

Borrower Letter of Credit Collateral Account.” Each Loan Party shall deposit into the Letter of Credit Collateral Account from time to time the Cash Collateral required to be deposited under Section 2.13(j) hereof.

(ii) The balance from time to time in such Letter of Credit Collateral Account shall constitute part of the Collateral and shall not constitute payment of the Obligations until applied as hereinafter provided. Notwithstanding any other provision hereof to the contrary, all amounts held in the Letter of Credit Collateral Account shall constitute collateral security first for the liabilities in respect of Letters of Credit outstanding from time to time and second for the other Obligations hereunder until such time as all Letters of Credit shall have been terminated and all of the liabilities in respect of Letters of Credit have been paid in full. All funds in “The Lead Borrower Letter of Credit Collateral Account” may be invested in accordance with the provisions of Section 2.13(j).

(o) Extended Commitments. If the Maturity Date shall have occurred at a time when Extended Commitments are in effect, then (i) such Letters of Credit shall automatically be deemed to have been issued (including for purposes of the obligations of the Lenders to purchase participations therein and to make payments in respect thereof pursuant to Section 2.13(d) and (e)) under (and ratably participated in by Lenders) the Extended Commitments, up to an aggregate amount not to exceed the aggregate principal amount of the unutilized Extended Commitments thereunder at such time (it being understood that no partial face amount of any Letter of Credit may be so reallocated) and (ii) to the extent not reallocated pursuant to the immediately preceding clause (i), the Borrowers shall Cash Collateralize any such Letter of Credit in accordance with Section 2.13(j). Except to the extent of reallocations of participations pursuant to the prior sentence, the occurrence of the Maturity Date with respect to Existing Loans shall have no effect upon (and shall not

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diminish) the percentage participations of the Lenders of Extended Loans in any Letter of Credit issued before the Maturity Date.

#### 2.14 Settlement Amongst Lenders.

(a) The Swingline Lender may, at any time (but, in any event shall weekly), on behalf of the Lead Borrower (which hereby authorizes the Swingline Lender to act on its behalf in that regard) request the Agent to cause the Lenders to make a Loan (which shall be a Base Rate Loan) in an amount equal to such Lender’s Pro Rata Share of the outstanding amount of Swingline Loans, which request may be made regardless of whether the conditions set forth in Section 7 have been satisfied. Upon such request, each Lender shall make available to the Agent the proceeds of such Loan for the account of the Swingline Lender. If the Swingline Lender requires a Loan to be made by the Lenders and the request therefor is received prior to 12:00 Noon on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m. that day; and, if the request therefor is received after 12:00 Noon, then no later than 3:00 p.m. on the next Business Day. The obligation of each such Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Agent or the Swingline Lender. If and to the extent any Lender shall not have so made its transfer to the Agent, such Lender agrees to pay to the Agent, forthwith on demand, such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Agent, at the Federal Funds Rate.

(b) The amount of each Lender’s Pro Rata Share of outstanding Loans (including outstanding Swingline Loans) shall be computed weekly (or more frequently in the Agent’s discretion) and shall be adjusted upward or downward based on all Loans (including Swingline Loans) and repayments of Loans (including Swingline Loans) received by the Agent as of 3:00 p.m. on the first Business Day (such date, the “Settlement Date”) following the end of the period specified by the Agent.

(c) The Agent shall deliver to each of the Lenders promptly after a Settlement Date a summary statement of the amount of outstanding Loans (including Swingline Loans) for the period and the amount of repayments received for the period. As reflected on the summary statement, (i) the Agent shall transfer to each Lender its applicable Pro Rata Share of repayments, and (ii) each Lender shall transfer to the Agent (as provided below) or the Agent shall transfer to each Lender, such amounts as are necessary to insure that, after giving effect to all such transfers, the amount of Loans made by each Lender with respect to Loans to the Borrowers (including Swingline Loans) shall be equal to such Lender’s applicable Pro

Rata Share of Loans (including Swingline Loans) outstanding as of such Settlement Date. If the summary statement requires transfers to be made to the Agent by the Lenders and is received prior to 12:00 Noon on a Business Day, such transfers shall be made in immediately available funds no later than 3:00 p.m. that day; and, if received after 12:00 Noon, then no later than 3:00 p.m. on the next Business Day. The obligation of each Lender to transfer such funds is irrevocable, unconditional and without recourse to or warranty by the Agent. If and to the extent any Lender shall not have so made its transfer to the Agent, such Lender agrees to pay to the Agent, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Agent, at the Federal Funds Rate.

#### 2.15 Commitment Increase.

(a) Subject to the terms and conditions set forth herein, after the Closing Date, the Lead Borrower shall have the right to request, by written notice to the Agent, an increase in the Commitments (a "Commitment Increase") in an aggregate amount not to exceed \$50,000,000; provided that (a) such Commitment Increase is permitted under the 7.875% Senior Notes Indenture and (b) any Commitment Increase shall be in a minimum aggregate amount of \$10,000,000.

