 30, 2021 and September 30, 2021.  
(d)           All costs, fees, expenses (including, without limitation, legal fees and expenses), to the extent invoiced at least two (2) business days prior to the Closing Date, payable to the Administrative Agent or the Lenders shall have been paid on or prior to the Closing Date.  
(e)           The Administrative Agent’s receipt of a duly executed solvency certificate from the chief financial officer (or other officer with equivalent responsibilities) of Holdings demonstrating pro forma solvency (on a consolidated basis) of Holdings and its Subsidiaries as of the Closing Date (after giving effect to the DuPont Acquisition) in the form attached as Exhibit H.  
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(f)            At the time of and upon giving effect to the borrowing of the Loans on the Closing Date, (i) the Acquisition Representations and the Specified Representations shall be true and correct in all material respects (except to the extent already qualified by materiality or material adverse effect and except for those representations and warranties that address matters only as of a particular date (which shall remain true and correct in all material respects (except to the extent already qualified by materiality or material adverse effect) as of such particular date) and (ii) there shall not exist any Event of Default under Section 8.01(a) or Section 8.01(f) (limited to Holdings and the Company).  
(g)           The Administrative Agent shall have received a duly executed Loan Notice with respect to the Borrowing to be made on the Closing Date within the time parameters required by Section 2.02.  
ARTICLE V.  
REPRESENTATIONS AND WARRANTIES  
Each of Holdings and the Company represents and warrants to the Administrative Agent and the Lenders on (a) (other than with respect to the representations and warranties that are stated to be made as of the Closing Date) the Effective Date and (b) the Closing Date that:  
5.01        Existence, Qualification and Power. Each Loan Party and each Subsidiary thereof is duly incorporated, organized or formed, validly existing and (to the extent the concept is applicable in such jurisdiction) in good standing under the Laws of the jurisdiction of its incorporation or organization (except, in the case of any Subsidiary other than a Loan Party, to the extent the failure to be so could not reasonably be expected to have a Material Adverse Effect).Each Loan Party and each Subsidiary thereof (a) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own or lease its assets and carry on its business and (ii) in the case of the Loan Parties, to execute, deliver and perform its obligations under the Loan Documents to which it is a party and (b) is duly qualified and is licensed and, as applicable, in good standing under the Laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification or license; except in each case referred to in clause (a)(i) or (b), to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect.  
5.02        Authorization; No Contravention. The execution, delivery and performance by each Loan Party of each Loan Document to which such Person is party, have been duly authorized by all necessary corporate or other organizational action, and do not and will not (a) contravene the terms of any of such Person’s Organization Documents; (b) violate or result in any breach or contravention of, or the creation of any Lien under (i) any material Contractual Obligation to which such Person is a party or affecting such Person or the properties of such Person or any of its Subsidiaries or (ii) any order, injunction, writ or decree of any Governmental Authority; or (c) violate any applicable Law.  
5.03        Governmental Authorization; Other Consents. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any Governmental Authority or any other Person is necessary or required in connection with the execution, delivery or performance by, or enforcement against, any Loan Party of this Agreement or any other Loan Document, in each case, which has not been obtained.  
5.04        Binding Effect. This Agreement has been, and each other Loan Document, when delivered hereunder, will have been, duly executed and delivered by each Loan Party that is party thereto. This Agreement constitutes, and each other Loan Document when so delivered will constitute, a legal, valid and binding obligation of such Loan Party, enforceable against each Loan Party that is party thereto in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors’ rights generally and by equitable principles relating to the availability of specific performance as a remedy and except to the extent that indemnification obligations may be limited by federal or state securities laws or public policy relating thereto.  
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5.05        Financial Statements; No Material Adverse Effect.  
(a)           The Audited Financial Statements (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein and (ii) fairly present, in all material respects, the financial condition of Holdings and its subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein.  
(b)           The unaudited consolidated balance sheet of Holdings and its subsidiaries dated September 30, 2021, and the related consolidated statements of income or operations, shareholders’ equity and cash flows for the fiscal quarter ended on that date (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, and (ii) fairly present the financial condition of the Company and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments.  
(c)           Since the date of the Audited Financial Statements, there has been no event or circumstance, either individually or in the aggregate, that has had or could reasonably be expected to have a Material Adverse Effect.  
5.06        Litigation. There are no actions, suits, proceedings, claims or disputes pending or, to the knowledge of Holdings after due and diligent investigation, threatened or contemplated, at law, in equity, in arbitration or before any Governmental Authority, by or against Holdings or any of its Subsidiaries or against any of their properties or revenues that (a) purport to affect or pertain to this Agreement or any other Loan Document, or any of the transactions contemplated hereby, or (b) either individually or in the aggregate could reasonably be expected to have a Material Adverse Effect, except, in the case of clause (b), as disclosed prior to the Closing Date in Holdings’ annual report on Form 10-K filed with the SEC for Holdings’ fiscal year ended December 31, 2021, in subsequent quarterly reports on Form 10-Q filed with the SEC prior to the date hereof, or in any subsequent current report on Form 8-K filed with the SEC prior to the date hereof.  
5.07        No Default. No Default has occurred and is continuing.  
5.08        Ownership of Property. Holdings and each Subsidiary has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of its business, except for such failures as could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.  
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5.09        Environmental Matters. Except as disclosed in Holdings’ annual report on Form 10-K filed with the SEC for Holdings’ fiscal year ended December 31, 2021, in subsequent quarterly reports on Form 10-Q filed with the SEC prior to the date hereof, or in any subsequent current report on Form 8-K filed with the SEC prior to the Closing Date, and except as to matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect (a) no written notice, demand, claim, request for information, order, complaint or penalty has been received by Holdings, the Company or any of the Subsidiaries relating to Holdings, the Company or any of the Subsidiaries, (b) there are no judicial, administrative or other actions, suits or proceedings relating to Holdings, the Company or any of the Subsidiaries pending or threatened relating to Environmental Laws, (c) each of Holdings, the Company and the Subsidiaries has all permits, licenses, registrations, consents or other authorizations necessary for its current operations to comply with all applicable Environmental Laws and is, and since January 4, 2014 has been, in compliance with the terms of such permits, licenses, registrations, consents or other authorizations and with all other applicable Environmental Laws, (d) no Hazardous Material is located at, in, on or under, or is emanating from, any property currently owned, operated or leased by Holdings, the Company or any of the Subsidiaries that would reasonably be expected to give rise to any cost, liability or obligation of Holdings, the Company or any of the Subsidiaries under any Environmental Laws, and no Hazardous Material has been generated, handled, owned or controlled by Holdings, the Company or any of the Subsidiaries and transported to or released at any location in a manner that would reasonably be expected to give rise to any cost, liability or obligation of Holdings, the Company or any of the Subsidiaries under any Environmental Laws, (e) to the knowledge of the Company, there are no facts, conditions, situations or sets of circumstances (including any reasonably anticipated changes to Environmental Laws) which could reasonably be expected to give rise to any Environmental Liability or interfere with or prevent continued compliance by Holdings, the Company or any Subsidiary with Environmental Laws, and (f) neither Holdings, the Company nor any Subsidiary is financing or conducting any investigation, response or other corrective action under any Environmental Law at any location.  
5.10        Taxes. Each of Holdings, the Company and the Subsidiaries (a) has timely filed or caused to be timely filed all U.S. federal, state, local and non-U.S. Tax returns required to have been filed by it that are material to such companies taken as a whole and each such Tax return (as amended, if applicable) is true and correct in all material respects and (b) has timely paid or caused to be timely paid all Taxes shown thereon to be due and payable by it and all other Taxes or assessments, except (i) Taxes or assessments that are being contested in good faith by appropriate proceedings in accordance with Section 6.04 and for which Holdings, the Company or any of the Subsidiaries (as the case may be) has set aside on its books adequate reserves and (ii) Taxes the failure to pay which would not reasonably be expected to have a Material Adverse Effect.  
5.11         ERISA Compliance.  
Each of Holdings, the Company, each of their Subsidiaries and each ERISA Affiliate is in compliance with the applicable provisions of ERISA and the provisions of the Code relating to Plans and the regulations and published interpretations thereunder and any similar applicable non-U.S. law applicable to any Foreign Plan, except for such noncompliance that would not reasonably be expected to have a Material Adverse Effect. No Reportable Event has occurred during the past five years as to which Holdings, the Company, any of their Subsidiaries or any ERISA Affiliate was required to file a report with the PBGC, other than reports that have been filed and reports the failure of which to file would not reasonably be expected to have a Material Adverse Effect. As of the Closing Date, the excess of the present value of all benefit liabilities under each Plan of Holdings, the Company, each of their Subsidiaries and each ERISA Affiliate (based on those assumptions used to fund such Plan), as of the last annual valuation date applicable thereto for which a valuation is available, over the value of the assets of such Plan as of such date (each such Plan an “underfunded Plan”) would not reasonably be expected to have a Material Adverse Effect, and the excess of the present value of all benefit liabilities of all underfunded Plans (based on those assumptions used to fund each such Plan) as of the last annual valuation dates applicable thereto for which valuations are available, over the value of the assets as of such date of all such underfunded Plans would not reasonably be expected to have a Material Adverse Effect. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events which have occurred or for which liability is reasonably expected to occur, would reasonably be expected to result in a Material Adverse Effect. None of Holdings, the Company, any of their Subsidiaries or any ERISA Affiliate has received any written notification that any Multiemployer Plan is insolvent or has been terminated within the meaning of Title IV of ERISA, or has knowledge that any Multiemployer Plan is reasonably expected to be insolvent or terminated, where such insolvency or termination has had or would reasonably be expected to have, through increases in the contributions required to be made to such Multiemployer Plan or otherwise, a Material Adverse Effect.  
