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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 8-K**

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**CURRENT REPORT  
Pursuant to Section 13 or 15(d)  
of the Securities Exchange Act of 1934**

**Date of Report (Date of earliest event reported): May 5, 2021**

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**JAZZ PHARMACEUTICALS PUBLIC LIMITED  
COMPANY**

(Exact Name of Registrant as Specified in its Charter)

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**Ireland**  
(State or Other Jurisdiction  
of Incorporation)

**001-33500**  
(Commission  
File Number)

**98-1032470**  
(I.R.S. Employer  
Identification No.)

**Fifth Floor, Waterloo Exchange,  
Waterloo Road, Dublin 4, Ireland D04 E5W7**  
(Address of principal executive offices)  
(Zip Code)

**011-353-1-634-7800**  
(Registrant's telephone number, including area code)

**Not Applicable**  
(Former name or former address, if changed since last report)

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Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
<b>Ordinary shares, nominal value \$0.0001 per share</b>	<b>Jazz</b>	<b>The Nasdaq Stock Market LLC</b>

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

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**Item 1.01. Entry into a Material Definitive Agreement.**

The information set forth below in Item 2.03 of this Current Report on Form 8-K is incorporated by reference into this Item 1.01.

**Item 2.01. Completion of Acquisition or Disposition of Assets.**

This Current Report on Form 8-K is being filed in connection with the closing on May 5, 2021 of the transactions contemplated by the transaction agreement, dated as of February 3, 2021 (the “**Transaction Agreement**”), by and among Jazz Pharmaceuticals UK Holdings Limited, a private limited company incorporated in England and Wales (“**Bidco**”), Jazz Pharmaceuticals Public Limited Company, a public limited company incorporated in Ireland (the “**Company**”), of which Bidco is an indirect wholly owned subsidiary, and GW Pharmaceuticals plc, a public limited company incorporated in England and Wales (“**GW**”), pursuant to which Bidco (and/or, at Bidco’s election, Bidco’s nominee(s)) acquired the entire issued share capital of GW (the “**Transaction**”) pursuant to a scheme of arrangement under Part 26 of the United Kingdom Companies Act 2006 (the “**Scheme**”).

The Transaction was conditioned on, among other things, the sanction of the Scheme by the High Court of Justice of England and Wales (the “**Court**”). On May 5, 2021, the Court issued an order sanctioning the Scheme. Upon the delivery of such order to the Registrar of Companies in England and Wales on May 5, 2021, the Scheme became effective (the “**Effective Time**”). As a result, GW became an indirect wholly owned subsidiary of the Company.

At the Effective Time, the Scheme Shareholders (as defined in the Scheme) became entitled to receive for each Scheme Share (as defined in the Scheme) held by them at such time an amount equal to \$16.662/3 in cash plus 0.010030 ordinary shares (the “**Share Deliverable**”), nominal value \$0.0001 per share, of the Company (“**Jazz Ordinary Shares**”). In addition, because each American Depositary Share issued by Citibank, N.A., as depositary, in respect of GW (“**GW ADS**”) represented a beneficial interest in 12 Scheme Shares held by such depositary, holders of GW ADSs became entitled under such depositary arrangements to receive, for each GW ADS, 12 times the foregoing cash and share amounts, or (1) an amount equal to \$200 in cash (less (a) a \$0.05 per GW ADS cancellation fee, (b) a \$0.05 per GW ADS distribution fee, (c) any other fees and expenses payable by such holders pursuant to the terms of the deposit agreement, dated as of May 7, 2013 (as amended), by and among the GW, Citibank, N.A., as depositary, and all holders and beneficial owners of GW ADSs issued thereunder and (d) any applicable withholding taxes) and (2) an amount of Jazz Ordinary Shares equal to 12 times the Share Deliverable. Scheme Shareholders and holders of GW ADSs became entitled to receive cash in lieu of any fractional Jazz Ordinary Shares to which they would have otherwise been entitled to in accordance with the Scheme. In connection with the Transaction, 3,798,105 Jazz Ordinary Shares will be issued to such Scheme Shareholders.

Also from the Effective Time, all options to purchase GW ADSs or GW Ordinary Shares, as applicable (“**GW Options**”), that were then held by GW employees (other than those GW Options granted in 2021 (“**2021 Options**”)) and GW non-employee members of the GW board of directors, vested (with any performance goals deemed fully satisfied as of the Effective Time) and were exercised automatically and will be cash-settled. Each 2021 Option became vested and was exercised automatically and will be cash-settled as to one-third of the grant at the Effective Time, with the remaining two-thirds of the grant converted into an option to acquire Jazz Ordinary Shares (“**Jazz Options**”) (with any performance goals deemed fully satisfied as of the Effective Time and, therefore, converting into time vesting Jazz Options), half of which will vest on the first anniversary of the original grant date and half of which will vest on the second anniversary of the original grant date, subject to accelerated vesting in connection with qualifying terminations of employment. The number of Jazz Ordinary Shares subject to each converted Jazz Option will be determined by multiplying the GW option exchange ratio described in the Transaction Agreement by the number of GW ADSs subject to the 2021 Option, and the option exercise price of any converted Jazz Option will be determined by dividing the 2021 Option exercise price by the same GW option exchange ratio.

The foregoing description of the Transaction Agreement contained in this Item 2.01 does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Transaction Agreement. A copy of the Transaction Agreement was filed as Exhibit 2.1 to the Current Report on Form 8-K filed by the Company with the Securities and Exchange Commission (the “**SEC**”) on February 3, 2021, and is incorporated herein by reference.

**Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.**

On May 5, 2021 (the “**Closing Date**”), the Company, Jazz Financing Lux S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg (“**Jazz Lux**”), and certain other subsidiaries of the Company, as borrowers (collectively with the Company and Jazz Lux, the “**Borrowers**”), entered into a Credit Agreement (the “**Credit Agreement**”) with the lenders and issuing banks from time to time party thereto, Bank of America, N.A., as Administrative Agent and U.S. Bank National Association, as Collateral Trustee.

The Credit Agreement provides for (i) a seven-year \$3,100 million term loan B facility, which was drawn by Jazz Lux on the Closing Date in US dollars (the “**Dollar Term Loan Facility**”), (ii) a seven-year €625 million term loan B facility, which was drawn by Jazz Lux on the Closing Date in Euros (the “**Euro Term Loan Facility**” and, together with the Dollar Term Loan Facility, the “**Term Loan Facility**”) and (iii) a five-year \$500 million revolving credit facility (the “**Revolving Credit Facility**”), which is available to be drawn by any Borrower in US dollars. As of the Closing Date, the Revolving Credit Facility was undrawn.

The Company used the proceeds from the Term Loan Facility (i) to repay loans under that certain credit agreement, dated as of June 18, 2015 (as amended) among the Company and certain other subsidiaries of the Company as borrowers, the lenders party thereto and Bank of America, N.A., as administrative agent and collateral agent (the “**Existing Credit Agreement**”), (ii) to fund, in part, the cash consideration payable in connection with the Transaction and (iii) to pay related fees and expenses. The Borrowers expect to use future loans under the Revolving Credit Facility, if any, for general corporate purposes, including potential business development activities. Upon the repayment in full of loans under the Existing Credit Agreement, the Existing Credit Agreement was terminated and all guarantees and liens thereunder were released.

Loans under the Term Loan Facility and Revolving Credit Facility bear interest at a rate equal to (A) in the case of the Dollar Term Loan Facility and the Revolving Credit Facility, at the applicable Borrower’s option, either (a) LIBOR or (b) the prime lending rate and (B) in the case of the Euro Term Loan Facility, EURIBOR, in each case, plus an applicable margin. The applicable margin for the Term Loan Facility is 3.50% (in the case of LIBOR or EURIBOR borrowings) and 2.50% (in the case of borrowings at the prime lending rate). The applicable margin for the Revolving Credit Facility ranges from 3.25% to 2.75% (in the case of LIBOR borrowings) and 2.25% to 1.75% (in the case of borrowings at the prime lending rate), depending on the Company’s first lien secured net leverage ratio level. Loans under the Dollar Term Loan Facility are subject to a LIBOR floor of 0.50%, and loans under the Revolving Credit Facility and the Euro Term Loan Facility are subject to a LIBOR or EURIBOR (as applicable) floor of 0.00%.

The Borrowers’ obligations under the Credit Agreement and any hedging or cash management obligations entered into with any lender thereunder are guaranteed by the Company, the other Borrowers, and each of the Company’s other existing or subsequently acquired or organized direct and indirect subsidiaries (subject to certain exceptions) (collectively, the “**Guarantors**”). The Borrowers and the Guarantors are collectively referred to in this Current Report on Form 8-K as the “**Loan Parties**.”

The Loan Parties’ obligations under the Credit Agreement are secured, subject to customary permitted liens and other exceptions, by a security interest in (a) all tangible and intangible assets of the Loan Parties, except for certain excluded assets, and (b) all of the equity interests of the subsidiaries of the Loan Parties held by the Loan Parties.

The Borrowers are permitted to make voluntary prepayments at any time without payment of a premium or penalty, subject to certain exceptions, and the Borrowers are required to make certain mandatory prepayments of outstanding indebtedness under the Credit Agreement in certain circumstances. Loans under the Dollar Term Loan Facility will amortize in quarterly installments equal to 0.25% of the initial principal amount thereof, with the remaining balance payable on May 5, 2028. Loans under the Euro Term Loan Facility will not amortize.

The Credit Agreement contains customary representations and warranties and customary affirmative and negative covenants applicable to the Company and its restricted subsidiaries, including, among other things, restrictions on indebtedness, liens, investments, mergers, dispositions, prepayment of junior indebtedness and dividends and other

distributions. The Credit Agreement contains financial covenants that require the Company and its restricted subsidiaries to (a) not exceed a maximum first lien secured net leverage ratio and (b) not fall below a minimum interest coverage ratio, provided that such covenants apply only to the Revolving Credit Facility and are applicable only if amounts are drawn (or non-cash collateralized letters of credit in excess of \$50 million are outstanding) under the Revolving Credit Facility.

The Credit Agreement also contains customary events of default relating to, among other things, failure to make payments, breach of covenants and breach of representations.

The foregoing description of the Credit Agreement contained in this Item 2.03 does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Credit Agreement. A copy of the Credit Agreement is filed as Exhibit 10.1 hereto and is incorporated herein by reference.

### **Item 3.02. Unregistered Sales of Equity Securities.**

The information set forth under Item 2.01 of this Current Report on Form 8-K with respect to the issuance of Jazz Ordinary Shares to GW shareholders in connection with the Transaction is incorporated by reference into this Item 3.02. The Jazz Ordinary Shares issued in connection with the Transaction were not registered under the Securities Act of 1933, as amended (the "**Securities Act**"), in reliance on the exemption from registration provided by Section 3(a)(10) of the Securities Act.

### **Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On May 5, 2021, a subsidiary of the Company entered into a service agreement (the "**Service Agreement**") with Chris Tovey, pursuant to which Mr. Tovey agreed to serve as the Company's Executive Vice President, Chief Operating Officer and Managing Director Europe & International ("**COO**"), reporting to Daniel N. Swisher, Jr., the President of the Company, effective on or within 30 days following the Closing (the "**Start Date**"). In his role as COO, Mr. Tovey will be delegated certain duties and responsibilities of the Company's principal operating officer from Mr. Swisher, who continues to serve as and perform the duties and responsibilities of the Company's President overseeing all global operations of the Company.

Mr. Tovey, age 55, served as GW's Chief Operating Officer since October 2012. Prior to joining GW, Mr. Tovey was at UCB Pharmaceuticals ("**UCB**") from 2006 to 2012. In his last role there, Mr. Tovey was the Vice President of Global Marketing Operations where he was responsible for worldwide marketing activities on a portfolio of UCB products including Keppra®, an anti-epileptic drug, generating over €2.0 billion in annual sales. Mr. Tovey's previous experience and roles at UCB include a number of multi-country product launches, such as the launch of Vimpat®, an anti-epileptic drug, Managing Director Greece and Cyprus, and leader of all UCB activities on Xyrem® (sodium oxybate) oral solution. Mr. Tovey previously spent 18 years at GlaxoSmithKline plc ("**GSK**") in senior commercial roles in both the European and U.K. organizations. These roles included Director Commercial Strategy Distribution Europe, Director European Vaccine Therapy, Director Commercial Development U.K., Director Vaccines Business Unit U.K. and Business Unit Manager Oncology U.K. While at GSK, Mr. Tovey worked across a wide range of therapeutic areas including neurology, infectious diseases, oncology, diabetes, respiratory, gastroenterology and immunology.

Under the terms of the Service Agreement, Mr. Tovey's annual base salary will initially be £400,000, and he will be eligible to earn a discretionary target cash bonus of 55% his annual base salary for calendar 2021 under the Company's annual performance bonus program. Mr. Tovey will also be eligible to participate in the Company's benefit and compensatory plans available to similarly-situated employees. If Mr. Tovey's employment is terminated without "cause" by the Company prior to May 5, 2023 or for "good reason" by Mr. Tovey on December 31, 2022, under the GW Change in Control and Severance Benefit Plan and related participation agreement (the "**UK Severance Plan**"), Mr. Tovey will be entitled to (i) a lump sum cash severance payments equal to one and a one-half times the sum of (x) his then base salary and (y) the greater of his annual target bonus for the year of termination and average actual annualized bonuses earned in respect of the three most recent fiscal years and (ii) Company-paid medical coverage premiums for up to 18 months. If after May 5, 2023, Mr. Tovey's employment is terminated without cause by the Company, under the Service Agreement he is entitled to six months' notice by the

Company (or pay in lieu thereof) and twelve (12) months of Company-paid medical coverage premiums. Mr. Tovey must sign (and not revoke) a release of claims against the Company in order to receive any severance payments or benefits under either of the UK Severance Plan or the Service Agreement. After any termination of employment, Mr. Tovey is subject to 12 month noncompetition and nonsolicitation covenants, among other restrictive covenants.

In connection with his appointment as COO, Mr. Tovey was granted a sign-on restricted stock unit award (the “**RSU**”) with an approximate grant date value of \$1,500,000 covering Jazz Ordinary Shares; and a sign-on performance restricted stock unit award (the “**PSU**”) pursuant to which Mr. Tovey will be eligible to vest in up to 200% of a target number of Jazz Ordinary Shares with an approximate grant date value of \$1,500,000, in each case under, and subject to the terms and conditions of, the Company’s 2011 Equity Incentive Plan (the “**EIP**”) and the award agreements thereunder. The actual number of Jazz Ordinary Shares underlying the RSUs and PSUs granted to Mr. Tovey will be determined by dividing the respective target values set forth above by the average closing price of Jazz Ordinary Shares for the thirty days immediately preceding the grant date. The RSU will vest ratably over four years from the grant date. The PSU will vest, if at all, following the completion of the applicable performance period on December 31, 2023, subject to the Company’s achievement of pre-established financial, strategic and relative total shareholder return goals for the 2021 to 2023 performance period. If Mr. Tovey’s employment with the Company is terminated without cause by the Company at a time when any of the RSU or PSU is unvested, Mr. Tovey will be eligible to vest in a prorated portion of each such award. Mr. Tovey was also granted a sign-on retention bonus of £750,000, subject to his continued employment with the Company through January 1, 2023. For a description of the 2011 EIP, see “Executive Compensation” under Part III, Item 11 in Amendment No. 1 to the Company’s Annual Report on Form 10-K/A, filed with the U.S. Securities and Exchange Commission on April 23, 2021.

The foregoing description of the above-specified compensatory arrangements contained in this Item 5.02 does not purport to be complete and is subject to, and qualified in its entirety by, the full text of the Service Agreement and the UK Severance Plan, as well as the full text of the 2011 EIP and the form of RSU award agreement (Non-U.S.) thereunder. A copy of the UK Severance Plan was filed as Exhibit 10.50 to the Annual Report on Form 10-K for the fiscal year ended December 31, 2020 filed by GW with the SEC on February 26, 2021. A copy of the 2011 EIP was filed as Exhibit 99.1 to the registration statement on Form S-8 filed by the Company with the SEC on January 18, 2012. The Company intends to file the Service Agreement, the form of PSU award agreement under the 2011 EIP and the form of RSU award agreement (U.S.) under the 2011 EIP as an exhibit to the Company’s Quarterly Report on Form 10-Q for the quarter ended June 30, 2021.

Also in connection with his appointment as COO, the Company expects that Mr. Tovey will enter into the Company’s standard indemnification agreement that will require the Company, under the circumstances and to the extent provided for therein, to indemnify Mr. Tovey to the fullest extent permitted by applicable law against certain expenses and other amounts incurred by Mr. Tovey as a result of Mr. Tovey being made a party to certain actions, suits, proceedings and other actions by reason of the fact that Mr. Tovey is or was a director, officer, employee, consultant, agent or fiduciary of the Company or any of its subsidiaries or other affiliated enterprises.

Finally, in connection with the execution of the Transaction Agreement, GW had granted Mr. Tovey a transition incentive bonus equal to £160,000, payable in a lump sum within 30 days following the later of (i) December 31, 2021 or six months following the Effective Time (subject to his continued employment with GW and the Company) or (ii) if earlier, within 30 days following his death, permanent disability or a severance-qualifying termination under the UK Severance Plan, subject to the execution of a release of claims against the Company.

For additional information about the arrangements and transactions with respect Mr. Tovey in connection with the Transaction, see “The Transaction—Interests of GW’s Non-Employee Directors and Executive Officers in the Transaction” beginning on page 87 of the definitive proxy statement filed by GW with the U.S. Securities and Exchange Commission on March 15, 2021.

#### **Item 8.01. Other Events.**

On May 5, 2021, the Company issued a press release announcing the completion of the Transaction. A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated by reference herein.

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**Item 9.01. Financial Statements and Exhibits.**

(a) Financial statements of business acquired.

The financial statements required by this Item 9.01(a) are not included in this Current Report on Form 8-K. The Company intends to file such financial statements by amendment to this Current Report on Form 8-K not later than 71 calendar days after the date this Current Report on Form 8-K is required to be filed.

(b) Pro forma financial information.

The pro forma financial information required by this Item 9.01(b) is not included in this Current Report on Form 8-K. The Company intends to file such pro forma financial information by amendment to this Current Report on Form 8-K not later than 71 calendar days after the date this Current Report on Form 8-K is required to be filed.

(d) Exhibits.

<u>Exhibit No.</u>	<u>Description of Exhibit</u>
2.1	<a href="#"><u>Transaction Agreement, dated as of February 3, 2021, by and among Jazz Pharmaceuticals UK Holdings Limited, Jazz Pharmaceuticals Public Limited Company and GW Pharmaceuticals plc (incorporated herein by reference to Exhibit 2.1 to the Current Report on Form 8-K (File No. 001-33500), as filed by the Company with the SEC on February 4, 2021).</u></a>
10.1	<a href="#"><u>Credit Agreement, dated as of May 5, 2021, by and among Jazz Pharmaceuticals Public Limited Company, the other borrowers from time to time party thereto, the lenders and issuing banks from time to time party thereto, Bank of America, N.A., as administrative agent, and U.S. Bank National Association, as collateral trustee.*</u></a>
99.1	<a href="#"><u>Press Release of the Company, dated as of May 5, 2021.</u></a>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

\* Certain schedules and exhibits have been omitted pursuant to Item 601(a)(5) of Regulation S-K. The Company agrees to furnish supplementally a copy of any omitted schedule or exhibit to the SEC upon its request.

**SIGNATURE**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: May 5, 2021

**JAZZ PHARMACEUTICALS PUBLIC LIMITED COMPANY**

By: /s/ Neena M. Patil

Name: Neena M. Patil

Title: Chief Legal Officer and SVP, Legal and Corporate Affairs



Deal CUSIP Number: G5080AAD4  
 Revolving Facility CUSIP Number: G5080AAE2  
 Initial Dollar Term Facility CUSIP Number: G5080AAF9  
 Initial Euro Term Facility CUSIP Number: G5080AAG7

**CREDIT AGREEMENT**

dated as of May 5, 2021

among

JAZZ PHARMACEUTICALS PUBLIC LIMITED COMPANY,  
 as Parent and an Irish Borrower,  
 JAZZ SECURITIES DESIGNATED ACTIVITY COMPANY,  
 as an Irish Borrower,  
 JAZZ FINANCING LUX S.À R.L.,  
 as a Lux Borrower,  
 JAZZ FINANCING I DESIGNATED ACTIVITY COMPANY,  
 as an Irish Borrower,  
 JAZZ PHARMACEUTICALS IRELAND LIMITED,  
 as an Irish Borrower,  
 JAZZ FINANCING HOLDINGS LIMITED,  
 as an Irish Borrower  
 JAZZ PHARMACEUTICALS UK HOLDINGS LIMITED,  
 as a UK Borrower,  
 and  
 JAZZ PHARMACEUTICALS, INC.,  
 as a U.S. Borrower,

THE OTHER SUBSIDIARIES OF PARENT NAMED HEREIN,  
 as Designated Borrowers,

THE LENDERS PARTY HERETO,

BANK OF AMERICA, N.A.,  
 as Administrative Agent,

U.S. Bank National Association,  
 as Collateral Trustee,

and

BANK OF AMERICA, N.A., JPMORGAN CHASE BANK, N.A., BARCLAYS BANK PLC, CITIGROUP GLOBAL MARKETS INC., CREDIT  
 SUISSE LOAN FUNDING LLC, DNB (UK) LTD., MUFG BANK, LTD., RBC CAPITAL MARKETS LLC<sup>1</sup>, SUMITOMO MITSUI BANKING  
 CORPORATION AND TRUIST SECURITIES, INC.,  
 as Joint Lead Arrangers and Joint Bookrunners

**NOTICE:** Under the Irish Credit Reporting Act 2013 lenders are required to provide personal and credit information for credit applications and credit agreements of €500 and above to the Irish Central Credit Register. This information will be held on the Irish Central Credit Register and may be used by other lenders when making decisions on your credit applications and credit agreements.

<sup>1</sup> RBC Capital Markets is a marketing name for the investment banking activities of Royal Bank of Canada and its affiliates.

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CREDIT AGREEMENT dated as of May 5, 2021 (this "Agreement"), among Jazz Financing Lux S.à r.l., a private limited liability company (*société à responsabilité limitée*) incorporated and existing under the laws of Luxembourg, having its registered office at 1, rue Hildegard von Bingen, L-1282 Luxembourg and registered with the Luxembourg Trade and Companies' Register (*Registre de commerce et des sociétés*, Luxembourg) under number B178623 ("Jazz Lux" and, together with any Designated Borrower organized or incorporated in Luxembourg, the "Lux Borrowers"), Jazz Pharmaceuticals Public Limited Company, a public limited company incorporated in Ireland (the "Parent"), Jazz Securities Designated Activity Company, a Section 110 designated activity company incorporated in Ireland ("Jazz DAC"), Jazz Financing I Designated Activity Company, a designated activity company incorporated in Ireland ("Jazz Financing I"), Jazz Pharmaceuticals Ireland Limited, a limited company incorporated in Ireland ("Jazz Ireland"), Jazz Financing Holdings Limited, a limited company incorporated in Ireland ("Financing Holdings" and, together with Parent, Jazz DAC, Jazz Financing I and Jazz Ireland, together with any Designated Borrower organized or incorporated in Ireland, the "Irish Borrowers"), Jazz Pharmaceuticals UK Holdings Limited, a private company limited by shares incorporated in England and Wales ("Jazz UK" and, together with any Designated Borrower organized or incorporated in England and Wales, the "UK Borrowers"), Jazz Pharmaceuticals, Inc., a Delaware corporation ("Jazz U.S." and, together with any Designated Borrower organized or incorporated in the United States, the "U.S. Borrowers"), the Designated Borrowers (as defined below and, together with Jazz UK, the other Irish Borrowers, Jazz Lux and Jazz U.S., or any permitted successor of any of the foregoing in accordance with Section 6.05(g) or (n) hereof, the "Borrowers"), the Lenders and Issuing Banks (each as hereinafter defined) from time to time party hereto, and Bank of America, N.A., as Administrative Agent, and U.S. Bank National Association, as Collateral Trustee.

WHEREAS, Jazz UK (an indirect subsidiary of Parent) (and/or, at Jazz UK's election, Parent and/or the DR Nominee (as defined in the Transaction Agreement)) will acquire the entire issued and to be issued share capital of GW Pharmaceuticals plc, a public limited company incorporated in England and Wales ("GW Pharma") by means of a scheme of arrangement under Part 26 of the United Kingdom Companies Act 2006 (the "Acquisition") pursuant to a Transaction Agreement, dated as of February 3, 2021 (the "Transaction Agreement"), by and among Parent, Jazz UK and GW Pharma; and

WHEREAS, in connection with the consummation of the transactions contemplated by the Transaction Agreement, each Borrower has requested the Lenders and Issuing Banks to extend credit as set forth herein;

NOW, THEREFORE, the Lenders and the Issuing Banks are willing to extend such credit to the Borrowers on the terms and subject to the conditions set forth herein.

Accordingly, the parties hereto agree as follows:

## ARTICLE I

### *Definitions*

Section 1.01 Defined Terms. As used in this Agreement, the following terms shall have the meanings specified below:

"ABR" shall mean, for any day, a fluctuating rate *per annum* equal to the greatest of (a) the rate of interest in effect for such day as publicly announced from time to time by the Administrative Agent as its "Prime Rate," (b) the Federal Funds Effective Rate in effect on such day plus ½ of 1%, (c) the Eurocurrency Rate plus 1.00% and (d) (x) solely in the case of the Initial Dollar Term Loans, 1.50%, and (y) otherwise, 1.00%. The "Prime Rate" is a rate set by the Administrative Agent based upon various factors including

the Administrative Agent's costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such Prime Rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change. If the ABR is being used as an alternate rate of interest pursuant to Section 3.03 hereof, then the ABR shall be the greater of clauses (a) and (b) above and shall be determined without reference to clause (c) above.

"ABR Borrowing" shall mean a Borrowing comprised of ABR Loans.

"ABR Loan" shall mean any Term Loan or Revolving Facility Loan that bears interest based on ABR. All ABR Loans shall be denominated in Dollars.

"ABR Revolving Facility Borrowing" shall mean an ABR Borrowing comprised of Revolving Facility Loans.

"Accepting Term Lender" shall have the meaning assigned that term in Section 2.10(d).

"Acquisition" shall have the meaning assigned to such term in the recitals to this Agreement.