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(b) Each notice submitted pursuant to this Section 2.15 (a "Commitment Increase Notice") requesting a Commitment Increase shall specify (i) the date on which the Lead Borrower proposes that the Commitment Increase shall be effective, which shall be a date not less than five Business Days (or such shorter period as may be agreed to by the Agent) after the date on which such notice is delivered to the Agent, (ii) the amount of the Commitment Increase being requested, (iii) the identity of each Person proposed to become an Increase Loan Lender in connection therewith (it being agreed that (A) any Lender approached to provide any Commitment Increase may elect or decline, in its sole discretion, to provide such Commitment Increase and (B) any Person that the Lead Borrower proposes to be an Increase Loan Lender, if such Person is not then a Lender, must be an Eligible Transferee and, if such consent would then be required pursuant to the definition of Eligible Transferee for an assignment to such Person of a Commitment or Loan, shall be subject to the written consent of the Agent, the Swingline Lender and the Issuing Bank (such consent not to be unreasonably withheld or delayed) and (iv) in no event shall a Defaulting Lender be entitled to participate in such Commitment Increase. In the event that any Lender or other Person agrees to participate in any Commitment Increase (each an "Increase Loan Lender"), such Commitment Increase shall become effective on such date as shall be mutually agreed upon by the Increase Loan Lenders and the Lead Borrower, which date shall be as soon as practicable after the date of receipt of the Commitment Increase Notice (such date, the "Increase Date"); provided that the establishment of such Commitment Increase shall be subject to the satisfaction of each of the following conditions: (1) no Default or Event of Default exists and is continuing or would exist after giving effect thereto; (2) each of the representations and warranties made by any Loan Party set forth in Section 8 hereof or in any other Loan Document shall be true and correct in all material respects (without duplication of any materiality standard set forth in any such representation or warranty) on and as of the date of such Commitment Increase with the same effect as though made on and as of such date, except to the extent such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall be true and correct in all material respects as of such date (without duplication of any materiality standard set forth in any such representation or warranty); (3) other than with respect to such Increase Loan Lenders that are Lenders prior to the applicable Increase Date, the Commitment Increase shall be effected pursuant to one or more joinder agreements executed and delivered by the Lead Borrower, the Agent, and the Increase Loan Lenders, each of which shall be reasonably satisfactory to the Lead Borrower, the Agent, and the Increase Loan Lenders; (4) Loan Parties shall execute and deliver or cause to be executed and delivered to the Agent such amendments to the Loan Documents, legal opinions and other documents as the Agent may reasonably request in connection with any such transaction, which amendments, legal opinions and other documents shall be reasonably satisfactory to the Agent; and (5) the Borrowers shall have paid to the Agent and the Lenders such additional fees as may be agreed to be paid by the Borrowers in connection therewith.

(c) On the Increase Date, upon fulfillment of the conditions set forth in this Section 2.15, (i) the Agent shall effect a settlement of all outstanding Loans among the Lenders that will reflect the adjustments to the Commitments of the Lenders as a result of the Commitment Increase, (ii) the Agent shall notify the Lenders and Loan Parties of the occurrence of the Commitment Increase to be effected on the Increase Date, (iii) Schedule 2.01 shall be deemed modified to reflect the

revised Commitments of the affected Lenders and (iv) Notes will be issued, at the expense of the Borrowers, to any Lender participating in the Commitment Increase and requesting a Note.

(d) The terms and provisions of the Commitment Increase shall be identical to the Loans and the Commitments, after giving effect to any amendments thereto, and, for purposes of this Agreement and the other Loan Documents, all Loans made under the Commitment Increase shall be deemed to be Loans. Without limiting the generality of the foregoing, (i) the rate of interest applicable to the Commitment Increase shall be the same as the rate of interest applicable to the existing Loans, (ii) unused line fees applicable to the Commitment Increase shall be calculated using the same Applicable Unused Line Fee Percentage

applicable to the existing Loans, (iii) the Commitment Increase shall share ratably in any mandatory prepayments of the Loans, (iv) after giving effect to such Commitment Increases, Commitments shall be reduced based on each Lender's Pro Rata Share, (v) the Commitment Increase shall rank *pari passu* in right of payment and security with the existing Loans and shall be secured by the same Collateral as the existing Loans, and (vi) the Commitment Increase shall be guaranteed to the same extent and by the same Guarantors as the existing Loans; provided that (A) if the Lead Borrower determines to increase the interest rate (including by increasing interest margins or introducing benchmark rate floors) or fees payable in respect of such Commitment Increase or Loans and other extensions of credit made thereunder, such increase shall be permitted if the interest rate or fees payable in respect of the existing Commitments or Loans and other extensions of credit made thereunder, as applicable, shall be increased, in the same manner, to equal such interest rate or fees payable in respect of such Commitment Increase or Loans and other extensions of credit made thereunder, as the case may be, and (B) the Borrowers, at the Lead Borrower's election, may pay any upfront fees or closing fees in connection with any Commitment Increase without being required to pay such fees in connection with the existing Commitments or Loans. Each joinder agreement and any amendment to any Loan Document requested by the Agent in connection with the establishment of the Commitment Increase may, without the consent of any of the Lenders, effect such amendments to this Agreement (an "Incremental Commitment Agreement") and the other Loan Documents as may be reasonably necessary or appropriate, in the opinion of the Agent and the Lead Borrower, to effect the provisions of this Section 2.15.