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5.12        Subsidiary Guarantors. As of the Closing Date, Schedule 5.12 sets forth each Subsidiary of Holdings that has provided a Guarantee in respect of the Existing Notes or any other Material Indebtedness of Holdings or the Company. Each Subsidiary that is currently required to be a Subsidiary Guarantor pursuant to the terms of Section 6.13 is a Subsidiary Guarantor.  
5.13        Margin Regulations; Investment Company Act.  
(a)           The Company is not engaged nor will engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock. Following the application of the proceeds of each Borrowing, not more than 25% of the value of the assets (either of the Company only or of Holdings and its Subsidiaries on a consolidated basis) subject to the provisions of Section 7.01 or subject to any restriction contained in any agreement or instrument between the Company and any Lender or any Affiliate of any Lender relating to Indebtedness and within the scope of Section 8.01(e) will be margin stock.  
(b)           None of Holdings, the Company or any other Loan Party is or is required to be registered as an “investment company” under the Investment Company Act of 1940.  
5.14        Disclosure. No written factual information furnished by or on behalf of any Loan Party to the Administrative Agent or any Lender in connection with the transactions contemplated hereby or delivered hereunder or under any other Loan Document (in each case, as modified or supplemented by other written information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that (i) no representation is made with respect to any information of a general economic or industry nature and (ii) with respect to any estimates, forecasts, projections or other forward-looking information, the Company represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.  
5.15        Compliance with Laws. Each Loan Party and each Subsidiary thereof is in compliance in all material respects with the requirements of all Laws and all orders, writs, injunctions and decrees applicable to it or to its properties (including, for the avoidance of doubt, all applicable Environmental Laws), except (a) in such instances in which such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings diligently conducted or (b) for such noncompliance which, either individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.  
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5.16        OFAC; Patriot Act; Anti-Corruption Laws. (a) To the extent applicable, each of Holdings, the Company and its Subsidiaries is in compliance with (i) the Trading with the Enemy Act, as amended, and each of the foreign assets control regulations of the United States Treasury Department (31 CFR Subtitle B, Chapter V, as amended) and any other enabling legislation or executive order relating thereto and (ii) applicable Anti-Money Laundering Laws, except for such non-compliance that could not, based upon the facts and circumstances existing at the time, reasonably be expected to (x) result in a Material Adverse Effect or (y) result in material liability to any Lender, Arranger or Agent Party. No part of the proceeds of any Borrowings will be used, directly or, to the knowledge of Holdings and the Company, indirectly, for any payments to any person whosoever, including any governmental official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended and/or, to the extent applicable to Holdings and its Subsidiaries, the UK Bribery Act 2010, or any other similar anti-corruption legislation in other jurisdictions.  
(a)           None of Holdings, the Company or any of its Subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of Holdings, the Company or any of its Subsidiaries, (i) is a person on the list of “Specially Designated Nationals and Blocked Persons” or (ii) is otherwise currently the subject of any U.S. sanctions administered by the Office of Foreign Assets Control of the United States Department of the Treasury (“OFAC”) or is located, organized or resident in a country or territory that is the subject of sanctions administered by OFAC, or any sanctions administered by the European Union or HerHis Majesty’s Treasury of the United Kingdom (“HMT”); and the Company will not directly or, to its knowledge, indirectly use the proceeds of the Loans or otherwise knowingly make available such proceeds to any person, (x) for the purpose of financing activities or business of or with any person that is at such time the subject of any U.S. sanctions administered by OFAC, or to do business in a country or territory that is the subject of U.S. sanctions administered by OFAC, if such activities or business would be prohibited for a U.S. Person pursuant to OFAC sanctions, or (y) for the purpose of financing activities or business of or with any person that is at such time the subject of any sanctions administered by the European Union or the HMT or in a country or territory that is the subject of any sanctions administered by the European Union or the HMT, if such activities or business would be prohibited for an EU person or a UK person pursuant to EU sanctions or HMT sanctions, respectively.  
5.17        Solvency. As of the Closing Date and immediately after giving effect to the DuPont Acquisition, Holdings and its Subsidiaries, on a consolidated basis, are Solvent.  
5.18        EEA Financial Institutions. No Loan Party is an EEA Financial Institution.  
ARTICLE VI.  
AFFIRMATIVE COVENANTS  
So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, Holdings shall, and shall (except in the case of the covenants set forth in Sections 6.01, 6.02, and 6.03) cause each Subsidiary to:  
6.01         Financial Statements. Deliver to the Administrative Agent and each Lender, in form and detail reasonably satisfactory to the Administrative Agent:  
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(a)            within 90 days after the end of each fiscal year of Holdings, a consolidated balance sheet of Holdings and its subsidiaries as at the end of such fiscal year, and the related consolidated statements of income or operations, shareholders’ equity, and cash flows for such fiscal year, setting forth in each case in comparative form the figures for the previous fiscal year, all in reasonable detail and prepared in accordance with GAAP, audited and accompanied by a report and opinion of an independent certified public accountant of nationally recognized standing, which report and opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any “going concern” or like qualification or exception or any qualification or exception as to the scope of such audit; and  
(b)            within 45 days after the end of each of the first three fiscal quarters of each fiscal year of Holdings, a consolidated balance sheet of Holdings and its subsidiaries as at the end of such fiscal quarter, the related consolidated statements of income or operations for such fiscal quarter and for the portion of Holdings’ fiscal year then ended, and the related consolidated statements of shareholders’ equity and cash flows for the portion of Holdings’ fiscal year then ended, in each case setting forth in comparative form, as applicable, the figures for the corresponding fiscal quarter of the previous fiscal year and the corresponding portion of the previous fiscal year, all in reasonable detail, certified by the chief executive officer, chief financial officer, principal accounting officer, treasurer, assistant treasurer or controller of Holdings as fairly presenting, in all material respects, the financial condition, results of operations, shareholders’ equity and cash flows of Holdings and its subsidiaries in accordance with GAAP, subject only to normal year-end audit adjustments and the absence of footnotes.  
As to any information contained in materials furnished pursuant to Section 6.02(d), Holdings shall not be separately required to furnish such information under subsection (a) or (b) above, but the foregoing shall not be in derogation of the obligation of Holdings to furnish the information and materials described in subsections (a) and (b) above at the times specified therein.  
6.02        Certificates; Other Information. Deliver to the Administrative Agent and each Lender, in form and detail reasonably satisfactory to the Administrative Agent:  
(a)            concurrently with the delivery of the financial statements referred to in Sections 6.01(a) and (b) (or otherwise within five (5) Business Days thereof), a duly completed Compliance Certificate signed by the chief executive officer, chief financial officer, treasurer or controller of Holdings (which delivery may, unless the Administrative Agent, or a Lender requests executed originals, be by electronic communication including fax or email and shall be deemed to be an original authentic counterpart thereof for all purposes);  
(b)           promptly after the same are available, copies of each annual report, proxy or financial statement or other report or communication sent to the stockholders of Holdings, and copies of all annual, regular, periodic and special reports and registration statements which Holdings may file or be required to file with the SEC under Section 13 or 15(d) of the Securities Exchange Act of 1934, and not otherwise required to be delivered to the Administrative Agent pursuant hereto;  
(c)           promptly following any request therefor, provide information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable “know your customer” and anti-money laundering rules and regulations, including, without limitation, the Patriot Act and the Beneficial Ownership Regulation; and  
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(d)           promptly, such additional information regarding the business, financial, or corporate affairs of Holdings or any Subsidiary, or compliance with the terms of the Loan Documents, as the Administrative Agent or any Lender may from time to time reasonably request.  
Documents required to be delivered pursuant to Section 6.01(a) or (b) or Section 6.02(b) (to the extent any such documents are included in materials otherwise filed with the SEC and are publicly available on EDGAR at www.sec.gov) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which Holdings posts such documents, or provides a link thereto on Holdings’ public website on the Internet or such documents are posted on EDGAR at www.sec.gov; or (ii) on which such documents are posted on Holdings’ behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent). The Administrative Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by Holdings with respect to such documentation, and each Lender shall be solely responsible for maintaining its own copies of such documents.  
The Company hereby acknowledges that (a) the Administrative Agent and/or the Arranger may, but shall not be obligated to, make available to the Lenders materials and/or information provided by or on behalf of the Company hereunder (collectively, “Borrower Materials”) by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar, or a substantially similar electronic transmission system (the “Platform”) and (b) certain of the Lenders (each, a “Public Lender”) may have personnel who do not wish to receive material non-public information with respect to the Company or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons’ securities. The Company hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders (other than copies of any duly-filed Form 10K, 10Q or 8K or other filing with the Securities and Exchange Commission after they become publicallypublicly available (the “Deemed Public Materials”)) shall be clearly and conspicuously marked “PUBLIC” which, at a minimum, shall mean that the word “PUBLIC” shall appear prominently on the first page thereof; (x) by marking Borrower Materials “PUBLIC,” the Company shall be deemed to have authorized the Administrative Agent, the Arranger and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to the Company or its respective securities for purposes of United States Federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 10.07); (y) all Borrower Materials marked “PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information;” and (z) the Administrative Agent and the Arranger shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information.” With respect to Deemed Public Materials, the Administrative Agent, Arranger and Lenders shall have the rights (and the Company shall have authorized treatment of such materials) in the manner contemplated for information marked “PUBLIC” pursuant to clauses (x) and (y) of the immediately preceding sentence.  
6.03        Notices. Promptly notify the Administrative Agent and each Lender:  
(a)            of the occurrence of any Default;  
(b)           of the commencement of or any material development in (i) any dispute, litigation, investigation, proceeding or suspension between Holdings or any Subsidiary and any Governmental Authority; or (ii) any litigation or proceeding affecting Holdings or any Subsidiary, including pursuant to any applicable Environmental Laws, in each case of subclauses (i) and (ii), which matter, occurrence or development has resulted or could reasonably be expected to result in a Material Adverse Effect; and  
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(c)            of the occurrence of any ERISA Event which has resulted in, or could reasonably be expected to result in, a Material Adverse Effect; and  
(d)            of any other matter that has resulted or could reasonably be expected to result in a Material Adverse Effect.  
