
2.09 Fees. In addition to certain fees described in subsections (h) and (i) of Section 2.03:

(a) Commitment Fee. The Borrower shall pay to the Administrative Agent for the account of each Revolving Credit Lender in accordance with its Applicable Percentage of the Revolving Credit Facility, a commitment fee equal to the Applicable Rate times the actual daily amount by which the Aggregate Revolving Credit Commitments exceed the sum of (i) the Outstanding Amount of Revolving Credit Loans and (ii) the Outstanding Amount of L/C Obligations, subject to adjustment as provided in Section 2.14. For the avoidance of doubt, the Outstanding Amount of Swing Line Loans shall not be counted towards or considered usage of the Aggregate Revolving Credit Commitments for purposes of determining the commitment fee. The commitment fee shall accrue at all times commencing on the Closing Date and through the Availability Period, including at any time during which one or more of the conditions in Article IV is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Closing Date, and on the last day of the Availability Period. The commitment 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.

(b) Other Fees. (i) The Borrower shall pay to Joint Lead Arrangers and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Engagement Letter, the Administrative Agent Fee Letter or as otherwise agreed in writing. Such fees shall be in all respects fully earned when paid and shall not be refundable for any reason whatsoever.

(ii) The Borrower shall pay on the Closing Date to the Administrative Agent for the account of each Lender party to this Agreement as a Lender on the Closing Date, as fee compensation for the funding of such Lender's Term Loan and funded and unfunded Revolving Credit Commitments, a closing fee in an amount equal to 1.00% of the aggregate amount of the stated principal amount of such Lender's Term Loan and funded and unfunded Revolving Credit Commitments of such Lender, payable to the Administrative Agent for the account of such Lender from the proceeds of the Loans as and when funded on the Closing Date. Such closing fee shall be in all respects fully earned when paid and shall not be refundable for any reason whatsoever.

(iii) The Borrower shall pay to the Lenders such fees as shall have been separately agreed upon in writing in the amounts and at the times so specified.

2.10 Computation of Interest and Fees.

(a) All computations of interest for Base Rate Loans 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.

2.11 Evidence of Debt.

(a) The Credit Extensions 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 Credit Extensions made by the Lenders to the Borrower 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 Borrower 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 made through the Administrative Agent, the Borrower shall execute and deliver to such Lender (through the Administrative Agent) a Note, which shall evidence such Lender's Loans in addition to such accounts or records. Each such Note shall (i) in the case of Term Loans, be in the form of Exhibit C-1 (a "Term Note"), (ii) in the case of Revolving Credit Loans, be in the form of Exhibit C-2 (a "Revolving Note"), and (iii) in the case of Swing Line Loans, be in the form of Exhibit C-3 (a "Swing Line Note"). Each Lender may attach schedules to its Note and endorse thereon the date, Type (if applicable), amount and maturity of its Loans and payments with respect thereto.

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

2.12 Payments Generally; Administrative Agent's Clawback.

(a) General. All payments to be made by the Borrower 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 Borrower hereunder shall be made to the Administrative Agent, for the account of the respective Lenders to which such payment is owed, at the Administrative Agent's Office in Dollars and in immediately available funds not later than 2:00 p.m. on the date specified herein. The Administrative Agent will promptly distribute to each Lender its Applicable 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 Borrower 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.

(b) (i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurodollar Rate Loans (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.02 (or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.02) and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation, 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 Borrower, the interest rate applicable to Base Rate Loans. If the Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to the Borrower the amount of such interest paid by the Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by the Borrower shall be without prejudice to any claim the Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by Borrower; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the L/C Issuer hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Appropriate Lenders or the L/C Issuer, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Appropriate Lenders or the L/C Issuer, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or the L/C Issuer, 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 Borrower 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 as provided in the foregoing provisions of this Article II, and such funds are not made available to the Borrower by the Administrative Agent because the conditions to the applicable Credit Extension set forth in Article IV are not satisfied or waived in accordance with the terms hereof, the Administrative Agent shall promptly return such funds (in like funds as received from such Lender) to such Lender, without interest.

(d) Obligations of Lenders Several. The obligations of the Lenders hereunder to make Term Loans and Revolving Credit Loans, to fund participations in Letters of Credit and Swing Line Loans and to make payments pursuant to Section 10.04(c) are 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.

