

8.14 (i) The Borrower or any Subsidiary Bank becomes subject to any Regulatory Action that could reasonably be expected to have a Material Adverse Effect, (ii) any Subsidiary Bank shall cease to be an “insured bank” under or within the meaning of the Federal Deposit Insurance Act, as amended from time to time, (iii) any Subsidiary Bank is prohibited by law or regulation from making dividends or other distributions to the Borrower and a request to permit such dividends to the appropriate state or federal regulatory agency has been denied, or (iv) any Subsidiary Bank has been notified that it is considered an institution in “troubled condition” within the meaning of 12 U.S.C. Section 1831i and the regulations promulgated thereunder.

ARTICLE IX

ACCELERATION, WAIVERS, AMENDMENTS AND REMEDIES

9.1 Acceleration; Remedies. If any Event of Default described in **Sections 8.6 or 8.7** occurs with respect to the Borrower, the obligations of the Lender to make Loans under this Agreement shall automatically terminate and the Obligations shall immediately become due and payable without any election or action on the part of the Lender. If any other Event of Default occurs and is continuing, the Lender may, upon written notice to the Borrower, terminate or suspend the obligations to make Loans under this Agreement or declare the Obligations to be due and payable, or both, whereupon the Obligations shall become immediately due and payable, without presentment, demand, protest or further notice of any kind, all of which the Borrower hereby expressly waives. Upon the occurrence and during the continuation of any Event of Default, the Lender may exercise all rights and remedies under the Loan Documents and enforce all other rights and remedies under applicable law.

9.2 Application of Funds. After the exercise of remedies provided for in **Section 9.1** (or after the Obligations have automatically become immediately due and payable as set forth in the first sentence of **Section 9.1**), the Lender shall apply any amounts it receives on account of the Obligations in the following order:

- (a) First, to payment of fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Lender and amounts payable under Article III) payable to the Lender;
- (b) Second, to payment of accrued interest on the Loans;
- (c) Third, to payment of all Obligations; and
- (d) Last, the balance, if any, to the Borrower or as otherwise required by law.

9.3 Amendments. Neither this Agreement, any Note nor any other Loan Document may be amended or modified except in a writing signed by the parties hereto.

9.4 Preservation of Rights. No delay or omission of the Lender to exercise any right under the Loan Documents shall impair such right or be construed to be a waiver of any Event of Default or an acquiescence therein, and the making of a Loan notwithstanding the existence of an Event of Default or the inability of the Borrower to satisfy the conditions precedent to such Loan shall not constitute any waiver or acquiescence. Any single or partial exercise of any such right shall not preclude other or further exercise thereof or the exercise of any other right, and no waiver, amendment or other variation of the terms, conditions or provisions of the Loan Documents whatsoever shall be valid unless in writing signed by the Lender required pursuant to **Section 9.3**, and then only to the extent in such writing

specifically set forth. All remedies in the Loan Documents or by law afforded shall be cumulative and all shall be available to the Lender until the Obligations have been paid in full.

ARTICLE X GENERAL PROVISIONS

10.1 Survival of Representations. All representations and warranties of the Borrower in this Agreement shall survive the making of the Loans.

10.2 Governmental Regulation. Anything in this Agreement to the contrary notwithstanding, the Lender shall not be obligated to extend credit to the Borrower in violation of any limitation or prohibition provided by any applicable statute or regulation.

10.3 Headings. Section headings in the Loan Documents are for convenience of reference only, and shall not govern the interpretation of any of the provisions of the Loan Documents.

10.4 Entire Agreement. The Loan Documents embody the entire agreement and understanding between the Borrower and the Lender and supersede all prior agreements and understandings between the Borrower and the Lender relating to the subject matter thereof.

10.5 Benefits of this Agreement. This Agreement shall not be construed so as to confer any right or benefit upon any Person other than the parties to this Agreement and their respective successors and assigns.