Each notice pursuant to this Section 6.03 (other than Section 6.03(d)) shall be accompanied by a statement of a Responsible Officer of Holdings setting forth details of the occurrence referred to therein and stating what action Holdings has taken and proposes to take with respect thereto. Each notice pursuant to Section 6.03(a) shall describe with particularity any and all provisions of this Agreement and any other Loan Document that have been breached.  
6.04        Payment of Taxes. Pay and discharge promptly when due all material Taxes, assessments and governmental charges or levies imposed upon it or upon its income or profits or in respect of its property, before the same shall become delinquent or in default; provided, however, that such payment and discharge shall not be required with respect to any such Tax, assessment, charge, levy or claim so long as (i) the validity or amount thereof shall be contested in good faith by appropriate proceedings and Holdings, the Company or the affected Subsidiary, as applicable, shall have set aside on its books reserves in accordance with U.S. GAAP with respect thereto or (ii) the aggregate amount of such Taxes, assessments and governmental charges or levies would not reasonably be expected to have a Material Adverse Effect.  
6.05        Preservation of Existence, Etc. (a) Preserve, renew and maintain in full force and effect its legal existence under the Laws of the jurisdiction of its organization except in a transaction permitted by Section 7.03 (provided that no Subsidiary other than a Loan Party shall be required to maintain in full force and effect its legal existence to the extent the failure to do so could not reasonably be expected to have a Material Adverse Effect); (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of its business, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect; and (c) preserve or renew all of its registered patents, trademarks, trade names and service marks, the non-preservation of which could reasonably be expected to have a Material Adverse Effect.  
6.06        Maintenance of Properties. (a) Maintain, preserve and protect all of its material properties and equipment necessary in the operation of its business in good working order and condition, ordinary wear and tear excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof, in each case, except where the failure to do so could not reasonably be expected to have a Material Adverse Effect.  
6.07        Maintenance of Insurance. Keep its insurable properties, in all material respects, insured at all times by financially sound and reputable insurers in such amounts as shall be customary for similar businesses and maintain such other reasonable insurance (including, to the extent consistent with past practices or otherwise in accordance with applicable laws and good business practices, self-insurance), of such types, to such extent and against such risks, as is customary with companies in the same or similar businesses in the same general area.  
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6.08        Compliance with Laws. Comply with the requirements of all Laws (including, for the avoidance of doubt, Environmental Laws) and all orders, writs, injunctions and decrees applicable to it or to its business or property, except in such instances in which (i) such requirement of Law or order, writ, injunction or decree is being contested in good faith by appropriate proceedings; or (ii) the failure to comply therewith could not reasonably be expected to have a Material Adverse Effect.  
6.09        Books and Records. Maintain proper books of record and account, in which full, true and correct entries shall be made of all financial transactions and matters involving the assets and business of Holdings or such Subsidiary, as the case may be.  
6.10        Inspection Rights. Permit any Persons designated by the Administrative Agent or, upon notice delivered by the Administrative Agent if an Event of Default has occurred and is continuing, any Lender or designee thereof to visit and inspect the financial records and the properties of Holdings, the Company or any of the Subsidiaries, and permit any Persons designated by the Administrative Agent or, upon notice delivered by the Administrative Agent if an Event of Default has occurred and is continuing, any Lender, to discuss the affairs, finances and condition of Holdings, the Company or any of the Subsidiaries with the officers thereof and (subject to a senior officer of the respective company or a parent thereof being present) independent accountants therefor, all at reasonable times, upon reasonable prior notice to Holdings or the Company, and (unless (i) any Loans are outstanding hereunder or (ii) an Event of Default has occurred and is continuing) no more than once per fiscal year of Holdings (subject to reasonable requirements of confidentiality, including requirements imposed by law or by contract (other than contractual confidentiality provisions by and among Holdings and its affiliates and such accountants)).  
6.11        Use of Proceeds. Use the proceeds of the Borrowings to finance, in part, the DuPont Acquisition and the other transactions related thereto, and to pay fees, commissions and expenses related thereto.  
6.12        [Reserved].  
6.13        Additional Subsidiary Guarantors. Notify the Administrative Agent at the time that any Person (other than a Loan Party) becomes a Subsidiary that has provided a Guarantee in respect of the Existing Notes or any Material Indebtedness of Holdings or the Company, and promptly thereafter (and in any event within 30 days), cause such Person to (a) become a Subsidiary Guarantor by executing and delivering to the Administrative Agent a counterpart of the Subsidiary Guaranty (or, if the Administrative Agent reasonably determines that execution and delivery of additional or alternative documentation is required or advisable and customary under applicable Law with respect to the relevant Subsidiary, such other documentation as the Administrative Agent shall deem appropriate for such purpose), and (b) deliver to the Administrative Agent documents of the types referred to in clauses (iii) and (iv) of Section 4.01(a) and favorable opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in clause (a)), all in form, content and scope reasonably satisfactory to the Administrative Agent. In addition, for the avoidance of doubt, the Company may cause any Subsidiary to become a Subsidiary Guarantor after the date hereof regardless of whether required to do so by this Section 6.13 (including in order to permit any Indebtedness incurred or contemplated to be incurred by such Subsidiary under the terms of Section 7.02), subject to meeting the requirements set forth in clauses (a) and (b) of the immediately preceding sentence.  
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6.14        OFAC, Patriot Act, Anti-Corruption Laws.  
(a)           Refrain from using any proceeds of the Loans to fund any business, and from otherwise knowingly doing business in a country or territory, or with any Person, that is then the subject of (x) U.S. sanctions administered by OFAC or with a Person that is on the list of “Specially Designated Nationals and Blocked Persons”, if such business would be prohibited for a U.S. person pursuant to OFAC (unless such business is generally or specifically licensed by OFAC or otherwise permitted by U.S. sanctions law) and refrain from the prohibited use of proceeds and repayment of the Loan in a manner that would cause Holdings, the Company, or Lenders to violate OFAC sanctions or (y) any sanctions administered by the European Union or the HMT or with a Person with whom dealings are prohibited under any sanctions administered by the European Union or the HMT, (b) provide, to the extent commercially reasonable, such information and take such actions as are reasonably requested by the Administrative Agent and the Lenders in maintaining compliance with the applicable Anti-Money Laundering Laws and (c) refrain from using any proceeds of the Loans, directly or, to the knowledge of Holdings and the Company, indirectly, for any payments to any person whosoever, including any government official or employee, political party, official of a political party, candidate for political office, or anyone else acting in an official capacity, in order to obtain, retain or direct business or obtain any improper advantage, in violation of the United States Foreign Corrupt Practices Act of 1977, as amended, and/or, to the extent applicable to Holdings and its Subsidiaries, the UK Bribery Act 2010 or any other similar anti-corruption legislation in other jurisdictions.  
ARTICLE VII.  
NEGATIVE COVENANTS  
So long as any Lender shall have any Commitment hereunder, any Loan or other Obligation hereunder shall remain unpaid or unsatisfied, Holdings shall not, nor shall it permit any Subsidiary to, directly or indirectly:  
7.01        Liens. Create, incur, assume or suffer to exist any Lien upon any of its property, assets or revenues, whether now owned or hereafter acquired, other than the following:  
(a)           Liens pursuant to any Loan Document;  
(b)           Liens existing on the date hereof and, if the aggregate amount of the liability secured thereby exceeds $25,000,000 for any individual item, listed on Schedule 7.01 and any renewals or extensions thereof, provided that (i) the property covered thereby is not expanded (other than pursuant to provisions in the documentation governing such Liens on the date hereof which cover improvements and accessions or after-acquired property on customary terms), (ii) the amount secured or benefited thereby is not increased except as contemplated by Section 7.02(a), and (iii) any renewal or extension of the obligations secured or benefited thereby is permitted by Section 7.02(a);  
(c)            Liens for taxes not yet due or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;  
(d)            landlord’s, carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s, construction or other like Liens arising in the ordinary course of business which are not overdue for a period of more than 45 days or which are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;  
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(e)            easements, trackage rights, leases (other than capital leases), licenses, rights-of-way, zoning and other restrictions and other similar encumbrances affecting real property which, in the aggregate, which do not materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person;  
(f)            Liens securing Indebtedness permitted under Section 7.02(b); provided that (i) such Liens do not at any time encumber any property other than the property financed by such Indebtedness and (ii) the Indebtedness secured thereby does not exceed the cost or fair market value, whichever is lower, of the property being acquired on the date of acquisition or the relevant construction or improvement cost, as applicable;  
(g)           any Lien existing on any property or asset prior to the acquisition thereof by Holdings or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of Holdings or any Subsidiary other than extensions and accessions thereto and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be, and extensions, renewals, refinancings and replacements thereof that do not increase the outstanding principal amount thereof by more than the amount of accrued interest thereon and fees, expenses and premiums paid in connection with such refinancing ;  
(h)           Liens securing Indebtedness permitted under Section 7.02(f); provided that such Liens do not at any time encumber any assets of Holdings or any Subsidiary other than the assets, business, Equity Interests or Person acquired as described in such Section, including any Equity Interests or assets of any Foreign Subsidiary so acquired and any of its Subsidiaries, and including as applicable, the assets of any Foreign Subsidiary created to act as an acquisition vehicle for the relevant acquisition (provided that such acquisition vehicle does not hold other material assets of Holdings and its Subsidiaries other than the acquired assets or Subsidiaries);  
(i)             pledges and deposits made in the ordinary course of business in compliance with the Federal Employers Liability Act or any other workers’ compensation, unemployment insurance and other social security laws or regulations;  
(j)             pledges and deposits to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than capital leases), statutory obligations, surety and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, and other obligations of a like nature incurred in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business; and  
(k)           (i) customary Liens (x) relating to the establishment of deposit and securities accounts in each case in the ordinary course of the cash management of the Company and its Subsidiaries under customary general terms and conditions encumbering deposits or other funds maintained with a financial institution (including the right of set-off), that are within the general parameters customary in the banking industry or arising pursuant to such banking institution’s general terms and conditions or (y) relating to pooled deposit or sweep accounts of Holdings or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Holdings and the Subsidiaries and (ii) Liens arising solely by virtue of any general banking conditions, statutory or common law provision relating to banker’s liens, bankers’ rights of set-off or similar rights;  
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(l)             licenses of intellectual property granted in the ordinary course of business;  
(m)           Liens on cash and cash equivalents in an aggregate amount not to exceed $250,000,000 securing obligations in respect of any Swap Agreement entered into by the Company or any Subsidiary in the ordinary course of business and not for speculative purposes;  
(n)           Liens on Receivables Assets subject to Permitted Receivables Financings;  
(o)           Liens on any property or asset of a Subsidiary that is not a Guarantor securing Indebtedness of such Subsidiary to Holdings, the Company or another Subsidiary, as applicable; and  
(p)           Liens not permitted by clauses (a) through (o) so long as the aggregate amount of obligations secured thereby plus the aggregate principal amount (without duplication) of all Indebtedness incurred pursuant to Section 7.02(k) does not (I) at any time during the Covenant Relief Period, exceed 52.5% of Consolidated Net Tangible Assets as appearing in the latest balance sheet pursuant to Section 6.01(a) or (b) or (II) at any other time, exceed the greater of (x) $1,200,000,000 and (y) 15% of Consolidated Net Tangible Assets as appearing in the latest balance sheet pursuant to Section 6.01(a) or (b).  