"Adjusted Consolidated EBITDA" shall mean, with respect to the Parent and the Subsidiaries on a consolidated basis for any period, the Consolidated Net Income of Parent and the Subsidiaries for such period plus

(a) the sum of, without duplication, in each case, to the extent deducted in or otherwise reducing Consolidated Net Income for such period:

(i) provision for Taxes based on income, profits or capital of Parent and the Subsidiaries for such period, without duplication, including, without limitation, state franchise and similar Taxes, and foreign withholding Taxes; plus

(ii) (x) Interest Expense of Parent and the Subsidiaries for such period and (y) all cash dividend payments (excluding items eliminated in consolidation) on any series of preferred stock of any Subsidiary or any Disqualified Stock of Parent and its Subsidiaries; plus

(iii) depreciation, amortization (including amortization of intangibles, deferred financing fees and actuarial gains and losses related to pensions and other post-employment benefits, but excluding amortization of prepaid cash expenses that were paid in a prior period) and other non-cash expenses (excluding any such non-cash charges or expenses to the extent that it represents an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) of Parent and the Subsidiaries for such period; plus

(iv) any costs or expenses incurred pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or agreement or any stock subscription or shareholder agreement, to the extent that such costs or expenses are funded with cash proceeds contributed to the capital of Parent or net cash proceeds of an issuance of Equity Interests of Parent (other than Disqualified Stock) solely to the extent that such net cash proceeds are excluded from the calculation of the Available Amount; plus



(v) any non-cash losses related to non-operational hedging, including, without limitation, resulting from hedging transactions for interest rate or currency exchange risks associated with this Agreement or the Convertible Notes; plus

(vi) Milestone Payments and Upfront Payments; plus

(vii) acquired in-process research and development expense in connection with the acquisition by Parent and any of its Subsidiaries of any assets; plus

(viii) adjustments relating to purchase price allocation accounting; plus

(ix) restructuring charges or reserves, including any one-time costs incurred in connection with Permitted Business Acquisitions and other Investments and costs related to the closure, consolidation and integration of facilities, information technology infrastructure and legal entities, and severance and retention bonuses; plus

(x) costs paid and expenses incurred in connection with litigation settlements; plus

(xi) unrealized mark-to-market losses on equity and securities investments; minus

(b) the sum of, without duplication, in each case, to the extent added back in or otherwise increasing Consolidated Net Income for such period:

(i) non-cash items increasing such Consolidated Net Income for such period (excluding the recognition of deferred revenue or any non-cash items which represent the reversal of any accrual of, or reserve for, anticipated cash charges in any prior period that reduced Adjusted Consolidated EBITDA in an earlier period and any items for which cash was received in any prior period); plus

(ii) any non-cash gains related to non-operational hedging, including, without limitation, resulting from hedging transactions for interest rate or currency exchange risks associated with this Agreement or the Convertible Notes; plus

(iii) unrealized mark-to-market gains on equity and securities investments; plus

(iv) interest income (to the extent not netted against interest expense in the calculation of Interest Expense); plus

(v) income tax credits and refunds (to the extent not netted from Tax expense),

in each case, on a consolidated basis and determined in accordance with GAAP.

Notwithstanding the preceding, the provision for Taxes based on the income or profits of, the Interest Expense of, the depreciation and amortization and other non-cash expenses or non-cash items of and the restructuring charges or expenses of, a Subsidiary (other than any Wholly Owned Subsidiary) of Parent will be added to (or subtracted from, in the case of non-cash items described in clause (b) above) Consolidated Net Income to compute Adjusted Consolidated EBITDA, (A) in the same proportion that the Net Income of such Subsidiary was added to compute such Consolidated Net Income of Parent, and (B)

only to the extent that a corresponding amount of the Net Income of such Subsidiary would be permitted at the date of determination to be dividended or distributed to the Parent by such Subsidiary without prior governmental approval (that has not been obtained), and without direct or indirect restriction pursuant to the terms of its charter and all agreements, instruments, judgments, decrees, orders, statutes, rules and governmental regulations applicable to that Subsidiary or its stockholders.

“Administrative Agent” shall mean Bank of America, N.A. (through itself or one of its designated Affiliates or branch offices), in its capacity as administrative agent under any of the Loan Documents, or any successor administrative agent.

“Administrative Agent Fees” shall have the meaning assigned to such term in Section 2.12(c).

“Administrative Questionnaire” shall mean an Administrative Questionnaire in the form supplied by the Administrative Agent.

“Affected Financial Institution” means (a) any EEA Financial Institution or (b) any UK Financial Institution.

“Affiliate” shall mean, when used with respect to a specified person, another person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the person specified.

“Agent-Related Person” shall have the meaning assigned to such term in Section 9.05(d).

“Agents” shall mean the Administrative Agent.

“Agreed Guarantee and Security Principles” means the agreed guarantee and security principles set forth on Schedule 1.01(A).

“Agreement” shall have the meaning assigned to such term in the introductory paragraph of this Agreement, as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time.

“All-in Yield” shall mean, as to any Loans (or other Indebtedness, if applicable), the yield thereon to Lenders (or other lenders, as applicable) providing such Loans (or other Indebtedness, if applicable) in the primary syndication thereof, as reasonably determined by the Administrative Agent in consultation with the Parent, whether in the form of interest rate, margin, original issue discount, upfront fees, rate floors or otherwise; provided, that original issue discount and upfront fees shall be equated to interest rate based on an assumed four year average life; and provided, further, that “All-in Yield” shall not include arrangement, commitment, underwriting, structuring or similar fees and customary consent fees for an amendment paid generally to consenting lenders.

“Anti-Corruption Laws” means the FCPA, the UK Bribery Act 2010, and other applicable similar anti-corruption laws in any jurisdiction of the Borrowers.

“Anti-Money Laundering Laws” means any and all laws, statutes, regulations or obligatory government orders, decrees, ordinances or rules in any jurisdiction of a Borrower applicable to a Loan Party, its Subsidiaries or Affiliates related to terrorism financing or money laundering, including any applicable provision of Title III of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act) of 2001 (Title III of Pub. L. 107-56) and The Currency and Foreign Transactions Reporting Act (also known as the “Bank Secrecy Act,” 31 U.S.C. §§ 5311-5330 and 12 U.S.C. §§ 1818(s), 1820(b) and 1951-1959).

“**Applicable Commitment Fee**” shall mean for any day (A) with respect to any Revolving Facility Commitments relating to Initial Revolving Loans, (x) from the Closing Date until the first Business Day that immediately follows the date on which a certificate is delivered pursuant to Section 5.04(c) in respect of the first full fiscal quarter ending after the Closing Date, 0.50% per annum and (y) thereafter, the applicable percentage per annum set forth below, as determined by reference to the First Lien Secured Net Leverage Ratio, as set forth in the then most recent certificate delivered to the Administrative Agent pursuant to Section 5.04(c); or (B) with respect to any Other Revolving Facility Commitments, the “Applicable Commitment Fee” set forth in the applicable Extension Amendment or Refinancing Amendment (as applicable).

<b>Applicable Commitment Fee</b>		
<b>Pricing Level</b>	<b>First Lien Secured Net Leverage Ratio</b>	<b>Applicable Commitment Fee</b>
1	> 3.00:1.00	0.50%
2	£ 3.00:1.00 and > 2.50:1.00	0.45%
3	£ 2.50:1.00	0.40%

“**Applicable Date**” shall have the meaning assigned to such term in Section 9.08(f).

“**Applicable Margin**” shall mean a percentage per annum equal to, (i) with respect to any Initial Dollar Term Loan, (x) 3.50% per annum in the case of any Eurocurrency Rate Loan and (y) 2.50% per annum in the case of any ABR Loan; (ii) with respect to any Initial Euro Term Loan, 3.50% per annum in the case of any Eurocurrency Rate Loan; (iii) with respect to any Initial Revolving Loan, (A) from the Closing Date until the first Business Day that immediately follows the date on which a certificate is delivered pursuant to Section 5.04(c) in respect of the first full fiscal quarter ending after the Closing Date, (x) 3.25% per annum in the case of any Eurocurrency Rate Loan and (y) 2.25% per annum in the case of any ABR Loan; and (B) thereafter, the applicable percentage per annum set forth below, as determined by reference to the First Lien Secured Net Leverage Ratio, as set forth in the then most recent certificate delivered to the Administrative Agent pursuant to Section 5.04(c); and (iv) with respect to any Other Term Loan or Other Revolving Loan, the “Applicable Margin” set forth in the Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment (as applicable) relating thereto.

Pricing Level	Applicable Margin		Eurocurrency Rate Loans	ABR Loans
	First Lien Secured Net Leverage Ratio			
1	> 3.00:1.00		3.25%	2.25%
2	£ 3.00:1.00 > 2.50:1.00		3.00%	2.00%
3	£ 2.50:1.00		2.75%	1.75%

“Applicable Percentage” means, with respect to any Lender, the percentage of the total Commitments represented by such Lender’s Commitment; provided that, in the case of Section 2.24 when a Defaulting Lender shall exist, “Applicable Percentage” shall mean the percentage of the total Commitments (disregarding any Defaulting Lender’s Commitment) represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and to any Lender’s status as a Defaulting Lender at the time of determination.

“Applicable Reference Rate” means, for any Eurocurrency Rate Loan denominated in Dollars, LIBOR, and for any Eurocurrency Rate Loan denominated in Euros, EURIBOR.

“Applicable Transactions” shall have the meaning assigned to such term in Section 9.20.

“Applicant Borrower” shall have the meaning assigned to such term in Section 2.26(a).

“Approved Fund” shall have the meaning assigned to such term in Section 9.04(b)(ii).

“Arrangers” shall mean, collectively, Bank of America, N.A., JPMorgan Chase Bank, N.A., Barclays Bank PLC, Citigroup Global Markets Inc., Credit Suisse Loan Funding LLC, DNB (UK) Ltd., MUFG Bank, Ltd., Royal Bank of Canada, Sumitomo Mitsui Banking Corporation, and Truist Securities, Inc., in their respective capacities as joint lead arranger.

“Asset Sale” shall mean (x) any Disposition (including any sale and lease-back of assets and any mortgage or lease of Real Property) to any person of any asset or assets of Parent or any Subsidiary and (y) any sale of any Equity Interests by any Subsidiary to a person other than the Parent or a Subsidiary, in each case, in respect of which either the Fair Market Value of such asset or the Disposition Consideration exceeds \$10,000,000.

“Assignee” shall have the meaning assigned to such term in Section 9.04(b)(i).

“Assignment and Acceptance” shall mean an assignment and acceptance entered into by a Lender and an Assignee, and accepted by the Administrative Agent and the Parent (if required by Section 9.04), in the form of Exhibit A or such other form (including electronic documentation generated by use of an electronic platform) as shall be approved by the Administrative Agent and reasonably satisfactory to the Parent.

“Attributable Receivables Indebtedness” shall mean the principal amount of Indebtedness (other than any Indebtedness subordinated in right of payment owing by a Receivables Entity to a Receivables Seller or a Receivables Seller to another Receivables Seller in connection with the transfer, sale and/or pledge of Permitted Receivables Facility Assets) which (i) if a Qualified Receivables Facility is structured as a secured lending agreement or other similar agreement, constitutes the principal amount of such Indebtedness or (ii) if a Qualified Receivables Facility is structured as a purchase agreement or other similar agreement, would be outstanding at such time under such Qualified Receivables Facility if the same were structured as a secured lending agreement rather than a purchase agreement or such other similar agreement.

“Auction Manager” shall have the meaning assigned to such term in Section 2.25(a).

“Auction Procedures” shall mean auction procedures with respect to Purchase Offers set forth in Exhibit F hereto.

“Auto-Extension Letter of Credit” shall have the meaning assigned that term in Section 2.05(b)(iii).

“Availability Period” shall mean, with respect to any Class of Revolving Facility Commitments, the period from and including the Closing Date (or, if later, the effective date for such Class of Revolving Facility Commitments) to but excluding the earlier of the Revolving Facility Maturity Date for such Class and, in the case of each of the Revolving Facility Loans, Revolving Facility Borrowings, and Letters of Credit, the date of termination of the Revolving Facility Commitments of such Class.

“Available Amount” shall mean, as at any time of determination, an amount, not less than zero in the aggregate, determined on a cumulative basis, equal to, without duplication:

(a) (x) \$350,000,000 *plus* (y) 50% of the Consolidated Net Income of Parent for the period (taken as one accounting period) from the Closing Date to the end of Parent’s most recently ended fiscal quarter for which internal financial statements are available at such time (or, in the case such Consolidated Net Income for such period is a deficit, *minus* 100% of such deficit), plus

(b) 100% of the aggregate net proceeds, including cash and the Fair Market Value of property other than cash, received by Parent after the Closing Date from the issue or sale of Equity Interests of Parent or any direct or indirect parent entity of Parent (excluding Disqualified Stock and Equity Interests issued pursuant to the Acquisition Agreement), including Equity Interests issued upon exercise of warrants or options (other than an issuance or sale to Parent or a Subsidiary), plus

(c) 100% of the aggregate amount of contributions to the capital of Parent received in cash and the Fair Market Value of property other than cash received by Parent after the Closing Date (other than Disqualified Stock and Equity Interests issued pursuant to the Transaction Agreement), plus

(d) 100% of the principal amount of any Indebtedness, or the liquidation preference or maximum fixed repurchase price, as the case may be, of any Disqualified Stock of Parent or any Subsidiary issued after the Closing Date (other than Indebtedness or Disqualified Stock issued to a Subsidiary) which has been converted into or exchanged for Equity Interests in Parent (other than Disqualified Stock) or any direct or indirect parent of Parent (provided, in the case of any such parent, such Indebtedness or Disqualified Stock is retired or extinguished), plus

(e) 100% of the aggregate amount received by Parent or any Subsidiary in cash and the Fair Market Value of property other than cash received by Parent or any Subsidiary (and 100% of the amount of the reduction in the amount of any guarantee by Parent or any Subsidiary to the extent the provision of such guarantee constituted a Restricted Payment) from:

(i) the sale or other disposition (other than to Parent or a Subsidiary) of Investments made in reliance on Section 6.04(j)(Y) by Parent and its Subsidiaries and from repurchases and redemptions of such Investments made in reliance on Section 6.04(j)(Y) from Parent and its Subsidiaries by any person (other than Parent or any Subsidiary) and from repayments of loans or advances, and releases of guarantees, which constituted Investments made in reliance on Section 6.04(j)(Y),

(ii) the sale (other than to Parent or a Subsidiary) of the Equity Interests of an Unrestricted Subsidiary, or

(iii) a distribution or dividend from an Unrestricted Subsidiary,

in the case of each of subclauses (i), (ii), and (iii), other than to the extent that the ability of Parent or its Subsidiaries to make Restricted Payments or Investments permitted pursuant to Section 6.04 would otherwise be increased by the receipt of such amount of cash or property or the release of such guarantee, plus

(f) in the event any Unrestricted Subsidiary has been redesignated as a Subsidiary or has been merged, consolidated or amalgamated with or into, or transfers or conveys its assets to, or is liquidated into Parent or a Subsidiary, the Fair Market Value of the Investment of Parent or the Subsidiaries in such Unrestricted Subsidiary (which, if the Fair Market Value of such Investment shall exceed \$50,000,000, shall be determined by the Board of Directors of Parent) at the time of such redesignation, combination or transfer (or of the assets transferred or conveyed, as applicable) other than in each case to the extent that the ability of Parent and its Subsidiaries to make Restricted Payments or Investments pursuant to Section 6.04 would otherwise be increased by such redesignation), plus

(g) the Declined Prepayment Amount, minus

(h) the cumulative amount of Investments made with the Available Amount from and after the Closing Date and on or prior to such time (net of any return on such Investments not otherwise included in the Available Amount), minus

(i) the cumulative amount of Restricted Payments made with the Available Amount from and after the Closing Date and on or prior to such time.

“Available Unused Commitment” shall mean, with respect to a Revolving Facility Lender under any Class of Revolving Facility Commitments at any time, an amount equal to the amount by which (a) the applicable Revolving Facility Commitment of such Revolving Facility Lender at such time exceeds (b) the applicable Revolving Facility Credit Exposure of such Revolving Facility Lender at such time.

“Bail-In Action” means the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of an Affected Financial Institution.

“Bail-In Legislation” means, (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule, (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation, or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings), and (c) in relation to any state other than such an EEA Member Country and the United Kingdom, any analogous law or regulation from time to time which requires contractual recognition of any Write-down and Conversion Powers contained in that law or regulation.

“Bank of America” means Bank of America, N.A. and its successors.

“Bankruptcy Code” shall mean Title 11 of the United States Code entitled “Bankruptcy,” as now or hereafter in effect, and any successor thereto.

“Beneficial Ownership Certification” means a certification regarding beneficial ownership required by the Beneficial Ownership Regulation.

“Beneficial Ownership Regulation” means 31 C.F.R. § 1010.230.

“Benefit Plan” means any of (a) an “employee benefit plan” (as defined in ERISA) that is subject to Title I of ERISA, (b) a “plan” as defined in and subject to Section 4975 of the Code or (c) any person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Code) the assets of any such “employee benefit plan” or “plan”.

“Bermuda Share Charges” means charges granted by the Loan Parties that own Equity Interests of Foreign Subsidiaries organized in Bermuda over the Equity Interests of such Foreign Subsidiaries in favor of the Collateral Trustee, which charges shall be in form and substance reasonably satisfactory to the Administrative Agent.

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States of America.

“Board of Directors” shall mean, as to any person, the board of directors, the board of managers, the sole manager or other governing body of such person.

“Borrower DTTP Filing” means, for such time as the DTTP Scheme is in operation, an HM Revenue & Customs DTTP2 Form duly completed and filed by the relevant UK Borrower, which:

(a) where it relates to a UK Treaty Lender that is a Revolving Facility Lender on the date of this Agreement, contains the scheme reference number and jurisdiction of tax residence stated opposite that Lender’s name in Schedule 2.17(i)(ii) and

(i) where the relevant UK Borrower is a Borrower at the date of this Agreement is filed with HM Revenue & Customs within 30 days of the date of this Agreement; or

(ii) where the relevant UK Borrower becomes a Borrower after the date of this Agreement, is filed with HM Revenue & Customs within 30 days of the date on which that UK Borrower becomes a party to this Agreement as a Borrower; or

(b) where it relates to a UK Treaty Lender that becomes a Revolving Facility Lender after the date of this Agreement, contains the scheme reference number and jurisdiction of tax residence stated in respect of that Lender in the applicable Assignment and Acceptance and

(i) where the relevant UK Borrower is a Borrower at the date of the Assignment and Acceptance, is filed with HM Revenue & Customs within 30 days of the date of that Assignment and Acceptance; or

(ii) where the relevant UK Borrower is not a Borrower at the date of the Assignment and Acceptance, is filed with HM Revenue & Customs within 30 days of the date on which that UK Borrower becomes a party as a Borrower.

“Borrower Materials” shall have the meaning assigned to such term in Section 5.04.

“Borrowers” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Borrowing” shall mean a group of Loans of a single Type, in the same currency, under a single Facility, and made on a single date and, in the case of Eurocurrency Rate Loans, as to which a single Interest Period is in effect.

“Borrowing Minimum” shall mean (a) in the case of Eurocurrency Rate Loans denominated in Dollars, \$5,000,000, (b) in the case of Eurocurrency Rate Loans denominated in Euro, €5,000,000 and (c) in the case of ABR Loans, \$500,000.

“Borrowing Multiple” shall mean (a) in the case of Eurocurrency Rate Loans denominated in Dollars, \$1,000,000, (b) in the case of Eurocurrency Rate Loans denominated in Euro, €1,000,000 and (c) in the case of ABR Loans, \$100,000.

“Borrowing Request” shall mean a request by the Parent or other Borrower requesting a Borrowing in accordance with the terms of Section 2.03 and substantially in the form of Exhibit D-1 or another form (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent) reasonably acceptable to the Administrative Agent and appropriately completed and signed by a Responsible Officer of Parent or the applicable Borrower.

“Budget” shall have the meaning assigned to such term in Section 5.04(e).

“Business Day” shall mean any day that is not a Saturday, Sunday or other day on which commercial banks are authorized, required by law to remain or are in fact closed in (x) New York City and (y) if such day relates to the payment of any obligation or the performance of any covenant, duty or obligation of any (a) Irish Borrower, Ireland or (b) UK Borrower, London; provided that (i) when used in Section 2.05 with respect to any action taken by or with respect to any Issuing Bank, the term “Business Day” shall not include any day on which commercial banks are authorized to close under the laws of, or are in fact closed in, the jurisdiction where such Issuing Bank’s Lending Office is located, (ii) when used in connection with a Eurocurrency Rate Loan denominated in Dollars, the term “Business Day” shall also exclude any day on which banks are not open for dealings in deposits in Dollars in the London interbank market and (iii) when used in connection with a Eurocurrency Rate Loan denominated in Euros, the term “Business Day” shall also include any Business Day that is also a TARGET Day.

“Capital Expenditures” shall mean, for any person in respect of any period, the aggregate of all expenditures incurred by such person during such period that, in accordance with GAAP, are or should be included in “additions to property, plant or equipment” or similar items reflected in the statement of cash flows of such person; provided, however, that Capital Expenditures for the Parent and the Subsidiaries shall not include:



(a) expenditures to the extent made with proceeds of the issuance of Qualified Equity Interests of Parent or capital contributions to the Parent or funds that would have constituted Net Proceeds under clause (a) of the definition of the term "Net Proceeds" (but that will not constitute Net Proceeds as a result of the first or second proviso to such clause (a));

(b) expenditures of proceeds of insurance settlements, condemnation awards and other settlements in respect of lost, destroyed, damaged or condemned assets, equipment or other property to the extent such expenditures are made to replace or repair such lost, destroyed, damaged or condemned assets, equipment or other property or otherwise to acquire, maintain, develop, construct, improve, upgrade or repair assets or properties useful in the business of Parent and the Subsidiaries to the extent such proceeds are not then required to be applied to prepay Term Loans pursuant to Section 2.11(b);

(c) interest capitalized during such period;

(d) expenditures that are accounted for as capital expenditures of such person and that actually are paid for by a third party (excluding the Parent or any Subsidiary) and for which none of Parent or any Subsidiary has provided or is required to provide or incur, directly or indirectly, any consideration or obligation to such third party or any other person (whether before, during or after such period);

(e) the book value of any asset owned by such person prior to or during such period to the extent that such book value is included as a capital expenditure during such period as a result of such person reusing or beginning to reuse such asset during such period without a corresponding expenditure actually having been made in such period; provided that (i) any expenditure necessary in order to permit such asset to be reused shall be included as a Capital Expenditure during the period that such expenditure actually is made and (ii) such book value shall have been included in Capital Expenditures when such asset was originally acquired;

(f) the purchase price of equipment purchased during such period to the extent that the consideration therefor consists of any combination of (i) used or surplus equipment traded in at the time of such purchase, (ii) the proceeds of a concurrent sale of used or surplus equipment, in each case, in the ordinary course of business or (iii) assets Disposed of pursuant to Section 6.05(m);

(g) Investments in respect of a Permitted Business Acquisition; or

(h) the purchase of property, plant or equipment made with proceeds from any Asset Sale to the extent such proceeds are not then required to be applied to prepay Term Loans pursuant to Section 2.11(b).

"Capitalized Lease Obligations" shall mean, at the time any determination thereof is to be made, the amount of the liability in respect of a capital lease or a financing lease that would at such time be required to be capitalized and reflected as a liability on the balance sheet (excluding the footnotes thereto) in accordance with GAAP; provided that all obligations of any person that are or would be characterized as operating lease obligations in accordance with GAAP on December 31, 2015 (whether or not such operating lease obligations were in effect on such date) shall continue to be accounted for as operating lease obligations (and not as Capitalized Lease Obligations) for purposes of this Agreement regardless of any change in GAAP following December 31, 2015 that would otherwise require such obligations to be recharacterized (on a prospective or retroactive basis or otherwise) as Capitalized Lease Obligations.

“Cash Collateralize” shall mean to pledge and deposit with or deliver to the Administrative Agent, for the benefit of one or more of the Issuing Banks or Lenders, as collateral for Revolving L/C Exposure or obligations of the Lenders to fund participations in respect of Revolving L/C Exposure, cash or deposit account balances or, if the Administrative Agent and each Issuing Bank shall agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent and each applicable Issuing Bank. “Cash Collateral” and “Cash Collateralization” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Management Agreement” shall mean any agreement to provide to the Parent or any Subsidiary cash management services for collections, treasury management services (including controlled disbursement, overdraft, automated clearing house fund transfer services, return items and interstate depository network services), any demand deposit, payroll, trust or operating account relationships, commercial credit cards, merchant card, purchase or debit cards, non-card e-payables services, and other cash management services, including electronic funds transfer services, lockbox services, stop payment services and wire transfer services.

“Cash Management Bank” shall mean any person that, at the time it enters into a Cash Management Agreement (or on the Closing Date), is an Agent, an Arranger, a Lender or an Affiliate of any such person, in each case, in its capacity as a party to such Cash Management Agreement.

“CFC” shall have the meaning assigned to such term in clause (k) of the definition of “Excluded Subsidiary.”

“Change in Law” shall mean (a) the adoption of any law, rule or regulation after the Closing Date, (b) any change in law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the Closing Date or (c) compliance by any Lender or Issuing Bank (or, for purposes of Section 2.15(b), by any Lending Office of such Lender or Issuing Bank or by such Lender’s or Issuing Bank’s holding company, if any) with any written request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; provided, however, that notwithstanding anything herein to the contrary, (x) all requests, rules, guidelines or directives under or issued in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act, all interpretations and applications thereof and any compliance by a Lender with any request or directive relating thereto and (y) all requests, rules, guidelines or directives promulgated under or in connection with, all interpretations and applications of, and any compliance by a Lender with any request or directive relating to International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States of America or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case under clauses (x) and (y) be deemed to be a “Change in Law” but only to the extent it is the general policy of a Lender to impose applicable increased costs or costs in connection with capital adequacy requirements similar to those described in clauses (a) and (b) of Section 2.15 generally on other similarly situated borrowers under similar circumstances under agreements permitting such impositions.

“Change of Control” shall mean (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof) of Equity Interests representing more than 35% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of Parent; (b) Parent ceases to own, directly or indirectly, 100% of the Equity Interests of any Borrower; or (c) occupation of a majority of the seats (other than vacant seats) on the Board of Directors of Parent by persons who (i) were not members of the Board of Directors of Parent on the Closing Date and (ii) whose election to the Board of Directors of Parent or whose nomination for election by the stockholders of Parent was not approved by a majority of the members of the Board of Directors of Parent then still in office who were either members of the Board of Directors on the Closing Date or whose election or nomination for election was previously so approved.

“Charges” shall have the meaning assigned to such term in Section 9.09.

“Civil Asset Forfeiture Reform Act” means the Civil Asset Forfeiture Reform Act of 2000 (18 U.S.C. Sections 983 et seq.), as amended from time to time, and any successor statute.

“Class” shall mean, (a) when used in respect of any Loan or Borrowing, whether such Loan or the Loans comprising such Borrowing are Initial Term Loans, Other Term Loans, Initial Revolving Loans or Other Revolving Loans; and (b) when used in respect of any Commitment, whether such Commitment is in respect of a commitment to make Initial Term Loans, Other Term Loans, Initial Revolving Loans or Other Revolving Loans. Other Term Loans or Other Revolving Loans that have different terms and conditions (together with the Commitments in respect thereof) from the Initial Term Loans or the Initial Revolving Loans, respectively, or from other Other Term Loans or other Other Revolving Loans, as applicable, shall be construed to be in separate and distinct Classes.

“Class Loans” shall have the meaning assigned to such term in Section 9.08(f).

“Clean-Up Period” shall have the meaning assigned to such term in Section 7.02(a).

“Closing Date” shall mean the first date on which the conditions set forth in Section 4.01 are satisfied (or waived in accordance with Section 9.08).

“Closing Date Foreign Collateral Documents” means the English Security Documents, the Irish Security Documents, the Bermuda Share Charges, the Luxembourg Account Pledge Agreement, the Luxembourg Share Pledge Agreement, the Gibraltar Share Charge, the Maltese Share Pledge Agreement and each of the other documents set forth on Schedule 1.01(B) or entered into pursuant to the terms of this Agreement.

“Closing Date Refinancing” shall mean the repayment and termination of the Existing Credit Agreement.

“Code” shall mean the U.S. Internal Revenue Code of 1986, as amended.