10.6 Expenses; Indemnification.

- (a) The Borrower shall reimburse the Lender upon demand for all reasonable and documented out-of-pocket expenses paid or incurred by the Lender, including, without limitation, reasonable fees, charges and disbursements of outside counsel to the Lender in connection with the preparation, negotiation, execution, and delivery of the Loan Documents and the preparation or review, negotiation, execution and delivery of any amendment or modification of the Loan Documents. The Borrower also agrees to reimburse the Lender for any costs, internal charges and out-of-pocket expenses, including, without limitation, fees, charges and disbursements of outside counsel to the Lender incurred from time to time, paid or incurred by the Lender in connection with the collection and enforcement of the Loan Documents.

- (b) The Borrower hereby further agrees to indemnify and hold harmless the Lender, its Affiliates, and each of their respective directors, officers and employees, agents, representatives and advisors against all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, reasonable attorneys' fees, charges and disbursements and settlement costs (including, without limitation, all expenses of litigation or preparation therefor) whether or not the Lender or any Affiliate is a party thereto) that any of them may pay or incur arising out of or relating to this Agreement, the other Loan Documents, the transactions contemplated hereby, any actual or alleged presence or release of Hazardous Materials on or from any Property owned or operated by Borrower or any of its Subsidiaries, any environmental liability related in any way to Borrower or any of its Subsidiaries, or any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrower or any of its Subsidiaries, or the direct or indirect application or proposed application of the proceeds of any Loan except, with respect to the Person seeking indemnification, to the extent that they are determined in a final non-appealable judgment by a court of competent jurisdiction to have resulted primarily from the gross negligence, material breach in bad faith, or willful misconduct of such Person seeking indemnification. The obligations of the Borrower under this **Section 10.6** shall survive the termination of this Agreement.

10.7 Accounting. Except as provided to the contrary herein, all accounting terms used herein shall be interpreted and all accounting determinations hereunder shall be made in accordance with GAAP in a manner consistent with that used in preparing the financial statements referred to in **Section 5.4(a)**; provided, however that, notwithstanding any other provision herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made without giving effect to (i) any election under Accounting Standards Codification Section 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness or other liabilities of the Borrower or any of its Subsidiaries at "fair value," as defined therein, or (ii) any treatment of Indebtedness in respect of convertible debt instruments under Financial Accounting Standards Codification Subtopic 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof. If at any time any change in GAAP or in any regulation (or interpretation or guidance with respect to any regulation) adopted by any bank regulatory authority after the Effective Date would affect the computation of any financial ratio or requirement set forth in **Section 7.9** of this Agreement, then the Borrower, the Lender, and the Borrower shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP or such bank regulation, provided that, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP and such bank regulation prior to such change therein and the Borrower shall provide to the Lender reconciliation statements showing the difference in such calculation, together with the delivery of monthly, quarterly and annual financial statements required hereunder.

10.8 Severability of Provisions. Any provision in any Loan Document that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of all Loan Documents are declared to be severable.

10.9 Nonliability of the Lender. The relationship between the Borrower on the one hand and the Lender on the other hand shall be solely that of borrower and lender. The Lender shall have no fiduciary responsibilities to the Borrower. The Lender undertakes no responsibility to the Borrower to review or inform the Borrower of any matter in connection with any phase of the Borrower's business or operations. The Borrower agrees that the Lender shall have no liability to the Borrower (whether sounding in tort, contract or otherwise) for losses suffered by the Borrower in connection with, arising out of, or in any way related to, the transactions contemplated and the relationship established by the Loan Documents, or any act, omission or event occurring in connection therewith, unless it is determined in a final non-appealable judgment by a court of competent jurisdiction that such losses resulted from the gross negligence or willful misconduct of the party from which recovery is sought. The Lender shall have no liability with respect to, and the Borrower hereby waives, releases and agrees not to sue for, any special, indirect, consequential or punitive damages suffered by the Borrower in connection with, arising out of, or in any way related to the Loan Documents or the transactions contemplated thereby.