7.02        Indebtedness. In the case of any Subsidiary that is not the Company or a Subsidiary Guarantor, create, incur, assume or suffer to exist any Indebtedness, except:  
(a)           (i) Indebtedness of any Subsidiary that is a Designated Borrower (as defined in the Revolving Credit Agreement) under the Revolving Credit Agreement and (ii) Indebtedness outstanding on the date hereof and, if outstanding in a principal amount for any individual item greater than $25,000,000, listed on Schedule 7.02 and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder;  
(b)           (i) Capitalized Lease Obligations and other Indebtedness incurred to finance the purchase price or improvement cost incurred in connection with the acquisition, construction or improvement of fixed or capital assets; provided that (x) such Indebtedness is incurred prior to or within 270 days after, the date of acquisition or improvement of such fixed or capital assets, (y) such Indebtedness is permitted under Section 7.01(f), whether or not secured; and (ii) any extensions, renewals, refinancings and replacements thereof; provided that the amount of such Indebtedness is not increased at the time of such extension, renewal, refinancing or replacement except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing;  
(c)            (i) Indebtedness of any Person that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary in a transaction permitted hereunder) after the date hereof; or Indebtedness of any Person that is assumed by any Subsidiary in connection with an acquisition of assets by such Subsidiary, provided that (x) such Indebtedness exists at the time such Person becomes a Subsidiary (or is so merged or consolidated) or such assets are acquired and is not created in contemplation of or in connection with such Person becoming a Subsidiary (or such merger or consolidation) or such assets being acquired and (y) no other Subsidiary (other than a Subsidiary into which the acquired Person is merged or any Subsidiary of the acquired Person) shall Guarantee or otherwise become liable for the payment of such Indebtedness; and (ii) any refinancings, refundings, renewals or extensions of any such Indebtedness; provided that (A) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (B) the condition in subclause (i)(y) of this clause (c) continues to be met;  
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(d)           Indebtedness in connection with Permitted Receivables Financings;  
(e)            Indebtedness owed to Holdings or another Subsidiary;  
(f)            (i) Indebtedness of any Foreign Subsidiary issued, assumed or guaranteed for the purpose of financing or refinancing all or any part of the consideration for the acquisition of any assets, business, Equity Interests or Person acquired by such Foreign Subsidiary (including by means of merger or consolidation) or the consideration for the transactions by which such Foreign Subsidiary becomes a Subsidiary of Holdings (including Guarantees or other Indebtedness in respect thereof of any Person being so acquired or any of its Subsidiaries); and (ii) any refinancings, refundings, renewals or extensions of any such Indebtedness; provided that (A) the amount of such Indebtedness is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and (B) the obligors in respect to such Indebtedness do not extend to any Person other than the permitted obligors of such Indebtedness pursuant to clause (i) above, in each case in an aggregate principal amount outstanding at any time for all such Indebtedness under this Section 7.02(f), when taken together with all Indebtedness outstanding pursuant to Section 7.02(i), not to exceed $900,000,000;  
(g)           Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services in the ordinary course of business;  
(h)           Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees, standby and documentary letters of credit and similar obligations, in each case provided in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business;  
(i)            Indebtedness of one or more Subsidiaries organized under the laws of the People’s Republic of China for their own general corporate purposes (and not recourse to Holdings or its other non-Chinese Subsidiaries) in an aggregate principal amount at any time outstanding not to exceed, when taken together with all Indebtedness outstanding under Section 7.02(f), $900,000,000;  
(j)            obligations (contingent or otherwise) with respect to any Swap Agreement entered into by such Subsidiary in the ordinary course of business and not for speculative purposes; and  
(k)            Indebtedness not permitted by clauses (a) through (j) so long as the aggregate principal amount of such Indebtedness plus the aggregate principal amount (without duplication) of obligations secured by Liens incurred pursuant to Section 7.01(o) does not (I) at any time during the Covenant Relief Period, exceed 52.5% of Consolidated Net Tangible Assets as appearing in the latest balance sheet pursuant to Section 6.01(a) or (b) or (II) at any other time, exceed the greater of (x) $1,200,000,000 and (y) 15% of Consolidated Net Tangible Assets as appearing in the latest balance sheet pursuant to Section 6.01(a) or (b).  
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7.03        Fundamental Changes. Merge, dissolve, liquidate or consolidate with or into another Person, or Dispose of (whether in one transaction or in a series of transactions) all or substantially all of the assets of Holdings and its Subsidiaries, taken as a whole (whether now owned or hereafter acquired) to or in favor of any Person (including, in each case, pursuant to a Delaware LLC Division), except that, so long as no Default exists or would result therefrom:  
(a)           any Subsidiary or any other Person may merge into, dissolve into, liquidate into or consolidate with the Company or any of its Subsidiaries; provided, (i) to the extent such transaction involves the Company, the Company shall be a surviving entity and (ii) to the extent such transaction involves a Subsidiary Guarantor, a Subsidiary Guarantor or the Company shall be a surviving entity;  
(b)           any Subsidiary (other than the Company) may merge into, dissolve into, liquidate into or consolidate with (i) any other Subsidiary (other than the Company unless clause (a) is complied with) in a transaction in which the surviving entity is a Subsidiary; provided that, if either Subsidiary is a Guarantor, the surviving entity shall be a Guarantor or shall immediately become a Guarantor upon the consummation of such transaction; or (ii) any other Person, so long as such merger, dissolution, liquidation or consolation does not result, directly or indirectly, in the Disposition (in one or a series of transactions) of all or substantially all of the assets of Holdings and its Subsidiaries, taken as a whole; and  
(c)           so long as the surviving entity is organized under the laws of any political subdivision of the United States (or, if different, the jurisdiction of organization of the merging or consolidating Company) and agrees in writing in a manner and pursuant to documentation acceptable to the Administrative Agent to assume the obligations of the Company under this Agreement, the Company may merge into or consolidate with any other Person that is (or is becoming concurrently with such merger or consolidation) a wholly-owned Subsidiary of Holdings.  
7.04        Change in Nature of Business. Engage in any material line of business substantially different from those lines of business conducted by Holdings and its Subsidiaries on the date hereof or any business substantially related or incidental thereto or reasonably similar thereto or a reasonable extension thereof.  
7.05        Restricted Payments. Make any Restricted Payment during the Covenant Relief Period.”  
7.06        Use of Proceeds. Use the proceeds of any Borrowings, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the FRB) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose, in each case in violation of, or for a purpose that violates, Regulation T, U or X of the FRB.  
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7.07        Financial Covenants.  
(a)           [Reserved].  
(b)           Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio on the last day of any fiscal quarter of Holdings (each such date, a “Test Date”) to be greater than the ratio set forth below for such fiscal quarter (the “Financial Covenant”):  
Fiscal Quarter Ended Consolidated Leverage Ratio  
March 31, 2023 5.75:1.00  
June 30, 2023 5.75:1.00  
September 30, 2023 5.50:1.00  
December 31, 2023 5.25:1.00  
March 31, 2024 5.00:1.00  
June 30, 2024 5.00:1.00  
September 30, 2024 5.005.75:1.00  
December 31, 2024 4.755.75:1.00  
March 31, 2025 4.505.75:1.00  
June 30, 2025 4.255.75:1.00  
September 30, 2025 4.255.50:1.00  
December 31, 2025 4.005.25:1.00  
March 31, 2026 4.005.00:1.00  
June 30, 2026 4.75:1.00  
September 30, 2026 4.50:1.00  
December 31, 2026 4.00:1.00  
June 30, 2026March 31, 2027 and each fiscal quarter ended thereafter 3.50:1.00  
So long as the Financial Covenant has been decreased to 3.50:1.00 for at least two fiscal quarters, if a Qualifying Acquisition is consummated, the company may elect to increase the Financial Covenant to 4.25:1.00 for each of the four fiscal quarters ending thereafter, commencing with the fiscal quarter in which such Qualifying Acquisition is consummated (each such period of four fiscal quarters during which the Financial Covenant is so increased following a Qualifying Acquisition, a “Covenant Increase Period”); provided, that after the end of any Covenant Increase Period, the Company may elect to implement a new Covenant Increase Period in connection with a subsequent Qualifying Acquisition so long as two fiscal quarters have elapsed since the end of the most recent Covenant Increase Period; provided, further that the Company shall provide notice in writing to the Administrative Agent of its election to implement such Covenant Increase Period and a description of such Qualifying Acquisition (regarding the name of the Person or assets being acquired, the purchase price and the pro forma Consolidated Leverage Ratio immediately after giving effect thereto). Notwithstanding the foregoing, the Company may elect no more than two Covenant Increase Periods in total.  
