



matters relating to usury, first loss, last dollar, zoning, revolving credit, doing business, variable rate, address, separate tax lot, subdivision, tie in or cluster, contiguity, access and so-called comprehensive coverage over covenants and restrictions);

(b) with respect to any property located in any jurisdiction in which a zoning endorsement is not available (or for which a zoning endorsement is not available at a premium that is not excessive), if requested by the Collateral Agent, a zoning compliance letter from the applicable municipality or a zoning report from Planning and Zoning Resource Corporation (or another person acceptable to the Collateral Agent), in each case reasonably satisfactory to the Collateral Agent;

(c) upon the request of the Collateral Agent, a survey certified to the Collateral Agent and the Title Company in form and substance reasonably satisfactory to the Collateral Agent;

(d) upon the request of the Collateral Agent, an appraisal complying with the requirements of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, by a third-party appraiser selected by the Collateral Agent;

(e) if requested by the Collateral Agent, an opinion of local counsel reasonably acceptable to the Collateral Agent and in form and substance satisfactory to the Collateral Agent;

(f) no later than ten Business Days prior to the delivery of the Mortgage, the following documents and instruments, in order to comply with the National Flood Insurance Reform Act of 1994, Flood Disaster Protection Act of 1973, Biggert-Waters Flood Insurance Act of 2012 and National Flood Insurance Act of 1968 and related legislation (including the regulations of the Board of Governors of the Federal Reserve System) (including any substitution therefor and, if applicable, any regulations promulgated thereunder, “Flood Laws”): (i) a completed Life of Loan standard flood hazard determination form, (ii) if the improvement(s) to the improved real property is located in a special flood hazard area, a notification to the Borrower or such Subsidiary as holds title to the real property in question (“Borrower Notice”) and, if applicable, notification to the Borrower that flood insurance coverage under the National Flood Insurance Program (“NFIP”) is not available because the community does not participate in the NFIP, (iii) documentation evidencing receipt by the Borrower or such Subsidiary as holds title to the real property of the Borrower Notice and (iv) if the Borrower Notice is required to be given and flood insurance is available in the community in which the property is located, a copy of the flood insurance policy, the Borrower’s application for a flood insurance policy plus proof of premium payment, a declaration page confirming that flood insurance has been issued, or such other evidence of flood insurance satisfactory to the Collateral Agent and in compliance with Flood Laws (any of the foregoing being “Evidence of Flood Insurance”);

(g) upon the reasonable request of the Collateral Agent, Phase I environmental site assessment reports prepared in accordance with the current ASTM E1527 standard (“Phase Is”) (to the extent in the possession of the Borrower) and any other existing, non-privileged environmental documentation as the Collateral Agent shall reasonably request; and

(h) such other instruments and documents (including consulting engineers' reports and lien searches) as the Collateral Agent shall reasonably request.

"Receivables Subsidiary" means a special purpose entity established as a "bankruptcy remote" Subsidiary for the sole purpose of acquiring accounts receivable under any Permitted Receivables Facility, which shall engage in no operations or activities other than those related to such Permitted Receivables Facility.

"Recipient" means (a) the Agent and (b) any Lender, as applicable.

"Reference Time" has the meaning assigned to such term in the definition of "Available Amount".

"Refinancing Amendment" means an amendment to this Agreement, in form and substance reasonably satisfactory to the Borrower, the Agent and the Lenders providing Specified Refinancing Debt, effecting the incurrence of such Specified Refinancing Debt in accordance with Section 2.19.