10.10 Confidentiality. The Lender agrees to hold any confidential information it may receive from the Borrower or its Subsidiaries in connection with this Agreement in confidence, except for disclosure (i) to its Affiliates, (ii) to legal counsel, accountants, and other professional advisors to the Lender, (iii) as provided in **Section 12.3(e)**, (iv) to regulatory officials, (v) to any Person on a "need to know" basis, required by law, regulation, or legal process, (vi) to any Person in connection with any legal proceeding to which it is a party, (vii) to its direct or indirect contractual counterparties in swap agreements or to legal counsel, accountants and other professional advisors to such counterparties, (viii) to rating agencies if requested or required by such agencies in connection with a rating relating to the Loans, (ix) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (x) with the consent of the Borrower and (xi) to the extent such information (1) becomes publicly available other than as a result of a breach of this Section or (2) becomes available to the Lender on a non-confidential basis from a source other than the Borrower. Without limiting **Section 10.4**, the Borrower agrees that the terms of this **Section 10.10** shall set forth the entire agreement between the Borrower and the Lender with respect to any confidential information previously or hereafter received by the Lender in connection with this Agreement, and this **Section 10.10** shall supersede any and all prior confidentiality agreements entered into by the Lender with respect to such confidential information.

10.11 Nonreliance. The Lender hereby represents that it is not relying on or looking to any margin stock (as defined in Regulation U) for the repayment of the Loans.

10.12 Disclosure. The Lender hereby acknowledges that it and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with the Borrower and its Affiliates.

10.13 USA PATRIOT ACT NOTIFICATION. The following notification is provided to Borrower pursuant to Section 326 of the USA PATRIOT Act of 2001, 31 U.S.C. Section 5318:

The Lender is subject to the requirements of the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act") and hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow the Lender to identify the Borrower in accordance with the Act.

SETOFF

11.1 Setoff. The Borrower hereby grants the Lender a security interest in all deposits, credits, and deposit accounts (including all account balances, whether provisional or final and whether or not collected or available but excluding those which are “special” and not subject to setoff pursuant to applicable law) of the Borrower with the Lender or any Affiliate of the Lender (the “**Deposits**”) to secure the Obligations. In addition to, and without limitation of, any rights of the Lender under applicable law, if the Borrower becomes insolvent, however evidenced, or any Event of Default occurs and is continuing, Borrower authorizes the Lender to offset and apply all such Deposits toward the payment of the Obligations owing to the Lender, whether or not the Obligations, or any part thereof, are then due and regardless of the existence or adequacy of any collateral, guaranty, or other security, right or remedy available to the Lender.

ARTICLE XII

BENEFIT OF AGREEMENT; ASSIGNMENTS; PARTICIPATIONS

12.1 Successors and Assigns. The terms and provisions of the Loan Documents shall be binding upon and inure to the benefit of the Borrower and the Lender and their respective successors and assigns permitted hereby, except that (i) the Borrower shall not have the right to assign its rights or obligations under the Loan Documents without the prior written consent of the Lender, (ii) any assignment by the Lender must be made in compliance with **Section 12.3**, and (iii) any transfer by participation must be made in compliance with **Section 12.2**. Any attempted assignment or transfer by any party not made in compliance with this **Section 12.1** shall be null and void, unless such attempted assignment or transfer is treated as a participation in accordance with the terms of this Agreement. The parties to this Agreement acknowledge that clause (ii) of this **Section 12.1** relates only to absolute assignments and this **Section 12.1** does not prohibit any pledges or assignments by the Lender creating security interests, in all or any portion of its rights under this Agreement and any Note to a Federal Reserve Bank; provided, however, that no such pledge or assignment creating a security interest shall release the transferor from its obligations hereunder unless and until the parties thereto have complied with the provisions of **Section 12.3**. The Lender may treat the Person that made any Loan or that holds any Note as the owner thereof for all purposes hereof unless and until such Person complies with **Section 12.3**; provided, however, that the Lender may in its discretion (but shall not be required to) follow instructions from the Person that made any Loan or that holds any Note to direct payments relating to such Loan or Note to another Person. Any assignee of the rights to any Loan or any Note agrees by acceptance of such assignment to be bound by all the terms and provisions of the Loan Documents. Any request, authority or consent of any Person, who at the time of making such request or giving such authority or consent is the owner of the rights to any Loan (whether or not a Note has been issued in evidence thereof), shall be conclusive and binding on any subsequent holder or assignee of the rights to such Loan.