In the event of each Qualifying Disposition occurring during the Covenant Relief Period, the applicable Financial Covenant required pursuant to this Section 7.07(b) shall be decreased by 0.25:1.00; provided that Qualifying Dispositions consummated prior to the Third Amendment Effective Date shall not decrease the Financial Covenant in this Section 7.07(b) for Test Dates on or after March 31, 2024. For the avoidance of doubt, such 0.25:1.00 reduction shall (a) occur upon each Qualifying Disposition (if any) to occur during the Covenant Relief Period and (b) apply only for any fiscal quarters ending after such Qualifying Disposition but during the Covenant Relief Period.  
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If the Company has elected to terminate the Covenant Relief Period in accordance with the proviso to the definition thereof, the Financial Covenant for each fiscal quarter ended after the end of the Covenant Relief Period shall be a Consolidated Leverage Ratio of 3.50:1.00 in lieu of the levels set forth in the table above.  
ARTICLE VIII.  
EVENTS OF DEFAULT AND REMEDIES  
8.01        Events of Default. Any of the following shall constitute an event of default (each, an “Event of Default”):  
(a)           Non-Payment. The Company or any other Loan Party fails to pay (i) when and as required to be paid herein, and in the currency required hereunder, any amount of principal of any Loan or (ii) within three Business Days after the same becomes due, any interest on any Loan or any fee due hereunder, or (iii) within five Business Days after the same becomes due, any other amount payable hereunder or under any other Loan Document; or  
(b)           Specific Covenants. Holdings or any Subsidiary fails to perform or observe any term, covenant or agreement contained in any of Section 6.03(a), 6.05(a) (with respect to Holdings or the Company), 6.11 or 6.13 or Article VII; or  
(c)           Other Defaults. Any Loan Party fails to perform or observe any other covenant or agreement (not specified in subsection (a) or (b) above) contained in any Loan Document on its part to be performed or observed and such failure continues for 30 days after the earlier of (x) written notice thereof from the Administrative Agent to the Company or (y) a Responsible Officer first having knowledge thereof; or  
(d)           Representations and Warranties. Any representation, warranty, certification or statement of fact made or deemed made by or on behalf of the Company or any other Loan Party herein, in any other Loan Document, or in any document delivered in connection herewith or therewith shall be incorrect or misleading in any material respect when made or deemed made; or  
(e)           Cross-Default. (i) Holdings, the Company or any Subsidiary shall default in the payment when due (whether by scheduled maturity, required prepayment, acceleration, demand or otherwise) of any amount owing in respect of any Indebtedness in a principal amount in excess of the Threshold Amount and such default shall continue beyond any applicable grace period; or (ii) Holdings, the Company or any Subsidiary shall default in the performance or observance of any obligation or condition with respect to any Indebtedness in a principal amount in excess of the Threshold Amount or any other event shall occur or condition exist, if the effect of such default, event or condition is to accelerate the maturity of any such Indebtedness or to permit the holder or holders thereof, or any trustee or agent for such holders, to accelerate the maturity of any such Indebtedness, unless, in each case, waived by such holder or holders, or (iii) any such Indebtedness shall become or be declared to be due and payable prior to its stated maturity other than as a result of a regularly scheduled payment, and the principal amount of such Indebtedness exceeds the Threshold Amount (not including under clause (iii) secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness or as a result of a casualty event affecting such property or assets); provided that subclauses (ii) and (iii) of this clause (e) shall not apply to (1) any requirement to repurchase or redeem any Material Indebtedness pursuant to any put option exercised by the holder of such Material Indebtedness; provided that such put option is exercisable on or after a date or dates scheduled by the terms of the Material Indebtedness and is not subject to any contingent event or condition or (2) any mandatory redemption, repayment or repurchase event not in the nature of a default (x) that is triggered by receipt of proceeds of a debt incurrence, equity issuance, asset sale, casualty or other proceeds-generating event and is only to the extent of proceeds received or (y) constituting a “special mandatory redemption” or similar requirement applicable to debt securities incurred to finance one or more transactions if such transaction(s) will not be consummated or are not consummated within a specified timeframe; or  
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(f)            Insolvency Proceedings, Etc. Holdings, the Company or any Material Subsidiary institutes or consents to the institution of any proceeding under any Debtor Relief Law, or makes an assignment for the benefit of creditors; or applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or for all or any material part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of such Person and the appointment continues undischarged or unstayed for 60 calendar days; or any proceeding under any Debtor Relief Law relating to any such Person or to all or any material part of its property is instituted without the consent of such Person and continues undismissed or unstayed for 60 calendar days, or an order for relief is entered in any such proceeding; or  
(g)           Inability to Pay Debts. Holdings, the Company or any Material Subsidiary admits in writing its inability or fails generally to pay its debts as they become due; or  
(h)           Judgments. There is entered against Holdings, the Company or any Subsidiary one or more final judgments or orders for the payment of money in an aggregate amount (as to all such judgments or orders) exceeding the Threshold Amount (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage), and (A) enforcement proceedings are commenced by any creditor upon such judgment or order, or (B) any such judgment or order shall not be stayed, discharged, paid, bonded or vacated within 30 days; or  
(i)            ERISA. An ERISA Event occurs that, alone or in conjunction with any other ERISA Event that has occurred, would be reasonably expected to have a Material Adverse Effect; or  
(j)            Invalidity of Loan Documents. Any provision of any Loan Document, at any time after its execution and delivery and for any reason other than as expressly permitted hereunder or thereunder or satisfaction in full of all the Obligations, ceases to be in full force and effect; or any Loan Party contests in any manner the validity or enforceability of any provision of any Loan Document; or any Loan Party denies that it has any or further liability or obligation under any Loan Document, or purports to revoke, terminate or rescind any provision of any Loan Document; or  
(k)           Change of Control. There occurs any Change of Control.  
For the avoidance of doubt, no Default or Event of Default (other than, to the extent such Event of Default actually occurs, an Event of Default under Section 8.01(a) or 8.01(f) (solely in respect of Holdings and the Company)) shall be deemed to have occurred under this Agreement or any other Loan Documents until after the funding of the Loans on the Closing Date.  
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8.02        Remedies Upon Event of Default. If any Event of Default occurs and is continuing, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions:  
(a)           declare the commitment of each Lender to make Loans to be terminated, whereupon such commitments and obligation shall be terminated;  
(b)           declare the unpaid principal amount of all outstanding Loans, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Company;  
(c)            [Reserved].  
(d)           exercise on behalf of itself, the Lenders all rights and remedies available to it, the Lenders under the Loan Documents;  
provided, however, that upon the occurrence of an actual or deemed entry of an order for relief with respect to the Company under the Bankruptcy Code of the United States, the obligation of each Lender to make Loans shall automatically terminate, the unpaid principal amount of all outstanding Loans and all interest and other amounts as aforesaid shall automatically become due and payable, without further act of the Administrative Agent or any Lender; and provided further, however, that the Required 364-Day Tranche Lenders and the Required 5-Year Tranche Lenders shall not have any power or authority under this Section 8.02 separate or apart from that of the Administrative Agent and the Required Lenders with respect to all Loans and other Obligations.  
8.03        Application of Funds. After the exercise of remedies provided for in Section 8.02 (or after the Loans have automatically become immediately due and payable), any amounts received on account of the Obligations shall, subject to the provisions of Sections 2.17 and 2.18, be applied by the Administrative Agent in the following order:  
First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;  
Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal and interest) payable to the Lenders (including fees, charges and disbursements of counsel to the respective Lenders and amounts payable under Article III), ratably among them in proportion to the respective amounts described in this clause Second payable to them;  
Third, to payment of that portion of the Obligations constituting accrued and unpaid interest on the Loans and other Obligations, ratably among the Lenders in proportion to the respective amounts described in this clause Third payable to them;  
Fourth, to payment of that portion of the Obligations constituting unpaid principal of the Loans, ratably among the Lenders in proportion to the respective amounts described in this clause Fourth held by them;  
Fifth, [reserved]; and  
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Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Company or as otherwise required by Law.  
8.04        Certain Funds Provisions. Notwithstanding anything to the contrary herein or in any Loan Document, during the Availability Period, and notwithstanding (i) that any representation or warranty made on the Effective Date or the Closing Date (excluding for the avoidance of doubt, the Specified Representations and/or Acquisition Representations made on the Closing Date) was incorrect, (ii) any failure by Holdings, the Company or any of its Subsidiaries to comply with the affirmative covenants, negative covenants, financial covenants or any other obligation under this Agreement, related notes (including the Notes), related fee letters (including the Fee Letter) or any other Loan Document, (iii) any provision to the contrary in this Agreement or in any Loan Document or otherwise or (iv) that any condition to the Effective Date may subsequently be determined not to have been satisfied, neither the Administrative Agent nor any Lender shall be entitled to (1) cancel any of its Commitments (except as set forth in Section 2.06), (2) rescind, terminate or cancel this Agreement or any Loan Document or exercise any right or remedy or make or enforce any claim under this Agreement, related notes (including the Notes), related fee letters (including the Fee Letter) or any Loan Document or otherwise it may have to the extent to do so would prevent, limit or delay the making of its Loans hereunder, (3) refuse to participate in making its Loan hereunder or (4) exercise any right of set-off or counterclaim in respect of its Loan hereunder to the extent to do so would prevent, limit or delay the making of its Loan; provided in each case that the applicable conditions to the making of such loans precedent set forth in Section 4.02 have been satisfied or waived on or prior to the Closing Date; provided, further, that with respect to items (1) through (4) above, the foregoing shall not apply if an Event of Default pursuant to Section 8.01(a) or (f) with respect to Holdings or the Company has occurred and is continuing under this Agreement. For the avoidance of doubt, immediately after the expiration of the Availability Period, all of the rights, remedies and entitlements of the Administrative Agent and the Lenders shall be available notwithstanding that such rights were not available prior to such time as a result of the foregoing.  