“Collateral” shall mean all the “Collateral” (or equivalent term) as defined in any Security Document and shall also include all other property that is subject to any Lien in favor of the Collateral Trustee or any subagent for the benefit of the Secured Parties (or, if applicable, in foreign jurisdictions, the Secured Parties in their capacities as such) pursuant to any Security Document; provided that, notwithstanding anything to the contrary herein or in any Security Document or other Loan Document, the Collateral shall be subject to the Agreed Guarantee and Security Principles, and in no case shall the Collateral include any Excluded Property.

“Collateral and Guarantee Requirement” shall mean the requirement that (in each case, subject to (x) the last three paragraphs of Section 5.10, (y) Schedule 5.15 (which, for the avoidance of doubt, shall override the applicable clauses of this definition of “Collateral and Guarantee Requirement”) and (z) solely in the case of Foreign Loan Parties, the Agreed Guarantee and Security Principles):

(a) on the Closing Date, the Administrative Agent shall have received (i) from each U.S. Loan Party and each Foreign Loan party, and the Collateral Trustee, a counterpart of the U.S. Collateral Agreement, (ii) from each applicable Loan Party and the Collateral Trustee, a counterpart of each Closing Date Foreign Collateral Document applicable thereto, and (iii) from Parent, the other Borrowers and each other Wholly Owned Subsidiary on the Closing Date (other than Excluded Subsidiaries and GW Pharma and its subsidiaries), a counterpart of the Guarantee Agreement, in each case duly executed and delivered on behalf of such person;

(b) on the Closing Date, (i)(x) all outstanding Equity Interests directly owned by the Loan Parties, other than Excluded Property and Equity Interests in GW Pharma and its subsidiaries, and (y) all Indebtedness owing to any Loan Party, other than Excluded Property and Indebtedness owing to GW Pharma and its subsidiaries, shall have been pledged or assigned for security purposes pursuant to the applicable Security Documents and (ii) the Collateral Trustee shall have received (and the Administrative Agent shall have received copies of) certificates, updated share registers (where necessary under the laws of any applicable jurisdiction in order to create a perfected security interest in such Equity Interests) or other instruments (if any) representing such Equity Interests and any notes or other instruments required to be delivered on the Closing Date pursuant to the applicable Security Documents, together with stock powers, note powers or other instruments of transfer with respect thereto (as applicable) endorsed in blank;

(c) on the GW Pharma Joinder Date, the requirements set forth on Schedule 1.01(C) shall have been satisfied;

(d) in the case of any person that becomes a Loan Party after the Closing Date, the Administrative Agent shall have received (i) a supplement to the Guarantee Agreement in the form specified therefor in the Guarantee Agreement or otherwise reasonably acceptable to the Administrative Agent, duly executed and delivered on behalf of such Loan Party; (ii) supplements or joinders to all applicable Security Documents then in existence or new Security Documents, in each case in the form specified therefor in the applicable Security Document or otherwise reasonably acceptable to the Administrative Agent, in each case, duly executed and delivered on behalf of such Loan Party and the Collateral Trustee; (iii) supplements or joinders to the applicable Intercreditor Agreement executed and delivered on behalf of such Loan Party and (iv) appropriate corporate resolutions, customary corporate documentation and, in the case of Foreign Loan Parties, customary legal opinions as may be reasonably requested by, and in form and substance reasonably satisfactory to, the Administrative Agent;

(e) after the Closing Date, (x) all outstanding Equity Interests of any person that becomes a Loan Party after the Closing Date and that are held by a Loan Party and (y) all Equity Interests directly acquired by a Loan Party after the Closing Date, in each case other than Excluded Property, shall have been pledged pursuant to the applicable Security Documents, and the Collateral Trustee shall have received (and the Administrative Agent shall have received copies of) updated share registers (where necessary under the laws of any applicable jurisdiction in order to create a perfected security interest in such Equity Interests) and the certificates or other instruments evidencing such Equity Interests, together with stock powers or other instruments of transfer with respect thereto (as applicable) endorsed in blank;

(f) except as otherwise contemplated by this Agreement or any Security Document, all documents and instruments, including Uniform Commercial Code financing statements, and filings with the United States Copyright Office and the United States Patent and Trademark Office, and all other actions reasonably requested by the Administrative Agent or the Collateral Trustee (including those required by applicable Requirements of Law) to be delivered, filed, registered or recorded to create the Liens intended to be created by the Security Documents (in each case, including any supplements thereto) and perfect such Liens to the extent required by, and with the

priority required by, the Security Documents, shall have been delivered, filed, registered or recorded substantially concurrently with, or promptly following, the execution and delivery of each such Security Document (or in the case of after acquired assets not automatically subject to a valid and perfected Lien pursuant to the Security Documents upon the acquisition thereof, concurrently with, or promptly following, the acquisition thereof);

(g) evidence of the insurance (if any) required by the terms of Section 5.02 hereof shall have been received by the Administrative Agent; and

(h) after the Closing Date, the Administrative Agent and the Collateral Trustee shall have received, (i) such other Security Documents as may be required to be delivered pursuant to Section 5.10 or the Security Documents, and (ii) upon reasonable request by the Administrative Agent or the Collateral Trustee, evidence of compliance with any other requirements of Section 5.10.

“Collateral Trust Agreement” shall mean that certain Collateral Trust Agreement, dated as of May 5, 2021, among the grantors identified therein, Bank of America, N.A., as Administrative Agent, U.S. Bank National Association, as trustee under the Senior Notes Indenture, and U.S. Bank National Association, as Collateral Trustee.

“Collateral Trustee” shall mean U.S. Bank National Association acting as collateral trustee under the Collateral Trust Agreement and the other Loan Documents, together with its successors and permitted assigns thereunder.

“Commitment Fee” shall have the meaning assigned to such term in Section 2.12(a).

“Commitment Letter” shall mean that certain Amended and Restated Commitment Letter dated as of February 19, 2021 by and among, *inter alia*, Parent, the Administrative Agent and the Arrangers.

“Commitments” shall mean, with respect to any Lender, such Lender’s Revolving Facility Commitment and Term Facility Commitment.

“Commodity Exchange Act” shall mean the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

“Communication” shall have the meaning assigned to such term in Section 9.13.

“Consolidated Cash Interest Expense” means, with reference to any period, (a) the Interest Expense of Parent and its Subsidiaries paid or payable in cash and calculated on a consolidated basis for such period but shall exclude, to the extent otherwise included in the calculation of Interest Expense for the applicable period, without duplication, (i) debt issuance costs, debt discount or premium and other financing fees and expenses, (ii) any cash costs associated with breakage in respect of Hedging Agreements, (iii) annual agency or trustee fees, unused line fees and letter of credit fees and expenses, and (iv) all nonrecurring cash interest expense consisting of liquidated damages for failure to timely comply with registration rights obligations under any agreement governing Indebtedness, minus (b) interest income received or receivable in cash (to the extent not netted against interest expense in the calculation of Interest Expense).

“Consolidated Debt” shall mean, as of any date of determination, the sum of (without duplication) the principal amount of all Indebtedness of the type set forth in clauses (a), (b) and (e) (solely to the extent related to any Indebtedness specified in such clauses (a) and (b) of the definition of “Indebtedness”) of the definition of “Indebtedness” of Parent and its Subsidiaries determined on a consolidated basis on such date; provided that the amount of any Indebtedness with respect to which the applicable obligors have entered into currency hedging arrangements shall be calculated giving effect to such currency hedging arrangements.

“Consolidated Net Income” shall mean, with respect to any person for any period, the aggregate Net Income of such person and its subsidiaries for such period, on a consolidated basis, in accordance with GAAP; provided, however, that without duplication:

- (a) any net after-Tax extraordinary, nonrecurring or unusual gains or losses (less all fees and expenses relating thereto) or expenses or charges shall be excluded;
- (b) effects of purchase accounting adjustments (including the effects of such adjustments pushed down to such person and such Subsidiaries) in amounts required or permitted by GAAP, resulting from the application of purchase accounting in relation to any consummated acquisition or the amortization or write-off of any amounts thereof, net of Taxes, shall be excluded;
- (c) the cumulative effect of a change in accounting principles (which shall in no case include any change in the comprehensive basis of accounting) during such period shall be excluded;
- (d) (i) any net after-Tax income or loss from disposed, abandoned, transferred, closed or discontinued operations, provided that, notwithstanding anything to the contrary herein or in any classification under GAAP of any person, business, assets or operations in respect of which a definitive agreement for the disposition, abandonment, transfer, closure or discontinuation of operations thereof has been entered into as discontinued operations, at the Parent’s option, no pro forma effect shall be given to any discontinued operations (and the income or loss attributable to any such person, business, assets or operations shall not be excluded for any purposes hereunder) until such disposition, abandonment, transfer, closure or discontinuation of operations shall have been consummated, (ii) any net after-Tax gain or loss on disposal of disposed, abandoned, transferred, closed or discontinued operations and (iii) any net after-Tax gains or losses (less all fees and expenses or charges relating thereto) attributable to business dispositions or asset dispositions other than in the ordinary course of business (as determined in good faith by the Parent) shall be excluded;
- (e) any net after-Tax gains or losses, or any subsequent charges or expenses (less all fees and expenses or charges relating thereto), attributable to the early extinguishment of Indebtedness, hedging obligations or other derivative instruments shall be excluded;
- (f) the Net Income for such period of any person that is not a subsidiary of such person, or is an Unrestricted Subsidiary, or that is accounted for by the equity method of accounting (other than a Guarantor), shall be included only to the extent of the amount of dividends or distributions or other payments actually paid in cash or cash equivalents (or to the extent converted into cash or cash equivalents) to the referent person or a Subsidiary thereof in respect of such period;
- (g) solely for purposes of calculating the Available Amount, the Net Income for such period of any Subsidiary of such person shall be excluded to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary of its Net Income is not at the date of determination permitted without any prior governmental approval (which has not been obtained) or, directly or indirectly, by the operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to such subsidiary or its equityholders, unless such restrictions with respect to the payment of dividends or similar

distributions have been legally waived; provided that the Consolidated Net Income of such person shall be increased by the amount of dividends or other distributions or other payments actually paid in cash (or converted into cash) by any such Subsidiary to such person or a Subsidiary of such person (subject to the provisions of this clause (g)), to the extent not already included therein;

(h) any impairment charge or asset write-off with respect to long-term assets and amortization of intangibles, in each case pursuant to GAAP, shall be excluded;

(i) any non-cash expense realized or resulting from stock option plans, employee benefit plans or post-employment benefit plans, or grants or sales to employees, officers or directors of stock, stock appreciation or similar rights, stock options, restricted stock, preferred stock or other rights shall be excluded;

(j) any (i) non-cash compensation charges or (ii) non-cash costs or expenses realized in connection with or resulting from stock appreciation or similar rights, stock options or other rights existing on the Closing Date of officers, directors and employees, in each case of such person or any of its subsidiaries, shall be excluded;

(k) accruals and reserves that are established or adjusted within 12 months after the Closing Date (excluding any such accruals or reserves to the extent that they represent an accrual of or reserve for cash expenses in any future period or amortization of a prepaid cash expense that was paid in a prior period) and that are so required to be established or adjusted in accordance with GAAP or as a result of adoption or modification of accounting policies shall be excluded;

(l) the Net Income of any person and its Subsidiaries shall be calculated by deducting the income attributable to, or adding the losses attributable to, the minority equity interests of third parties in any non-Wholly Owned Subsidiary;

(m) any unrealized gains and losses related to currency remeasurements of Indebtedness, and any unrealized net loss or gain resulting from hedging transactions for interest rates, commodities or currency exchange risk, shall be excluded;

(n) to the extent covered by insurance and actually reimbursed, or, so long as such person has made a determination that there exists reasonable evidence that such amount will in fact be reimbursed by the insurer and only to the extent that such amount is (i) not denied by the applicable carrier in writing within 180 days and (ii) in fact reimbursed within 365 days of the date of such evidence (with a deduction for any amount so added back to the extent not so reimbursed within 365 days), expenses with respect to liability or casualty events or business interruption shall be excluded; and

(o) non-cash charges for deferred Tax asset valuation allowances shall be excluded (except to the extent reversing a previously recognized increase to Consolidated Net Income).

Consolidated Net Income presented in a currency other than Dollars will be converted to Dollars based on the average exchange rate for such currency during, and applied to, each fiscal quarter or each fiscal month (at the Parent's option) in the period for which Consolidated Net Income is being calculated.

“Consolidated Secured Net Debt” shall mean, as of any date of determination, (i) Consolidated Debt to the extent secured by Liens on all or any portion of the assets of Parent or any of its Subsidiaries on such date less (ii) the Unrestricted Cash Amount on such date. Notwithstanding anything to the contrary contained above, all Indebtedness incurred pursuant to this Agreement (including any such Indebtedness

incurred pursuant to any Incremental Loan) or pursuant to Sections 6.01(b) and (v), and any Permitted Refinancing Indebtedness or Refinancing Notes (or successive Permitted Refinancing Indebtedness or Refinancing Notes) incurred under Section 6.01(b) or (v) (whether or not secured) shall be included as if secured by Liens as a component of Consolidated Debt pursuant to clause (i) of the immediately preceding sentence; provided that any such Permitted Refinancing Indebtedness (x) if unsecured, shall not constitute a component of Consolidated Secured Net Debt if, when incurred, such Indebtedness is independently permitted to be incurred under Section 6.01(p) and (y) if secured by the Collateral by a Junior Lien, shall cease to constitute a component of Consolidated Secured Net Debt for purposes of the First Lien Secured Net Leverage Ratio only, if, when incurred, such Indebtedness is independently permitted to be incurred under Section 6.01(p), and permitted to be secured under Section 6.02(gg) (or is subsequently permitted to be outstanding and secured under said Sections).

“Consolidated Total Assets” shall mean, as of any date of determination, the total assets of Parent and the Subsidiaries, determined on a consolidated basis in accordance with GAAP, but excluding amounts attributable to Investments in Unrestricted Subsidiaries, as set forth on the consolidated balance sheet of Parent as of the last day of the Test Period ending immediately prior to such date for which financial statements of Parent have been delivered (or were required to be delivered) pursuant to Section 4.01(i), 5.04(a) or 5.04(b), as applicable. Consolidated Total Assets shall be determined on a Pro Forma Basis.

“Consolidated Total Net Debt” shall mean, as of any date of determination, (i) Consolidated Debt on such date less (ii) the Unrestricted Cash Amount on such date.

“Consolidated Working Capital” shall mean, with respect to the Parent and the Subsidiaries on a consolidated basis at any date of determination, Current Assets at such date of determination minus Current Liabilities at such date of determination; provided, that increases or decreases in Consolidated Working Capital shall be calculated without regard to any changes in Current Assets or Current Liabilities as a result of (a) any reclassification in accordance with GAAP of assets or liabilities, as applicable, between current and noncurrent or (b) the effects of purchase accounting.

“Continuing Letter of Credit” shall have the meaning assigned to such term in Section 2.05(k).

“Contract Consideration” shall have the meaning assigned to such term in the definition of the term “Excess Cash Flow.”

“Contractual Obligation” shall mean, as to any person, any provision of any security issued by such person or of any agreement, instrument or other undertaking to which such person is a party or by which it or any of its property is bound.

“Control” shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise, and “Controls”, “Controlled” and “Controlling” shall have meanings correlative thereto.

“Controlled Substances Act” shall mean the Controlled Substances Act (21 U.S.C. Sections 801 et seq.), as amended from time to time, and any successor statute.

“Convertible Indebtedness” shall mean Indebtedness of Parent (which may be Guaranteed by the Guarantors) permitted to be incurred hereunder that is either (a) convertible or exchangeable into common stock of Parent (and cash in lieu of fractional shares) and/or cash (in an amount determined by reference to the price of such common stock) or (b) sold as units with call options, warrants or rights to purchase (or substantially equivalent derivative transactions) that are exercisable for common stock of Parent and/or cash (in an amount determined by reference to the price of such common stock).



“Convertible Notes” shall mean those certain 1.875% Convertible Notes due August 15, 2021 issued by the Parent and outstanding as of the date hereof.

“Court” shall have the meaning assigned to such term in Section 4.01(h).

“Court Order” shall have the meaning assigned to such term in Section 4.01(h).

“Court Waiver” shall have the meaning assigned to such term in Section 4.01(h).

“Covered Party” shall have the meaning assigned to such term in Section 9.23(a).

“Credit Event” shall have the meaning assigned to such term in Section 4.01.

“CTA” means the UK Corporation Tax Act 2009.

“Current Assets” shall mean, with respect to the Parent and the Subsidiaries on a consolidated basis at any date of determination, the sum of (a) all assets (other than cash, Permitted Investments or other cash equivalents) that would, in accordance with GAAP, be classified on a consolidated balance sheet of Parent and the Subsidiaries as current assets at such date of determination, other than amounts related to current or deferred Taxes based on income or profits, and (b) in the event that a Qualified Receivables Facility is accounted for off balance sheet, (x) gross accounts receivable comprising part of the Permitted Receivables Facility Assets subject to such Qualified Receivables Facility less (y) collections against the amounts sold pursuant to clause (x).

“Current Liabilities” shall mean, with respect to the Parent and the Subsidiaries on a consolidated basis at any date of determination, all liabilities that would, in accordance with GAAP, be classified on a consolidated balance sheet of Parent and the Subsidiaries as current liabilities at such date of determination, other than (a) the current portion of any Indebtedness, (b) accruals of Interest Expense (excluding Interest Expense that is due and unpaid), (c) accruals for current or deferred Taxes based on income or profits, (d) accruals, if any, of transaction costs resulting from the Transactions, (e) accruals of any costs or expenses related to (i) severance or termination of employees prior to the Closing Date or (ii) bonuses, pension and other post-retirement benefit obligations, and (f) accruals for exclusions from Consolidated Net Income included in clause (a) of the definition of such term.

“Debtor Relief Laws” shall mean the Bankruptcy Code and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, examinership, insolvency, reorganization, or similar debtor relief laws of the United States of America or other applicable jurisdictions from time to time in effect.

“Declined Prepayment Amount” shall have the meaning assigned to such term in Section 2.10(d).

“Declining Term Lender” shall have the meaning assigned to such term in Section 2.10(d).

“Default” shall mean any event or condition that upon notice, lapse of time or both would constitute an Event of Default.

“Defaulting Lender” shall mean, subject to Section 2.24, any Revolving Facility Lender that (a) has failed to (i) fund all or any portion of its Revolving Facility Loans within two (2) Business Days of the date such Loans were required to be funded hereunder or (ii) pay to the Administrative Agent, any Issuing Bank or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit) within two (2) Business Days of the date when due, (b) has notified a Borrower, Administrative Agent or any Issuing Bank in writing that it does not intend or expect to comply with its funding obligations hereunder or generally under other agreements in which it commits to extend credit, or has made a public statement to that effect, (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Parent, to confirm in writing to the Administrative Agent and the Parent that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Parent) or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States of America or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.24) upon delivery of written notice of such determination to the Parent, each Issuing Bank and each Lender.

“Designated Borrower Notice” shall have the meaning assigned to such term in Section 2.26(a).

“Designated Borrower Request and Joinder Agreement” means, with respect to any Designated Borrower, an agreement substantially in the form of Exhibit B-1 hereto (or such other form as shall be approved by the Administrative Agent and Parent (such approval not to be unreasonably withheld or delayed)) signed by such Designated Borrower and Parent and countersigned by the Administrative Agent and each Revolving Facility Lender.

“Designated Borrower Requirements” shall have the meaning assigned to such term in Section 2.26(a).

“Designated Borrowers” shall mean such Subsidiaries of Parent (other than Jazz Lux, Financing Holdings, Parent, Jazz DAC, Jazz Financing I, Jazz Ireland, Jazz UK and Jazz U.S.) as Parent may designate in writing to the Administrative Agent from time to time subject to the terms and conditions set forth in Section 2.26 hereof.

“Designated Jurisdiction” shall mean each of the United States, Ireland, England and Wales and Luxembourg.

“Designated Non-Cash Consideration” shall mean the Fair Market Value of non-cash consideration received by the Parent or one of its Subsidiaries in connection with an Asset Sale that is so designated as Designated Non-Cash Consideration pursuant to a certificate of a Responsible Officer of Parent, setting forth such valuation, less the amount of cash or cash equivalents received in connection with a subsequent disposition of such Designated Non-Cash Consideration.

“Disinterested Director” shall mean, with respect to any person and transaction, a member of the Board of Directors of such person who does not have any material direct or indirect financial interest in or with respect to such transaction.

“Dispose” or “Disposed of” shall mean to convey, sell, lease, sell and lease-back, assign, farm-out, transfer or otherwise dispose of, or Exclusively License, any property, business or asset. The term “Disposition” shall have a correlative meaning to the foregoing.

“Disposition Consideration” means, for any Exclusive License, the aggregate cash payment paid to Parent or any Subsidiary on or prior to entering into the Exclusive License (and which, for the avoidance of doubt, shall not include any purchase price adjustment, Milestone Payment, royalty, earnout, contingent payment, back-end or any other deferred payment that may be payable thereafter).

“Disqualified Lender” shall mean (i) any person that has been identified in writing to the Original Commitment Parties as a Disqualified Lender on or prior to February 3, 2021, (ii) any other persons who are competitors of GW Pharma or any of its subsidiaries or Parent or any of its Subsidiaries that are separately identified in writing by Parent to the Original Commitment Parties (or, after the Closing Date, to the Administrative Agent) as Disqualified Lenders from time to time and (iii) in each case of the foregoing clauses (i) and (ii), any of such person’s Affiliates (other than any bona-fide debt fund Affiliates of competitors identified pursuant to clause (ii)) that are either (x) identified in writing by Parent to the Administrative Agent from time to time or (y) clearly identifiable as an Affiliate on the basis of such Affiliate’s name; provided that any such designation shall not apply retroactively to disqualify any Lender that has previously acquired any Loans, Commitments or participation interest that is otherwise permitted pursuant to the terms of this Agreement; provided, further, that any such Lender shall not be permitted to acquire any further Loans, Commitments or participations from and after the date of such designation.

“Disqualified Stock” shall mean, with respect to any person, any Equity Interests of such person that, by its terms (or by the terms of any security or other Equity Interests into which it is convertible or for which it is exchangeable), or upon the happening of any event or condition (a) matures or is mandatorily redeemable (other than solely for Qualified Equity Interests of Parent), pursuant to a sinking fund obligation or otherwise, (b) is redeemable at the option of the holder thereof (other than solely for Qualified Equity Interests of Parent), in whole or in part, (c) provides for the scheduled, mandatory payments of dividends in cash, or (d) is or becomes convertible into or exchangeable for Indebtedness or any other Equity Interests that would constitute Disqualified Stock, in the case of each of the foregoing clauses (a), (b), (c) and (d), prior to the date that is ninety-one (91) days after the Latest Maturity Date in effect at the time of issuance thereof and except as a result of a change of control or asset sale so long as any rights of the holders thereof upon the occurrence of a change of control or asset sale event shall be subject to the prior repayment in full of the Loans and all other Loan Obligations that are accrued and payable and the termination of the Commitments (provided, that only the portion of the Equity Interests that so mature or are mandatorily redeemable, are so convertible or exchangeable or are so redeemable at the option of the holder thereof prior to such date shall be deemed to be Disqualified Stock). Notwithstanding the foregoing: (i) any Equity Interests issued to any employee or to any plan for the benefit of employees of Parent or the Subsidiaries or by any such plan to such employees shall not constitute Disqualified Stock solely because they may be required to be repurchased by the Parent in order to satisfy applicable statutory or regulatory obligations or as a result of such employee’s termination, death or disability and (ii) any class of Equity Interests of such person that by its terms authorizes such person to satisfy its obligations thereunder by delivery of Equity Interests that are not Disqualified Stock shall not be deemed to be Disqualified Stock.

“Dollar Equivalent” means, for any amount, at the time of determination thereof, (a) if such amount is expressed in Dollars, such amount and (b) if such amount is expressed in Euros, the equivalent of such amount in Dollars determined by using the rate of exchange for the purchase of Dollars with Euros last provided (either by publication or otherwise provided to the Administrative Agent or the Issuing Bank, as applicable) by the applicable Bloomberg source (or such other publicly available source for displaying exchange rates) on date that is two (2) Business Days immediately preceding the date of determination (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in dollars as determined by the Administrative Agent or the Issuing Bank, as applicable using any method of determination it deems appropriate in its sole discretion). Any determination by the Administrative Agent pursuant to clause (b) above shall be conclusive absent manifest error.

“Dollars” or “\$” shall mean lawful money of the United States of America.

“Domestic Subsidiary” shall mean any Subsidiary that is not a Foreign Subsidiary.

“DQ List” shall have the meaning assigned to such term in Section 9.04(i)(iv).

“Drug Acquisition” means any acquisition (including any license or any acquisition of any license) solely or primarily of all or any portion of the rights in respect of one or more drugs or pharmaceutical products, whether in development or on market, and related property or assets, but not of Equity Interests in any person or any operating business unit.

“DTTP Scheme” means HM Revenue & Customs’ Double Taxation Treaty Passport Scheme, as modified from time to time.

“DTTP2 Form” means a HM Revenue & Customs Form DTTP2 in relation to the DTTP Scheme (or such equivalent form as may be prescribed by HM Revenue & Customs under the DTTP Scheme from time to time).

“EEA Financial Institution” means (a) any credit institution or investment firm established in any EEA Member Country which is subject to the supervision of an EEA Resolution Authority, (b) any entity established in an EEA Member Country which is a parent of an institution described in clause (a) of this definition, or (c) any financial institution established in an EEA Member Country which is a subsidiary of an institution described in clauses (a) or (b) of this definition and is subject to consolidated supervision with its parent.

“EEA Member Country” means any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

“EEA Resolution Authority” means any public administrative authority or any person entrusted with public administrative authority of any EEA Member Country (including any delegee) having responsibility for the resolution of any EEA Financial Institution.

“Electronic Copy” shall have the meaning assigned to such term in Section 9.13.

“English Debenture” means the English law debenture entered into between Jazz UK and the Collateral Trustee on or about the date hereof in form and substance reasonably satisfactory to the Administrative Agent.

“English Security Documents” means the English Debenture and the English Share Pledge.

“English Share Pledge” means the English law share pledge granted by the Parent and Jazz Investments Europe Limited (a company incorporated in Malta) in favor of the Collateral Trustee on or about the date hereof over (i) all the issued shares of Jazz UK that are owned by Jazz Investments Europe Limited and (ii) the shares issued by GW Pharma held by the Parent, in form and substance reasonably satisfactory to the Administrative Agent.

“Environment” shall mean ambient and indoor air, surface water and groundwater (including potable water, navigable water and wetlands), the land surface or subsurface strata, natural resources such as flora and fauna, the workplace or as otherwise defined in any Environmental Law.

“Environmental Laws” shall mean all applicable laws (including common law), rules, regulations, codes, ordinances, orders, binding agreements, decrees or judgments, promulgated or entered into by or with any Governmental Authority, relating in any way to the Environment, preservation or reclamation of natural resources, any Hazardous Materials or to public or employee health and safety matters (to the extent relating to the Environment or Hazardous Materials).

“Environmental Permits” shall have the meaning assigned to such term in Section 3.16.