12.2 Participations.

- (a) Permitted Participants; Effect. The original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser) hereunder may at any time sell to one or more entities (“**Participants**”) participating interests in all or any part of the Loans, any Note held by the original Lender or any other interest of the original Lender under the Loan Documents, up to 49% of the principal amount of any Loan or Loans. In the event of any such sale by the original Lender of participating interests to a Participant, the original Lender’s obligations under the Loan Documents shall remain unchanged, the original Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, the original Lender shall remain the owner of its exposure and the holder of any

Note issued to it in evidence thereof for all purposes under the Loan Documents, all amounts payable by the Borrower under this Agreement shall be determined as if the original Lender had not sold such participating interests, and the Borrower shall continue to deal solely and directly with the original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser) in connection with the original Lender's rights and obligations under the Loan Documents.

- (b) Voting Rights. The original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser) shall retain the sole right to approve, without the consent of any Participant, any amendment, modification or waiver of any provision of the Loan Documents provided that the original Lender may agree in its participation agreement with a Participant that the original Lender will not vote to approve any amendment, modification or waiver with respect to any Loan Document.
- (c) Benefit of Certain Provisions. The Borrower agrees that each Participant shall be deemed to have the right of setoff provided in **Section 11.1** in respect of its participating interest in amounts owing under the Loan Documents to the same extent as if the amount of its participating interest were owing directly to it as the Lender under the Loan Documents, provided that the original Lender hereunder shall retain the right of setoff provided in **Section 11.1** with respect to the amount of participating interests sold to each Participant. The original Lender agrees to share with each Participant, and each Participant, by exercising the right of setoff provided in **Section 11.1**, agrees to share with the original Lender, any amount received pursuant to the exercise of its right of setoff, such amounts to be shared as if each Participant were a Lender hereunder. The Borrower further agrees that each Participant shall be entitled to the benefits of **Sections 3.1, 3.2, 3.4, 3.5, 10.6 and 10.9** to the same extent as if it were the Lender and had acquired its interest by assignment pursuant to **Section 12.3**, provided that (i) a Participant shall not be entitled to receive any greater payment under **Section 3.1** or **Section 3.2** than the Lender who sold the participating interest to such Participant would have received had it retained such interest for its own account, unless the sale of such interest to such Participant is made with the prior written consent of the Borrower, and (ii) a Participant shall not be entitled to receive any greater payment under **Section 3.5** than the Lender who sold the participating interest to such Participant would have received had it retained such interest for its own account (A) except to the extent such entitlement to receive a greater payment results from a change in treaty, law or regulation (or any change in the interpretation or administration thereof by any Governmental Authority) that occurs after the Participant acquired the applicable participation and (B), in the case of any Participant that would be a Non-U.S. Lender if it were the Lender, such Participant agrees to comply with the provisions of **Section 3.5** to the same extent as if it were the Lender (it being understood that the documentation required under **Section 3.5(f)** shall be delivered to the participating Lender). In the event that the original Lender sells a participation, the original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser) shall, acting solely for this purpose as an agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in any Loan, any Note, or any other obligations under the Loan Documents (the "**Participant Register**"); provided that the original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser) shall have no obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Loan, any Note or any other obligations under the Loan Documents) to any Person except to the extent that such disclosure is necessary to establish that such Loan, Note, or other obligation under the Loan Documents is in registered

form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and the original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser) shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary.