2.13 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 Term Loans or Revolving Credit Loans made by it, or the participations in L/C Obligations or in Swing Line Loans held by it resulting in such Lender's receiving payment of a proportion of the aggregate amount of such Term Loans or Revolving Credit 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 Term Loans and Revolving Credit Loans and subparticipations in L/C Obligations and Swing Line Loans of the other Lenders, 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 Term Loans, Revolving Credit Loans and other amounts owing them, provided that:

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

(ii) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of the Borrower 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), (y) the application of Cash Collateral provided for in Section 2.16, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or subparticipations in L/C

Obligations or Swing Line Loans to any assignee or participant, other than an assignment to the Borrower or any Subsidiary thereof (as to which the provisions of this Section shall apply).

The Borrower 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 the Borrower rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

2.14 Increase in Revolving Credit Commitments.

(a) Request for Increase. Provided there exists no Default or Event of Default, upon notice to the Administrative Agent (which shall promptly notify the Lenders), the Borrower may (from time to time), request an increase in the Aggregate Revolving Credit Commitments by an amount that, in addition to all other increases under this Section 2.14 and all Additional Term Loan Facilities established pursuant to Section 2.15, does not exceed \$35,000,000 in the aggregate for all such increases and Additional Term Loan Facilities; provided that (i) any such request for an increase shall be in a minimum amount of \$10,000,000, and (ii) the Borrower may make a maximum of five such requests, inclusive of any requests for the establishment of Additional Term Loan Facilities pursuant to Section 2.15 (any such increase to the Aggregate Revolving Credit Commitments, an “Incremental Revolving Credit Commitment”). At the time of sending such notice, the Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than 10 Business Days or more than 20 Business Days from the date of delivery of such notice to the Lenders). No Lender shall be obligated to increase its Revolving Credit Commitments.

(b) Lender Elections to Increase. Each Lender shall notify the Administrative Agent within the time period set forth in the applicable notice provided pursuant to Section 2.14(a) whether or not it agrees, in its sole discretion, to increase its Revolving Credit Commitment and, if so, the amount by which it seeks to increase its commitment (whether by an amount equal to, greater than, or less than its Applicable Percentage of such requested increase). Any Lender not responding within such time period shall be deemed to have declined to increase its Revolving Credit Commitment.

(c) Notification by Administrative Agent; Additional Lenders. The Administrative Agent shall notify the Borrower and each Lender of the Lenders’ responses to each request made hereunder. To achieve the full amount of a requested increase, subject to the approval of (i) the Administrative Agent if such proposed Incremental Revolving Credit Lender is not an Affiliate of an existing Lender and (ii) each L/C Issuer and the Swing Line Lender, the Borrower may also invite additional Eligible Assignees to become Incremental Revolving Credit Lenders pursuant to an amendment or a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent and the Borrower (each such Eligible Assignee and Lender providing an Incremental Revolving Credit Commitment, an “Incremental Revolving Credit Lender”).

(d) Effective Date and Allocations. In connection with any increase in the Aggregate Revolving Credit Commitments pursuant to this Section 2.14, the Administrative Agent and the Borrower shall determine the effective date (the “Revolving Credit Commitment Increase Effective Date”) and the final allocation of such increase. The Administrative Agent shall promptly notify the Borrower and the Lenders of the final allocation of such increase and the Revolving Credit Commitment Increase Effective Date.

(e) Conditions to Effectiveness of Increase. As a condition precedent to such increase, (i) the Borrower shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the Revolving Credit Commitment Increase Effective Date signed by a Responsible Officer of such Loan Party (A) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, (B) confirming its respective Guaranty and grant of security interest in the Collateral and agreeing that such Guaranty and such Collateral shall continue to be in full force and effect and shall guarantee and secure, as applicable, all of the Obligations (including with respect to any Incremental Revolving Credit Commitment made pursuant to this Section 2.14), (C) in the case of the Borrower, certifying that, before and after giving effect to such increase, (x) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects (or in all respects if qualified by materiality or “Material Adverse Effect”) on and as of the Revolving Credit Commitment Increase Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (or in all respects if qualified by materiality or “Material Adverse Effect”) as of such earlier date, and except that for purposes of this Section 2.14, the representations and warranties contained in Sections 5.05(a) and 5.05(b) shall be deemed to refer to the most recent statements furnished pursuant to Sections 6.01(a) and 6.01(b), respectively, and (y) no Default or Event of Default exists and (D) after giving effect to such Incremental Revolving Credit Commitment on a Pro Forma Basis as of the last day of the most recently ended test period applicable to such covenants, certifying that the Borrower shall be in compliance with Sections 7.11(a) and (b), (ii) the Borrower shall deliver or cause to be delivered any customary legal opinions or other documents reasonably requested by the Administrative Agent in connection with such Incremental Revolving Credit Commitment and (iii) all fees and expenses owing to the Administrative Agent and the Lenders in respect of such Incremental Revolving Credit Commitment shall have been paid. On each Revolving Credit Commitment Increase Effective Date, after giving effect to the increase to the Aggregate Revolving Credit Commitments occurring on such date, the Administrative Agent shall reallocate the outstanding Loans and the Revolving Credit Commitments among the Lenders to the extent necessary to cause the outstanding Loans to conform to any revised Applicable Percentages arising from any nonratable increase in the Revolving Credit Commitments under this Section 2.14. In connection with any such reallocation the Borrower shall be required to pay any amounts that it would otherwise owe under Section 3.05 as a result of such reallocation.