ARTICLE IX.  
ADMINISTRATIVE AGENT  
9.01        Appointment and Authority.  
Each of the Lenders hereby irrevocably appoints Bank of America to act on its behalf as the Administrative Agent hereunder and under the other Loan Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders, and neither the Company nor any other Loan Party shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.  
9.02        Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with the Company or any Subsidiary or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.  
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9.03        Exculpatory Provisions. The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:  
(a)           shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;  
(b)           shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and  
(c)           shall not, except as expressly set forth herein and in the other Loan Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Company or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.  
The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 10.01 and 8.02) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Administrative Agent by the Company or a Lender.  
The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.  
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9.04        Reliance by Agents.  
The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan that by its terms must be fulfilled to the satisfaction of a Lender, the Administrative Agent may presume that such condition is satisfactory to such Lender unless the Administrative Agent shall have received notice to the contrary from such Lender prior to the making of such Loan. The Administrative Agent may consult with legal counsel (who may be counsel for the Company), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.  
9.05        Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.  
9.06        Resignation of Administrative Agent. (a) The Administrative Agent may at any time give notice of its resignation to the Lenders and the Company. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, with the written consent of the Company (not to be unreasonably withheld or delayed) if no Event of Default has occurred and is continuing, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders appoint, with the written consent of the Company (not to be unreasonably withheld or delayed) if no Event of Default has occurred and is continuing, a successor Administrative Agent meeting the qualifications set forth above, provided that in no event shall any such successor Administrative Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.  
(b)            If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Company and such Person remove such Person as Administrative Agent and, with the written consent of the Company (not to be unreasonably withheld or delayed) if no Event of Default has occurred and is continuing, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.  
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(c)            With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents and (2) except for any indemnity payments or other amounts then owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender directly, until such time, if any, as the Required Lenders appoint a successor Administrative Agent as provided for above. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Administrative Agent (other than as provided in Section 10.04(f) and other than any rights to indemnity payments or other amounts owed to the retiring or removed Administrative Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Company to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Company and such successor. After the retiring or removed Administrative Agent’s resignation or removal hereunder and under the other Loan Documents, the provisions of this Article and Section 10.04 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring or removed Administrative Agent was acting as Administrative Agent and (ii) after such resignation or removal for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including (a) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Lenders and (b) in respect of any actions taken in connection with transferring the agency to any successor Administrative Agent.  
9.07        Non-Reliance on Administrative Agent and Other Lenders. Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder.  
9.08        No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the Bookrunner nor the Arranger, listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.  
9.09        Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Loan Party, the Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Company) shall be entitled and empowered, by intervention in such proceeding or otherwise  
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(a)           to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders and the Administrative Agent under Sections 2.09 and 10.04) allowed in such judicial proceeding; and  
(b)           to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;  
and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Sections 2.09 and 10.04.  
Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender to authorize the Administrative Agent to vote in respect of the claim of any Lender in any such proceeding.  
9.10        Guaranty Matters. The Lenders irrevocably authorize the Administrative Agent to release any Subsidiary Guarantor from its obligations under the Subsidiary Guaranty (a) if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Loan Documents or (b) if such Subsidiary ceases to, or substantially contemporaneously with the release of its Subsidiary Guaranty hereunder will cease to, or at such time does not, Guarantee any Existing Notes or other Material Indebtedness of Holdings or the Company. The Administrative Agent shall effect any such release permitted by the immediately preceding sentence at the Company’s request (and shall, at the Company’s expense execute and deliver such documentations as the Company may reasonably request to effect, evidence or acknowledge such release); provided that the Company shall deliver an certificate of a Responsible Officer to the Administrative Agent, representing and warranting that (i) no Default has occurred and is continuing or would result from such release and (ii) the Person to be released is not required to be a Guarantor pursuant to the terms of the Loan Documents.  
Upon request by the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent’s authority to release any Subsidiary Guarantor from its obligations under the Guaranty pursuant to this Section 9.10.  
9.11        Lender ERISA Representations.  
(a)           Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and the Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Company or any other Loan Party, that at least one of the following is and will be true:  
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(i)            such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments or this Agreement,  
(ii)            the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement,  
(iii)            (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement, or  
(iv)            such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.  
(b)           In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of the Administrative Agent and the Arranger and their respective Affiliates and not, for the avoidance of doubt, to or for the benefit of the Company or any other Loan Party, that none of the Administrative Agent, the Arranger nor any of their respective Affiliates is a fiduciary with respect to the assets of such Lender involved in such Lender’s entrance into, participation in, administration of and performance of the Loans, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).  
9.12        Recovery of Erroneous Payments.  Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Lender Recipient Party, whether or not in respect of an Obligation due and owing by the Company at such time, where such payment is a Rescindable Amount, then in any such event, each Lender Recipient Party receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Lender Recipient Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Lender Recipient Party irrevocably waives any and all defenses, including any “discharge for value” (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount.  The Administrative Agent shall inform each Lender Recipient Party promptly upon determining that any payment made to such Lender Recipient Party comprised, in whole or in part, a Rescindable Amount.  
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ARTICLE X.  
MISCELLANEOUS  
10.01      Amendments, Etc. Subject to Section 3.03(c), no amendment or waiver of any provision of this Agreement or any other Loan Document, and no consent to any departure by the Company or any other Loan Party therefrom, shall be effective unless in writing signed by the Required Lenders and the Company or the applicable Loan Party, as the case may be, and acknowledged by the Administrative Agent, and each such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no such amendment, waiver or consent shall:  
(a)            waive any condition set forth in Section 4.01 without the written consent of each Lender;  
(b)            without limiting clause (a) above, waive any condition set forth in Section 4.02 as to any Borrowing in respect of a particular Tranche hereunder without the written consent of the Required 364-Day Tranche Lenders or Required 5-Year Tranche Lenders, as the case may be;  
(c)            extend or increase the Commitment of any Lender under any Tranche (or reinstate any Commitment under any Tranche terminated pursuant to Section 8.02) without the written consent of such Lender;  
(d)           postpone any date fixed by this Agreement or any other Loan Document for any payment of principal, interest, fees or other amounts due to the Lenders (or any of them) hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby;  
(e)            reduce the principal of, or the rate of interest specified herein on, any Loan, or (subject to clause (d) of the second proviso to this Section 10.01) any fees or other amounts payable hereunder or under any other Loan Document without the written consent of each Lender directly affected thereby; provided, however, that (i) only the consent of the Required 364-Day Tranche Lenders shall be necessary to amend the definition of “Default Rate” or to waive any obligation of the Company to pay interest at the Default Rate, in respect of any payments to the 364-Day Tranche Lenders and (ii) only the consent of the Required 5-Year Tranche Lenders shall be necessary to amend the definition of “Default Rate” or to waive any obligation of the Company to pay interest at the Default Rate, in respect of any payments to the 5-Year Tranche Lenders;  
(f)             change Section 8.03 in a manner that would alter the pro rata sharing of payments required thereby without the written consent of each Lender;  
(g)           [Reserved];  
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(h)           (A) change any provision of this Section or the definition of “Required Lenders” or any other provision hereof specifying the number or percentage of Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder without the written consent of each Lender, (B) change any provision of this Section or the definition of “Required 364-Day Tranche Lenders” or any other provision hereof specifying the number or percentage of 364-Day Tranche Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder without the written consent of each 364-Day Tranche Lender or (C)  change any provision of this Section or the definition of “Required 5-Year Tranche Lenders” or any other provision hereof specifying the number or percentage of 5-Year Tranche Lenders required to amend, waive or otherwise modify any rights hereunder or make any determination or grant any consent hereunder without the written consent of each 5-Year Tranche Lender; or  
(i)            release all or substantially all of the value of the Parent Guaranty and Subsidiary Guaranty, taken together, without the written consent of each Lender, except to the extent the release of any Subsidiary Guarantor is permitted pursuant to Section 9.10 (in which case such release may be made by the Administrative Agent acting alone);  
(j)            except as otherwise permitted or contemplated by this Agreement, otherwise change the provisions of any Loan Document in a manner that by its terms could reasonably be expected, in any material respect, to adversely affect payments due to Lenders holding Loans in a particular Tranche differently from the rights of Lenders holding Loans in the other Tranche without the prior written consent of the requisite Lenders in the adversely and differently affected Tranche (i.e., in the case of the 364-Day Tranche, the Required 364-Day Tranche Lenders, and in the case of 5-Year Tranche, the Required 5-Year Tranche Lenders).  
and, provided further, that (i) [reserved]; (ii) [reserved]; (iii) no amendment, waiver or consent shall, unless in writing and signed by the Administrative Agent in addition to the Lenders required above, affect the rights or duties of the Administrative Agent under this Agreement or any other Loan Document; and (iv) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto. Notwithstanding anything to the contrary herein, no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.  
10.02      Notices; Effectiveness; Electronic Communication.  
(a)            Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:  
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(i)            if to the Company or any other Loan Party, the Administrative Agent to the address, facsimile number, electronic mail address or telephone number specified for such Person on Schedule 10.02; and  
(ii)            if to any other Lender, to the address, facsimile number, electronic mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Company).  
Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).  
(b)           Electronic Communications. Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communication (including e-mail, FpML messaging, and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender pursuant to Article II if such Lender has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Company may each, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.  
Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender’s receipt of an acknowledgement from the intended recipient (such as by the “return receipt requested” function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii), if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice, email or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient.  