12.3 Assignments.

- (a) Permitted Assignments. The original Lender hereunder (or in the event of a permitted transfer of all of its commitments, such Purchaser) may at any time assign to one or more Eligible Assignees (“**Purchasers**”) all or any part of its rights and obligations under the Loan Documents; provided, however, that as long as no Event of Default has occurred and is continuing, the original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser) hereunder shall at all times retain at least 51% of any Loan or Loans. Such assignment shall be substantially in the form of Exhibit B or in such other form reasonably acceptable to the original Lender as may be agreed to by the parties thereto. Each such assignment with respect to a Purchaser that is not an Affiliate of the original Lender or an Approved Fund shall be in an aggregate amount not greater than 49% of the entire commitment of the original Lender hereunder; provided, however, that if an Event of Default has occurred and is continuing, the original Lender may assign, to a Purchaser, 100% of its commitment hereunder. The amount of the assignment shall be based on the subject to the assignment, determined as of the date of such assignment or as of the “**Trade Date**,” if the “**Trade Date**” is specified in the assignment.
- (b) Consents. The consent of the Borrower shall be required prior to an assignment becoming effective unless the Purchaser is an Affiliate of the original Lender hereunder (or in the event of a permitted transfer of all of its commitments, the Purchaser) or an Approved Fund; provided, that the consent of the Borrower shall not be required (i) if an Event of Default has occurred and is continuing or (ii) in the case of an assignment by the original Lender to an Eligible Assignee following the merger or sale of all or substantially all of the assets of the original Lender; provided further that the Borrower shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the original Lender within five (5) Business Days after having received notice thereof. Any consent required under this **Section 12.3(b)** shall not be unreasonably withheld or delayed.
- (c) Effect; Assignment Effective Date. Upon (i) delivery to the original Lender hereunder (or in the event of a permitted transfer of all of its commitments, the Purchaser) of an assignment, together with any consents required by **Sections 12.3(a)** and **(b)**, and (ii) payment of a \$3,500 fee by the Purchaser to the original Lender (or in the event of a permitted transfer of all of its commitments, the Purchaser) for processing such assignment (unless such fee is waived such assignor), such assignment shall become effective on the effective date specified in such assignment. The assignment shall contain a representation by the Purchaser to the effect that none of the consideration used to make the purchase of the commitment under the applicable assignment agreement constitutes “plan assets” as defined under ERISA and that the rights and interests of the Purchaser in and under the Loan Documents will not be “plan assets” under ERISA. On and after the effective date of such assignment, such Purchaser shall for all purposes be a Lender party to this Agreement and any other Loan Document executed by or on behalf of the original Lender and shall have all the rights and obligations of a Lender under the Loan Documents, to the same extent as if it were an original party thereto, and the original Lender shall be released with respect to the commitments assigned to such Purchaser without any further

consent or action by the Borrower. In the case of an assignment covering all of the assigning original Lender's rights and obligations under this Agreement, the Lender shall cease to be the Lender hereunder but shall continue to be entitled to the benefits of, and subject to, those provisions of this Agreement and the other Loan Documents that survive payment of the Obligations and termination of the applicable agreement. Any assignment or transfer by the original Lender hereunder of rights or obligations under this Agreement that does not comply with this **Section 12.3** shall be treated for purposes of this Agreement as a sale by the original Lender of a participation in such rights and obligations in accordance with **Section 12.2**. Upon the consummation of any assignment to a Purchaser pursuant to this **Section 12.3(c)**, the original Lender and the Borrower shall, if the original Lender or the Purchaser desires that its Loans be evidenced by Notes, make appropriate arrangements so that new Notes or, as appropriate, replacement Notes are issued to original Lender and new Notes or, as appropriate, replacement Notes, are issued to such Purchaser, in each case in principal amounts reflecting their respective commitments, as adjusted pursuant to such assignment.