“Equity Interests” of any person shall mean any and all shares, interests, rights to purchase or otherwise acquire, warrants, options, participations or other equivalents of or interests in (however designated) equity or ownership of such person, including any preferred stock (including any preferred equity certificates (and any other similar instruments)), any limited or general partnership interest and any limited liability company membership interest, and any securities or other rights or interests convertible into or exchangeable for any of the foregoing, but excluding any Indebtedness convertible into or exchangeable for such Equity Interests. For all purposes under the Loan Documents, to the extent any Equity Interests of GW Pharma are owned by a depository, any obligation in respect of such Equity Interests may be satisfied by taking the equivalent action in respect of any depository receipts in respect such Equity Interests; provided that the beneficial owner of such depository receipts shall pledge to the Collateral Trustee all of its rights to such depository receipts pursuant to arrangements to be agreed between Parent and the Administrative Agent.

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended from time to time and any final regulations promulgated and the rulings issued thereunder.

“ERISA Affiliate” shall mean any trade or business (whether or not incorporated) that, together with the Parent or a Subsidiary, is treated as a single employer under Section 414(b) or (c) of the Code, or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

“ERISA Event” shall mean (a) any Reportable Event or the requirements of Section 4043(b) of ERISA apply with respect to a Plan; (b) with respect to any Plan, the failure to satisfy the minimum funding standard under Section 412 of the Code or Section 302 of ERISA, whether or not waived; (c) a determination that any Plan is, or is reasonably expected to be, in “at-risk” status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code); (d) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or the failure to make by its due date any required contribution to a Multiemployer Plan; (e) the incurrence by the Parent, a Subsidiary or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan or Multiemployer Plan; (f) the receipt by the Parent, a Subsidiary or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or to appoint a trustee to administer any Plan under Section 4042 of ERISA; (g) the incurrence by the Parent, a Subsidiary or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; (h) the receipt by the Parent, a Subsidiary or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Parent,

a Subsidiary or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is reasonably expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA, or in “endangered” or “critical” status, within the meaning of Section 432 of the Code or Section 305 of ERISA; (i) the conditions for imposition of a lien under Section 303(k) of ERISA shall have been met with respect to any Plan; or (j) the withdrawal of any of Parent, a Subsidiary or any ERISA Affiliate from a Plan subject to Section 4063 of ERISA during a plan year in which such entity was a “substantial employer” as defined in Section 4001(a)(2) of ERISA or a cessation of operations that is treated as such a withdrawal under Section 4062(e) of ERISA.

“EU Bail-In Legislation Schedule” means the EU Bail-In Legislation Schedule published by the Loan Market Association (or any successor person), as in effect from time to time.

“EU Insolvency Regulation” means Regulation (EU) 2015/848 of the European Parliament and of the Council of 20 May 2015 on insolvency proceedings (recast).

“EU Loan Party” means a Loan Party incorporated in, or under the laws of, a Member State of the European Union.

“EURIBOR Successor Rate Conforming Changes” means, with respect to any proposed EURIBOR Successor Rate, any conforming changes to the Interest Period, timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definition of Business Day, timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the reasonable discretion of the Administrative Agent, to reflect the adoption and implementation of such EURIBOR Successor Rate and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines in its reasonable discretion that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such EURIBOR Successor Rate exists, in such other manner of administration as the Administrative Agent reasonably determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

“Euro” and “€” mean the single currency of the Participating Member States.

“Eurocurrency Borrowing” shall mean a Borrowing comprised of Eurocurrency Rate Loans.

“Eurocurrency Rate” means:

(a) for any Interest Period with respect to a Eurocurrency Rate Loan,

(i) denominated in Dollars, the rate per annum equal to the London Interbank Offered Rate as administered by ICE Benchmark Administration (or any other person that takes over the administration of such rate for Dollars for a period equal in length to such Interest Period) (“LIBOR”) as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be reasonably designated by the Administrative Agent from time to time) (the “LIBOR Screen Rate”) at approximately 11:00 a.m., London time, two Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(ii) denominated in Euros, the rate per annum equal to the Euro Interbank Offered Rate (“EURIBOR”), or a comparable or successor rate which rate is approved by the Administrative Agent, as published on the applicable Bloomberg screen page (or such other commercially available source providing such quotations as may be designated by the Administrative Agent from time to time) (in such case, the “EURIBOR Screen Rate”) at or about 11:00 a.m. (Brussels, Belgium time) on the Rate Determination Date with a term equivalent to such Interest Period; and

(b) for any interest calculation with respect to a ABR Loan on any date, the rate per annum equal to LIBOR, at or about 11:00 a.m., London time determined two London Banking Days prior to such date for Dollar deposits with a term of one month commencing that day;

provided that, solely in the case of the Initial Dollar Term Loans, if the Eurocurrency Rate shall be less than 0.50%, such rate shall be deemed to be 0.50% for purposes of this Agreement and (y) otherwise, if the Eurocurrency Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Eurocurrency Rate Loan” shall mean any Term Loan or Revolving Facility Loan that bears interest at a rate based on clause (a) of the definition of Eurocurrency Rate. Initial Dollar Term Loans and Revolving Loans, in each case, that are Eurocurrency Rate Loans shall be denominated in Dollars, and Initial Euro Term Loans that are Eurocurrency Rate Loans shall be denominated in in Euros. All Initial Euro Term Loans must be Eurocurrency Rate Loans.

“Eurocurrency Revolving Facility Borrowing” shall mean a Eurocurrency Borrowing of Revolving Facility Loans.

“Event of Default” shall have the meaning assigned to such term in Section 7.01.

“Excess Cash Flow” shall mean, for any period, an amount equal to the excess of:

(a) the sum, without duplication, of

(i) Consolidated Net Income of Parent for such period,

(ii) an amount equal to the amount of all non-cash charges to the extent deducted in arriving at such Consolidated Net Income and cash receipts included in clauses (a), (d), (e), (j) and (n) of the definition of Consolidated Net Income and excluded in arriving at such Consolidated Net Income,

(iii) decreases in Consolidated Working Capital for such period (other than any such decreases arising from dispositions outside the ordinary course of business by the Parent and the Subsidiaries completed during such period),

(iv) cash receipts by the Parent and its Subsidiaries in respect of Hedging Agreements during such fiscal year to the extent not otherwise included in such Consolidated Net Income; and

(v) the amount by which Tax expense deducted in determining such Consolidated Net Income for such period exceeded Taxes (including penalties and interest) paid in cash or Tax reserves set aside or payable (without duplication) by the Parent and its Subsidiaries in such period,

over (b) the sum, without duplication, of

(i) an amount equal to the amount of all non-cash credits included in arriving at such Consolidated Net Income and cash charges included in clauses (a), (b), (e) and (j) of the definition of Consolidated Net Income and included in arriving at such Consolidated Net Income,

(ii) without duplication of amounts deducted pursuant to clause (ix) below in prior years, the amount of Capital Expenditures made in cash during such period by the Parent and its Subsidiaries, except to the extent that such Capital Expenditures or acquisitions were financed with the proceeds of Indebtedness of Parent or the Subsidiaries (other than under the Revolving Facility),

(iii) the aggregate amount of all principal payments of Indebtedness of Parent and the Subsidiaries (including (A) the principal component of payments in respect of Capitalized Lease Obligations and (B) the amount of any scheduled repayment of Term Loans, but excluding (x) all other prepayments of Term Loans, (y) all prepayments of Revolving Facility Loans and (z) all prepayments in respect of any other revolving credit facility, except in the case of clauses (y) and (z) to the extent there is an equivalent permanent reduction in commitments thereunder), except to the extent financed with the proceeds of other Indebtedness (other than under the Revolving Facility) of Parent or the Subsidiaries,

(iv) increases in Consolidated Working Capital for such period (other than any such increases arising from acquisitions by the Parent and the Subsidiaries completed during such period or the application of purchase accounting),

(v) payments by the Parent and the Subsidiaries during such period in respect of long-term liabilities of Parent and the Subsidiaries other than Indebtedness, to the extent not already deducted from Consolidated Net Income,

(vi) without duplication of amounts deducted pursuant to clause (ix) below in prior fiscal years, the aggregate amount of cash consideration paid by the Parent and the Subsidiaries (on a consolidated basis) in connection with Investments (including acquisitions) made during such period pursuant to Section 6.04 (except for those Investments made under Section 6.04(b), (c), (e)(iii) and (j)(Y) (other than any Investments made in reliance on clause (a) of the definition of Available Amount or amounts accrued during such period under clause (b) of the definition of Available Amount)) to the extent that such Investments were financed with internally generated cash flow of Parent and the Subsidiaries,

(vii) the amount of Restricted Payments during such period (on a consolidated basis) by the Parent and the Subsidiaries made in compliance with Section 6.06 (other than Section 6.06(a), (b) and (c)) to the extent such Restricted Payments were financed with internally generated cash flow of Parent and the Subsidiaries,

(viii) the aggregate amount of any premium, make-whole or penalty payments actually paid in cash by the Parent and the Subsidiaries during such period that are made in connection with any prepayment of Indebtedness to the extent that such payments are not deducted in calculating Consolidated Net Income,



(ix) without duplication of amounts deducted from Excess Cash Flow in prior periods, the aggregate consideration required to be paid in cash by the Parent or any of the Subsidiaries pursuant to binding contracts (the “Contract Consideration”) entered into prior to or during such period relating to Permitted Business Acquisitions, Capital Expenditures or acquisitions of intellectual property to be consummated or made during the period of four consecutive fiscal quarters of Parent following the end of such period, provided that to the extent the aggregate amount of internally generated cash actually utilized to finance such Permitted Business Acquisitions, Capital Expenditures or acquisitions of intellectual property during such period of four consecutive fiscal quarters is less than the Contract Consideration, the amount of such shortfall shall be added to the calculation of Excess Cash Flow at the end of such period of four consecutive fiscal quarters,

(x) the amount of Taxes (including penalties and interest) paid in cash or Tax reserves set aside or payable (without duplication) in such period to the extent they exceed the amount of Tax expense deducted in determining Consolidated Net Income for such period; and

(xi) cash expenditures in respect of Hedging Agreements during such fiscal year to the extent not deducted in arriving at such Consolidated Net Income.

“Excess Cash Flow Period” shall mean each fiscal year of Parent, commencing with the fiscal year of Parent ending December 31, 2022.

“Excluded Indebtedness” shall mean all Indebtedness not incurred in violation of Section 6.01.

“Excluded Property” shall have the meaning assigned to such term in Section 5.10.

“Excluded Subsidiary” shall mean any of the following:

(a) each Immaterial Subsidiary,

(b) each Subsidiary that is not a Wholly Owned Subsidiary (but only for so long as such Subsidiary remains a non-Wholly Owned Subsidiary); provided, however, that no Subsidiary that becomes a non-Wholly Owned Subsidiary after the Closing Date shall be an Excluded Subsidiary pursuant to this clause (b) unless it also ceases to be a Subsidiary,

(c) any Insurance Subsidiary,

(d) any Foreign Subsidiary for which the provision of the guarantee could reasonably be expected to result in any violation or breach of, or conflict with, fiduciary duties of such subsidiary’s officers, directors or managers, but only if, such Subsidiary and Parent shall have used reasonable efforts to overcome any such obstacle to the provision of such guarantee,

(e) each Subsidiary that is prohibited from Guaranteeing the Obligations by any Requirement of Law or that would require consent, approval, license or authorization of a Governmental Authority to Guarantee the Obligations (unless such consent, approval, license or authorization has been received),

(f) each Subsidiary that is prohibited by any applicable contractual requirement not prohibited under this Agreement that is existing on the Closing Date or at the time such Subsidiary becomes a Subsidiary (not created in contemplation of the acquisition by Parent of such Subsidiary) from Guaranteeing the Obligations (and only for so long as such restriction or any replacement or renewal thereof is in effect),

(g) any Receivables Entity,

(h) each Unrestricted Subsidiary,

(i) GWP Trustee Company Limited,

(j) any other Subsidiary with respect to which the Administrative Agent reasonably agrees that the cost or other consequences (including, without limitations, tax consequences) of providing a Guarantee is likely to be excessive in relation to the value to be afforded thereby, and

(k) solely with respect to loans to a U.S. Borrower, (i) any Foreign Subsidiary of such U.S. Borrower, (ii) any Domestic Subsidiary of any Foreign Subsidiary of such U.S. Borrower that is a "controlled foreign corporation" within the meaning of Section 957(a) of the Code (a "CFC") or (iii) any Domestic Subsidiary of such U.S. Borrower that owns no material assets (directly or through subsidiaries) other than Equity Interests (or Equity Interests and indebtedness) of one or more Subsidiaries that are CFCs or Equity Interests of other FSHCOs (a "FSHCO");

provided that (x) notwithstanding the foregoing, except pursuant to clause (k) above, no Borrower and no Subsidiary of Parent that directly or indirectly owns capital stock of a Borrower constitutes an Excluded Subsidiary and (y) it is acknowledged that, as of the Closing Date, each Subsidiary of GW Pharma incorporated in Australia, France, Germany, Italy, Japan, the Netherlands and Spain is an Excluded Subsidiary pursuant to clause (a) or (j) above.

"Excluded Swap Obligation" shall mean, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of (a) such Guarantor's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder or (b) in the case of a Swap Obligation subject to a clearing requirement pursuant to Section 2(h) of the Commodity Exchange Act (or any successor provision thereto), because such Guarantor is a "financial entity," as defined in Section 2(h)(7)(C)(i) of the Commodity Exchange Act (or any successor provision thereto), in each case at the time the Guarantee of such Guarantor or the grant of such security interest becomes effective with respect to such Swap Obligation, unless otherwise agreed between the Administrative Agent and the Parent. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

"Excluded Taxes" shall mean, with respect to the Administrative Agent, any Lender Party or any other recipient of any payment made by or on account of any obligation of any Loan Party under any Loan Document,

(a) Taxes imposed on (or measured by) overall net income (however denominated), and including, for the avoidance of doubt, franchise and similar Taxes imposed (in lieu of net income Taxes), in each case, imposed as (i) a result of such recipient being organized under the laws of, having its principal office or, in the case of any Lender, its applicable lending office located in, being engaged in a trade or business in, being treated as resident or having a permanent establishment for tax purposes in, the jurisdiction imposing such tax (including any political subdivision thereof), or (ii) a result of any other present or former connection between such recipient and the jurisdiction (or any political subdivision thereof) of the Governmental Authority imposing such Tax (other than a connection arising solely from such recipient having executed,

delivered, performed its obligations or received a payment under, received or perfected a security interest under, having been a party to, having enforced, or having engaged in any other transaction pursuant to this Agreement or any other Loan Document and/or sold or assigned an interest in any Loan or Loan Document);

(b) any branch profits Taxes under Section 884(a) of the Code, or any similar Taxes, imposed by a jurisdiction described in clause (a) of this definition;

(c) solely in respect of any Loan to the U.S. Borrower, any U.S. federal withholding Taxes imposed on or with respect to amounts payable to a Non-U.S. Lender by a law in effect on the date on which such Non-U.S. Lender becomes a party hereto (or designates a new Lending Office), except (i) to the extent that such Non-U.S. Lender (or its assignor) was entitled, at the time of designation of a new Lending Office (or assignment), to receive additional amounts from the applicable Loan Party with respect to such withholding Tax pursuant to Section 2.17, or (ii) if such Non-U.S. Lender is an assignee pursuant to a request by the applicable Borrower under Section 2.19;

(d) solely in respect of any Loan to a U.S. Borrower, any U.S. federal withholding Taxes attributable to such recipient's failure to timely comply with Section 2.17(f); or

(e) any U.S. federal Taxes imposed under FATCA.

“Exclusive License” means, with respect to any drug or pharmaceutical product, any license to develop, commercialize, sell, market and promote such drug or pharmaceutical product with a term greater than five (5) years (unless terminable prior to such time without material penalty or premium by the applicable Loan Party) and which provides for exclusive rights to develop, commercialize, sell, market and promote such drug or product within the United States; provided that the following shall not be an “Exclusive License” or another “Investment”: (a) any license to import, export, distribute or sell any such drug or product on an exclusive basis within any particular geographic region or territory, (b) any licenses, which may be exclusive, to manufacture or package any such drug or product, (c) any license to manufacture, use, offer for sale or sell any authorized generic version of such drug or product, (d) any non-exclusive license and (e) any co-commercialization agreement. “Exclusively License” shall have the correlative meaning.

“Existing Class Loans” shall have the meaning assigned to such term in Section 9.08(f).

“Existing Credit Agreement” shall mean that certain Credit Agreement by and among Parent, Bank of America, N.A., as Collateral Agent and Administrative Agent, and the other parties thereto, dated as of June 18, 2015 (as amended, restated, supplemented or otherwise modified from time to time prior to the Closing Date) (including any refinancing, renewal, replacement, amendment, amendment and restatement or extension thereof prior to the Closing Date).

“Existing Letter of Credit” shall have the meaning assigned to such term in Section 2.05(a).

“Extended Revolving Facility Commitment” shall have the meaning assigned to such term in Section 2.22(a).

“Extended Revolving Loan” shall have the meaning assigned to such term in Section 2.22(a).

“Extended Term Loan” shall have the meaning assigned to such term in Section 2.22(a).

“Extending Lender” shall have the meaning assigned to such term in Section 2.22(a).

“Extension” shall have the meaning assigned to such term in Section 2.22(a).

“Extension Amendment” shall have the meaning assigned to that term in Section 2.22(b).

“Facility” shall mean the respective facility and commitments utilized in making Loans and credit extensions hereunder, it being understood that, as of the Closing Date there are two Facilities (*i.e.*, the Initial Term Facility and the Revolving Facility) and thereafter, the term “Facility” may include any other Class of Commitments and the extensions of credit thereunder.

“Fair Market Value” shall mean, with respect to any asset or property, the price that could be negotiated in an arms'-length transaction between a willing seller and a willing buyer, neither of whom is under undue pressure or compulsion to complete the transaction (as determined in good faith by Parent), including reliance on the most recent real property tax bill or assessment in the case of Real Property.

“FATCA” shall mean Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), or any current or future Treasury Regulations promulgated thereunder or official administrative interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Code, as of the date of this Agreement (or any amended or successor version described above) or any intergovernmental agreement (and related law or other official rules or administrative guidance) entered into in connection with the implementation of such Sections of the Code.

“FCPA” shall mean the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder.

“Federal Funds Effective Rate” shall mean, for any day, the rate per annum calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depository institutions (as determined in such manner as the Federal Reserve Bank of New York shall set forth on its public website from time to time) and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the federal funds effective rate; provided that if the Federal Funds Effective Rate as so determined would be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

“Fee Letter” shall mean that certain Amended and Restated Fee Letter dated as of February 19, 2021 by and among, *inter alia*, Parent, the Administrative Agent and the Arrangers (as such Fee Letter may be amended, restated, supplemented or otherwise modified).

“Fees” shall mean the Commitment Fees, the L/C Participation Fees, the Issuing Bank Fees and the Administrative Agent Fees.

“Financial Covenants” shall mean the covenants of Parent set forth in Section 6.12.

“Financial Officer” of any person shall mean the chief financial officer, principal accounting officer, senior vice president of finance, treasurer, controller or other director or executive responsible for the financial affairs of such person.

“Financing Holdings” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“First Lien Secured Net Leverage Ratio” shall mean, as of any date of determination, the ratio of (a) the remainder of (x) Consolidated Secured Net Debt as of such date minus (y) amounts included in clause (i) of the definition of Consolidated Secured Net Debt (and not described in the last sentence of the definition of Consolidated Secured Net Debt, unless excluded by the proviso thereto) which are secured only by Liens on the Collateral securing the Obligations on a junior and subordinated (as to liens and related rights and remedies only) basis and which are subject to the Collateral Trust Agreement or any other Intercreditor Agreements, to (b) Adjusted Consolidated EBITDA for the most recently ended Test Period for which financial statements of Parent have been delivered as required by this Agreement, all determined on a consolidated basis in accordance with GAAP; provided that Adjusted Consolidated EBITDA shall be determined for the relevant Test Period on a Pro Forma Basis. All Indebtedness described in the last sentence of the definition of Consolidated Secured Net Debt (and not excluded by the proviso thereto) shall also be deemed to constitute Indebtedness included pursuant to the preceding clause (a)(x) and which is not deducted pursuant to the preceding clause (a)(y).

“Fitch” shall mean Fitch Group, Inc., a jointly-owned subsidiary of Hearst Corporation and Fimalac, S.A., and any successor to its rating agency business.

“Fixed Amounts” shall have the meaning assigned to such term in Section 1.08(d).

“Fixed Incremental Amount” shall mean an amount equal to the greater of (x) \$1,200,000,000 and (y) 100% of Adjusted Consolidated EBITDA determined on a Pro Forma Basis for the most recently ended Test Period for which financial statements of Parent have been delivered as required by this Agreement.

“Foreign Borrower” means any Borrower that is a Foreign Loan Party.

“Foreign Guarantor” means Parent and each Guarantor that is a Foreign Subsidiary.

“Foreign Loan Party” means Parent and each Loan Party that is a Foreign Subsidiary.

“Foreign Pension Plan” means any plan, fund (including, without limitation, any superannuation fund) or other similar program established or maintained outside the United States by Parent or any Subsidiary primarily for the benefit of employees of Parent or any Subsidiary residing outside the United States, which provides, or results in, retirement income, a deferral of income in contemplation of retirement or payments to be made upon termination of employment, and which is not subject to ERISA or the Code.

“Foreign Subsidiary” shall mean any Subsidiary that is incorporated, registered or organized under the laws of any jurisdiction other than the United States of America, any state thereof or the District of Columbia.

“Fronting Exposure” shall mean, at any time there is a Defaulting Lender, with respect to any Issuing Bank, such Defaulting Lender’s Revolving Facility Percentage of Revolving L/C Exposure with respect to Letters of Credit issued by such Issuing Bank other than such Revolving L/C Exposure as to which such Defaulting Lender’s participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

“FSHCO” shall have the meaning assigned to such term in clause (k) of the definition of “Excluded Subsidiary.”

“GAAP” shall mean generally accepted accounting principles in effect from time to time in the United States of America, applied on a consistent basis, subject to the provisions of Section 1.02.

“Gibraltar Share Charge” means a charge granted by the Loan Parties over the Equity Interests issued by Jazz Pharmaceuticals Europe Holdings Limited in favor of the Collateral Trustee, which charge shall be in form and substance reasonably satisfactory to the Administrative Agent.

“Governmental Authority” shall mean any federal, state, local or foreign court or governmental agency, authority, instrumentality or regulatory or legislative body (including but not limited to the Financial Conduct Authority, the Prudential Regulation Authority and any supra-national bodies such as the European Union or the European Central Bank).

“Guarantee” of or by any person (the “guarantor”) shall mean (a) any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other monetary obligation payable or performable by another person (the “primary obligor”) in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (iv) entered into for the purpose of assuring in any other manner the holders of such Indebtedness or other obligation of the payment thereof or to protect such holders against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of the guarantor securing any Indebtedness or other obligation (or any existing right, contingent or otherwise, of the holder of Indebtedness or other obligation to be secured by such a Lien) of any other person, whether or not such Indebtedness or other obligation is assumed by the guarantor (other than Liens on Equity Interests of Unrestricted Subsidiaries securing Indebtedness of such Unrestricted Subsidiaries); provided, however, that the term “Guarantee” shall not include endorsements of instruments for deposit or collection in the ordinary course of business or customary and reasonable indemnity obligations in effect on the Closing Date or entered into in connection with any acquisition or Disposition of assets permitted by this Agreement (other than such obligations with respect to Indebtedness). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the Indebtedness or other obligation in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by such person in good faith. The amount of the Indebtedness or other obligation subject to any Guarantee provided by any person for purposes of clause (b) above shall (unless the applicable Indebtedness has been assumed by such person or is otherwise recourse to such person) be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness or other obligation and (B) the Fair Market Value of the property encumbered thereby.

“Guarantee Agreement” shall mean the Guarantee Agreement substantially in the form of Exhibit M dated as of the Closing Date as may be amended, restated, supplemented or otherwise modified from time to time, between each Loan Party and the Administrative Agent. The Guarantee Agreement shall also be deemed to include any guaranty agreement prepared under applicable local law (in the case of a Foreign Loan Party) where the Administrative Agent has reasonably determined, based on the advice of counsel and subject to the Agreed Guarantee and Security Principles, that a separate Guarantee (or modified form of Guarantee) is preferable under relevant local law.

“guarantor” shall have the meaning assigned to such term in the definition of the term “Guarantee.”

“Guarantors” shall mean (A) Parent, (B) each Subsidiary of Parent that is a party to the Guarantee Agreement as of the Closing Date and (C) each Subsidiary of Parent that becomes a party to the Guarantee Agreement after the Closing Date pursuant to Section 5.10, whether existing on the Closing Date or established, created or acquired after the Closing Date, unless and until such time as the respective Subsidiary is released from its obligations under the Guarantee Agreement in accordance with the terms

and provisions hereof or thereof; provided that, for the avoidance of doubt, each Borrower shall be party to the Guarantee Agreement and shall provide a Guarantee of the Obligations (other than its own primary Obligations) provided further that, notwithstanding anything to the contrary herein or in any other Loan Document, the Guarantees and obligations of the Guarantors shall be subject to the Agreed Guarantee and Security Principles.

“GW Pharma” shall have the meaning assigned to such term in the recitals to this Agreement.

“GW Pharma Joinder Date” means the date that is 60 days following the Closing Date (subject to an automatic extension to 90 days to the extent needed, so long as Parent and the applicable Subsidiaries have used reasonable efforts to satisfy the requirements set forth on Schedule 1.01(C) within 60 days of the Closing Date) or such later date as may be consented to by the Administrative Agent (such consent not to be unreasonably withheld or delayed).

“Hazardous Materials” shall mean all pollutants, contaminants, wastes, chemicals, materials, substances and constituents, including, without limitation, explosive or radioactive substances or petroleum by products or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, radon gas or pesticides, fungicides, fertilizers or other agricultural chemicals, of any nature subject to regulation or which can give rise to liability under any Environmental Law.

“Hedge Bank” shall mean any person that is (or any Affiliate of any person that is) an Agent, an Arranger or a Lender on the Closing Date (or any person that becomes an Agent, Arranger or Lender or Affiliate thereof after the Closing Date) and that enters into, or is a party to, a Hedging Agreement with the Parent or any of its Subsidiaries, in each case, in its capacity as a party to such Hedging Agreement.

“Hedging Agreement” shall mean any agreement with respect to any swap, forward, future or derivative transaction, or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value, or credit spread transaction, repurchase transaction, reserve repurchase transaction, securities lending transaction, weather index transaction, spot contracts, fixed price physical delivery contracts, or any similar transaction or any combination of these transactions, in each case of the foregoing, whether or not exchange traded; provided, that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of Parent or any of the Subsidiaries shall be a Hedging Agreement.

“Honor Date” shall have the meaning assigned to such term in Section 2.05(c)(i).

“Impacted Loans” shall have the meaning assigned to such term in Section 2.14(a).

“Immaterial Subsidiary” shall mean any Subsidiary that (a) did not, as of the last day of the fiscal quarter of Parent most recently ended for which financial statements have been (or were required to be) delivered pursuant to Section 4.01(j), 5.04(a) or 5.04(b), have assets with a value in excess of 5.0% of the Consolidated Total Assets and revenues representing in excess of 5.0% of total revenues of Parent and the Subsidiaries on a consolidated basis as of such date, and (b) taken together with all such Subsidiaries as of such date, did not have assets with a value in excess of 10.0% of Consolidated Total Assets and revenues representing in excess of 10.0% of total revenues of Parent and the Subsidiaries on a consolidated basis as of such date.