**2.16 Lead Borrower.** Each Borrower hereby designates the Lead Borrower as its representative and agent for all purposes under the Loan Documents, including requests for Loans and Letters of Credit, designation of interest rates, delivery or receipt of communications, preparation and delivery of Borrowing Base and financial reports, receipt and payment of Obligations, requests for waivers, amendments or other accommodations, actions under the Loan Documents (including in respect of compliance with covenants), and all other dealings with the Agent, the Issuing Bank or any Lender. The Lead Borrower hereby accepts such appointment. The Agent and the Lenders shall be entitled to rely upon, and shall be fully protected in relying upon, any notice or communication (including any Notice of Borrowing) delivered by the Lead Borrower on behalf of any Borrower. The Agent and the Lenders may give any notice or communication with a Borrower hereunder to the Lead Borrower on behalf of such Borrower. Each of the Agent, the Issuing Bank and the Lenders shall have the right, in its discretion, to deal exclusively with the Lead Borrower for any or all purposes under the Loan Documents. Each Borrower agrees that any notice, election, communication, representation, agreement or undertaking made on its behalf by the Lead Borrower shall be binding upon and enforceable against it.

**2.17 Overadvances.** If the aggregate Loans outstanding exceed the Line Cap (an "Overadvance") at any time, the excess amount shall be payable by the Borrowers on demand by the Agent, but all such Loans shall nevertheless constitute Obligations secured by the Collateral and entitled to all benefits of the Loan Documents. The Agent may require the Lenders to honor requests for Overadvance Loans and to forbear from requiring the Borrowers to cure an Overadvance, (a) when no other Event of Default is known to the Agent, as long as (i) the Overadvance does not continue for more than 30 consecutive days (and no Overadvance may exist for at least five consecutive days thereafter before further Overadvance Loans are required) and (ii) the aggregate amount of all Overadvances is not known by the Agent to exceed 5% of the Borrowing Base and the aggregate amount of all Overadvance Loans, together with the aggregate amount of all Protective Advances, is not known by the Agent to exceed 10% of the Borrowing Base, (b) regardless of whether an Event of Default exists, if the Agent discovers an Overadvance not previously known by it to exist, as long as from the date of such discovery the Overadvance (i) is not increased by more than \$2,500,000, and (ii) does not continue for more than 30 consecutive days. In no event shall Overadvance Loans be required that would cause the aggregate outstanding Loans and

Letter of Credit Obligations to exceed the aggregate Commitments. Required Lenders may at any time revoke the Agent's authority to make further

Overadvances by written notice to the Agent. Absent such revocation, the Agent's determination that funding of a Overadvances is appropriate shall be conclusive. The making of any Overadvance shall not create nor constitute a Default or Event of Default; it being understood that the making or continuance of an Overadvance shall not constitute a waiver by the Agent or the Lenders of the then existing Event of Default. In no event shall any Borrower or other Loan Party be permitted to require any Overadvance Loan to be made.

2.18 Protective Advances. The Agent shall be authorized, in its discretion, following notice to and consultation with the Lead Borrower, at any time, to make Base Rate Loans ("Protective Advances") (a) in an aggregate amount, together with the aggregate amount of all Overadvance Loans, not to exceed 10% of the Borrowing Base, if the Agent deems such Protective Advances necessary or desirable to preserve and protect the Collateral, or to enhance the collectability or repayment of the Obligations; or (b) to pay any other amounts chargeable to Loan Parties under any Loan Documents, including costs, fees and expenses; provided that, the aggregate amount of outstanding Protective Advances plus the outstanding amount of Loans and Letter of Credit Obligations shall not exceed the aggregate Commitments. Each Lender shall participate in each Protective Advance in accordance with its Pro Rata Share. Required Lenders may at any time revoke the Agent's authority to make further Protective Advances under clause (a) by written notice to the Agent. Absent such revocation, the Agent's determination that funding of a Protective Advance is appropriate shall be conclusive. The Agent may use the proceeds of such Protective Advances to (i) protect, insure, maintain or realize upon any Collateral or (ii) defend or maintain the validity or priority of the Agent's Liens in any Collateral, including any payment of a judgment, insurance premium, warehouse charge, finishing or processing charge, or landlord claim, or any discharge of a Lien; provided that the Agent shall use reasonable efforts to notify the Lead Borrower after paying any such amount or taking any such action and shall not make payment of any item that is being properly contested in good faith by Parent or any of its Subsidiaries.