(c)           The Platform. THE PLATFORM IS PROVIDED “AS IS” AND “AS AVAILABLE.” THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Administrative Agent or any of its Related Parties (collectively, the “Agent Parties”) have any liability to the Company, any Lender or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of the Company’s, any Loan Party’s or the Administrative Agent’s transmission of Borrower Materials or notices through the platform, any other electronic platform or electronic messaging service, or through the Internet.  
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(d)           Change of Address, Etc. Each of the Company and the Administrative Agent may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, facsimile or telephone number for notices and other communications hereunder by notice to the Company and the Administrative Agent. In addition, each Lender agrees to notify the Administrative Agent from time to time to ensure that the Administrative Agent has on record (i) an effective address, contact name, telephone number, facsimile number and electronic mail address to which notices and other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable Law, including United States Federal and state securities Laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to the Company or its securities for purposes of United States Federal or state securities laws.  
(e)           Reliance by Administrative Agent and Lenders. The Administrative Agent and the Lenders shall be entitled to rely and act upon any notices (including telephonic notices and Loan Notices) purportedly given by or on behalf of the Company even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Loan Parties shall indemnify the Administrative Agent, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of the Company. All telephonic notices to and other telephonic communications with the Administrative Agent may be recorded by the Administrative Agent, and each of the parties hereto hereby consents to such recording.  
10.03      No Waiver; Cumulative Remedies; Enforcement. No failure by any Lender or the Administrative Agent to exercise, and no delay by any such Person in exercising, any right, remedy, power or privilege hereunder or under any other Loan Document shall operate as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. The rights, remedies, powers and privileges herein provided, and provided under each other Loan Document, are cumulative and not exclusive of any rights, remedies, powers and privileges provided by law.  
Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Loan Parties or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Administrative Agent in accordance with Section 8.02 for the benefit of all the Lenders; provided, however, that the foregoing shall not prohibit (a) the Administrative Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Administrative Agent) hereunder and under the other Loan Documents, (b) [reserved], (c) any Lender from exercising setoff rights in accordance with Section 10.08 (subject to the terms of Section 2.13), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Loan Party under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Administrative Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Administrative Agent pursuant to Section 8.02 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.13, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.  
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10.04      Expenses; Indemnity; Damage Waiver.  
(a)            Costs and Expenses. The Company shall pay (i) all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and the Arranger and their respective Affiliates (including the reasonable and documented fees, charges and out-of-pocket disbursements of one counsel for the Administrative Agent and the Arranger, taken as a whole and one local counsel in each relevant jurisdiction), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) [reserved] and (iii) all out-of-pocket expenses incurred by the Administrative Agent and any Lender (including the fees, charges and disbursements of any counsel for the Administrative Agent or any Lender), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with the Loans made, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans.  
(b)           Indemnification by the Company. The Company shall indemnify the Administrative Agent (and any sub-agent thereof), each Lender and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnitee”) against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including the Company or any other Loan Party) other than such Indemnitee and its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder, the consummation of the transactions contemplated hereby or thereby, or, in the case of the Administrative Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents, (ii) any Loan or the use or proposed use of the proceeds therefrom, (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by the Company or any of its Subsidiaries, or any Environmental Liability related in any way to the Company or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Company or any other Loan Party, and regardless of whether any Indemnitee is a party thereto, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY OR SOLE NEGLIGENCE OF THE INDEMNITEE; provided that such indemnity (in the case of any of the foregoing clauses (i) through (iv)) shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by the Company against an Indemnitee for material breach of such Indemnitee’s obligations hereunder or under any other Loan Document, if the Company has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. Without limiting the provisions of Section 3.01(c), this Section 10.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.  
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(c)            Reimbursement by Lenders. To the extent that the Company for any reason fails to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof) or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent) or such Related Party, as the case may be, such Lender’s pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender’s share of the Total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lender’s Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided further that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent), in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent), in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.12(d).  
(d)           Waiver of Consequential Damages, Etc. To the fullest extent permitted by applicable law, the Company shall not assert, and hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.  
(e)            Payments. All amounts due under this Section shall be payable not later than ten Business Days after demand therefor.  
(f)            Survival. The agreements in this Section and the indemnity provisions of Section 10.02(e) and Section 3.01 shall survive the resignation of the Administrative Agent, the replacement of any Lender, the termination of the Aggregate Commitments and the repayment, satisfaction or discharge of all the other Obligations.  
10.05      Payments Set Aside. To the extent that any payment by or on behalf of the Company is made to the Administrative Agent or any Lender, or the Administrative Agent or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect, in the applicable currency of such recovery or payment. The obligations of the Lenders under clause (b) of the preceding sentence shall survive the payment in full of the Obligations and the termination of this Agreement.  
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10.06      Successors and Assigns.  
(a)            Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that neither the Company nor any other Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (f) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Notwithstanding anything to the contrary in this Section 10.06, prior to the funding of the Loans on the Closing Date, unless otherwise consented to in writing in advance by Holdings in its sole discretion, any assignment of commitments to make Loans (including assignments to another Lender or an affiliate of a Lender) must be to commercial and investment banks, in each case, whose senior, unsecured, long-term indebtedness has a rating of BBB- or better by S&P and Baa3 or better by Moody’s. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.  
(b)           Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment under any Tranche and the Loans at the time owing to it); provided that (in each case with respect to any Tranche) any such assignment shall be subject to the following conditions:  
(i)            Minimum Amounts.  
(A)            in the case of an assignment of the entire remaining amount of the assigning Lender’s Commitment and the Loans at the time owing to it under the Facility or in the case of an assignment to a Lender or an Affiliate of a Lender, no minimum amount need be assigned; and  
(B)            in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment or, if the applicable Commitment is not then in effect, the principal outstanding balance of the Loans of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent or, if “Trade Date” is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than $5,000,000, unless each of the Administrative Agent and, so long as no Event of Default has occurred and is continuing, the Company otherwise consents (each such consent not to be unreasonably withheld or delayed).  
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(ii)            Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender’s rights and obligations under this Agreement with respect to the Loans or the Commitment assigned, except that this clause (ii) shall not prohibit any Lender from assigning all or a portion of its rights and obligations among separate Tranches hereunder on a non-pro rata basis;  
(iii)            Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:  
(A)            the consent of the Company (such consent not to be unreasonably withheld or delayed) shall be required; provided that, (1) solely after funding the Loans on the Closing Date, no such consent shall be required if an Event of Default has occurred and is continuing at the time of such assignment and (2) before or after the funding of the Loans on the Closing Date, no such consent shall be required if such assignment is to a Lender or an Affiliate of a Lender; provided, further that, solely after the funding of the Loans on the Closing Date, the Company shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof; and  
(B)            the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required if such assignment is to a Person that is not a Lender or an Affiliate of a Lender; and  
(iv)            Assignment and Assumption. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee in the amount of $3,500; provided, however, that the Administrative Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.  
(v)            No Assignment to Certain Persons. No such assignment shall be made (A) to the Company or any of the Company’s Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural Person (or to a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person).  
(vi)            Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Company and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent or any Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans in accordance with its Applicable Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.  
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Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender’s rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 3.01, 3.04, 3.05, and 10.04 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender’s having been a Defaulting Lender. Upon request, the Company (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.  
(c)            Register. The Administrative Agent, acting solely for this purpose as an agent of the Company, shall maintain at the Administrative Agent’s Office in the United States a copy of each Assignment and Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive absent manifest error, and the Company, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Company and any Lender, at any reasonable time and from time to time upon reasonable prior notice.  
(d)           Participations. Any Lender may at any time, without the consent of, or notice to, the Company or the Administrative Agent, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person, a Defaulting Lender or the Company or any of the Company’s Affiliates or Subsidiaries) (each, a “Participant”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Company, the Administrative Agent and the Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 10.04(c) without regard to the existence of any participation.  
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Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 10.01 that affects such Participant. The Company agrees that each Participant shall be entitled to the benefits of Sections 3.01, 3.04 and 3.05 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to subsection (b) of this Section (it being understood that the documentation required under Section 3.01(e) shall be delivered to the Lender who sells the participation) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 3.06 and 10.13 as if it were an assignee under subsection (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 3.01 or 3.04, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Company’s request and expense, to use reasonable efforts to cooperate with the Company to effectuate the provisions of Section 3.06 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 10.08 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.13 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Company, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Loans or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.  
(e)            Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.  
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10.07      Treatment of Certain Information; Confidentiality. Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates, its auditors and its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) as otherwise required by law, rule, regulation, court or administrative agency order, request or compulsory process, or legal review or audit, or as requested by a governmental authority or self-regulatory authority, or as necessary or appropriate in any legal proceeding (in which case the Administrative Agent or such Lender and their respective affiliates agree, to the extent practicable and permitted by applicable law, rule and regulation, to inform the Company promptly thereof, except in the case of any audit or examination conducted by bank accountants or any governmental bank regulatory authority exercising examination or regulatory authority or self-regulatory authority), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, including for purposes of establishing a “due diligence” defense, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Company and its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating the Company or its Subsidiaries or the credit facilities provided hereunder or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, (h) with the consent of the Company, (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender or any of their respective Affiliates on a nonconfidential basis from a source other than the Company or (j) to the extent that the applicable information is or was independently developed. In addition, the Administrative Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Administrative Agent and the Lenders in connection with the administration of this Agreement, the other Loan Documents, and the Commitments.  
For purposes of this Section, “Information” means all information received from the Company or any Subsidiary relating to the Company or any Subsidiary or any of their respective businesses, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Company or any Subsidiary, provided that, in the case of information received from the Company or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.  
Each of the Administrative Agent and the Lenders acknowledges that (a) the Information may include material non-public information concerning the Company or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable Law, including United States Federal and state securities Laws.  
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10.08      Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender or any such Affiliate to or for the credit or the account of the Company or any other Loan Party against any and all of the obligations of the Company or such Loan Party now or hereafter existing under this Agreement or any other Loan Document to such Lender or their respective Affiliates, irrespective of whether or not such Lender or Affiliate shall have made any demand under this Agreement or any other Loan Document and although such obligations of the Company or such Loan Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.18 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender or their respective Affiliates may have. Each Lender agrees to notify the Company and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.  