“Increased Amount” of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness or in the form of common stock of Parent, the accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies.

“Incremental Amount” shall mean, at any time, the sum of:

- (a) the Fixed Incremental Amount;
- (b) the Prepayment-Based Incremental Amount; and
- (c) the Ratio-Based Incremental Amount;

provided, for the avoidance of doubt, that the Incremental Amount specified in (a) and (b) above shall be reduced by usage of such Incremental Amount pursuant to Section 6.01(v).

“Incremental Assumption Agreement” shall mean an Incremental Assumption Agreement in form and substance reasonably satisfactory to the Administrative Agent, among the applicable Borrower, the Administrative Agent and, if applicable, one or more Incremental Term Lenders and/or Incremental Revolving Facility Lenders.

“Incremental Commitment” shall mean an Incremental Term Loan Commitment or an Incremental Revolving Facility Commitment.

“Incremental Facility” shall mean the Incremental Commitments and the Incremental Loans made thereunder.

“Incremental Loan” shall mean an Incremental Term Loan or an Incremental Revolving Loan.

“Incremental Revolving Facility Commitment” shall mean the commitment of any Lender, established pursuant to Section 2.21, to make Incremental Revolving Loans to the any Borrower.

“Incremental Revolving Facility Lender” shall mean a Lender with an Incremental Revolving Facility Commitment or an outstanding Incremental Revolving Loan.

“Incremental Revolving Loan” shall mean Revolving Facility Loans made by one or more Revolving Facility Lenders to any Borrower pursuant to an Incremental Revolving Facility Commitment to make additional Initial Revolving Loans.

“Incremental Term Lender” shall mean a Lender with an Incremental Term Loan Commitment or an outstanding Incremental Term Loan.

“Incremental Term Loan Commitment” shall mean the commitment of any Lender, established pursuant to Section 2.21, to make Incremental Term Loans to any Borrower.

“Incremental Term Loans” shall mean (i) Term Loans made by one or more Lenders to any Borrower pursuant to Section 2.01(d) consisting of additional Initial Term Loans and (ii) to the extent permitted by Section 2.21 and provided for in the relevant Incremental Assumption Agreement, Other Incremental Term Loans.

“Incurrence-Based Amounts” shall have the meaning assigned to such term in Section 1.08(d).



“Indebtedness” of any person shall mean, without duplication, (a) all obligations of such person for borrowed money, (b) all obligations of such person evidenced by bonds, debentures, notes or similar instruments (except any such obligation issued in the ordinary course of business with a maturity date of no more than six months in a transaction intended to extend payment terms of trade payables or similar obligations to trade creditors incurred in the ordinary course of business), (c) all obligations of such person under conditional sale or other title retention agreements relating to property or assets purchased by such person (except any such obligation that constitutes a trade payable or similar obligation to a trade creditor incurred in the ordinary course of business), (d) all obligations of such person issued or assumed as the deferred purchase price of property or services (except any such balance that (i) constitutes a trade payable or similar obligation to a trade creditor incurred in the ordinary course of business, (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such person in accordance with GAAP and (iii) liabilities accrued in the ordinary course of business) which purchase price is due more than six months after the date of placing the property in service or taking delivery and title thereto, (e) all Guarantees by such person of Indebtedness of others, (f) all Capitalized Lease Obligations of such person, (g) obligations under any Hedging Agreements, to the extent the foregoing would appear on a balance sheet of such person as a liability, (h) the principal component of all obligations, contingent or otherwise, of such person as an account party in respect of letters of credit, (i) the principal component of all obligations of such person in respect of bankers’ acceptances, (j) the amount of all obligations of such person with respect to the redemption, repayment or other repurchase of any Disqualified Stock (excluding accrued dividends that have not increased the liquidation preference of such Disqualified Stock), (k) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such person (other than Liens on Equity Interests of Unrestricted Subsidiaries securing Indebtedness of such Unrestricted Subsidiaries), whether or not the Indebtedness secured thereby has been assumed and (l) all Attributable Receivables Indebtedness with respect to a Qualified Receivables Facility. The amount of Indebtedness of any person for purposes of clause (k) above shall (unless such Indebtedness has been assumed by such person or is otherwise recourse to such person) be deemed to be equal to the lesser of (A) the aggregate unpaid amount of such Indebtedness and (B) the Fair Market Value of the property encumbered thereby. For the avoidance of doubt, and without limitation of the foregoing, Convertible Indebtedness shall at all times prior to the repurchase, conversion or payment thereof be valued at the full stated principal amount thereof and shall not include any reduction or appreciation in value of the shares and/or cash deliverable upon conversion thereof. Notwithstanding anything in this Agreement to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Financial Accounting Standards Board Accounting Standards Codification 825 and related interpretations to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness and any such amounts that would have constituted Indebtedness under this Agreement but for the application of this sentence shall not be deemed an incurrence of Indebtedness under this Agreement.

“Indemnified Taxes” shall mean all Taxes imposed on or with respect to any payment by or on account of any obligation of any Loan Party hereunder or under any other Loan Document other than (a) Excluded Taxes and (b) Other Taxes.

“Indemnitee” shall have the meaning assigned to such term in Section 9.05(b).

“Information” shall have the meaning assigned to such term in Section 3.14(a).

“Information Memorandum” shall mean the Lender Presentation dated April 12, 2021, as modified or supplemented prior to the Closing Date.

“Initial Dollar Term Facility” shall mean the Initial Dollar Term Loan Commitments and the Initial Dollar Term Loans made hereunder.

“Initial Dollar Term Loan Commitment” shall mean, with respect to each Term Lender, the commitment of such Term Lender to make Initial Dollar Term Loans hereunder. The amount of each Term Lender’s Initial Dollar Term Loan Commitment as of the Closing Date is set forth on Schedule 2.01. The aggregate amount of the Initial Dollar Term Loan Commitments as of the Closing Date is \$3,100,000,000.

“Initial Dollar Term Loans” shall mean (a) the term loans denominated in Dollars made by the Term Lenders to Jazz Lux on the Closing Date pursuant to Section 2.01(b) and (b) any Incremental Term Loans denominated in Dollars in the form of additional Initial Dollar Term Loans made by the Incremental Term Lenders to any Borrower pursuant to Section 2.01(d).

“Initial Euro Term Facility” shall mean the Initial Euro Term Loan Commitments and the Initial Euro Term Loans made hereunder.

“Initial Euro Term Loan Commitment” shall mean, with respect to each Term Lender, the commitment of such Term Lender to make Initial Euro Term Loans hereunder. The amount of each Term Lender’s Initial Euro Term Loan Commitment as of the Closing Date is set forth on Schedule 2.01. The aggregate amount of the Initial Dollar Term Loan Commitments as of the Closing Date is €625,000,000.

“Initial Euro Term Loans” shall mean (a) the term loans denominated in Euros made by the Term Lenders to Jazz Lux on the Closing Date pursuant to Section 2.01(b) and (b) any Incremental Term Loans denominated in Euros in the form of additional Initial Euro Term Loans made by the Incremental Term Lenders to any Borrower pursuant to Section 2.01(d).

“Initial Revolving Loan” shall mean a Revolving Facility Loan made (i) pursuant to the Revolving Facility Commitments in effect on the Closing Date (as the same may be amended from time to time in accordance with this Agreement) or (ii) pursuant to any Incremental Revolving Facility Commitment made on the same terms as (and forming a single Class with) the Revolving Facility Commitments referred to in clause (i) of this definition.

“Initial Term Borrowing” shall mean any Borrowing comprised of Initial Term Loans.

“Initial Term Facilities” shall mean the Initial Dollar Term Facility and the Initial Euro Term Facility.

“Initial Term Facility Maturity Date” shall mean the seventh anniversary of the Closing Date.

“Initial Term Loan Installment Date” shall have the meaning assigned to such term in Section 2.10(a)(i).

“Initial Term Loans” shall mean (a) the Initial Dollar Term Loans and (b) the Initial Euro Term Loans.

“Insurance Subsidiary” shall have the meaning assigned to such term in Section 6.04(y).

“Intellectual Property” shall mean the following intellectual property rights, both statutory and common law rights, if applicable: (a) copyrights, registrations and applications for registration thereof, (b) trademarks, service marks, trade names, slogans, domain names, logos, trade dress and registrations and applications of registrations thereof, (c) patents, as well as any reissued and reexamined patents and extensions corresponding to the patents and any patent applications, as well as any related continuation, continuation in part and divisional applications and patents issuing therefrom and (d) trade secrets and confidential information, including ideas, designs, concepts, compilations of information, methods, techniques, procedures, processes and other know-how, whether or not patentable.

“Intercreditor Agreement” shall mean the Collateral Trust Agreement and each Additional Intercreditor Agreement (as defined in Section 8.11).

“Interest Coverage Ratio” shall mean, as of any date of determination, the ratio of (a) Adjusted Consolidated EBITDA for the most recently ended Test Period for which financial statements of Parent have been delivered (or were required to be delivered) as required by this Agreement to (b) Consolidated Cash Interest Expense for such Test Period, all determined on a consolidated basis in accordance with GAAP; provided that Adjusted Consolidated EBITDA shall be determined for the relevant Test Period on a Pro Forma Basis.

“Interest Election Request” shall mean a request by the Parent to convert or continue a Borrowing in accordance with Section 2.07 and substantially in the form of Exhibit E or another form (including any form on an electronic platform or electronic transmission system as shall be approved by the Administrative Agent) approved by the Administrative Agent.

“Interest Expense” shall mean, with respect to any person for any period, the sum of, without duplication, (a) net interest expense of such person for such period on a consolidated basis, (i) including (1) the amortization of debt discounts, (2) the amortization of all fees (including fees with respect to Hedging Agreements) payable in connection with the incurrence of Indebtedness to the extent included in interest expense, (3) the portion of any payments or accruals with respect to Capitalized Lease Obligations allocable to interest expense and (4) net payments and receipts (if any) pursuant to interest rate hedging obligations, and (ii) excluding (1) unrealized mark-to-market gains and losses attributable to interest rate hedging obligations, (2) amortization of deferred financing fees and (3) expensing of any bridge or other financing fees, (b) capitalized interest of such person, whether paid or accrued, and (c) commissions, discounts, yield and other fees and charges incurred for such period, including any losses on sales of receivables and related assets, in connection with any receivables financing of such person or any of its Subsidiaries that are payable to persons other than the Parent and the Subsidiaries.

“Interest Payment Date” shall mean, (a) as to any Eurocurrency Rate Loan, the last day of each Interest Period applicable to such Loan and the Maturity Date of the Facility under which such Loan was made; provided, however, that if any Interest Period for a Eurocurrency Rate Loan exceeds three months, the respective dates that fall every three months after the beginning of such Interest Period shall also be Interest Payment Dates; and (b) as to any ABR Loan, the last Business Day of each March, June, September and December and the Maturity Date of the Facility under which such Loan was made.

“Interest Period” shall mean, as to each Eurocurrency Rate Loan, the period commencing on the date such Eurocurrency Rate Loan is disbursed or converted to or continued as a Eurocurrency Rate Loan and ending on the date one, three or six months thereafter (in each case, subject to availability for the interest rate applicable to the relevant currency), as selected by Parent in its Borrowing Request, or such other period that is twelve months or less requested by Parent and consented to by all the applicable Lenders; provided that:

(i) any Interest Period that would otherwise end on a day that is not a Business Day shall be extended to the next succeeding Business Day unless, in the case of a Eurocurrency Rate Loan, such Business Day falls in another calendar month, in which case such Interest Period shall end on the next preceding Business Day;

(ii) any Interest Period pertaining to a Eurocurrency Rate Loan that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall end on the last Business Day of the calendar month at the end of such Interest Period; and

(iii) no Interest Period shall extend beyond the Maturity Date.

“Investment” shall have the meaning assigned to such term in Section 6.04.

“Irish Borrowers” shall have meaning assigned to such term in the introductory paragraph of this Agreement.

“Irish Debenture” means an Irish law governed debenture, entered into by the Loan Parties that are incorporated in Ireland in favor of the Collateral Trustee pursuant to which such Loan Parties create fixed and floating charges over their respective assets located in Ireland, in form and substance satisfactory to the Administrative Agent.

“Irish Qualifying Lender” means a Lender Party which is beneficially entitled to interest payable to that Lender Party in respect of an advance under a Loan Document and:

(a) which is a bank within the meaning of section 246(1) of the TCA which is carrying on a bona fide banking business in Ireland for the purposes of section 246(3)(a) of the TCA; or

(b) which is a body corporate:

(i) which, by virtue of the law of a Relevant Territory is resident in the Relevant Territory for the purposes of tax and that Relevant Territory imposes a tax that generally applies to interest receivable in that Relevant Territory by bodies corporate from sources outside that Relevant Territory; or

(ii) which is in receipt of interest under a Loan Document which:

(A) is exempted from the charge to Irish income tax pursuant to the terms of a double taxation treaty entered into between Ireland and another jurisdiction that is in force on the date the relevant interest is paid; or

(B) would be exempted from the charge to Irish income tax pursuant to the terms of a double taxation treaty entered into between Ireland and another jurisdiction signed on or before the date on which the relevant interest is paid but not in force on that date, assuming that treaty had the force of law on that date;

provided that, in the case of both (i) and (ii) above, such body corporate does not provide its commitment in connection with a trade or business which is carried on in Ireland through a branch or agency; or

(c) [reserved]; or

(d) which is a U.S. corporation that is incorporated under the laws of the United States, any State thereof or the District of Columbia and is subject to tax in the United States on its worldwide income, provided that such U.S. corporation does not provide its commitment in connection with a trade or business which is carried on in Ireland through a branch or agency; or

(e) which is a U.S. LLC, where the ultimate recipients of the interest payable to that LLC satisfy the requirements set out in (b), (c) or (d) above and the business conducted through the LLC is so structured for market reasons and not for tax avoidance purposes, provided that such LLC does not provide its commitment in connection with a trade or business which is carried on by it in Ireland through a branch or agency; or

(f) which is a body corporate:

(i) which advances money in the ordinary course of a trade which includes the lending of money;

(ii) in whose hands any interest payable in respect of money so advanced is taken into account in computing the trading income of that body corporate; and

(iii) which has complied with the notification requirements set out in Section 246(5)(a) of the TCA; or

(g) which is a qualifying company (within the meaning of section 110 of the TCA); or

(h) which is an investment undertaking (within the meaning of Section 739B of the TCA); or

(i) which is an exempted approved scheme within the meaning of section 774 of the TCA; or

(j) which is a Irish Treaty Lender.

“Irish Security Documents” means (a) the Irish Debenture and (b) any Irish law governed share security, which security documents shall be in form and substance reasonably satisfactory to the Administrative Agent.

“Irish Tax Deduction” means a deduction or withholding for or on account of any Tax imposed under the laws of Ireland required by law to be made from a payment in respect of a Loan to an Irish Borrower.

“Irish Treaty Lender” means a Lender Party (other than a Lender falling within paragraph (b), (c), (d) or (e) of the definition of “Irish Qualifying Lender”) which is on the date any relevant payment is made, is entitled (subject to provision of the relevant self-certificate form) under a Treaty in force on that date to that payment without any Irish Tax Deduction.

“IRS” means the United States Internal Revenue Service.

“ISDA Definitions” means the 2006 ISDA Definitions published by the International Swaps and Derivatives Association, Inc. or any successor thereto, as amended or supplemented from time to time, or any successor definitional booklet for interest rate derivatives published from time to time by the International Swaps and Derivatives Association, Inc. or such successor thereto.

“ISP” means the International Standby Practices, International Chamber of Commerce Publication No. 590 (or such later version thereof as may be in effect at the applicable time).

“Issuer Documents” means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by any Issuing Bank and the Borrower (or any Subsidiary) or in favor of such Issuing Bank and relating to such Letter of Credit.

“Issuing Bank” shall mean (i) each person listed as having a Letter of Credit Commitment on Schedule 2.01 and (ii) each other Issuing Bank designated pursuant to Section 2.05(l), in each case in its capacity as an issuer of Letters of Credit hereunder, and its successors in such capacity. An Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by Affiliates or designated branch offices of such Issuing Bank, in which case the term “Issuing Bank” shall include any such Affiliate or branch office with respect to Letters of Credit issued by such Affiliate or branch office. Furthermore, it is understood and agreed that Bank of America, N.A. and Royal Bank of Canada cannot issue Letters of Credit to Irish beneficiaries.

“Issuing Bank Fees” shall have the meaning assigned to such term in Section 2.12(b).

“ITA” means the U.K. Income Tax Act 2007.

“Jazz DAC” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Jazz Financing I” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Jazz Ireland” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Joint Bookrunners” shall mean, collectively, Bank of America, N.A., JPMorgan Chase Bank, N.A., Barclays Bank PLC, Citigroup Global Markets Inc., Credit Suisse Loan Funding LLC, DNB (UK) Ltd., MUFG Bank, Ltd., Royal Bank of Canada, Sumitomo Mitsui Banking Corporation and Truist Securities, Inc., in their respective capacities as joint bookrunner.

“Judgment Currency” shall have the meaning assigned to such term in Section 9.25(a).

“Judgment Currency Conversion Date” shall have the meaning assigned to such term in Section 9.25(a).

“Junior Debt Restricted Payment” shall mean, any payment or other distribution (whether in cash, securities or other property), directly or indirectly made by the Parent or any of its Subsidiaries, of or in respect of principal of or interest on any Indebtedness that is by its terms subordinated in right of payment to the Loan Obligations (each of the foregoing, a “Junior Financing”); provided that the following shall not constitute a Junior Debt Restricted Payment:

(a) Refinancings with any Permitted Refinancing Indebtedness permitted to be incurred under Section 6.01;

(b) payments of regularly-scheduled interest and fees due thereunder, other non-principal payments thereunder, any mandatory prepayments of principal, interest and fees thereunder, scheduled payments thereon necessary to avoid the Junior Financing from constituting “applicable high yield discount obligations” within the meaning of Section 163(i)(1) of the Code, and, to the extent this Agreement is then in effect, principal on the scheduled maturity date of any Junior Financing;

(c) payments or distributions in respect of all or any portion of the Junior Financing with the proceeds from the issuance, sale or exchange by the Parent of Qualified Equity Interests within eighteen months prior thereto; provided, that such proceeds are not included in any determination of the Available Amount; or

(d) the conversion of any Junior Financing to Qualified Equity Interests of Parent.

“Junior Financing” shall have the meaning assigned to such term in the definition of the term “Junior Debt Restricted Payment.”

“Junior Liens” shall mean Liens on the Collateral that are junior to the Liens thereon securing the Initial Term Loans (and other Loan Obligations, other than Other Incremental Term Loans and Refinancing Term Loans that rank junior in right of security with the Initial Term Loans) pursuant to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such Liens.

“Latest Maturity Date” shall mean, at any date of determination, the latest of the latest Revolving Facility Maturity Date and the latest Term Facility Maturity Date, in each case then in effect on such date of determination.

“L/C Advance” means, with respect to each Revolving Facility Lender, such Lender’s funding of its participation in any L/C Borrowing in accordance with its Revolving Facility Percentage. All L/C Advances shall be denominated in Dollars.

“LCA Election” shall have the meaning assigned to such term in Section 1.08(c)(ii).

“LCA Test Date” shall have the meaning assigned to such term in Section 1.08(c)(ii).

“L/C Borrowing” means an extension of credit resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced as a Revolving Facility Borrowing. All L/C Borrowings shall be denominated in Dollars.

“L/C Disbursement” shall mean a payment or disbursement made by an Issuing Bank pursuant to a Letter of Credit.

“L/C Obligations” means, as at any date of determination, the aggregate amount available to be drawn under all outstanding Letters of Credit plus the aggregate of all Unreimbursed Amounts, including all L/C Borrowings. For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.07. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

“L/C Participation Fee” shall have the meaning assigned to such term in Section 2.12(b).

“Lender” shall mean each financial institution listed on Schedule 2.01 (other than any such person that has ceased to be a party hereto pursuant to an Assignment and Acceptance in accordance with Section 9.04), as well as any person that becomes a “Lender” hereunder pursuant to Section 9.04, Section 2.21, Section 2.22 or Section 2.23.

“Lender Party” shall mean any Lender or Issuing Bank.

“Lending Office” shall mean, as to any Lender, the applicable branch, office or Affiliate of such Lender designated by such Lender to make Loans.

“Letter of Credit” shall mean any standby letter of credit issued hereunder, providing for the payment of cash upon the honoring of a presentation thereunder and shall include the Existing Letters of Credit.

“Letter of Credit Commitment” means, as to any Issuing Bank, (a) the amount set forth opposite such Issuing Bank’s name on Schedule 2.01 under the caption “Letter of Credit Commitment” or (b) if such Issuing Bank has entered into one or more Assignment and Acceptances, the amount set forth for such Issuing Bank in the Register as such Issuing Bank’s “Letter of Credit Commitment”, as such amount may be reduced at or prior to such time pursuant to Section 2.08.

“Letter of Credit Expiration Date” shall mean, with respect to any Revolving Facility, the fifth Business Day prior to the Revolving Facility Maturity Date for such Revolving Facility.

“Letter of Credit Request” shall mean a request by the applicable Borrower (for its own account or jointly for its account and the account of any of its Subsidiaries) for the issuance or amendment of a Letter of Credit in such form (including any form on an electronic platform or electronic transmission system as shall be approved by the applicable Issuing Bank) as shall be approved by the applicable Issuing Bank.

“Letter of Credit Sublimit” means an amount equal to the lesser of (a) \$150,000,000 and (b) the aggregate amount of the Issuing Banks’ Letter of Credit Commitments at such time, as such amount may be reduced pursuant to Section 2.08. The Letter of Credit Sublimit is part of, and not in addition to, the Revolving Facility.

“Liabilities” means any losses, claims (including intraparty claims), demands, damages or liabilities of any kind.

“LIBOR” has the meaning specified in the definition of Eurocurrency Rate.

“LIBOR Screen Rate” has the meaning specified in the definition of Eurocurrency Rate.

“LIBOR Successor Rate” has the meaning specified in Section 2.14(c).

“LIBOR Successor Rate Conforming Changes” means, with respect to any proposed LIBOR Successor Rate, any conforming changes to the definition of ABR, Interest Period, timing and frequency of determining rates and making payments of interest and other technical, administrative or operational matters (including, for the avoidance of doubt, the definition of Business Day, timing of borrowing requests or prepayment, conversion or continuation notices and length of lookback periods) as may be appropriate, in the reasonable discretion of the Administrative Agent, to reflect the adoption and implementation of such LIBOR Successor Rate and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines in its reasonable discretion that adoption of any portion of such market practice is not administratively feasible or that no market practice for the administration of such LIBOR Successor Rate exists, in such other manner of administration as the Administrative Agent reasonably determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

“Lien” shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, hypothecation, pledge, charge, security interest or similar monetary encumbrance in or on such asset and (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset; provided, that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.



“Limited Condition Acquisition” means any acquisition, including by means of a merger, amalgamation or consolidation, by the Parent or one or more of its subsidiaries, the consummation of which is not conditioned upon the availability of, or on obtaining, third party financing or in connection with which any fee or expense would be payable by the Parent or its subsidiaries to the seller or target in the event financing to consummate the acquisition is not obtained as contemplated by the definitive acquisition agreement.

“Loan Documents” shall mean (i) this Agreement, (ii) the Guarantee Agreement, (iii) the Security Documents, (iv) each Incremental Assumption Agreement, (v) each Extension Amendment, (vi) each Refinancing Amendment, (vii) any Intercreditor Agreement, (viii) any Note issued under Section 2.09(e), (ix) the Letters of Credit and (x) each Designated Borrower Request and Joinder Agreement.

“Loan Obligations” shall mean (a) the due and punctual payment by each Borrower of (i) the unpaid principal of and interest, fees and expenses (including interest, fees and expenses accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) on the Loans made to each Borrower under this Agreement, when and as due, whether at maturity, by acceleration, upon one or more dates set for prepayment or otherwise, (ii) each payment required to be made by each Borrower under this Agreement in respect of any Letter of Credit, when and as due, including payments in respect of reimbursement of disbursements, interest, fees and expenses thereon (including interest, fees and expenses accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding) and obligations to provide Cash Collateral and (iii) all other monetary obligations of each Borrower owed under or pursuant to this Agreement and each other Loan Document, including obligations to pay fees, expense reimbursement obligations and indemnification obligations, whether primary, secondary, direct, contingent, fixed or otherwise (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding), and (b) the due and punctual payment of all obligations of each Loan Party under or pursuant to each of the Loan Documents (including monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding).

“Loan Parties” shall mean the Borrowers and the Guarantors.

“Loans” shall mean the Term Loans and the Revolving Facility Loans.

“Local Time” shall mean New York City time (daylight or standard, as applicable).

“Lux Borrower” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Luxembourg” shall mean the Grand Duchy of Luxembourg.

“Luxembourg Account Pledge Agreement” means the Luxembourg law governed account pledge agreement entered into between Jazz Lux and the Collateral Trustee, which shall be in form and substance satisfactory to the Administrative Agent.

“Luxembourg Share Pledge Agreement” means the Luxembourg law governed share pledge agreement entered into between Financing Holdings, the Collateral Trustee and Jazz Lux, which shall be in form and substance satisfactory to the Administrative Agent.

“Majority Lenders” of any Facility shall mean, at any time, Lenders under such Facility having Loans and unused Commitments representing more than 50% of the sum of all Loans outstanding under such Facility and unused Commitments under such Facility at such time (subject to the last paragraph of Section 9.08(b)).

“Maltese Share Pledge Agreement” means the Maltese law governed share pledge agreement entered into between Financing Holdings as pledgor, U.S. Bank National Association as Collateral Trustee and Jazz Investments Europe Limited, a limited liability company registered under the laws of Malta having company registration number C 89816 and having its registered office at 93, Mill Street, Zone 5, Central Business District, Qormi CBD 5030, Malta, which shall be in form and substance satisfactory to the Administrative Agent.

“Margin Stock” shall have the meaning assigned to such term in Regulation U.

“Material Adverse Effect” shall mean a material adverse effect on the business, property, operations or financial condition of Parent and its Subsidiaries, taken as a whole, or the validity or enforceability of any of the Loan Documents or the rights and remedies of the Administrative Agent, the Collateral Trustee, the Issuing Banks or the Lenders thereunder.

“Material Adverse Modification” shall have the meaning assigned to such term in Section 4.01(h).

“Material Indebtedness” shall mean Indebtedness (other than Loans and Letters of Credit) of any one or more of Parent or any Subsidiary in an aggregate principal amount exceeding \$100,000,000; provided that in no event shall any Qualified Receivables Facility be considered Material Indebtedness.

“Material Intellectual Property” shall mean Intellectual Property that is material to the business of Parent and its Subsidiaries, as determined by the Parent in good faith.

“Material Subsidiary” shall mean any Subsidiary, other than an Immaterial Subsidiary.

“Maturity Date” shall mean (i) with respect to any Revolving Facility, the Revolving Facility Maturity Date thereof and (ii) with respect to any Term Facility, the Term Facility Maturity Date thereof.

“Maximum Rate” shall have the meaning assigned to such term in Section 9.09.

“Milestone Payments” means payments made under Contractual Obligations existing during the period of twelve months ending on the Closing Date or Contractual Obligations arising thereafter, in each case in connection with any Permitted Business Acquisition or other acquisition or option with respect thereto (including any license or the acquisition of any license) of any rights in respect of any drug or other pharmaceutical product (and any related property or assets) to sellers (or licensors) of the assets or Equity Interests acquired (or licensed) therein based on the achievement of specified revenue, profit or other performance targets (financial or otherwise).