2.19 Extension Offers (a) Subject to the terms of this Section 2.19, the Lead Borrower may on one or more occasions when no Event of Default exists, by written notice to the Agent, make one or more offers (each, an "Extension Offer") to all the Lenders, on equal terms to each Lender, with respect to all or a portion of the Commitments (the "Existing Commitments") and/or Loans (the "Existing Loans"), together with any related outstandings, to make one or more Extension Permitted Amendments pursuant to procedures reasonably specified by the Agent and acceptable to the Lead Borrower. Such notice shall set forth (i) the terms and conditions of the requested Extension Permitted Amendment and (ii) the date on which such Extension Permitted Amendment is requested to become effective (which shall not be less than ten Business Days or more than 30 Business Days after the date of such notice, unless otherwise agreed to by the Agent). Extension Permitted Amendments shall become effective only with respect to the Existing Loans and Existing Commitments of the Lenders that accept the applicable Extension Offer (such Lenders, the "Extending Lenders") and, in the case of any Extending Lender, only with respect to such Lender's Loans and Commitments as to which such Lender's acceptance has been made. The Extension Offer shall not be required to be in any minimum amount or any minimum increment, provided that the Lead Borrower may, at its option and subject to its right to waive any such condition in its sole discretion, specify as a condition to the effectiveness of any Extension Permitted Amendment that a minimum amount, as specified in the Extension Offer, of Loans and Commitments be extended. The Lead Borrower may amend, revoke or replace any Extension Offer at any time prior to the effectiveness of the applicable Extension Agreement. (b) An Extension Permitted Amendment shall be effected pursuant to an Extension Agreement executed and delivered by Parent, the Lead Borrower, each applicable Extending Lender and the Agent; provided that no Extension Permitted Amendment shall become effective unless Parent and the Lead Borrower shall have delivered to the Agent such legal opinions, board resolutions, secretary's certificates, officer's certificates and other documents as shall reasonably be requested (consistent in all material respects with the documents delivered on the Closing Date under Section 6) by the Agent in connection therewith. The Agent shall

promptly notify each Lender as to the effectiveness of each Extension Agreement. Each Extension Agreement may, without the consent of any Lender other than the applicable Extending Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Agent and the Lead Borrower, to give effect to the provisions of this Section, including any amendments necessary to treat the applicable Loans and/or Commitments of the accepting Lenders as a new class of Loans and/or Commitments hereunder (including for purposes of prepayments and voting (it being agreed that such new class of Loans and/or Commitments may be afforded class voting rights requiring the consent of Lenders under such class in addition to any other consent of Lenders that might otherwise be required under Section 13.10) and to enable such new class of Loans and/or Commitments to be extended under this Section or refinanced under Section 2.20); provided that (i) the borrowing and repayment (except for repayments required upon the maturity, repayments made in connection with any Refinancing Amendment and repayments made in connection with a permanent repayment and termination of the applicable Commitments) of Loans under the Commitments of such new class and the remaining Commitments shall be made on a ratable basis as between the Commitments of such new class and the remaining Commitments, (ii) the allocation of the participation exposure with respect to any then-existing or subsequently issued or made Letter of Credit, Swingline Loan, Overadvance or Protective Advance shall be made on a ratable basis as between the Commitments of such new class and the remaining Commitments (and the applicable Extension Agreement shall contain reallocation and cash collateralization provisions, in form and substance reasonably satisfactory to the Agent and the Lead Borrower, with respect to Letters of Credit, Swingline Loans, Overadvances and Protective Advances outstanding on the Maturity Date), (iii) the Revolving Availability Period and the Maturity Date, as such terms are used in reference to Letters of Credit issued by any Issuing Bank or Swingline Loans, may not be extended without the prior written consent of such Issuing Bank or the Swingline Lender, as applicable and (iv) the final maturity date of Loans under the Commitments of such new class shall not be earlier than the latest Maturity Date of any other Loans hereunder and the Weighted Average Life to Maturity of Loans under the Commitments of such new class shall not be shorter than the Weighted Average Life to Maturity of other Loans hereunder. The Agent agrees that its consent to any amendment to this Agreement or any other Loan Document as contemplated above, or to the form and substance of any Extension Agreement, will not be unreasonably withheld or delayed.