- (d) Register. The original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser), acting solely for this purpose as an agent of the Borrower, shall maintain at one of its offices in the United States of America, a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of each Lender, and the principal amounts (and stated interest) of the Loans owing to each Lender, pursuant to the terms hereof from time to time (the "**Register**"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower and the original Lender (or in the event of a permitted transfer of all of its commitments, such Purchaser) may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower at any reasonable time and from time to time upon reasonable prior notice.
- (e) Dissemination of Information. The Borrower authorizes the original Lender (or in the event of a permitted transfer of all of its commitments, the Purchaser) to disclose to any Participant or Purchaser (or any prospective Participant or prospective Purchaser) or any other Person acquiring an interest in the Loan Documents by operation of law (each a "**Transferee**") and any prospective Transferee any and all information in the Lender's possession; provided that each Transferee and prospective Transferee agrees to be bound by **Section 10.10**.
- (f) Certain Pledges. A Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of the Lender to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for the Lender as a party hereto.

ARTICLE XIII NOTICES

13.1 Notices; Effectiveness; Electronic Communication

- (a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

- (i) if to the Borrower, to it at 138 Putnam Street, P.O. Box 738, Marietta, OH 45750, Attention: John C. Rogers, Facsimile: (740) 885-7153, with a copy to M. Ryan Kirkham, Facsimile: (740) 373-2740;
- (ii) if to the Lender, to it at 710 Carillon Parkway, St. Petersburg, FL 33716, Attention: Mike Pelletier, Vice President, Corporate Banking, Facsimile: (727) 567-8830.

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices sent by facsimile shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next Business Day for the recipient). Notices delivered through electronic communications to the extent provided in **Section 13.1(b)** shall be effective as provided in **Section 13.1(b)**.

- (b) Electronic Communications. Notices and other communications to the Lender hereunder may be delivered or furnished by electronic communication (including e-mail and internet or intranet websites) pursuant to procedures approved by the Lender or as otherwise determined by the Lender. The Lender or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it or as it otherwise determines, provided that such determination or approval may be limited to particular notices or communications.

Unless the Lender otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail, or other written acknowledgement), provided that if such notice or other communication is not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

- (c) Change of Address, Etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto given in the manner set forth in this **Section 13.1**.

ARTICLE XIV COUNTERPARTS; INTEGRATION; EFFECTIVENESS; ELECTRONIC EXECUTION; ELECTRONIC RECORDS

14.1 Counterparts; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Except as provided in **Article IV**, this Agreement shall become effective when it has been executed by the Lender and the Lender has received counterparts hereof that, when taken together, bear the signatures of each of the parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy shall be effective as delivery of a manually executed counterpart of this Agreement.

14.2 Electronic Execution of Assignments. The words “execution,” “signed,” “signature,” and words of like import in any assignment and assumption agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, or any other state laws based on the Uniform Electronic Transactions Act.

14.3 Electronic Records. The Lender is authorized to create electronic images and to destroy paper originals of any imaged documents, and any such images maintained by the Lender as a part of its normal business processes shall be given the same legal effect as the paper originals. The Lender is authorized, when appropriate, to convert any instrument into a “**transferable record**” under the Uniform Electronic Transactions Act (“**UETA**”), with the image of such instrument in the Lender’s possession constituting an “**authoritative copy**” under UETA.

ARTICLE XV

CHOICE OF LAW; CONSENT TO JURISDICTION; WAIVER OF JURY TRIAL

15.1 CHOICE OF LAW. THE LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS OTHER THAN SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.

15.2 CONSENT TO JURISDICTION. THE BORROWER HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN EITHER NEW YORK, NEW YORK OR COLUMBUS, OHIO IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS, AND THE BORROWER HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE LENDER TO BRING PROCEEDINGS AGAINST THE BORROWER IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY THE BORROWER AGAINST THE LENDER OR ANY AFFILIATE OF THE LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN EITHER NEW YORK, NEW YORK OR COLUMBUS, OHIO.

15.3 WAIVER OF JURY TRIAL. THE BORROWER AND THE LENDER HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER.

[Signature Pages Follow]