“Minimum L/C Collateral Amount” shall mean, at any time, in connection with any Letter of Credit, (i) with respect to Cash Collateral consisting of cash or deposit account balances, an amount equal to 102% of the Revolving L/C Exposure with respect to such Letter of Credit at such time and (ii) otherwise, an amount sufficient to provide credit support with respect to such Revolving L/C Exposure as determined by the Administrative Agent and the Issuing Banks in their sole discretion.

“Moody’s” shall mean Moody’s Investors Service, Inc.

“Multiemployer Plan” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA to which the Parent or any Subsidiary or any ERISA Affiliate (other than one considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Code Section 414) is making or accruing an obligation to make contributions, or has within any of the preceding six plan years made or accrued an obligation to make contributions.

“Net Income” shall mean, with respect to any person, the net income (loss) of such person, determined in accordance with GAAP and before any reduction in respect of preferred stock dividends.

“Net Proceeds” shall mean:

(a) 100% (or, if the First Lien Secured Net Leverage Ratio as of the date of such Asset Sale is (x) less than or equal to 3.00 to 1.00 but greater than 2.50 to 1.00, such percentage shall be 50% or (y) less than or equal to 2.50 to 1.00, such percentage shall be 0%) of the cash proceeds actually received by the Parent or any Subsidiary (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received) from any Asset Sale under Section 6.05(d) (except for any Permitted Sale Lease-Back Transaction described in clause (i) of the definition thereof) or Section 6.05(g) (except for (x) Asset Sales in connection with royalties financing arrangements and licensing of de-prioritized Intellectual Property and (y) Exclusive Licenses in an amount not to exceed the greater of \$100,000,000 in the applicable fiscal year and 1.0% of Consolidated Total Assets when received (with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value)), net of (i) attorneys’ fees, accountants’ fees, investment banking fees, survey costs, title insurance premiums, and related search and recording charges, transfer Taxes, deed or mortgage recording Taxes, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith, (ii) required payments of Indebtedness (other than Indebtedness incurred under the Loan Documents or Other First Lien Debt) and required payments of other obligations relating to the applicable asset to the extent such Indebtedness or other obligations are secured by a Lien permitted hereunder (other than pursuant to the Loan Documents, Other First Lien Debt and other than obligations secured by a Junior Lien), (iii) repayments of Other First Lien Debt (limited to its proportionate share of such prepayment, based on the amount of such then outstanding debt as a percentage of all then outstanding Indebtedness incurred under the Loan Documents (other than Other Incremental Term Loans and Refinancing Term Loans that rank junior in right of security with the Initial Term Loans) and Other First Lien Debt), (iv) Taxes paid or payable (in the good faith determination of Parent) as a direct result thereof, and (v) the amount of any reasonable reserve established in accordance with GAAP against any adjustment to the sale price or any liabilities (other than any Taxes deducted pursuant to clause (i) or (iv) above) (x) related to any of the applicable assets and (y) retained by the Parent or any of the Subsidiaries including, without limitation, pension and other post-employment benefit liabilities and liabilities related to environmental matters or against any indemnification obligations (it being understood that (1) the amount of any reduction of such reserve (other than in connection with a payment in respect of any such liability), prior to the date occurring 18 months after the date of the respective Asset Sale, shall be deemed to be cash proceeds of such Asset Sale occurring on the date of such reduction and (2) the amount of any such reserve that is maintained as of the date occurring 18 months after the date of the applicable Asset Sale shall be deemed to be Net Proceeds

from such Asset Sale as of such date); provided, that, if the Parent shall deliver a certificate of a Responsible Officer of Parent to the Administrative Agent promptly following receipt of any such proceeds setting forth the Parent's intention to use any portion of such proceeds, within 540 days of such receipt, to acquire, maintain, develop, construct, improve, upgrade or repair assets useful in the business of Parent and the Subsidiaries or to make Permitted Business Acquisitions and other Investments permitted hereunder (excluding Permitted Investments or intercompany Investments in Subsidiaries) or to reimburse the cost of any of the foregoing incurred on or after the date on which the Asset Sale giving rise to such proceeds was contractually committed (other than inventory), such portion of such proceeds shall not constitute Net Proceeds except to the extent not, within 540 days of such receipt, so used or contractually committed to be so used (it being understood that if any portion of such proceeds are not so used within such 540 day period but within such 540 day period are contractually committed to be used, then such remaining portion if not so used within 180 days following the end of such 540 day period shall constitute Net Proceeds as of such date without giving effect to this proviso); provided, further, that no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Proceeds unless such net cash proceeds shall exceed \$200,000,000 in the applicable fiscal year (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds);

(b) 100% (or, if the First Lien Secured Net Leverage Ratio as of the date of such Asset Sale is (x) less than or equal to 3.00 to 1.00 but greater than 2.50 to 1.00, such percentage shall be 50% or (y) less than or equal to 2.50 to 1.00, such percentage shall be 0%) of the cash proceeds actually received by the Parent or any Subsidiary (including casualty insurance settlements and condemnation awards, but only as and when received) from any Recovery Event, net of (i) attorneys' fees, accountants' fees, transfer Taxes, deed recording Taxes on such asset, other customary expenses and brokerage, consultant and other customary fees actually incurred in connection therewith, (ii) required payments of Indebtedness (other than Indebtedness incurred under the Loan Documents or Other First Lien Debt) and required payments of other obligations relating to the applicable asset to the extent such Indebtedness or other obligations are secured by a Lien permitted hereunder (other than pursuant to the Loan Documents, Other First Lien Debt and other than obligations secured by a Junior Lien), (iii) repayments of Other First Lien Debt (limited to its proportionate share of such prepayment, based on the amount of such then outstanding debt as a percentage of all then outstanding Indebtedness incurred under the Loan Documents (other than Other Incremental Term Loans and Refinancing Term Loans that rank junior in right of security with the Initial Term Loans) and Other First Lien Debt, and (iv) Taxes paid or payable (in the good faith determination of Parent) as a direct result thereof; provided, that, if the Parent shall deliver a certificate of a Responsible Officer of Parent to the Administrative Agent promptly following receipt of any such proceeds setting forth the Parent's intention to use any portion of such proceeds, within 540 days of such receipt, to acquire, maintain, develop, construct, improve, upgrade or repair assets useful in the business of Parent and the Subsidiaries or to make Permitted Business Acquisitions and other Investments permitted hereunder (excluding Permitted Investments or intercompany Investments in Subsidiaries) or to reimburse the cost of any of the foregoing incurred on or after the date on which the Recovery Event giving rise to such proceeds was contractually committed (other than inventory, except to the extent the proceeds of such Recovery Event are received in respect of inventory), such portion of such proceeds shall not constitute Net Proceeds except to the extent not, within 540 days of such receipt, so used or contractually committed to be so used (it being understood that if any portion of such proceeds are not so used within such 540 day period but within such 540 day period are contractually committed to be used, then such remaining portion if not so used within 180 days following the end of such 540 day period shall constitute Net Proceeds as of such date without giving effect to this proviso); provided, further, that no net cash proceeds calculated in accordance with the foregoing realized in a single transaction or series of related transactions shall constitute Net Proceeds unless such net cash proceeds shall exceed \$200,000,000 (and thereafter only net cash proceeds in excess of such amount shall constitute Net Proceeds); and

(c) 100% of the cash proceeds from the incurrence, issuance or sale by the Parent or any Subsidiary of any Indebtedness (other than Excluded Indebtedness, except for Refinancing Notes and Refinancing Term Loans), net of all fees (including investment banking fees), commissions, costs and other expenses, in each case incurred in connection with such issuance or sale.

“New Class Loans” shall have the meaning assigned to such term in Section 9.08(f).

“Non-Consenting Lender” shall have the meaning assigned to such term in Section 2.19(c).

“Non-Defaulting Lender” shall mean, at any time, each Lender that is not a Defaulting Lender at such time.

“Non-Extension Notice Date” shall have the meaning assigned that term in Section 2.05(b)(iii).

“Non-S-X Adjustment Amount” shall have the meaning assigned to such term in the definition of “Pro Forma Basis.”

“Non-U.S. Lender” means a Lender that is not a U.S. Person.

“Note” shall have the meaning assigned to such term in Section 2.09(e).

“Obligations” shall mean, collectively, (a) the Loan Obligations, (b) obligations in respect of any Secured Cash Management Agreement and (c) obligations in respect of any Secured Hedge Agreement (including, in each case, monetary obligations incurred during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding).

“OFAC” means the Office of Foreign Assets Control of the United States Department of the Treasury.

“Original Commitment Parties” means Bank of America, N.A., BofA Securities, Inc. and JPMorgan Chase Bank, N.A.

“Other First Lien Debt” shall mean obligations secured by Other First Liens.

“Other First Liens” shall mean Liens on the Collateral that are equal and ratable with the Liens thereon securing the Initial Term Loans (and other Loan Obligations that are secured by Liens on the Collateral ranking equally and ratably with the Initial Term Loans) pursuant to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such Liens.

“Other Incremental Term Loans” shall have the meaning assigned to such term in Section 2.21(a).

“Other Revolving Facility Commitments” shall mean, collectively, (a) Extended Revolving Facility Commitments to make Extended Revolving Loans and (b) Replacement Revolving Facility Commitments.

“Other Revolving Loans” shall mean, collectively (a) Extended Revolving Loans and (b) Replacement Revolving Loans.

“Other Taxes” shall mean any and all present or future stamp, court or documentary Taxes or any other excise, transfer, mortgage, recording, filing, sales, property, intangible or similar Taxes arising from any payment made hereunder or under any other Loan Document or from the execution, registration, delivery or enforcement of, consummation or administration of, or receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any cost, loss or liability incurred in relation to Luxembourg stamp duty, registration and other similar Taxes which arise in respect of any voluntary registration by the Administrative Agent or any Lender of any Loan Document (*droits d’enregistrement*) but only if such registration is made on a purely voluntary basis by the Administrative Agent or such Lender, as applicable (i.e., such registration is or was not required to maintain or preserve the rights of the Administrative Agent or such Lender, as applicable, under the Loan Documents).

“Other Term Facilities” shall mean the Other Term Loan Commitments and the Other Term Loans made thereunder.

“Other Term Loan Commitments” shall mean, collectively, (a) Incremental Term Loan Commitments and (b) commitments to make Refinancing Term Loans.

“Other Term Loan Installment Date” shall have, with respect to any Class of Other Term Loans established pursuant to an Incremental Assumption Agreement, an Extension Amendment or a Refinancing Amendment, the meaning assigned to such term in Section 2.10(a)(ii).

“Other Term Loans” shall mean, collectively, (a) Other Incremental Term Loans, (b) Extended Term Loans and (c) Refinancing Term Loans.

“Overnight Rate” means, for any day, (a) with respect to any amount denominated in Dollars, the greater of (i) the Federal Funds Effective Rate and (ii) an overnight rate determined by the Administrative Agent or the Issuing Banks, as the case may be, in accordance with banking industry rules on interbank compensation, and (b) with respect to any amount denominated in Euros, an overnight rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

“Parent” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“Participant” shall have the meaning assigned to such term in Section 9.04(c)(i).

“Participant Register” shall have the meaning assigned to such term in Section 9.04(c)(ii).

“PBGC” shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

“Perfection Certificate” shall mean the Perfection Certificate with respect to the Parent and the other Loan Parties in the form attached hereto as Exhibit I, or such other form as is reasonably satisfactory to the Administrative Agent, as the same may be supplemented from time to time to the extent required by Section 5.04(f).

“Permitted Business Acquisition” shall mean (x) any Exclusive License or (y) any acquisition of all or substantially all the assets or business of, or all or substantially all the Equity Interests (other than directors’ qualifying shares) not previously held by Parent and its Subsidiaries in, or merger, consolidation or amalgamation with, a person or business unit or division or line of business of a person (or any subsequent investment made in a person or business unit or division or line of business previously acquired in a Permitted Business Acquisition), if, in each case, (i) no Event of Default shall have occurred and be continuing immediately after giving effect thereto or would result therefrom; provided, however, that with

respect to a proposed acquisition pursuant to an executed acquisition agreement, at the option of Parent, the determination of whether such an Event of Default shall exist shall be made solely at the time of the execution of the acquisition agreement related to such Permitted Business Acquisition; (ii) all transactions related thereto shall be consummated in accordance with applicable laws; (iii) Parent shall be in Pro Forma Compliance with the Financial Covenants (if then applicable) immediately after giving effect to such acquisition or investment and any related transactions; (iv) any acquired or newly formed Subsidiary shall not be liable for any Indebtedness except for Indebtedness permitted by Section 6.01; (v) to the extent required by Section 5.10, any person acquired in such acquisition shall be merged into a Loan Party or become upon consummation of such acquisition a Guarantor; and (vi) the aggregate cash consideration in respect of all such acquisitions and investments in assets that are not owned by the Loan Parties or in Equity Interests in persons that are not Loan Parties or do not become Loan Parties, in each case upon consummation of such acquisition, shall not exceed the sum of (X) the greater of \$500,000,000 and 5.0% of Consolidated Total Assets when made, plus (Y) (A) an amount equal to any returns (in the form of dividends or other distributions or net sale proceeds) received by any Loan Party in respect of any assets not owned directly by Loan Parties or Equity Interests in persons that are not Guarantors or do not become Guarantors that were acquired in such Permitted Business Acquisitions in reliance on the basket in clause (X) above (excluding any such returns in excess of the amount originally invested) and (B) any amounts in excess thereof that can be, and are, permitted as Investments (and treated as Investments) made under a clause of Section 6.04 other than clause (k) thereof.

“Permitted Debt” shall mean Indebtedness for borrowed money incurred by any Loan Party, provided that (i) any such Permitted Debt, if guaranteed, shall not be guaranteed by any Person other than a Guarantor and, if secured (as permitted by Sections 6.01 and 6.02), shall be secured on an equal and ratable or junior basis solely by all or some portion of the Collateral pursuant to security documents no more favorable to the secured party or party, taken as a whole (as determined by the Parent in good faith), than the Security Documents, (ii) any such Permitted Debt, if secured, shall be subject to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such security interest, and (iii) such Permitted Debt shall not mature prior to the date that is the latest final maturity date of the Term Loans existing at the time of such incurrence (or, in the case of Junior Financing, until the date that is 91 days thereafter), and the Weighted Average Life to Maturity of any such Permitted Debt shall be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans with the latest final maturity at the time of such incurrence.

“Permitted Investments” shall mean:

(a) direct obligations of the United States of America or any member of the European Union or any agency thereof or obligations guaranteed by the United States of America or any member of the European Union or any agency thereof, in each case with maturities not exceeding two years from the date of acquisition thereof;

(b) time deposit accounts, certificates of deposit, money market deposits, banker’s acceptances and other bank deposits maturing within 180 days of the date of acquisition thereof issued by a bank or trust company having capital, surplus and undivided profits in excess of \$250,000,000 and whose long-term debt, or whose parent holding company’s long-term debt, is rated at least A by S&P or A2 by Moody’s (or such similar equivalent rating or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act));

(c) repurchase obligations with a term of not more than 180 days for underlying securities of the types described in clause (a) above entered into with a bank meeting the qualifications described in clause (b) above;

(d) commercial paper, maturing not more than one year after the date of acquisition, issued by a corporation (other than an Affiliate of Parent) with a rating at the time as of which any investment therein is made of P-1 (or higher) according to Moody's, or A-1 (or higher) according to S&P (or such similar equivalent rating or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act));

(e) securities with maturities of two years or less from the date of acquisition, issued or fully guaranteed by any State of the United States of America, or by any political subdivision or taxing authority thereof, and rated at least A by S&P or A by Moody's (or such similar equivalent rating or higher by at least one nationally recognized statistical rating organization (as defined in Rule 436 under the Securities Act));

(f) shares of mutual funds whose investment guidelines restrict 95% of such funds' investments to those satisfying the provisions of clauses (a) through (e);

(g) money market funds that (i) comply with the criteria set forth in Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated AAA by S&P or Aaa by Moody's and (iii) have portfolio assets of at least \$1,000,000,000;

(h) time deposit accounts, certificates of deposit, money market deposits, banker's acceptances and other bank deposits in an aggregate face amount not in excess of 0.5% of the total assets of Parent and the Subsidiaries, on a consolidated basis, as of the end of Parent's most recently completed fiscal year; and

(i) instruments equivalent to those referred to in clauses (a) through (h) above denominated in any foreign currency comparable in credit quality and tenor to those referred to above and commonly used by corporations for cash management purposes in any jurisdiction outside the United States of America to the extent reasonably required in connection with any business conducted by the Parent or any Subsidiary organized or incorporated in such jurisdiction.

"Permitted Liens" shall have the meaning assigned to such term in Section 6.02.

"Permitted Receivables Facility Assets" shall mean (i) Receivables Assets (whether now existing or arising in the future) of Parent and its Subsidiaries which are transferred, sold and/or pledged to a Receivables Entity or a bank, other financial institution or a commercial paper conduit or other conduit facility established and maintained by a bank or other financial institution, pursuant to a Qualified Receivables Facility and any related Permitted Receivables Related Assets which are also so transferred, sold and/or pledged to such Receivables Entity, bank, other financial institution or commercial paper conduit or other conduit facility, and all proceeds thereof and (ii) loans to the Parent and its Subsidiaries secured by Receivables Assets (whether now existing or arising in the future) and any Permitted Receivables Related Assets of Parent and its Subsidiaries which are made pursuant to a Qualified Receivables Facility.

"Permitted Receivables Facility Documents" shall mean each of the documents and agreements entered into in connection with any Qualified Receivables Facility, including all documents and agreements relating to the issuance, funding and/or purchase of certificates and purchased interests or the incurrence of loans, as applicable, in each case as such documents and agreements may be amended, modified, supplemented, refinanced or replaced from time to time so long as the relevant Qualified Receivables Facility would still meet the requirements of the definition thereof after giving effect to such amendment, modification, supplement, refinancing or replacement.



“Permitted Receivables Related Assets” shall mean any assets that are customarily transferred, sold and/or pledged or in respect of which security interests are customarily granted in connection with asset securitization transactions involving receivables similar to Receivables Assets and any collections or proceeds of any of the foregoing (including, without limitation, lock-boxes, deposit accounts, records in respect of Receivables Assets and collections in respect of Receivables Assets).

“Permitted Refinancing Indebtedness” shall mean any Indebtedness issued in exchange for, or the net proceeds of which are used to extend, refinance, renew, replace, defease or refund (collectively, to “Refinance”), the Indebtedness being Refinanced (or previous refinancings thereof constituting Permitted Refinancing Indebtedness); provided that (a) the principal amount (or accreted value, if applicable) of such Permitted Refinancing Indebtedness does not exceed the principal amount (or accreted value, if applicable) of the Indebtedness so Refinanced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses), (b) except with respect to Section 6.01(i), (i) the final maturity date of such Permitted Refinancing Indebtedness is on or after the earlier of (x) the final maturity date of the Indebtedness being Refinanced and (y) the 91st day following the Latest Maturity Date in effect at the time of incurrence thereof and (ii) the Weighted Average Life to Maturity of such Permitted Refinancing Indebtedness is greater than or equal to the lesser of (x) the Weighted Average Life to Maturity of the Indebtedness being Refinanced and (y) 91 days after the Weighted Average Life to Maturity of the Class of Term Loans then outstanding with the greatest remaining Weighted Average Life to Maturity, (c) if the Indebtedness being Refinanced is by its terms subordinated in right of payment to any Loan Obligations, such Permitted Refinancing Indebtedness shall be subordinated in right of payment to such Loan Obligations on terms in the aggregate not materially less favorable to the Lenders as those contained in the documentation governing the Indebtedness being Refinanced (as determined by the Parent in good faith), (d) no Permitted Refinancing Indebtedness shall have any borrower which is different than the borrower of the respective Indebtedness being so Refinanced or have guarantors that are not (or would not have been required to become) guarantors with respect to the Indebtedness being so Refinanced (except that one or more Loan Parties may be added as additional guarantors), (e) if the Indebtedness being Refinanced is secured (and permitted to be secured), such Permitted Refinancing Indebtedness may be secured by Liens on the same (or any subset of the) assets as secured (or would have been required to secure) the Indebtedness being Refinanced, on terms in the aggregate that are no less favorable to the Secured Parties than, the Indebtedness being refinanced or on terms otherwise permitted by Section 6.02 (as determined by the Parent in good faith) and (f) if the Indebtedness being Refinanced was subject to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such security interest, and if the respective Permitted Refinancing Indebtedness is to be secured by the Collateral, the Permitted Refinancing Indebtedness shall likewise be subject to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such security interest.

“Permitted Sale Lease-Back Transaction” shall mean (i) any sale and lease-back transaction entered into prior to the Closing Date and (ii) any other sale and lease-back transaction, the proceeds of which shall constitute Net Proceeds.

“person” shall mean any natural person, corporation, business trust, joint venture, association, company, partnership, limited liability company or government, individual or family trusts, or any agency or political subdivision thereof.

“Plan” shall mean any “employee pension benefit plan” (as defined in Section 3(2) of ERISA, other than a Multiemployer Plan) that is (i) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, (ii) sponsored or maintained (at the time of determination or at any time within the five years prior thereto) by the Parent, any Subsidiary or any ERISA Affiliate, and (iii) in respect of which the Parent, any Subsidiary or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an “employer” as defined in Section 3(5) of ERISA.

“Platform” shall have the meaning assigned to such term in Section 5.04(g).

“Pledged Collateral” shall have the meaning assigned to such term in the U.S. Collateral Agreement.

“Pre-Adjustment Successor Rate” has the meaning specified in Section 2.14(c).

“Prepayment-Based Incremental Amount” shall mean an amount equal to (i) the amount of cash actually paid in connection with all par or below-par Term Loan buybacks (to the extent such Term Loans are cancelled) plus (ii) the amount of all voluntary prepayments of Term Loans, Revolving Credit Loans, Incremental Term Loans, Incremental Revolving Credit Loans and Permitted Debt secured by Other First Liens or Junior Liens on the Collateral incurred pursuant to Section 6.01(v), in each case (x) with respect to any Revolving Credit Loans, to the extent accompanied by a permanent reduction in such Revolving Credit Commitments and (y) to the extent not funded with the proceeds of Indebtedness constituting “long-term indebtedness”.

“primary obligor” shall have the meaning assigned to such term in the definition of the term “Guarantee.”

“Pro Forma Basis” shall mean, as to any person, for any events as described below that occur subsequent to the commencement of a period for which the financial effect of such events is being calculated, and giving effect to the events for which such calculation is being made, such calculation as will give pro forma effect to such events as if such events occurred on the first day of the most recent Test Period ended on or before the occurrence of such event (the “Reference Period”): (i) any Asset Sale and any asset acquisition, Investment (or series of related Investments) in excess of \$25,000,000, merger, amalgamation, consolidation (including the Transactions) (or any similar transaction or transactions), any dividend, distribution or other similar payment, (ii) any operational changes or restructurings of the business of Parent or any of its Subsidiaries that the Parent or any of its Subsidiaries has determined to make and/or made during or subsequent to the Reference Period (including in connection with an Asset Sale or asset acquisition described in clause (i) and which are expected to have a continuing impact and are factually supportable, which would include cost savings resulting from head count reduction, closure of facilities and other operational changes and other cost savings in connection therewith, (iii) the designation of any Subsidiary as an Unrestricted Subsidiary or of any Unrestricted Subsidiary as a Subsidiary and (iv) any incurrence, repayment, repurchase or redemption of Indebtedness (or any issuance, repurchase or redemption of Disqualified Stock or preferred stock), other than fluctuations in revolving borrowings in the ordinary course of business (and not resulting from a transaction as described in clause (i) above).

Pro forma calculations made pursuant to the definition of this term “Pro Forma Basis” shall be determined in good faith by a Responsible Officer of Parent. Any such pro forma calculation may include adjustments appropriate, in the reasonable good faith determination of Parent and set forth in a certificate of a Responsible Officer, to reflect operating expense reductions, other operating improvements, cost savings, synergies or such operational changes or restructurings described in clause (ii) of the immediately preceding paragraph reasonably expected to result from the applicable pro forma event in the eighteen (18) month period following the consummation of the pro forma event; provided that the aggregate amount of

adjustments in respect of pro forma operating improvements, cost savings, synergies or operational changes or restructurings that do not comply with Article 11 of Regulation S-X for any four quarter period (the “Non-S-X Adjustment Amount”) shall not, when aggregated with the amount of any increase to Consolidated Net Income pursuant to clause (a) thereof for such period, exceed 20% of Adjusted Consolidated EBITDA for such period prior to giving effect to the Non-S-X Adjustment Amount for such period or any adjustment pursuant to clause (a) of the definition of Consolidated Net Income for such period. The Parent shall deliver to the Administrative Agent a certificate of a Responsible Officer of Parent setting forth such demonstrable or additional operating expense reductions and other operating improvements or synergies and information and calculations supporting them in reasonable detail.

If any Indebtedness bears a floating rate of interest and is being given pro forma effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the date on which the relevant calculation is being made had been the applicable rate for the entire period (taking into account any hedging obligations applicable to such Indebtedness if such hedging obligation has a remaining term in excess of 12 months). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of Parent to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period, except to the extent the outstandings thereunder are reasonably expected to increase as a result of any transactions described in clause (i) of the first paragraph of this definition of “Pro Forma Basis” which occurred during the respective period or thereafter and on or prior to the date of determination. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a Eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Parent may designate.

“Pro Forma Compliance” shall mean, at any date of determination, that the Parent and its Subsidiaries shall be in compliance, on a Pro Forma Basis after giving effect on a Pro Forma Basis to the relevant transactions (including the assumption, the issuance, incurrence and permanent repayment of Indebtedness), with the Financial Covenants recomputed as at the last day of the most recently ended fiscal quarter of Parent for which the financial statements and certificates required pursuant to Section 5.04 have been delivered.

“Pro Rata Extension Offers” shall have the meaning assigned to such term in Section 2.22(a).

“Pro Rata Share” shall have the meaning assigned to such term in Section 9.08(f).

“Proceeding” means any claim, litigation, investigation, action, suit, arbitration or administrative, judicial or regulatory action or proceeding in any jurisdiction.

“Projections” shall mean the projections of Parent and the Subsidiaries included in the Information Memorandum and any other projections, financial estimates, forecast and any other forward-looking statements (including statements with respect to booked business) of such entities furnished to the Lenders or the Administrative Agent by or on behalf of Parent or any of the Subsidiaries prior to the Closing Date.

“PTE” shall mean a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

“Public Lender” shall have the meaning assigned to such term in Section 5.04.

“Purchase Offer” shall have the meaning assigned to such term in Section 2.25(a).

“QFC Credit Support” shall have the meaning assigned to such term in Section 9.23.

“Qualified Equity Interests” shall mean any Equity Interest other than Disqualified Stock.