2.20 Refinancing Facility. At any time after the Closing Date, the Lead Borrower may obtain, from any Lender or other Person that would be an Eligible Transferee (a "Refinancing Lender"), Refinancing Indebtedness in respect of all (but not a portion of) the Obligations then outstanding under this Agreement (a "Refinancing Facility") pursuant to a Refinancing Amendment; provided, that (x) the effectiveness of any Refinancing Amendment shall be subject to, to the extent reasonably requested by the Agent, receipt by the Agent of board resolutions, officers' certificates, reaffirmation agreements consistent with those delivered on or prior to the Closing Date in connection with the initial extension of credit hereunder and otherwise deemed necessary or advisable by the Agent in its reasonable discretion and (y) upon the effectiveness of such Refinancing Amendment, the proceeds of the Refinancing Facility shall be applied to repay all the Obligations then outstanding under this Agreement and cash collateralize (or otherwise back-stop) all Letters of Credit (pursuant to arrangements and documentation reasonably satisfactory to the Agent and the Issuing Banks), and the Commitments hereunder shall be terminated. The Agent shall promptly notify each Lender as to the effectiveness of each Refinancing Amendment. Each of the parties hereto hereby agrees that, upon the effectiveness of any Refinancing Amendment, this Agreement shall be deemed amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Refinancing Facility incurred pursuant thereto. Any Refinancing Amendment may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the reasonable opinion of the Agent, to effect the provisions of this Section 2.20. The terms and conditions of any Refinancing Facility and Loans and other extensions of credit thereunder shall be as determined by the Lead Borrower and the applicable Refinancing Lenders.

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Section 3. Yield Protection, Illegality and Replacement of Lenders.

3.01 Increased Costs, Illegality, etc.

(h) In the event that any Lender shall have reasonably determined (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto but, with respect to clause (i) below, may be made only by

the Agent):

(i) on any Interest Determination Date that, by reason of any changes arising after the date of this Agreement affecting the interbank Eurodollar market, adequate and fair means do not exist for ascertaining the applicable interest rate on the basis provided for in the definition of LIBO Rate;

(ii) at any time, that such Lender shall incur increased costs or reductions in the amounts received or receivable hereunder with respect to any LIBO Rate Loan because of any change since the Closing Date in any applicable law or governmental rule, regulation, order, guideline or request (whether or not having the force of law) or in the official interpretation or administration thereof and including the introduction of any new law or governmental rule, regulation, order, official guideline or request, such as, but not limited to: (A) any additional Tax imposed on any Lender (except Indemnified Taxes or Other Taxes indemnified under Section 5.01 or any Excluded Taxes) or (B) a change in official reserve requirements, but, in all events, excluding reserves required under Regulation D to the extent included in the computation of the LIBO Rate; or

(iii) at any time, that the making or continuance of any LIBO Rate Loan has been made (x) unlawful by any law or governmental rule, regulation or order, (y) impossible by compliance by any Lender in good faith with any governmental request (whether or not having force of law) or (z) impracticable as a result of a contingency occurring after the Closing Date which materially and adversely affects the interbank Eurodollar market;

then, and in any such event, such Lender (or the Agent, in the case of clause (i) above) shall promptly give notice (by telephone promptly confirmed in writing) to the Lead Borrower and, except in the case of clause (i) above, to the Agent of such determination (which notice the Agent shall promptly transmit to each of the other Lenders). Thereafter (x) in the case of clause (i) above, LIBO Rate Loans shall no longer be available until such time as the circumstances giving rise to such notice by the Agent no longer exist, and any Notice of Borrowing or Notice of Conversion/Continuation given by the Lead Borrower with respect to LIBO Rate Loans which have not yet been incurred (including by way of conversion) shall be deemed rescinded by the Borrowers, (y) in the case of clause (ii) above, each Borrower, jointly and severally, agrees to pay to such Lender, upon such Lender's written request therefor, such additional amounts as shall be required to compensate such Lender for such increased costs or reductions in amounts received or receivable hereunder and (z) in the case of clause (iii) above, the Borrowers shall take one of the actions specified in Section 3.01(b) as promptly as possible and, in any event, within the time period required by law.

(i) At any time that any LIBO Rate Loan is affected by the circumstances described in Section 3.01(a)(ii), the Lead Borrower may, and in the case of a LIBO Rate Loan affected by the circumstances described in Section 3.01(a)(iii), the Lead Borrower shall, either (x) if the affected LIBO Rate Loan is then being made initially or pursuant to a conversion, cancel such Borrowing by giving the Agent telephonic notice (confirmed in writing) on the same date that the Lead Borrower was notified by the affected Lender or the Agent pursuant to Section 3.01(a)(ii) or (iii) or (y) if the affected LIBO Rate Loan is then outstanding, upon at least three Business Days' written notice to the Agent, require the affected Lender to convert such

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LIBO Rate Loan into a Base Rate Loan, provided that if more than one Lender is affected at any time, then all affected Lenders must be treated the same pursuant to this Section 3.01(b).

(j) If any Lender determines that after the Closing Date the introduction of or any change in any applicable law or governmental rule, regulation, order, guideline, directive or request (whether or not having the force of law) concerning capital adequacy, or any change in interpretation or administration thereof by the National Association of Insurance Commissioners or any Governmental Authority, central bank or comparable agency, will have the effect of increasing the amount of capital required or expected to be maintained by such Lender or any corporation controlling such Lender based on the existence of such Lender's Commitments hereunder or its obligations hereunder, then each Borrower, jointly and severally, agrees to pay to such Lender, upon such Lender's written request therefor, such additional amounts as shall be required to compensate such Lender or such other corporation for the increased cost to such Lender or such other

corporation or the reduction in the rate of return to such Lender or such other corporation as a result of such increase of capital.