(f) Amendment. Notwithstanding any provisions of Section 10.01 to the contrary, with the consent of the Incremental Revolving Credit Lenders, the Borrower and the Administrative Agent (and without the consent of the other Lenders), this Agreement may be amended to give effect to an Incremental Revolving Credit Commitment; provided that the terms applicable to each Incremental Revolving Credit Commitment shall be identical to the Revolving Credit Commitments other than fees that may be payable to such Incremental Revolving Credit Lenders.

(g) Conflicting Provisions. This Section shall supersede any provisions in Section 2.13 or Section 10.01 to the contrary.

(h) Equal and Ratable Treatment. The Incremental Revolving Credit Commitments and credit extensions thereunder shall constitute Commitments and Credit Extensions under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from the Guaranty and security interests created by the Collateral Documents.

2.15 Additional Term Loan Facilities.

(a) Request for Increase. Provided there exists no Default or Event of Default, upon notice to and approval (not to be unreasonably withheld or delayed) of the Administrative Agent (which shall promptly notify the Lenders), the Borrower may, without the consent of any Lender, from time to time, request the establishment of one or more term loan facilities (each, an “Additional Term Loan Facility”) in an amount (for all such requests) that, in addition to all other Additional Term Loan Facilities under this Section 2.15 and all increases in the Aggregate Revolving Credit Commitments pursuant to Section 2.14, does not exceed \$35,000,000 in the aggregate for all such Additional Term Loan Facilities and increases in the Aggregate Revolving Credit Commitments; provided that (i) any such request for an Additional Term Loan Facility shall be in a minimum amount of \$10,000,000, and (ii) the Borrower may make a maximum of five such requests, inclusive of any requests for increases in the Aggregate Revolving Credit Commitments pursuant to Section 2.14. At the time of sending such notice, the Borrower (in consultation with the Administrative Agent) shall specify the time period within which each Lender is requested to respond (which shall in no event be less than 10 Business Days or more than 20 Business Days from the date of delivery of such notice to the Lenders). No Lender shall be obligated to provide the Additional Term Loan Facility.

(b) Lender Elections to Increase. Each Lender shall notify the Administrative Agent within the time period set forth in the applicable notice provided pursuant to Section 2.15(a) whether or not it agrees, in its sole discretion, to provide such Additional Term Loan Facility and, if so, the amount of its commitment to such Additional Term Loan Facility. Any Lender not responding within such time period shall be deemed to have declined to provide a commitment to such Additional Term Loan Facility.

(c) Notification by Administrative Agent; Additional Term Loan Lenders. The Administrative Agent shall notify the Borrower and each Lender of the Lenders’ responses to each request made hereunder. Subject to the approval of the Administrative Agent if such proposed Additional Term Loan Lender is not an Affiliate of an existing Lender, the Borrower may also invite additional Eligible Assignees to become Additional Term Loan Lenders pursuant to an amendment or a joinder agreement in form and substance reasonably satisfactory to the Administrative Agent and the Borrower (each such Eligible Assignee and Lender providing a commitment to an Additional Term Loan Facility, an “Additional Term Loan Lender”).

(d) Closing Date and Allocations. In connection with the Additional Term Loan Facility in accordance with this Section 2.15, the Administrative Agent and the Borrower shall determine the effective date (the “Additional Term Loan Facility Effective Date”) and the final allocation of such Additional Term Loan Facility. The Administrative Agent shall promptly notify the Borrower and the Additional Term Loan Lenders of the final allocation of such Additional Term Loan Facility and the Additional Term Loan Facility Effective Date.