“Qualified Receivables Facility” shall mean a receivables financing or factoring facility which is designated as a “Qualified Receivables Facility” (as provided below), providing for the transfer, sale and/or pledge by a Borrower and/or one or more other Receivables Sellers of Permitted Receivables Facility Assets (thereby providing financing to such Borrower and/or the Receivables Sellers) to (i) a Receivables Entity (either directly or through another Receivables Seller), which in turn shall transfer, sell and/or pledge interests in the respective Permitted Receivables Facility Assets to third-party lenders or investors pursuant to the Permitted Receivables Facility Documents in return for cash or (ii) a bank or other financial institution, which shall finance, directly or indirectly, the Permitted Receivables Facility Assets, so long as, in the case of each of clause (i) and clause (ii), no portion of the Indebtedness or any other obligations (contingent or otherwise) under such receivables facility or facilities (x) is guaranteed by the Parent or any Subsidiary (excluding guarantees of obligations pursuant to Standard Securitization Undertakings), (y) is recourse to or obligates the Parent or any other Subsidiary in any way (other than pursuant to Standard Securitization Undertakings) or (z) subjects any property or asset (other than Permitted Receivables Facility Assets, Permitted Receivables Related Assets or the Equity Interests of any Receivables Entity) of Parent or any other Subsidiary (other than a Receivables Entity), directly or indirectly, contingently or otherwise, to the satisfaction thereof (other than pursuant to Standard Securitization Undertakings). Any such designation shall be evidenced to the Administrative Agent by filing with the Administrative Agent a certificate signed by a Financial Officer of Parent certifying that, to the best of such officer’s knowledge and belief after consultation with counsel, such designation complied with the foregoing conditions.

“Rate” shall have the meaning assigned to such term in the definition of the term “Type.”

“Ratio-Based Incremental Amount” shall mean (a) with respect to any Indebtedness that is secured by Other First Liens (including, without limitation, Incremental Term Loans that are secured by Other First Liens), an unlimited amount so long as, upon the incurrence thereof, the First Lien Secured Net Leverage Ratio would not exceed 4.10 to 1.00, (b) with respect to any Indebtedness that is secured by Junior Liens, an unlimited amount so long as, upon the incurrence thereof, the Secured Net Leverage Ratio would not exceed 4.40 to 1.00, (c) with respect to any Indebtedness that is unsecured, an unlimited amount so long as, upon the incurrence thereof, the Total Net Leverage Ratio would not exceed 5.90 to 1.00, in each case where such First Lien Secured Net Leverage Ratio, Secured Net Leverage Ratio and/or Total Net Leverage Ratio, as applicable, is calculated on a Pro Forma Basis (after giving effect to any acquisition consummated with the proceeds of such Incremental Facility, but without giving effect to the cash proceeds received from such Indebtedness that remain on the balance sheet, and assuming that the commitments under any applicable Incremental Revolving Facility were fully drawn and incurred as of the effective date) as of the most recently completed Test Period; provided that, for the avoidance of doubt, if, as part of the same transaction or series of related transactions, the Borrower incurs Indebtedness pursuant to the Ratio-Based Incremental Amount and substantially concurrently also incurs Indebtedness (x) pursuant to the Prepayment-Based Incremental Amount or the Fixed Incremental Amount or (y) otherwise constituting a Fixed Amount, then the First Lien Secured Net Leverage Ratio, Secured Net Leverage Ratio and/or Total Net Leverage Ratio, as applicable, will be calculated with respect to such incurrence pursuant to the Ratio-Based Incremental Amount without regard to any such substantially concurrent incurrence of Indebtedness under the Prepayment-Based Incremental Facility, the Fixed Incremental Facility or any other Fixed Amount.

“Real Property” shall mean, collectively, all right, title and interest (including any leasehold estate) in and to any and all parcels of or interests in real property owned in fee or freehold or leased by any Loan Party, whether by lease, license or other means, together with, in each case, all easements, hereditaments and appurtenances relating thereto, all improvements and appurtenant fixtures and equipment, incidental to the ownership, lease or operation thereof.

“Receivables Assets” shall mean any right to payment created by or arising from royalties, sales of goods, lease of goods or the rendition of services rendered no matter how evidenced whether or not earned by performance (whether constituting accounts, general intangibles, chattel paper or otherwise).

“Receivables Entity” shall mean any direct or indirect wholly owned Subsidiary of Parent which engages in no activities other than in connection with the financing of accounts receivable of the Receivables Sellers and which is designated (as provided below) as a “Receivables Entity” (a) with which neither the Parent nor any of its Subsidiaries has any contract, agreement, arrangement or understanding (other than pursuant to the Permitted Receivables Facility Documents (including with respect to fees payable in the ordinary course of business in connection with the servicing of accounts receivable and related assets)) on terms less favorable to the Parent or such Subsidiary than those that might be obtained at the time from persons that are not Affiliates of Parent (as determined by the Parent in good faith) and (b) to which neither the Parent nor any other Subsidiary has any obligation to maintain or preserve such entity’s financial condition or cause such entity to achieve certain levels of operating results (other than pursuant to Standard Securitization Undertakings). Any such designation shall be evidenced to the Administrative Agent by filing with the Administrative Agent an officer’s certificate of Parent certifying that, to the best of such officer’s knowledge and belief after consultation with counsel, such designation complied with the foregoing conditions.

“Receivables Seller” shall mean the Parent or those Subsidiaries that are from time to time party to the Permitted Receivables Facility Documents (other than any Receivables Entity).

“Recipient” shall have the meaning assigned to such term in Section 2.17(g)(ii).

“Recovery Event” shall mean any event that gives rise to the receipt by the Parent or any of its Subsidiaries of any insurance proceeds or condemnation awards in respect of any equipment, fixed assets or Real Property (including any improvements thereon).

“Reference Period” shall have the meaning assigned to such term in the definition of the term “Pro Forma Basis.”

“Refinance” shall have the meaning assigned to such term in the definition of the term “Permitted Refinancing Indebtedness,” and “Refinanced” and “Refinancing” shall have meanings correlative thereto.

“Refinancing Amendment” shall have the meaning assigned to such term in Section 2.23(e).

“Refinancing Effective Date” shall have the meaning assigned to such term in Section 2.23(a).

“Refinancing Notes” shall mean any secured or unsecured notes or loans issued by the Parent or any Guarantor (whether under an indenture, a credit agreement or otherwise) and the Indebtedness represented thereby; provided that (a) 100% of the Net Proceeds of such Refinancing Notes are used to permanently reduce Loans and/or replace Commitments substantially simultaneously with the issuance thereof; (b) the principal amount (or accreted value, if applicable) of such Refinancing Notes does not exceed the principal amount (or accreted value, if applicable) of the aggregate portion of the Loans so reduced and/or Commitments so replaced (plus unpaid accrued interest and premium (including tender premiums) thereon and underwriting discounts, defeasance costs, fees, commissions and expenses); (c) the final maturity date of such Refinancing Notes is on or after the Term Facility Maturity Date or the Revolving Facility Maturity Date, as applicable, of the Term Loans so reduced or the Revolving Facility Commitments

so replaced; (d) the Weighted Average Life to Maturity of such Refinancing Notes is greater than or equal to the Weighted Average Life to Maturity of the Term Loans so repaid or the Revolving Facility Commitments so replaced; (e) the terms of such Refinancing Notes do not provide for any scheduled repayment, mandatory redemption or sinking fund obligations prior to the Term Facility Maturity Date of the Term Loans so reduced or the Revolving Facility Maturity Date of the Revolving Facility Commitments so replaced, as applicable (other than (x) in the case of notes, customary offers to repurchase or mandatory prepayment provisions upon a change of control, asset sale or event of loss and customary acceleration rights after an event of default and (y) in the case of loans, customary amortization and mandatory and voluntary prepayment provisions which are, when taken as a whole, consistent in all material respects with, or not materially less favorable to the Parent and its Subsidiaries than, those applicable to the Initial Term Loans and/or Revolving Facility Commitments, as the case may be, with such Indebtedness to provide that any such mandatory prepayments as a result of asset sales, events of loss, or excess cash flow, shall be allocated on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) with the Initial Term Loans outstanding pursuant to this Agreement); (f) there shall be no obligor with respect thereto that is not a Loan Party; (g) if such Refinancing Notes are secured by an asset of any Subsidiary, any Unrestricted Subsidiary or any Affiliate of the foregoing, the security agreements relating to such assets shall not extend to any assets not constituting Collateral and shall be no more favorable to the secured party or party, taken as a whole (determined by the Parent in good faith) than the Security Documents (with such differences as are reasonably satisfactory to the Administrative Agent); (h) if such Refinancing Notes are secured, such Refinancing Notes shall be secured by all or a portion of the Collateral, but shall not be secured by any assets of Parent or its subsidiaries other than the Collateral; (i) Refinancing Notes that are secured by Collateral shall be subject to the provisions of the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such security interest and (j) all other terms applicable to such Refinancing Notes (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms (which original issue discount, upfront fees, interest rates and other pricing terms shall not be subject to the provisions set forth in this clause (j)) taken as a whole shall (as determined by the Parent in good faith) be substantially similar to, or not materially less favorable to the Parent and its Subsidiaries than, the terms, taken as a whole, applicable to the Term Loans so reduced or the Revolving Facility Commitments so replaced (except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date or are otherwise reasonably acceptable to the Administrative Agent (it being understood that, to the extent that any term is added for the benefit of the applicable Term Loans or Revolving Facility Commitments, no consent shall be required from the applicable Lenders to the extent that such term is (a) also added for the benefit of the applicable Term Loans or Revolving Facility Commitments or (b) is only applicable after the Latest Maturity Date)).

“Refinancing Term Loans” shall have the meaning assigned to such term in Section 2.23(a).

“Register” shall have the meaning assigned to such term in Section 9.04(b)(iv).

“Regulation T” shall mean Regulation T of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation U” shall mean Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Regulation X” shall mean Regulation X of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

“Related Adjustment” means, in determining any LIBOR Successor Rate, the first relevant available alternative set forth in the order below that can be determined by the Administrative Agent applicable to such LIBOR Successor Rate:

(A) the spread adjustment, or method for calculating or determining such spread adjustment, that has been selected or recommended by the Relevant Governmental Body for the relevant Pre-Adjustment Successor Rate (taking into account the interest period, interest payment date or payment period for interest calculated and/or tenor thereto) and which adjustment or method (x) is published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion or (y) solely with respect to Term SOFR, if not currently published, which was previously so recommended for Term SOFR and published on an information service reasonably acceptable to the Administrative Agent; or

(B) the spread adjustment that would apply (or has previously been applied) to the fallback rate for a derivative transaction referencing the ISDA Definitions (taking into account the interest period, interest payment date or payment period for interest calculated and/or tenor thereto).

“Related Fund” shall mean, with respect to any Lender that is a fund that invests in bank or commercial loans and similar extensions of credit, any other fund that invests in bank or commercial loans and similar extensions of credit and is advised or managed by (a) such Lender, (b) an Affiliate of such Lender or (c) an entity (or an Affiliate of such entity) that administers, advises or manages such Lender.

“Related Parties” shall mean, with respect to any specified person, such person’s controlled and controlling Affiliates and the respective directors, trustees, officers, employees, agents, advisors and members of such person and such person’s controlled and controlling Affiliates.

“Release” shall mean any spilling, leaking, seepage, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, emanating or migrating in, into, onto or through the Environment.

“Relevant Governmental Body” means the Federal Reserve Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Federal Reserve Board and/or the Federal Reserve Bank of New York.

“Relevant Party” shall have the meaning assigned to such term in Section 2.17(g)(ii).

“Relevant Territory” means (i) a member state of the European Communities (other than Ireland); or (ii) to the extent not a member state of the European Communities, a jurisdiction with which Ireland has entered into a double taxation treaty that either has the force of law by virtue of section 826(1) of the TCA or which will have the force of law on completion of the procedures set out in section 826(1) of the TCA.

“Replacement Date” has the meaning specified in Section 2.14(c).

“Replacement Revolving Facilities” shall have the meaning assigned to such term in Section 2.23(c).

“Replacement Revolving Facility Commitments” shall have the meaning assigned to such term in Section 2.23(c).

“Replacement Revolving Facility Effective Date” shall have the meaning assigned to such term in Section 2.23(c).

“Replacement Revolving Loans” shall have the meaning assigned to such term in Section 2.23(c).

“Reportable Event” shall mean any reportable event as defined in Section 4043(c) of ERISA or the regulations issued thereunder, other than those events as to which the 30-day notice period referred to in Section 4043(c) of ERISA has been waived, with respect to a Plan (other than a Plan maintained by an ERISA Affiliate that is considered an ERISA Affiliate only pursuant to subsection (m) or (o) of Section 414 of the Code).

“Repricing Event” shall mean (a) any repayment, prepayment or repurchase of all or a portion of the Initial Term Loans with the proceeds of, or any conversion of all or any portion of the Initial Term Loans into, any new or replacement Indebtedness bearing interest with an All-in Yield (as reasonably determined by the Administrative Agent in consultation with the Parent and taking into account interest rate margin and benchmark floors, recurring fees and all upfront or similar fees or original issue discount (amortized over the shorter of (A) the weighted average life to maturity of such term loans and (B) four years), but excluding any bona fide arrangement, underwriting, structuring, syndication or other fees payable in connection therewith that are not shared ratably with all lenders or holders of such Indebtedness in their capacities as lenders or holders of such Indebtedness) less than the All-in Yield applicable to the Initial Term Loans (determined on the same basis as provided in the preceding parenthetical) and (b) any amendment (including pursuant to a replacement term loan) to the Initial Term Loans or any tranche thereof, in each case of clauses (a) and (b) above, if the primary purpose of such repayment, prepayment or repurchase (as reasonably determined by the Administrative Agent in consultation with the Parent) is to lower the All-in Yield applicable to the Initial Term Loans that are repaid, prepaid or repurchased using the proceeds thereof (as determined on the same basis as provided in clause (a)). It is understood that “Repricing Events” shall not include any repayment, prepayment or refinancing of all or a portion of the Initial Term Loans in connection with a Change of Control or a Specified Acquisition (as defined below). It is understood that any prepayment premium with respect to a Repricing Event shall apply to any required assignment by a Non-Consenting Lender in connection with any such amendment pursuant to Section 2.19(c)).

“Required Facility Lenders” shall mean, at any time, with respect to one or more Facilities, Lenders having Term Loans and Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) under such Facility or Facilities that, taken together, represent more than 50% of the sum of (x) all Term Loans and (y) all Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) under such Facility or Facilities at such time; provided, that the Term Loans, Revolving Facility Commitments and Revolving Facility Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Facility Lenders at any time.

“Required Lenders” shall mean, at any time, Lenders having Term Loans and Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) that, taken together, represent more than 50% of the sum of (x) all Term Loans and (y) all Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) at such time; provided, that the Term Loans, Revolving Facility Commitments and Revolving Facility Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

“Required Percentage” shall mean, with respect to any Excess Cash Flow Period, 50%; provided, that, if the First Lien Secured Net Leverage Ratio as of the end of such Excess Cash Flow Period is (x) less than or equal to 3.00 to 1.00 but greater than 2.50 to 1.00, such percentage shall be 25% or (y) less than or equal to 2.50 to 1.00, such percentage shall be 0%.



“Required Revolving Facility Lenders” shall mean, at any time, Revolving Facility Lenders having Revolving Facility Commitments (or if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure) Loans that, taken together, represent more than 50% of the sum of all Revolving Facility Commitments (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure at such time; provided that the Revolving Facility Commitments and Revolving Facility Credit Exposure of any Defaulting Lender shall be disregarded in determining Required Revolving Facility Lenders at any time.

“Requirement of Law” shall mean, as to any person, any law, treaty, rule, regulation, statute, order, ordinance, decree, judgment, consent decree, writ, injunction, settlement agreement or governmental requirement enacted, promulgated or imposed or entered into or agreed by any Governmental Authority, in each case applicable to or binding upon such person or any of its property or assets or to which such person or any of its property or assets is subject.

“Rescindable Amount” has the meaning as defined in Section 2.18(d).

“Resolution Authority” shall mean an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

“Responsible Officer” of any person shall mean the chief executive officer, president, senior vice president, vice president, chief financial officer, treasurer or controller of a Loan Party or, in the case of a Foreign Guarantor, any duly appointed authorized signatory or any director or managing member of such person that has been designated in writing by Parent as being so authorized, and solely for purposes of notices given pursuant to Article II, any other officer or employees of the applicable Loan Party so designated by any of the foregoing officers in a notice to the Administrative Agent or any other officer or employee of the applicable Loan Party designated in or pursuant to an agreement between the applicable Loan Party and the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party.

“Restricted Payments” shall have the meaning assigned to such term in Section 6.06. The amount of any Restricted Payment made other than in the form of cash or cash equivalents shall be the Fair Market Value thereof.

“Return of Scheduled Equity” shall have the meaning assigned to such term in Section 6.04(b).

“Revolving Facility” shall mean the Revolving Facility Commitments of any Class and the extensions of credit made hereunder by the Revolving Facility Lenders of such Class and, for purposes of Section 9.08(b), shall refer to all such Revolving Facility Commitments as a single Class.

“Revolving Facility Borrowing” shall mean a Borrowing comprised of Revolving Facility Loans of the same Class and currency.

“Revolving Facility Commitment” shall mean, with respect to each Revolving Facility Lender, the commitment of such Revolving Facility Lender to make Revolving Facility Loans pursuant to Section 2.01(b), expressed as an amount representing the maximum aggregate permitted amount of such Revolving Facility Lender’s Revolving Facility Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.08, (b) reduced or increased from time to time pursuant to assignments by or to such Lender under Section 9.04, and (c) increased, extended or replaced as provided under Section 2.21, 2.22 or 2.23. The initial amount of each Lender’s Revolving Facility Commitment is

set forth on Schedule 2.01, or in the Assignment and Acceptance, Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment pursuant to which such Lender shall have assumed its Revolving Facility Commitment, as applicable. The aggregate amount of the Lenders' Revolving Facility Commitments on the Closing Date is \$500,000,000. On the Closing Date, there is only one Class of Revolving Facility Commitments. After the Closing Date, additional Classes of Revolving Facility Commitments may be added or created pursuant to Extension Amendments or Refinancing Amendments.

"Revolving Facility Credit Exposure" shall mean, at any time with respect to any Class of Revolving Facility Commitments, the sum of (a) the aggregate principal amount of the Revolving Facility Loans of such Class outstanding at such time and (b) the Revolving L/C Exposure applicable to such Class at such time minus, for the purpose of Section 6.12 only, the amount of Letters of Credit that have been Cash Collateralized in an amount equal to the Minimum L/C Collateral Amount at such time. The Revolving Facility Credit Exposure of any Revolving Facility Lender at any time shall be the product of (x) such Revolving Facility Lender's Revolving Facility Percentage of the applicable Class and (y) the aggregate Revolving Facility Credit Exposure of such Class of all Revolving Facility Lenders, collectively, at such time.

"Revolving Facility Lender" shall mean a Lender (including an Incremental Revolving Facility Lender, and a Lender providing Extended Revolving Facility Commitments or Replacement Revolving Facility Commitments) with a Revolving Facility Commitment or with outstanding Revolving Facility Loans.

"Revolving Facility Loan" shall mean a Loan made by a Revolving Facility Lender pursuant to Section 2.01(b). Unless the context otherwise requires, the term "Revolving Facility Loans" shall include the Other Revolving Loans.

"Revolving Facility Maturity Date" shall mean, as the context may require, (a) with respect to the Revolving Facility in effect on the Closing Date, the fifth anniversary of the Closing Date and (b) with respect to any other Classes of Revolving Facility Commitments, the maturity dates specified therefor in the applicable Extension Amendment or Refinancing Amendment.

"Revolving Facility Percentage" shall mean, with respect to any Revolving Facility Lender of any Class, the percentage of the total Revolving Facility Commitments of such Class represented by such Lender's Revolving Facility Commitment of such Class. If the Revolving Facility Commitments of such Class have terminated or expired, the Revolving Facility Percentages of such Class shall be determined based upon the Revolving Facility Commitments of such Class most recently in effect, giving effect to any assignments pursuant to Section 9.04.

"Revolving Facility Termination Event" shall have the meaning assigned to such term in Section 2.05(k).

"Revolving L/C Exposure" of any Revolving Facility of any Class shall mean at any time the aggregate L/C Obligations under such Revolving Facility at such time. The Revolving L/C Exposure of any Revolving Facility Lender under any Revolving Facility at any time shall mean its applicable Revolving Facility Percentage of the aggregate Revolving L/C Exposure under such Revolving Facility at such time.

"S&P" shall mean Standard & Poor's Financial Services LLC, a subsidiary of S&P Global Inc., and any successor thereto.

"Sanctioned Country" shall mean, at any time, a country or territory which is itself the subject or target of any Sanctions Laws (at the time of this Agreement, Crimea, Cuba, Iran, North Korea and Syria).

“Sanctions Laws” shall mean economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, (b) the Office of the Superintendent of Financial Institutions, (c) Her Majesty’s Treasury or (d) any other applicable sanctions authority in any jurisdiction of the Borrowers.

“Scheduled Loans” shall have the meaning assigned to such term in Section 6.04(b).

“Scheduled Unavailability Date” shall have the meaning assigned to such term in Section 2.14(c)(ii).

“Scheme” shall have the meaning assigned to such term in Section 4.01(h).

“Scheme Effective Time” shall have the meaning assigned to such term in Section 4.01(h).

“Screen Rate” means the LIBOR Screen Rate or the EURIBOR Screen Rate.

“SEC” shall mean the Securities and Exchange Commission or any successor thereto.

“Secured Cash Management Agreement” shall mean any Cash Management Agreement that is entered into by and between the Parent or any Subsidiary and any Cash Management Bank, including any such Cash Management Agreement that is in effect on the Closing Date, unless, when entered into, such Secured Cash Management Agreement is designated in writing by the Parent and such Cash Management Bank to the Administrative Agent to not be included as a Secured Cash Management Agreement.

“Secured Hedge Agreement” shall mean (i) any Hedging Agreement that is entered into by and between any Loan Party and any Hedge Bank, including any such Hedging Agreement that is in effect on the Closing Date, unless, when entered into, such Secured Hedge Agreement is designated in writing by the Parent and such Hedge Bank to the Administrative Agent to not be included as a Secured Hedge Agreement, and (ii) the Hedging Agreements identified on Schedule 1.01(D) hereto. Notwithstanding the foregoing, for all purposes of the Loan Documents, any Guarantee of, or grant of any Lien to secure, any obligations in respect of a Secured Hedge Agreement by a Guarantor shall not include any Excluded Swap Obligations with respect to such Guarantors.

“Secured Net Leverage Ratio” shall mean, as of any date of determination, the ratio of (a) Consolidated Secured Net Debt as of such date to (b) Adjusted Consolidated EBITDA for the most recently ended Test Period for which financial statements of Parent have been delivered (or were required to be delivered) as required by this Agreement, all determined on a consolidated basis in accordance with GAAP; provided that Adjusted Consolidated EBITDA shall be determined for the relevant Test Period on a Pro Forma Basis.

“Secured Parties” shall mean, collectively, the Administrative Agent, the Collateral Trustee, each Lender, each Issuing Bank, each Hedge Bank that is party to any Secured Hedge Agreement, each Cash Management Bank that is party to any Secured Cash Management Agreement and each subagent appointed pursuant to Section 8.02 by the Administrative Agent with respect to matters relating to the Loan Documents.

“Securities Act” shall mean the Securities Act of 1933, as amended.

“Security Documents” shall mean the U.S. Collateral Agreement, the Closing Date Foreign Collateral Documents, each Notice of Grant of Security Interest in Intellectual Property (as defined in the U.S. Collateral Agreement) and each other security agreement, pledge agreement or other instruments or documents executed and delivered pursuant to the foregoing or entered into or delivered after the Closing Date to the extent required by this Agreement or any other Loan Document, including pursuant to Section 5.10, Section 5.15 and Schedule 1.01(C).

“Senior Notes” shall mean the \$1,500,000,000 of 4.375% senior secured notes due 2029 issued under the Senior Notes Indenture and outstanding as of the Closing Date. For the avoidance of doubt, Senior Notes shall not include any “additional notes” issued under the terms of the Senior Notes Indenture.

“Senior Notes Indenture” shall mean the indenture for the Senior Notes, dated as of April 29, 2021, between Jazz DAC and U.S. Bank National Association, as trustee and collateral trustee.

“Similar Business” shall mean (i) any business the majority of whose revenues are derived from business or activities conducted by the Parent and its Subsidiaries on the Closing Date, (ii) any business that is a natural outgrowth or reasonable extension, development or expansion of any such business or any business similar, reasonably related, incidental, complementary or ancillary to any of the foregoing or (iii) any business that in the Parent’s good faith business judgment constitutes a reasonable diversification of businesses conducted by the Parent and its Subsidiaries.

“SOFR” with respect to any Business Day means the secured overnight financing rate published for such day by the Federal Reserve Bank of New York, as the administrator of the benchmark (or a successor administrator) on the Federal Reserve Bank of New York’s website (or any successor source) at approximately 8:00 a.m. (New York City time) on the immediately succeeding Business Day and, in each case, that has been selected or recommended by the Relevant Governmental Body.

“Solvency Specified Representation” shall mean those representations and warranties set forth in Section 3.18.

“Specified Acquisition” shall mean any acquisition that is either (a) not permitted by this Agreement immediately prior to the consummation of such acquisition or (b) if permitted by this Agreement immediately prior to the consummation of such acquisition, would not provide the Parent and its Subsidiaries with adequate flexibility under this Agreement for the continuation and/or expansion of their combined operations following such consummation, as determined by the Parent acting in good faith.

“Specified Representations” shall mean those representations and warranties set forth in Sections 3.01(a), 3.01(d), 3.02(a), 3.02(b)(i)(B), 3.03, 3.10, 3.11, 3.17, 3.18, 3.22 and 3.23 (solely as such representation relates to use of proceeds of Loans made on the Closing Date).

“Standard Securitization Undertakings” shall mean representations, warranties, covenants and indemnities entered into by the Parent or any Subsidiary thereof in connection with a Qualified Receivables Facility which are reasonably customary (as determined in good faith by the Parent) in an accounts receivable financing transaction in the commercial paper, term securitization or structured lending market.

“subsidiary” shall mean, with respect to any person (referred to in this definition as the “parent”), any corporation, limited liability company, partnership, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or more than 50% of the general partnership interests are, at the time any determination is being made, directly or indirectly, owned, Controlled or held, or (b) that is, at the time any determination is made, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

“Subsidiary” shall mean, unless the context otherwise requires, a subsidiary of Parent. Notwithstanding the foregoing (and except for purposes of the definition of “Unrestricted Subsidiary” contained herein) an Unrestricted Subsidiary shall be deemed not to be a Subsidiary of Parent or any of its Subsidiaries for purposes of this Agreement.

“Subsidiary Redesignation” shall have the meaning provided in the definition of “Unrestricted Subsidiary”.

“Successor Borrower” shall have the meaning assigned to such term in Section 6.05(n).

“Supplier” shall have the meaning assigned to such term in Section 2.17(g)(ii).

“Supported QFC” shall have the meaning assigned to such term in Section 9.23.

“Swap Obligation” shall mean, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a “swap” within the meaning of Section 1a(47) of the Commodity Exchange Act.

“TARGET2” means the Trans-European Automated Real-time Gross Settlement Express Transfer payment system which utilizes a single shared platform and which was launched on November 19, 2007.

“TARGET Day” means any day on which TARGET2 (or, if such payment system ceases to be operative, such other payment system, if any, reasonably determined by the Administrative Agent to be a suitable replacement) is open for the settlement of payments in Euro.

“Taxes” shall mean present or future taxes, duties, levies, imposts, assessments, deductions, withholdings (including backup withholding), fees or other charges imposed by any Governmental Authority, whether computed on a separate, consolidated, unitary, combined or other basis and any interest, fines, penalties or additions to tax with respect to the foregoing.