(k) Notwithstanding anything in this Agreement 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 regulatory authorities, in each case pursuant to Basel III, shall be deemed to be a change after the Closing Date in applicable law or government rule, regulation or order, regardless of the date enacted, adopted, issued or implemented (including for purposes of this Section 3.01).

(l) A certificate of a Lender setting forth in reasonable detail the basis and calculation of the amount or amounts necessary to compensate such Lender or any corporation controlling such Lender, as the case may be, as specified in paragraph (a) or (c) of this Section delivered to the Lead Borrower shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

(m) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that no Borrower shall be required to compensate a Lender or any corporation controlling such Lender, as the case may be, pursuant to this Section for any increased costs or expenses incurred or reductions suffered more than 180 days prior to the date that such Lender notifies the Lead Borrower of the circumstance giving rise to such increased costs or expenses or reductions and of such Lender's intention to claim compensation therefor; provided further that, if the circumstance giving rise to such increased costs or expenses or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

(n) Notwithstanding any other provision of this Section to the contrary, no Lender or corporation controlling any Lender shall request, or be entitled to receive, any compensation pursuant to this Section unless it shall be the general policy or practice of such Lender or such corporation to seek compensation from other similarly situated borrowers in the U.S. syndicated loan market with respect to its similarly affected loans under agreements with such borrowers having provisions similar to this Section.

3.02 Compensation. Each Borrower, jointly and severally, agrees to compensate each Lender, upon its written request (which request shall set forth in reasonable detail the basis for requesting such compensation and the calculation of the amount of such compensation), for all losses, expenses and liabilities (including, without limitation, any loss, expense or liability incurred by reason of the liquidation or

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reemployment of deposits or other funds required by such Lender to fund its LIBO Rate Loans but excluding loss of anticipated profits) which such Lender may sustain: (i) if for any reason (other than a default by such Lender or the Agent) a Borrowing of, or conversion from or into, LIBO Rate Loans does not occur on a date specified therefor in a Notice of Borrowing or Notice of Conversion/Continuation (whether or not withdrawn by the applicable Borrower or deemed withdrawn pursuant to Section 3.01(a)); (ii) if any prepayment or repayment (including any termination or reduction of Commitments made pursuant to Section 2.07 or as a result of an acceleration of the Loans pursuant to Section 11) or conversion of any of its LIBO Rate Loans occurs on a date which is not the last day of an Interest Period with respect thereto; (iii) if any prepayment of any LIBO Rate Loans is not made on any date specified in a notice of termination or reduction given by the Lead Borrower; or (iv) as a consequence of (x) any other default by any Borrower to repay its LIBO Rate Loans when required by the terms of this Agreement or (y) any election made pursuant to Section 3.01(b).

3.03 Change of Lending Office. Each Lender agrees that on the occurrence of any event giving rise to the operation of Section 3.01(a)(ii) or (iii), Section 3.01(c) or Section 5.01 with respect to such Lender, it will, if requested by the Lead Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate another lending office for any Loans affected by such event, provided that such designation is made on such terms that such Lender and its lending office suffer no economic, legal or regulatory disadvantage, with the object of avoiding the consequence of

the event giving rise to the operation of such Section. Nothing in this Section 3.03 shall affect or postpone any of the obligations of the Borrowers or the right of any Lender provided in Sections 3.01 and 5.01.