10.09      Interest Rate Limitation. Notwithstanding anything to the contrary contained in any Loan Document, the interest paid or agreed to be paid under the Loan Documents shall not exceed the maximum rate of non-usurious interest permitted by applicable Law (the “Maximum Rate”). If the Administrative Agent or any Lender shall receive interest in an amount that exceeds the Maximum Rate, the excess interest shall be applied to the principal of the Loans or, if it exceeds such unpaid principal, refunded to the Company. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such Person may, to the extent permitted by applicable Law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.  
10.10      Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic imaging means (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement.  
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10.11      Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Administrative Agent and each Lender, regardless of any investigation made by the Administrative Agent or any Lender or on their behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default at the time of any Borrowings, and shall continue in full force and effect as long as any Loan or any other Obligation hereunder shall remain unpaid or unsatisfied.  
10.12      Severability. If any provision of this Agreement or the other Loan Documents is held to be illegal, invalid or unenforceable, (a) the legality, validity and enforceability of the remaining provisions of this Agreement and the other Loan Documents shall not be affected or impaired thereby and (b) the parties shall endeavor in good faith negotiations to replace the illegal, invalid or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the illegal, invalid or unenforceable provisions. The invalidity of a provision in a particular jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Without limiting the foregoing provisions of this Section 10.12, if and to the extent that the enforceability of any provisions in this Agreement relating to Defaulting Lenders shall be limited by Debtor Relief Laws, as determined in good faith by the Administrative Agent, then such provisions shall be deemed to be in effect only to the extent not so limited.  
10.13      Replacement of Lenders. If the Company is entitled to replace a Lender pursuant to the provisions of Section 3.06, or if any Lender is a Defaulting Lender or a Non-Consenting Lender or if any other circumstance exists hereunder that gives the Company the right to replace a Lender as a party hereto, then the Company may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.06), all of its interests, rights (other than its existing rights to payments pursuant to Sections 3.01 and 3.04) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:  
(a)            the Company shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 10.06(b);  
(b)           such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 3.05) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Company (in the case of all other amounts);  
(c)            in the case of any such assignment resulting from a claim for compensation under Section 3.04 or payments required to be made pursuant to Section 3.01, such assignment will result in a reduction in such compensation or payments thereafter;  
(d)           such assignment does not conflict with applicable Laws; and  
(e)            in the case of an assignment resulting from a Lender becoming a Non-Consenting Lender, the applicable assignee shall have consented to the applicable amendment, waiver or consent.  
A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Company to require such assignment and delegation cease to apply.  
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10.14      Governing Law; Jurisdiction; Etc.  
(a)            GOVERNING LAW. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK; PROVIDED THAT (I) THE INTERPRETATION OF THE DEFINITION OF BUSINESS MATERIAL ADVERSE EFFECT (AS DEFINED IN THE TRANSACTION AGREEMENT) AND WHETHER OR NOT A BUSINESS MATERIAL ADVERSE EFFECT HAS OCCURRED, (II) THE DETERMINATION OF THE ACCURACY OF ANY ACQUISITION REPRESENTATIONS AND WHETHER AS A RESULT OF ANY BREACH OR INACCURACY THEREOF HOLDINGS, ITS APPLICABLE SUBSIDIARIES OR THEIR RESPECTIVE AFFILIATES HAVE THE RIGHT TO TERMINATE THEIR RESPECTIVE OBLIGATIONS UNDER THE TRANSACTION AGREEMENT, OR TO DECLINE TO CONSUMMATE (OR OTHERWISE DO NOT HAVE AN OBLIGATION TO CLOSE) THE TRANSACTIONS PURSUANT TO THE TRANSACTION AGREEMENT AND (III) THE DETERMINATION OF WHETHER THE DUPONT ACQUISITION HAS BEEN CONSUMMATED IN ACCORDANCE WITH THE TERMS OF THE TRANSACTION AGREEMENT, IN EACH CASE, SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED SOLELY IN ACCORDANCE WITH, THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD RESULT IN THE APPLICATION OF THE LAW OF ANY OTHER STATE OR COUNTRY.  
(b)            SUBMISSION TO JURISDICTION. THE COMPANY AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE ADMINISTRATIVE AGENT, ANY LENDER OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE ADMINISTRATIVE AGENT OR ANY LENDER MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST THE COMPANY OR ANY OTHER LOAN PARTY OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.  
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(c)            WAIVER OF VENUE. THE COMPANY AND EACH OTHER LOAN PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT IN ANY COURT REFERRED TO IN PARAGRAPH (B) OF THIS SECTION. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT.  
(d)            SERVICE OF PROCESS. WITHOUT LIMITING THE EFFECT OF SECTION 2.14(D), EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 10.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.  
10.15      Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.  
TO THE EXTENT PERMITTED BY APPLICABLE LAW, IF ANY OBLIGOR HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY (SOVEREIGN OR OTHERWISE) FROM ANY LEGAL ACTION, SUIT OR PROCEEDING, FROM JURISDICTION OF ANY COURT OR FROM SET-OFF OR ANY LEGAL PROCESS (WHETHER SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OF JUDGMENT, EXECUTION OF JUDGMENT OR OTHERWISE) WITH RESPECT TO ITSELF OR ANY OF ITS PROPERTY, SUCH OBLIGOR HEREBY IRREVOCABLY WAIVES AND AGREES NOT TO PLEAD OR CLAIM SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT. EACH OBLIGOR AGREES THAT THE WAIVERS SET FORTH ABOVE SHALL BE TO THE FULLEST EXTENT PERMITTED UNDER THE FOREIGN SOVEREIGN IMMUNITIES ACT OF 1976 OF THE UNITED STATES OF AMERICA AND ARE INTENDED TO BE IRREVOCABLE AND NOT SUBJECT TO WITHDRAWAL FOR PURPOSES OF SUCH ACT.  
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10.16      No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), the Company and each other Loan Party acknowledges and agrees, and acknowledges its Affiliates’ understanding, that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Arranger and the Lenders are arm’s-length commercial transactions between the Company, each other Loan Party and their respective Affiliates, on the one hand, and the Administrative Agent, the Arranger and the Lenders, on the other hand, (B) each of the Company and the other Loan Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) the Company and each other Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) the Administrative Agent, the Arranger and each Lender is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Company, any other Loan Party or any of their respective Affiliates, or any other Person and (B) neither the Administrative Agent, the Arranger nor any Lender has any obligation to the Company, any other Loan Party or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Arranger and the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company, the other Loan Parties and their respective Affiliates, and neither the Administrative Agent, the Arranger, nor any Lender has any obligation to disclose any of such interests to the Company, any other Loan Party or any of their respective Affiliates. To the fullest extent permitted by law, each of the Company and each other Loan Party hereby waives and releases any claims that it may have against the Administrative Agent, the Arranger or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.  
10.17     Electronic Execution; Electronic Records; Counterparts. This Agreement, any Loan Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties and each of the Administrative Agent and the Lenders agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered.   Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication.  For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent and each of the Lenders may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record (“Electronic Copy”), which shall be deemed created in the ordinary course of such Person’s business, and destroy the original paper document.  All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, the Administrative Agent is not under any obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent has agreed to accept such Electronic Signature, the Administrative Agent and each of the Lenders shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party and/or any Lender without further verification and (b) upon the request of the Administrative Agent or any Lender, any Electronic Signature shall be promptly followed by such manually executed counterpart.  For purposes hereof, “Electronic Record” and “Electronic Signature” shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.  
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The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent’s reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Administrative Agent shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Loan Document by acting upon, any Communication (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution or signed using an Electronic Signature) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Loan Documents for being the maker thereof).  
Each of the Loan Parties and each Lender hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement, any other Loan Document based solely on the lack of paper original copies of this Agreement, such other Loan Document, and (ii) waives any claim against the Administrative Agent, each Lender and each Related Party for any liabilities arising solely from the Administrative Agent’s and/or any Lender’s reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Loan Parties to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.  
10.18      USA Patriot Act. Each Lender that is subject to the Patriot Act and the Beneficial Ownership Regulation and the Administrative Agent (for itself and not on behalf of any Lender) hereby notifies the Company that pursuant to the requirements of the Patriot Act and the Beneficial Ownership Regulation, it is required to obtain, verify and record information that identifies the Company, which information includes the name and address of the Company and other information that will allow such Lender or the Administrative Agent, as applicable, to identify the Company in accordance with the Patriot Act and the Beneficial Ownership Regulation. The Company shall, promptly following a request by the Administrative Agent or any Lender, provide all documentation and other information that the Administrative Agent or such Lender requests in order to comply with its ongoing obligations under applicable “know your customer” and anti-money laundering rules and regulations, including the Patriot Act and the Beneficial Ownership Regulation.  
10.19      [Reserved].  
10.20      ENTIRE AGREEMENT. THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENT AMONG THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES.  
10.21      Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Solely to the extent any Lender that is an EEA Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:  
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(a)            the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and  
(b)           the effects of any Bail-In Action on any such liability, including, if applicable:  
(i)              a reduction in full or in part or cancellation of any such liability;  
(ii)             a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent entity, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or  
(iii)            the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.  
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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.  
CELANESE CORPORATION,  
as Holdings  
By:  
Name:  
Title:  
CELANESE US HOLDINGS LLC,  
as the Company  
By:  
Name:  
Title:  
[Signature Page to Credit Agreement]  
BANK OF AMERICA, N.A.,  
as Administrative Agent  
By:  
Name:  
Title:  
[Signature Page to Credit Agreement]  
BANK OF AMERICA, N.A.,  
as a Lender  
By:  
Name:  
Title:  
[Signature Page to Credit Agreement]  
[OTHER LENDERS]  
By:  
Name:  
Title:  
[Signature Page to Credit Agreement]