"Refinancing Junior Loans" means loans under credit or loan agreements that are (a) senior or subordinated and unsecured or (b) secured by the Collateral of the Loan Parties on a junior basis to the Facilities, incurred in respect of a refinancing of outstanding Indebtedness of the Borrower under any Facility; provided that:

(i) if such Refinancing Junior Loans shall be secured by a security interest in the Collateral, then the lenders of such Refinancing Junior Loans shall enter into a Market Intercreditor Agreement that is reasonably satisfactory to the Agent;

(ii) no Refinancing Junior Loans shall mature prior to the final maturity date of the Indebtedness being refinanced, or have a Weighted Average Life to Maturity that is less than the Weighted Average Life to Maturity of the Indebtedness being refinanced thereby; provided that this clause (ii) shall not apply to any Refinancing Junior Loans consisting of a customary bridge facility, so long as the long-term Indebtedness into which any such customary bridge facility is to be converted or exchanged satisfies this clause (ii);

(iii) the borrower of the Refinancing Junior Loans shall not include any Person that is not a borrower with respect to the Indebtedness being refinanced;

(iv) such Refinancing Junior Loans shall, subject to clause (ii) above, have pricing (including interest, fees and premiums), optional prepayment and optional redemption terms as may be agreed to by the Borrower and the lenders party thereto;

(v) the covenants and events of default (excluding those referenced in clauses (ii) and (iv) above) of such Refinancing Junior Loans shall either (x) taken as a whole, not materially more favorable to the lenders providing such Refinancing Junior Loans than those contained in the Indebtedness being refinanced or (y) customary for similar types of Indebtedness in light of then-prevailing market conditions (it being understood and agreed that such Indebtedness shall not include any financial maintenance covenants not also included herein and that any negative covenants shall be incurrence-based) (except for covenants or other provisions applicable only to periods after the Latest Maturity Date existing at the time of incurrence of such Refinancing Junior Loans); provided that a certificate of a Responsible Officer of the Borrower

delivered to the Agent at least five (5) Business Days prior to the incurrence of such Refinancing Junior Loans, together with a reasonably detailed description of material terms and conditions of such Indebtedness or drafts of the documentation related thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement in clause (v) shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Agent notifies the Borrower within such five (5) Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees);

(vi) the Refinancing Junior Loans may not have (x) obligors or contingent obligors that were not obligors or contingent obligors with respect to the applicable Loans being so refinanced or (y) security in any case more extensive than that which applied to the applicable Loans being so refinanced;

(vii) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness being refinanced plus an amount equal to accrued and unpaid interest, premiums (if any) and penalties thereon, other amounts paid, and commissions, fees and expenses incurred in connection with such refinancing, and an amount equal to any existing commitments unutilized thereunder; and

(viii) the Net Cash Proceeds of such Refinancing Junior Loans shall be applied, substantially concurrently with the incurrence thereof, to the *pro rata* prepayment of outstanding Loans under the applicable Class of Loans being so refinanced in accordance with Section 2.10.

“Refinancing Notes” means one or more series of (a) senior unsecured notes or (b) senior secured notes secured by the Collateral of the Loan Parties (x) on an equal and ratable basis with the Facilities or (y) on a junior basis to the Facilities, in each case issued in respect of a refinancing of outstanding Indebtedness of the Borrower under the Facilities; provided that:

(i) if such Refinancing Notes shall be secured by a security interest in the Collateral, then such Refinancing Notes shall be issued subject to a Market Intercreditor Agreement that is reasonably satisfactory to the Agent;

(ii) no Refinancing Notes shall mature prior to the date that is after the final maturity date of the Indebtedness being refinanced, or have a Weighted Average Life to Maturity that is less than the Weighted Average Life to Maturity of, in each case, the Indebtedness being refinanced;

(iii) no Refinancing Notes shall be subject to any amortization prior to the final maturity thereof, or be subject to any mandatory redemption or prepayment provisions or rights (except customary assets sale or change of control provisions);

(iv) subject to clause (iii), such Refinancing Notes shall have pricing (including interest, fees and premiums), optional prepayment and optional redemption terms as may be agreed to by the Borrower and the purchasers party thereto;