3.04 Replacement of Lenders. (a) If any Lender becomes a Defaulting Lender, (b) upon the occurrence of an event giving rise to the operation of Section 3.01(a)(ii) or (iii), Section 3.01(c) or Section 5.01 with respect to such Lender, (c) in the case of a refusal by a Lender to consent to certain proposed changes, waivers, discharges or terminations with respect to this Agreement which have been approved by the Required Lenders as (and to the extent) provided in Section 13.10(b), or (d) any Lender has failed to accept an Extension Offer made to such Lender and with respect to which all other Lenders of the applicable class have accepted such Extension Offer or are being (or have been) replaced or whose Commitments are being (or have been) terminated, in each case in accordance with this Section, the Lead Borrower shall have the right, so long as no Event of Default under Section 11.01 or 11.05 shall have occurred and be continuing, to replace such Lender (the “Replaced Lender”) with one or more other Eligible Transferees (other than any Disqualified Lender), none of whom shall constitute a Defaulting Lender at the time of such replacement (collectively, the “Replacement Lender”) and each of whom shall be required to be reasonably acceptable to the Agent and each Issuing Bank (to the extent the Agent’s and Issuing Bank’s consent would be required for an assignment to such Replacement Lender pursuant to Section 13.04); provided that (i) at the time of any replacement pursuant to this Section 3.04, the Replacement Lender shall enter into one or more Assignment and Assumption Agreements pursuant to Section 13.04(b) (and with all fees payable pursuant to Section 13.04(b) to be paid by the Replacement Lender and/or the Replaced Lender (as may be agreed to at such time by and among the Lead Borrower, the Replacement Lender and the Replaced Lender) pursuant to which the Replacement Lender shall acquire all of the Commitments and outstanding Loans of the Replaced Lender and, in connection therewith, shall pay to (x) the Replaced Lender in respect thereof an amount equal to the sum of (I) an amount equal to the principal of, and all accrued interest on, all outstanding Loans of the respective Replaced Lender and (II) an amount equal to all accrued, but theretofore unpaid, fees owing to the Replaced Lender pursuant to Section 2.05 and (ii) all obligations of each Borrower due and owing to the Replaced Lender at such time (other than those specifically described in clause (i) above in respect of which the assignment purchase price has been, or is concurrently being, paid) shall be paid in full to such Replaced Lender concurrently with such replacement. Upon receipt by the Replaced Lender of all amounts required to be paid to it pursuant to this Section 3.04, the Agent shall be entitled (but not obligated) and

authorized to execute an Assignment and Assumption Agreement on behalf of such Replaced Lender, and any such Assignment and Assumption Agreement so executed by the Agent and the Replacement Lender shall be effective for purposes of this Section 3.04 and Section 13.04. Upon the execution of the respective Assignment and Assumption Agreement, the payment of amounts referred to in clauses (i) and (ii) above, recordation of the assignment on the Register pursuant to Section 13.13 and, if so requested by the Replacement Lender, delivery to the Replacement Lender of the appropriate Note or Notes executed by the applicable Borrower, (x) the Replacement Lender shall become a Lender hereunder and the Replaced Lender shall cease to constitute a Lender hereunder, except with respect to indemnification provisions under this Agreement (including, without limitation, Sections 3.01, 3.02, 5.01, 12.07 and 13.01), which shall survive as to such Replaced Lender. In connection with any replacement of Lenders pursuant to, and as contemplated by, this Section 3.04, each Borrower hereby irrevocably authorizes the Lead Borrower to take all necessary action, in the name of such Borrower, as described above in this Section 3.04 in order to effect the replacement of the respective Lender or Lenders in accordance with the preceding provisions of this Section 3.04.

3.05 Inability to Determine Rates. If the Required Lenders determine in good faith that for any reason (a) Dollar deposits are not being offered to banks in the London interbank Eurodollar market for the applicable amount and Interest Period of such LIBO Rate Loan, (b) adequate and reasonable means do not exist for determining the LIBO Rate for any requested Interest Period with respect to a proposed LIBO Rate Loan, or (c) that the LIBO Rate for any requested Interest Period with respect to a proposed LIBO Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Loan, the Agent will promptly so notify the Lead Borrower and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain LIBO Rate Loans shall be suspended, and (y) in the event of a determination described in the preceding sentence with respect to the LIBO Rate component of the Base Rate, the utilization of the LIBO Rate component in determining the Base Rate shall be suspended, in each case until the Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Lead Borrower may revoke any pending request



for a Borrowing of, conversion to or continuation of LIBO Rate Loans or, failing that, will be deemed to have converted such request into a request for a Borrowing of LIBO Rate Loans in the amount specified therein.

Section 4. [Reserved].

Section 5. Taxes.

5.01 Net Payments.

(f) All payments made by or on account of any Loan Party under any Loan Document shall be made free and clear of, and without deduction or withholding for, any Taxes, except as required by applicable law. If any Taxes are required to be withheld or deducted from such payments, then the Loan Parties jointly and severally agree that (i) to the extent such deduction or withholding is on account of an Indemnified Tax or Other Tax, the sum payable shall be increased as necessary so that after making all required deductions or withholding (including deduction or withholdings applicable to additional sums payable under this Section 5.01), the Agent or Lender (as the case may be) receives an amount equal to the sum it would have received had no such deductions or withholdings been made, (ii) the applicable withholding agent will make any required deductions or withholdings, and (iii) the applicable withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law. In addition, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law. The Loan Parties will furnish to the Agent within 45 days after the date the payment by any of them of any Indemnified Taxes or Other Taxes is due pursuant to applicable law certified copies of tax receipts evidencing such payment by the applicable Loan Party. The Loan Parties jointly and

severally agree to indemnify and hold harmless the Agent and each Lender, and reimburse the Agent and each Lender, within 10 days of written request therefor, for the amount of any Indemnified Taxes (including any Indemnified Taxes imposed on amounts payable under this Section 5.01) payable or paid by the Agent or such Lender or required to be withheld or deducted from a payment to the Agent or such Lender, and any Other Taxes, and any reasonable out-of-pocket expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Lead Borrower by the Agent or any Lender shall be conclusive absent manifest error.