(e) Conditions to Additional Term Loan Facility. As a condition precedent to such Additional Term Loan Facility, (i) the Borrower shall deliver to the Administrative Agent a certificate of each Loan Party dated as of the Additional Term Loan Facility Effective Date signed by a Responsible Officer of such Loan Party (A) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such Additional Term Loan Facility, (B) confirming its respective Guaranty and grant of security interest in the Collateral and agreeing that such Guaranty and such Collateral shall continue to be in full force and effect and shall guarantee and secure, as applicable, all of the Obligations (including with respect to any Additional Term Loan Facilities provided pursuant to this Section 2.15), (C) in the case of the Borrower, certifying that, before and after giving effect to such Additional Term Loan Facility, (x) the representations and warranties contained in Article V and the other Loan Documents are true and correct in all material respects (or in all respects if qualified by materiality or “Material Adverse Effect”) on and as of the Additional Term Loan Facility Effective Date, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (or in all respects if qualified by materiality or “Material Adverse Effect”) as of such earlier date, and except that for purposes of this Section 2.15, the representations and warranties contained in Sections 5.05(a) and 5.05(b) shall be deemed to refer to the most recent statements furnished pursuant to Sections 6.01(a) and 6.01(b), respectively, and (y) no Default or Event of Default exists and (D) after giving effect to such Additional Term Loan Facility on a pro forma basis as of the last day of the most recently ended test period applicable to such covenants, certifying that the Borrower shall be in compliance with Sections 7.11(a) and (b), (ii) the Borrower shall deliver or cause to be delivered any customary legal opinions or other documents reasonably requested by the Administrative Agent in connection with such Additional Term Loan Facility and (iii) all fees and expenses owing to the Administrative Agent and the Lenders in respect of such Additional Term Loan Facility shall have been paid. The loans in respect of such Additional Term Loan Facility shall be made by the Additional Term Loan Lenders participating therein pursuant to the procedures set forth in the joinder agreement to such Additional Term Loan Facility.

(f) Amendment. Notwithstanding any provisions of Section 10.01 to the contrary, with the consent of the parties electing to participate in a particular Additional Term Loan Facility pursuant to this Section, the Borrower and the Administrative Agent (and without the consent of the other Lenders), this Agreement may be amended to give effect to such Additional Term Loan Facility. The terms and provisions of the Additional Term Loan Facility shall be as set forth herein or in any such amendment or joinder agreement; provided, that (i) the weighted average life to maturity of any Additional Term Loan Facility shall be no shorter than the weighted average life to maturity of the Term Loan Facility; (ii) the applicable maturity date of any Additional Term Loan Facility shall be no shorter than the latest of the final maturity of the Term Loan Facility; and (iii) the Additional Term Loan Facility may be an increase in the Term Loan Commitments or may contain different terms and provisions than the Term Loan Commitments subject to the restrictions set forth in this Section 2.15.

(g) Conflicting Provisions. This Section shall supersede any provisions of Section 2.13 or Section 10.01 to the contrary.

(h) Equal and Ratable Treatment. The Additional Term Loan Facilities and credit extensions thereunder shall constitute Commitments and Credit Extensions under, and shall be entitled to all the benefits afforded by, this Agreement and the other Loan Documents, and shall, without limiting the foregoing, benefit equally and ratably from the Guaranty and security interests created by the Collateral Documents.

2.16 Cash Collateral.

(a) Certain Credit Support Events. If (i) the L/C Issuer has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an Unreimbursed Amount, (ii) as of the Letter of Credit Expiration Date, any L/C Obligation for any reason remains outstanding, (iii) the Borrower shall be required to provide Cash Collateral pursuant to Section 8.02(c), or (iv) there shall exist a Defaulting Lender, the Borrower shall immediately (in the case of clause (iii) above) or within one Business Day (in all other cases) following any request by the Administrative Agent or the L/C Issuer, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.17(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. The Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Administrative Agent, for the benefit of the Administrative Agent, the L/C Issuer and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.16(c). If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent or the L/C Issuer as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrower will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in one or more Controlled Accounts at Bank of America. The Borrower shall pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.16 or Sections 2.03, 2.04, 2.05, 2.17 or 8.02 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Obligations, obligations to fund participations therein (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 10.06(b)(vi))) or (ii) the determination by the Administrative Agent and the L/C Issuer that there exists excess Cash Collateral; provided, however, (x) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Loan Documents and the other applicable provisions of the Loan Documents, and (y) the Person providing Cash Collateral and the L/C Issuer may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

2.17 Defaulting Lenders.

(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*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the L/C Issuer or Swing Line Lender hereunder; *third*, to Cash Collateralize the L/C Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.16; *fourth*, as the Borrower may request (so long as no Default or Event of 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 Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the L/C Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.16; *sixth*, to the payment of any amounts owing to the Lenders, the L/C Issuer or Swing Line Lender as a result of any judgment of a court of competent jurisdiction obtained