(v) the other terms and conditions (excluding those referenced in clauses (ii), (iii) and (iv) above and other customary terms applicable only to loans) of such Refinancing Notes shall be either (x) taken as a whole, not materially more favorable to the purchasers buying



such Refinancing Notes than those applicable to the Loans or commitments being refinanced or replaced (except for covenants or other provisions applicable only to periods after the Latest Maturity Date existing at the time of the incurrence of such Refinancing Notes) or (y) customary for similar types of Indebtedness in light of then-prevailing market conditions (it being understood and agreed that such Indebtedness shall not include any financial maintenance covenants not also included herein and that any negative covenants shall be incurrence-based); provided that a certificate of a Responsible Officer of the Borrower delivered to the Agent at least five (5) Business Days prior to the incurrence of such Refinancing Notes, together with a reasonably detailed description of material terms and conditions of such Refinancing Notes or drafts of the documentation related thereto, stating that the Borrower has determined in good faith that such terms and conditions satisfy the foregoing requirement in this clause (y) shall be conclusive evidence that such terms and conditions satisfy the foregoing requirement unless the Agent notifies the Borrower within such five (5) Business Day period that it disagrees with such determination (including a reasonable description of the basis upon which it disagrees);

(vi) (x) if the Indebtedness being so refinanced is unsecured, the Refinancing Notes shall be unsecured, (y) if the Indebtedness being so refinanced is secured, the Refinancing Notes shall not have security in any case more extensive than that which applied to the applicable Indebtedness being so refinanced (and the priority of Liens securing the Refinancing Notes shall not be higher than the priority of Liens securing the applicable Indebtedness being refinanced) and (z) the Refinancing Notes shall not have obligors or contingent obligors that were not obligors or contingent obligors in respect of such Indebtedness being refinanced;

(vii) the principal amount (or accreted value, if applicable) thereof does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness being refinanced plus an amount equal to accrued and unpaid interest, premiums (if any) and penalties thereon, other amounts paid, and commissions, fees and expenses incurred in connection with such refinancing, and an amount equal to any existing commitments unutilized thereunder; and

(viii) the Net Cash Proceeds of such Refinancing Notes shall be applied, substantially concurrently with the incurrence thereof, to the *pro rata* prepayment of outstanding Loans under the applicable Class of Loans being so refinanced in accordance with Section 2.10.

“Register” has the meaning specified in Section 9.07(c).

“Registered Equivalent Notes” means, with respect to any notes originally issued in an offering pursuant to Rule 144A under the Securities Act or other private placement transaction under the Securities Act, substantially identical notes (having the same guarantees) issued in a dollar-for-dollar exchange therefor pursuant to an exchange offer registered with the SEC.

“Related Business” has the meaning specified in Section 6.03.

“Related Business Assets” means any property, plant, equipment or other assets (excluding assets that are qualified as current assets under GAAP) to be used or useful by the Borrower or a Restricted Subsidiary in a Related Business or capital expenditures relating thereto.

“Related Funds” means, with respect to any Lender that is an Approved Fund, any other Approved Fund that is managed by the same investment advisor as such Lender or by an Affiliate of such investment advisor.



“Related Parties” means, with respect to any Person, such Person’s Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors, attorneys, consultants and representatives of such Person and of such Person’s Affiliates.

“Relevant Governmental Body” has the meaning assigned to such term in Section 2.08.

“Required Lenders” means at any time Lenders owed or holding at least a majority in interest of the sum of (a) the aggregate principal amount of the Loans and (b) the aggregate unused amount of the Commitments; provided that the Loans and Commitments held by any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders.

“Resignation Effective Date” has the meaning specified in Section 8.06(a).

“Resolution Authority” has the meaning assigned to such term in Section 9.18.

“Responsible Officer” of any Person means any executive officer or Financial Officer of such Person and any other officer or similar official thereof responsible for the administration of the obligations of such Person in respect of this Agreement.

“Restricted Debt Payment” has the meaning specified in Section 6.09(b).

“Restricted Payments” has the meaning specified in Section 6.05.