(g) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Lead Borrower and the Agent, at the time or times reasonably requested by the Lead Borrower or the Agent, such properly completed and executed documentation reasonably requested by the Lead Borrower or the Agent, certifying as to any entitlement of such Lender to an exemption from, or a reduce rate of, withholding Tax. In addition, each Lender shall deliver to the Lead Borrower and the Agent, at the time or times reasonably requested by the Lead Borrower or the Agent, such other documentation prescribed by applicable law or reasonably requested by the Lead Borrower or the Agent as will enable the Lead Borrower or the Agent to determine whether such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 5.01(c)) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Each Lender shall, whenever change in circumstances renders such documentation (including any specific documents required below in Section 5.01(c)) inaccurate in any respect, deliver promptly to the Lead Borrower and the Agent updated or other appropriate documentation (including any new documentation reasonably requested by the Lead Borrower or the Agent) or promptly notify the Lead Borrower and the Agent in writing of its inability to do so.

(h) Without limiting the generality of the foregoing: (x) Each Lender that is not a U.S. Person shall deliver to the Lead Borrower and the Agent on or prior to the Closing Date or, in the case of a Lender that is a Lender to the Lead Borrower and that is an assignee or transferee of an interest under this Agreement pursuant to Section 3.04 or 13.04(b) (unless the relevant Lender was already a Lender hereunder immediately prior to such assignment or transfer), on the date

of such assignment or transfer to such Lender, (i) two accurate and complete original signed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or successor form) claiming eligibility for benefits of an income tax treaty to which the United States is a party or Form W-8ECI (or successor form), or (ii) in the case of a Lender claiming exemption from U.S. federal withholding tax under Section 871(h) or 881(c) of the Code with respect to payments of “portfolio interest,” a certificate substantially in the form of Exhibit C (any such certificate, a “U.S. Tax Compliance Certificate”) and two accurate and complete original signed copies of Internal Revenue Service Form W-8BEN or W-8BEN-E (or successor form) certifying to such Lender’s entitlement as of such date to a complete exemption from U.S. withholding tax with respect to payments of interest to be made under this Agreement and under any Note; or (iii) to the extent a Lender is not the beneficial owner (for example, where the Lender is a partnership or a participating Lender), two accurate and complete original signed copies of Internal Revenue Service Form W-8IMY (or successor form) of the Lender, accompanied by Form W-8ECI, Form W-8BEN or W-8BEN-E, U.S. Tax Compliance Certificate, Form W-8IMY, and/or any other required information (or successor or other applicable form) from each beneficial owner that would be required under this Section 5.01(c) if such beneficial owner were a Lender (provided that, if the Lender is a partnership for U.S. federal income Tax purposes (and not a participating Lender), and one or more beneficial owners are claiming the portfolio interest exemption), the U.S. Tax Compliance Certificate may be provided by such

Lender on behalf of such beneficial owners); (y) Each Lender to the Lead Borrower that is a U.S. Person shall deliver to the Lead Borrower and the Agent, at the times specified in Section 5.01(b), two accurate and complete original signed copies of Internal Revenue Service Form W-9, or any successor form that such Person is entitled to provide at such time, in order to qualify for an exemption from United States back-up withholding requirements; and (z) if any 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 Sections 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Lead Borrower and the Agent, at the time or times prescribed by applicable law and at such time or times reasonably requested by the Lead Borrower or the 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 Lead Borrower or the Agent as may be necessary for the Lead Borrower or the Agent to comply with their obligations under FATCA, to determine whether such Lender has complied with such Lender’s obligations under FATCA or to determine, if necessary, the amount to deduct and withhold from such payment. Solely for purposes of this Section 5.01(c)(z), “FATCA” shall include any amendments made to FATCA after the date of this Agreement.

Notwithstanding any other provision of this Section 5.01, a Lender shall not be required to deliver any form that such Lender is not legally eligible to deliver and shall promptly notify the Lead Borrower and the Agent in writing of its legal inability to do so.

(i) If the Agent or any Lender 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 the Loan Parties or with respect to which a Loan Party has paid additional amounts pursuant to Section 5.01(a), it shall pay to the relevant Loan Party an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by such Loan Party under Section 5.01(a) with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses (including any Taxes) of the Agent or such Lender, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that the relevant Loan Party, upon the request of the Agent or such Lender, agrees to repay the amount paid over to such Loan Party (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Agent or such Lender in the event the Agent or such Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this Section 5.01(d), in no event will the Agent or any Lender be required to pay any amount to any Loan Party pursuant to this Section 5.01(d) to the extent that such payment would place the Agent or such Lender in a less favorable position (on a net after-Tax basis) than such party would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. Nothing in this Section 5.01(d) shall be construed to obligate the Agent or any Lender to disclose its Tax returns or any other information regarding its Tax affairs