“Restricted Subsidiary” means any Subsidiary that is not an Unrestricted Subsidiary.

“S&P” means Standard & Poor’s Ratings Group, a division of S&P Global Inc., and any successor to its rating agency business.

“Sanctioned Country” means, at any time, a country, region or territory which is itself the subject or target of comprehensive Sanctions.

“Sanctioned Person” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or by the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom, (b) any Person located, organized or resident in a Sanctioned Country or (c) any Person owned 50% or more by or Controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

“Sanctions” means economic or financial sanctions imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union or Her Majesty’s Treasury of the United Kingdom.

“SEC” means the Securities and Exchange Commission.

“Secured Cash Management Obligations” means the due and punctual payment and performance of any and all obligations of each Loan Party or other Restricted Subsidiary (whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor)) arising in respect of Cash Management Services that (i) (a) are owed to the Agent, an Arranger or an Affiliate of any of the





foregoing, or to any Person that, at the time such obligations were incurred, was the Agent, an Arranger or an Affiliate of any of the foregoing, (b) were owed on the Closing Date to a Person that was a Lender or an Affiliate of a Lender as of the Closing Date or (c) are owed to a Person that was a Lender or an Affiliate of a Lender at the time such obligations were incurred and (ii) are designated in writing by the Borrower as “Secured Cash Management Obligations”.

“Secured Hedging Obligations” means the due and punctual payment and performance of any and all obligations of each Loan Party or other Restricted Subsidiary (whether absolute or contingent and however and whenever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor)) arising in respect of Hedge Agreements that (i) (a) are owed to the Agent, an Arranger or an Affiliate of any of the foregoing, or to any Person that, at the time such obligations were incurred, was the Agent, an Arranger or an Affiliate of any of the foregoing, (b) were owed on the Closing Date to a Person that was a Lender or an Affiliate of a Lender as of the Closing Date or (c) are owed to a Person that was a Lender or an Affiliate of a Lender at the time such obligations were incurred and (ii) are designated in writing by the Borrower as “Secured Hedging Obligations”; provided that Secured Hedging Obligations shall not include any Excluded Swap Obligations.

“Secured Parties” means (a) each of the Lenders, (b) the Agent, (c) the Collateral Agent, (d) each Cash Management Bank, (e) each Hedge Bank, (f) the beneficiaries of each indemnification obligation undertaken by any Loan Party under any Loan Document and (g) the successors and assigns of each of the foregoing.

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

“Security and Guarantee Documents” means each and any of the Mortgages, the Guarantee and Collateral Agreement, the Control Agreements, the Perfection Certificate, security agreements, and/or other instruments and documents executed and delivered on or after the Closing Date in connection with securing and/or guaranteeing the Obligations.

“Senior Secured Leverage Ratio” means, on any date, the ratio of (a) an amount equal to (i) the Total Senior Secured Debt on such date less (ii) the aggregate amount of Unrestricted Cash on such date to (b) EBITDA for the most recently ended Test Period.

“Single Employer Plan” means a single employer plan, as defined in Section 4001(a)(15) of ERISA, that (a) is maintained for employees of the Borrower or any ERISA Affiliate and no Person other than the Borrower and the ERISA Affiliates or (b) was so maintained and in respect of which the Borrower or any ERISA Affiliate could have liability under Section 4069 of ERISA in the event such plan has been or were to be terminated.

“SOFR” has the meaning assigned to such term in Section 2.08.

“SOFR Administrator” has the meaning assigned to such term in Section 2.08.

“SOFR Administrator’s Website” has the meaning assigned to such term in Section 2.08.

“Solvent” means, with respect to any Person on a particular date, that on such date (a) the fair value of the present assets of such Person is greater than the total amount of liabilities (subordinated, contingent or otherwise) of such Person, (b) the present fair salable value of the assets of such Person is greater than the total amount that will be required to pay the probable liability of such Person on the sum of its debts and other liabilities (subordinated, contingent or otherwise) as they become absolute and