“TCA” means the Taxes Consolidation Act 1997 of Ireland.

“Term Borrowing” shall mean any Initial Term Borrowing or any Borrowing of Other Term Loans.

“Term Facility” shall mean the Initial Term Facilities and/or any or all of the Other Term Facilities.

“Term Facility Commitment” shall mean the commitment of a Term Lender to make Term Loans, including Initial Term Loans and/or Other Term Loans.

“Term Facility Maturity Date” shall mean, as the context may require, (a) with respect to the Initial Term Facilities, the Initial Term Facility Maturity Date and (b) with respect to any other Class of Term Loans, the maturity dates specified therefor in the applicable Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment.

“Term Lender” shall mean a Lender (including an Incremental Term Loan Lender, an Extended Term Loan Lender and a Refinancing Term Loan Lender) with a Term Facility Commitment or with outstanding Term Loans.

“Term Loan Installment Date” shall mean any Initial Term Loan Installment Date or any Other Term Loan Installment Date.

“Term Loans” shall mean the Initial Term Loans and/or the Other Term Loans.

“Term SOFR” means the forward-looking term rate for any period that is approximately (as reasonably determined by the Administrative Agent) as long as any of the Interest Period options set forth in the definition of “Interest Period” and that is based on SOFR and that has been selected or recommended by the Relevant Governmental Body, in each case as published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion.

“Term Yield Differential” shall have the meaning assigned to such term in Section 2.21(b)(v).

“Termination Date” shall mean the date on which (a) all Commitments shall have been terminated, (b) the principal of and interest on each Loan and L/C Borrowing, all Fees and all other expenses, obligations or amounts payable under any Loan Document and all Loan Obligations shall have been paid in full in cash (other than in respect of contingent indemnification and expense reimbursement claims not then due), and (c) all Letters of Credit (other than those that have been Cash Collateralized with the Minimum L/C Collateral Amount in accordance with Section 2.05(k)) have been cancelled or have expired and all amounts drawn or paid thereunder have been reimbursed in full in cash.

“Test Period” shall mean, on any date of determination, (i) except for purposes of determining whether there has been a breach of any Financial Covenant, the period of four consecutive fiscal quarters of Parent then most recently ended (taken as one accounting period) for which financial statements have been (or were required to be) delivered pursuant to Section 5.04(a) or 5.04(b); provided that prior to the first date financial statements have been delivered pursuant to Section 5.04(a) or 5.04(b), the Test Period in effect shall be the most recently ended full four fiscal quarter period prior to the Closing Date for which financial statements would have been required to be delivered hereunder had the Closing Date occurred prior to the end of such period and (ii) for purposes of determining whether there has been a breach of any Financial Covenant, the period of four consecutive fiscal quarters of Parent ending on the date specified in such Financial Covenant (taken as one accounting period).

“Testing Condition” shall be satisfied if either (x) any Revolving Facility Loans are outstanding or (y) the outstanding face amount of undrawn Letters of Credit (excluding Letters of Credit that have been Cash Collateralized) exceeds \$50,000,000.

“Third Party Funds” shall mean any accounts or funds, or any portion thereof, received by the Parent or any of its Subsidiaries as agent on behalf of third parties in accordance with a written agreement that imposes a duty upon Borrower or one or more of its Subsidiaries to collect and remit those funds to such third parties.

“Total Net Leverage Ratio” shall mean, as of any date of determination, the ratio of (a) Consolidated Total Net Debt as of such date to (b) Adjusted Consolidated EBITDA for the most recently ended Test Period for which financial statements of Parent have been delivered (or were required to be delivered) as required by this Agreement, all determined on a consolidated basis in accordance with GAAP; provided, that Adjusted Consolidated EBITDA shall be determined for the relevant Test Period on a Pro Forma Basis.

“Transaction Agreement” shall have the meaning assigned to such term in the recitals to this Agreement.

“Transaction Agreement Representations” shall mean representations made by GW Pharma in the Transaction Agreement as are material to the interests of the Lenders, but only to the extent that Parent (or its Affiliates) has the right under the Transaction Agreement to terminate the obligations of Parent and Jazz UK under the Transaction Agreement or not to consummate the Acquisition as a result of such representations in the Transaction Agreement being inaccurate.

“Transaction Documents” shall mean the Transaction Agreement and the Loan Documents.

“Transactions” shall mean, collectively (a) the consummation of the Acquisition; (b) the issuance of the Senior Notes on or prior to the Closing Date, (c) the Closing Date Refinancing; (d) the other transactions to occur pursuant to or in connection with the Transaction Documents on or prior to the Closing Date; and (e) the payment of all fees and expenses to be paid and owing in connection with the foregoing.

“Treasury Regulations” shall mean the U.S. Treasury regulations promulgated under the Code.

“Treaty” shall mean a double taxation agreement.

“Type” shall mean, when used in respect of any Loan or Borrowing, the Rate by reference to which interest on such Loan or on the Loans comprising such Borrowing is determined. For purposes hereof, the term “Rate” shall include the Eurocurrency Rate and the ABR.

“UK Borrower” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“UK Financial Institution” shall mean any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person subject to IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

“UK Legal Reservations” means, in the case of a UK Loan Party, (a) the principle that certain equitable remedies may be granted or refused at the discretion of the court, the limitation of enforcement by laws relating to bankruptcy, insolvency, liquidation, reorganization, court schemes, moratoria, administrations and other laws generally affecting the rights of creditors, (b) the time barring of claims under the Limitation Acts, the possibility that an undertaking to assume liability for or to indemnify a person against non-payment of UK stamp duty may be void, and defenses of set-off or counterclaim, (c) similar principles, rights and defenses under the laws of any relevant jurisdiction, and (d) any other matters which are set out as qualifications or reservations (however described) as to matters of law in any English legal opinion delivered to the Administrative Agent pursuant to any Loan Document.

“UK Loan Party” means a Loan Party incorporated under the laws of England and Wales.

“UK Non-Bank Lender” shall mean:

(a) where a Lender becomes a Revolving Facility Lender on the date of this Agreement, a Revolving Facility Lender listed in Schedule 2.17(i)(ii) as being a UK Non-Bank Lender; and

(b) where a Lender becomes a Revolving Facility Lender after the date of this Agreement, a Revolving Facility Lender that gives a UK Tax Confirmation in the applicable Assignment and Acceptance.

“UK Qualifying Lender” means:

(a) a Lender which is beneficially entitled to interest payable to that Lender in respect of an advance under the Revolving Facility and is:

(i) a Lender:

(A) which is a bank (as defined for the purpose of section 879 of the ITA) making an advance under the Revolving Facility and is within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance or would be within such charge as respects such payments apart from section 18A of the CTA; or

(B) in respect of an advance made under the Revolving Facility by a person that was a bank (as defined for the purpose of section 879 of the ITA) at the time that such advance was made and within the charge to United Kingdom corporation tax as respects any payments of interest made in respect of that advance; or

(ii) a Lender which is:

(A) a company resident in the United Kingdom for United Kingdom tax purposes;

(B) a partnership each member of which is:

(1) a company so resident in the United Kingdom; or

(2) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(3) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company; or

(iii) a UK Treaty Lender; or

(b) a Lender which is a building society (as defined for the purpose of section 880 of the ITA) making an advance under the Revolving Facility.

“UK Resolution Authority” shall mean the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

“UK Tax Confirmation” means a confirmation by a Revolving Facility Lender that the person beneficially entitled to interest payable to that Lender in respect of an advance under the Revolving Facility is either:

(a) a company resident in the United Kingdom for United Kingdom tax purposes;



(b) a partnership each member of which is:

(i) a company so resident in the United Kingdom; or

(ii) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account in computing its chargeable profits (within the meaning of section 19 of the CTA) the whole of any share of interest payable in respect of that advance that falls to it by reason of Part 17 of the CTA; or

(c) a company not so resident in the United Kingdom which carries on a trade in the United Kingdom through a permanent establishment and which brings into account interest payable in respect of that advance in computing the chargeable profits (within the meaning of section 19 of the CTA) of that company.

“UK Tax Deduction” means a deduction or withholding for or on account of any Tax imposed by the United Kingdom required by law to be made from a payment in respect of Loan to a UK Borrower.

“UK Treaty Lender” means a Revolving Facility Lender which:

(a) is treated as a resident of a UK Treaty State for the purposes of the relevant Treaty;

(b) does not carry on a business in the United Kingdom through a permanent establishment with which that Lender’s participation in the Revolving Facility Loan is effectively connected; and

(c) meets all other requirements in the Treaty for full exemption from Tax imposed by the United Kingdom on interest payable under the Revolving Facility, except that for this purpose it shall be assumed that the following are satisfied:

(i) any condition which relates (expressly or by implication) to there not being a special relationship between the relevant UK Borrower and a Lender or between both of them and another person, or to the amounts or terms of any Revolving Facility Loan or the Loan Documents; and

(ii) any necessary procedural formalities.

“UK Treaty State” shall mean a jurisdiction having a Treaty with the United Kingdom which makes provision for full exemption from tax imposed by the United Kingdom on interest.

“Uniform Commercial Code” or “UCC” shall mean the Uniform Commercial Code as the same may from time to time be in effect in the State of New York or the Uniform Commercial Code (or similar code or statute) of another jurisdiction, to the extent it may be required to apply to any item or items of Collateral.

“United States” shall mean the United States of America.

“Unreimbursed Amount” shall have the meaning assigned to such term in Section 2.05(c)(i).

“Unrestricted Cash” shall mean cash or Permitted Investments of Parent or any of its Subsidiaries that would not appear as “restricted” on a consolidated balance sheet of Parent or any of its Subsidiaries.

“Unrestricted Cash Amount” shall mean, on any date, the lesser of (i) \$350,000,000 (plus, solely for the purposes of calculating the Total Net Leverage Ratio while the Convertible Notes remain outstanding, the Minimum Convertible Debt Cash Amount) and (ii) the aggregate amount of Unrestricted Cash of Parent and its Subsidiaries on such date.

“Unrestricted Subsidiary” shall mean (1) Orphan Medical, LLC, a Delaware limited liability company; (2) any Subsidiary of Parent (other than a Borrower or any Subsidiary that directly or indirectly owns Equity Interests of a Borrower), whether now owned or acquired or created after the Closing Date, that is designated on or after the Closing Date by the Parent as an Unrestricted Subsidiary hereunder by written notice to the Administrative Agent; provided that the Parent shall only be permitted to so designate a new Unrestricted Subsidiary on or after the Closing Date so long as (a) no Default or Event of Default has occurred and is continuing or would result therefrom, (b) immediately after giving effect to such designation, the Parent shall be in Pro Forma Compliance with the Financial Covenants (if applicable) as of the last day of the then most recently ended Test Period, (c) all Investments in such Unrestricted Subsidiary at the time of designation (as contemplated by the immediately following sentence) are permitted in accordance with the relevant requirements of Section 6.04, (d) such Subsidiary being designated as an “Unrestricted Subsidiary” shall also, concurrently with such designation and thereafter, constitute an “unrestricted subsidiary” under any Material Indebtedness issued or incurred on or after the Closing Date, (e) such Subsidiary was not previously designated as an Unrestricted Subsidiary and thereafter re-designated as a Subsidiary, and (f) if such designation is on the Closing Date, the designation shall not occur until the conditions set forth in Section 4.01 are satisfied (or waived in accordance with Section 9.08) and the funding of the Initial Term Loans has occurred; and (3) any subsidiary of an Unrestricted Subsidiary (unless transferred to such Unrestricted Subsidiary or any of its subsidiaries by the Parent or one or more of its Subsidiaries after the date of the designation of Parent entity as a “Unrestricted Subsidiary” hereunder, in which case the subsidiary so transferred would be required to be independently designated in accordance with preceding clause (1)). The designation of any Subsidiary as an Unrestricted Subsidiary shall constitute an Investment by the Parent (or its Subsidiaries) therein at the date of designation in an amount equal to the Fair Market Value of Parent’s (or its Subsidiaries’) Investments therein, which shall be required to be permitted on such date in accordance with Section 6.04 (and not as an Investment permitted thereby in a Subsidiary). The Parent may designate any Unrestricted Subsidiary to be a Subsidiary for purposes of this Agreement (each, a “Subsidiary Redesignation”); provided that (i) no Default or Event of Default has occurred and is continuing or would result therefrom (after giving effect to the provisions of the immediately succeeding sentence), (ii) immediately after giving effect to such redesignation, the Parent shall be in Pro Forma Compliance with the Financial Covenants (if applicable) as of the last day of the most recently ended Test Period and (iii) the Parent shall have delivered to the Administrative Agent an officer’s certificate executed by a Responsible Officer of Parent, certifying to the best of such officer’s knowledge, compliance with the requirements of preceding clause (i). The designation of any Unrestricted Subsidiary as a Subsidiary on or after the Closing Date shall constitute (i) the incurrence at the time of designation of any Investment, Indebtedness or Liens of such Subsidiary existing at such time and (ii) a return on any Investment by the applicable Loan Party (or its relevant Subsidiaries) in Unrestricted Subsidiaries pursuant to the preceding sentence in an amount equal to the Fair Market Value at the date of such designation of such Loan Party’s (or its relevant Subsidiaries’) Investment in such Subsidiary.

For the avoidance of doubt, no Borrower shall be an Unrestricted Subsidiary.

“Upfront Payments” means any upfront or similar payments made during the period of twelve months ending on the Closing Date or arising thereafter in connection with any drug or pharmaceutical product research and development or collaboration arrangements or the closing of any Drug Acquisition.

“U.S. Borrower” shall have the meaning assigned to such term in the introductory paragraph of this Agreement.

“U.S. Collateral Agreement” shall mean the U.S. Collateral Agreement substantially in the form of Exhibit L dated as of the Closing Date, as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, among the U.S. Loan Parties, the other Loan Parties party thereto and the Collateral Trustee (at the direction of the Administrative Agent).

“U.S. Loan Parties” means each U.S. Borrower and each other Loan Party that is a Domestic Subsidiary.

“U.S. Person” means any person that is a “United States Person” as defined in Section 7701(a)(30) of the Code.

“U.S. Special Resolutions Regimes” shall have the meaning assigned to such term in Section 9.23.

“U.S. Tax Compliance Certificate” shall have the meaning assigned to such term in Section 2.17(f)(ii)(D).

“USA PATRIOT Act” shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107 56 (signed into law October 26, 2001)).

“VAT” means:

(a) value added tax as provided for in the Value-Added Tax Consolidation Act 2010 of Ireland;

(b) any value added tax imposed by the Value Added Tax Act 1994 of the United Kingdom;

(c) any tax imposed in compliance with the Council Directive of 28 November 2006 on the common system of value added tax (EC Directive 2006/112); and

(d) any other tax of a similar nature, whether imposed in a member state of the European Union in substitution for, or levied in addition to, such tax referred to in paragraphs (a), (b) and (c) above, or imposed elsewhere.

“Weighted Average Life to Maturity” shall mean, when applied to any Indebtedness at any date, the number of years obtained by dividing: (a) the sum of the products obtained by multiplying (i) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (ii) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment; by (b) the then outstanding principal amount of such Indebtedness.

“Wholly Owned Subsidiary” of any person shall mean a subsidiary of such person, all of the Equity Interests of which (other than directors’ qualifying shares or nominee or other similar shares required pursuant to applicable law) are owned by such person or another Wholly Owned Subsidiary of such person. Unless the context otherwise requires, “Wholly Owned Subsidiary” shall mean a Subsidiary of Parent that is a Wholly Owned Subsidiary of Parent.

“Withdrawal Liability” shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

“Write-Down and Conversion Powers” means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers, and (c) in relation to any other applicable Bail-In Legislation: (i) any powers under that Bail-In Legislation to cancel, transfer or dilute shares issued by a person that is a bank or investment firm or other financial institution to cancel, reduce, modify or change the form of a liability of such a person or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers; and (ii) any similar or analogous powers under that Bail-In Legislation.

Section 1.02 Terms Generally; GAAP. The definitions set forth or referred to in Section 1.01 shall apply equally to both the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” All references herein to Articles, Sections, Exhibits and Schedules shall be deemed references to Articles and Sections of, and Exhibits and Schedules to, this Agreement unless the context shall otherwise require. Except as otherwise expressly provided herein, any reference in this Agreement to any Loan Document shall mean such document as amended, restated, amended and restated, supplemented or otherwise modified from time to time. Except as otherwise expressly provided herein (including, for the avoidance of doubt, the proviso in the definition of “Capitalized Lease Obligations”), all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided, that if at any time, any change in GAAP would affect the computation of any financial ratio or requirement in the Loan Documents and the Parent notifies the Administrative Agent that the Parent requests an amendment (or if the Administrative Agent notifies the Parent that the Required Lenders request an amendment), the Administrative Agent, the Lenders and the Parent shall, at no cost to the Parent, negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such financial ratio or requirement shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such provision is amended in accordance herewith. Notwithstanding any other provision contained 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 (i) without giving effect to any election under Accounting Standards Codification 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 Parent or any Subsidiary at “fair value”, as defined therein, (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Accounting Standards Codification 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 and (iii) for the avoidance of doubt, except as provided in the definition of “Consolidated Net Income”, without giving effect to the financial condition, results and performance of the Unrestricted Subsidiaries.

Section 1.03 Effectuation of Transactions. Each of the representations and warranties of Parent contained in this Agreement (and all corresponding definitions) are made after giving effect to the Transactions, unless the context otherwise requires.

Section 1.04 Timing of Payment or Performance. Except as otherwise expressly provided herein, when the payment of any obligation or the performance of any covenant, duty or obligation is stated to be due or performance required on a day which is not a Business Day, the date of such payment or performance shall extend to the immediately succeeding Business Day.

Section 1.05 Times of Day. Unless otherwise specified herein, all references herein to times of day shall be references to Local Time.

Section 1.06 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., an "Initial Revolving Loan") or by Type (e.g., a "Eurocurrency Rate Loan") or by Class and Type (e.g., a "Eurocurrency Initial Revolving Loan"). Borrowings also may be classified and referred to by Class (e.g., an "Initial Revolving Borrowing") or by Type (e.g., a "Eurocurrency Borrowing") or by Class and Type (e.g., a "Initial Eurocurrency Revolving Borrowing").

Section 1.07 Currency Translation. For purposes of any determination under Article V, Article VI (other than Section 6.12) or Article VII or any determination under any other provision of this Agreement expressly requiring the use of a current exchange rate, all amounts incurred, outstanding or proposed to be incurred or outstanding in currencies other than Dollars shall be translated into Dollars at currency exchange rates in effect on the date of such determination; provided, however, that for purposes of determining compliance with Article VI with respect to the amount of any Indebtedness, Asset Sale, Investment or Restricted Payment in a currency other than Dollars, no Default or Event of Default shall be deemed to have occurred solely as a result of changes in rates of exchange occurring after the time such Indebtedness is incurred or Asset Sale, Investment or Restricted Payment is made; provided that, for the avoidance of doubt, the foregoing provisions of this Section 1.07 shall otherwise apply to such Sections, including with respect to determining whether any Indebtedness may be incurred or Asset Sale, Investment or Restricted Payment made at any time under such Sections. For purposes of Section 6.12, amounts in currencies other than Dollars shall be translated into Dollars at the currency exchange rates used in preparing the most recently delivered financial statements pursuant to Section 5.04(a) or (b).

Section 1.08 Pro Forma Calculations; Certain Calculations and Tests.

(a) Notwithstanding anything to the contrary herein, the Adjusted Consolidated EBITDA, the First Lien Secured Net Leverage Ratio, the Secured Net Leverage Ratio and the Total Net Leverage Ratio shall be calculated in the manner prescribed by this Section 1.08.

(b) In connection with any action being taken in connection with a Limited Condition Acquisition, for purposes of determining compliance with any provision of this Agreement which requires that no Default or Event of Default, as applicable, has occurred, is continuing or would result from any such action, as applicable, such condition shall, at the option of the Parent, be deemed satisfied, so long as no such Default or Event of Default, as applicable, exists on the date the definitive agreements for such Limited Condition Acquisition are entered into. For the avoidance of doubt, if Parent has exercised its option under the first sentence of this clause (b), and any Default or Event of Default occurs following the date the definitive agreements for the applicable Limited Condition Acquisition were entered into and prior to the consummation of such Limited Condition Acquisition, any such Default or Event of Default shall be deemed to not have occurred or be continuing for purposes of determining whether any action being taken in connection with such Limited Condition Acquisition is permitted hereunder.

(c) In connection with any Limited Condition Acquisition and any incurrence of any Indebtedness, Liens or obligations to make any Investment in connection with a Limited Condition Acquisition, for purposes of:

(i) determining compliance with any provision of this Agreement which requires the calculation of the First Lien Secured Net Leverage Ratio, the Secured Net Leverage Ratio or the Total Net Leverage Ratio; or

(ii) testing baskets set forth in this Agreement (including baskets measured as a percentage of Consolidated Total Assets);

in each case, at the option of the Parent (Parent's election to exercise such option in connection with any Limited Condition Acquisition, an "LCA Election"), the date of determination of whether any such action is permitted hereunder, shall be deemed to be the date the definitive agreements for such Limited Condition Acquisition are entered into (the "LCA Test Date"), and if, after giving pro forma effect to the Limited Condition Acquisition and the other transactions to be entered into in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) as if they had occurred at the beginning of the most recently completed Test Period ending prior to the LCA Test Date, Parent could have taken such action on the relevant LCA Test Date in compliance with such ratio or basket, such ratio or basket shall be deemed to have been complied with. For the avoidance of doubt, if Parent has made an LCA Election and any of the ratios or baskets for which compliance was determined or tested as of the LCA Test Date are exceeded as a result of fluctuations in any such ratio or basket, including due to fluctuations in Adjusted Consolidated EBITDA or Consolidated Total Assets of Parent or the person subject to such Limited Condition Acquisition, at or prior to the consummation of the relevant transaction or action, such baskets or ratios will not be deemed to have been exceeded as a result of such fluctuations. If Parent has made an LCA Election for any Limited Condition Acquisition, then in connection with any subsequent calculation of any ratio or basket hereunder on or following the relevant LCA Test Date and until after the earlier of the consummation of such Limited Condition Acquisition or termination or expiration of the definitive agreement for such Limited Condition Acquisition without consummation of such Limited Condition Acquisition, any such ratio or basket shall be calculated on a pro forma basis assuming such Limited Condition Acquisition and other transactions in connection therewith (including any incurrence of Indebtedness and the use of proceeds thereof) have been consummated, except to the extent such calculation would result in a lower Total Net Leverage Ratio, Secured Net Leverage Ratio or First Lien Secured Net Leverage Ratio than would apply if such calculation was made without giving pro forma effect to such Limited Condition Acquisition.

(d) Notwithstanding anything to the contrary herein, with respect to any amounts incurred or transactions (or series of transactions) entered into (or consummated) in reliance on a provision within the same covenant of this Agreement that does not require compliance with a financial ratio or test (any such amounts, the "Fixed Amounts") substantially concurrently or in a series of related transactions with any amounts incurred or transactions entered into (or consummated) in reliance on a provision within the same covenant of this Agreement that requires compliance with any such financial ratio or test (including any First Lien Secured Net Leverage Ratio test, any Secured Net Leverage Ratio, any Total Net Leverage Ratio or the amount of Adjusted Consolidated EBITDA) (any such amounts, the "Incurrence-Based Amounts"), it is understood and agreed that (a) the Fixed Amounts under such covenant shall be disregarded in the calculation of the financial ratio or test applicable to any substantially concurrent utilization of the Incurrence-Based Amounts and (b) the entire transaction (or series of related transactions) shall be calculated on a Pro Forma Basis (including the use of proceeds of all Indebtedness to be incurred and any repayments, repurchases and redemptions of Indebtedness; provided that, for purposes of such calculations,

Unrestricted Cash Amount shall not include the cash proceeds of any Indebtedness the incurrence of which is the specified transaction or that is incurred to finance the specified transaction). Notwithstanding anything herein to the contrary, if at any time any applicable ratio or financial test for any category based on an Incurrence-Based Amount permits Indebtedness, Liens, Restricted Payments, Asset Sales, and Investments, as applicable, previously incurred under a category based on a Fixed Amount, such Indebtedness, Liens, Restricted Payments, Asset Sales, and Investments, as applicable, shall be deemed to have been automatically reclassified as incurred under such category based on an Incurrence-Based Amount.

Section 1.09 Interest Rates. The Administrative Agent does not warrant, nor accept responsibility, nor shall the Administrative Agent have any liability with respect to the administration, submission or any other matter related to the rates in the definition of "Eurocurrency Rate" or with respect to any rate (including, for the avoidance of doubt, the selection of such rate and any related spread or other adjustment) that is an alternative or replacement for or successor to any such rate (including, without limitation, any LIBOR Successor Rate) or the effect of any of the foregoing, or of any LIBOR Successor Rate Conforming Changes or EURIBOR Successor Rate Conforming Changes.

Section 1.10 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

Section 1.11 Divisions. Any reference herein to a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, consolidation, assignment, sale, disposition or transfer, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

Section 1.12 Luxembourg Terms. Without prejudice to the generality of any provision of this Agreement, in this Agreement, where it relates to a company incorporated in Luxembourg, a reference to:

(a) a winding-up, administration, reorganisation, insolvency or dissolution includes, without limitation, bankruptcy (faillite), liquidation, composition with creditors (concordat préventif de la faillite), moratorium or suspension of payments (sursis de paiement), controlled management (gestion contrôlée), general settlement with creditors, reorganisation or similar laws affecting the rights of creditors generally;

(b) a receiver, administrative receiver, administrator, trustee, custodian, compulsory manager, conservator or similar officer includes, without limitation, a *juge délégué*, *commissaire*, *juge-commissaire*, *mandataire ad hoc*, *administrateur provisoire*, *liquidateur*, *curateur* or similar officer;

(c) a lien or security interest includes any *hypothèque*, *nantissement*, *gage*, *transfert de propriété à titre de garantie*, *mise en pension*, *privilège*, *sûreté réelle*, *droit de rétention*, and any type of security in rem (*sûreté réelle*) or agreement or arrangement having a similar effect and any transfer of title by way of security;

(d) a person being unable to pay its debts includes that person being in a state of *cessation de paiements*;

(e) by-laws or constitutional documents includes its up-to-date (restated) articles of association (*statuts coordonnés*); and

(f) a director or a manager includes an *administrateur* and a *gérant*.

Section 1.13 Currency Fluctuations. Notwithstanding anything to the contrary in this Agreement, (i) any representation or warranty that would be untrue or inaccurate, (ii) any undertaking that would be breached or (iii) any event that would constitute a Default or an Event of Default, in each case, solely as a result of fluctuations in applicable currency exchange rates, shall not be deemed to be untrue, inaccurate, breached or so constituted, as applicable, solely as a result of such fluctuations in currency exchange rates; provided that this Section 1.13 shall not apply with respect to any inaccuracy, breach, default or Event of Default relating to Section 6.12.

## ARTICLE II

### *The Credits*

Section 2.01 Commitments. Subject to the terms and conditions set forth herein:

(a) (i) each Term Lender under the Initial Dollar Term Facility agrees, severally and not jointly, to make Initial Dollar Term Loans in Dollars to Jazz Lux on the Closing Date in an aggregate principal amount not to exceed its Initial Dollar Term Loan Commitment, and (ii) each Term Lender under the Initial Euro Term Facility agrees, severally and not jointly, to make Initial Euro Term Loans in Euros to Jazz Lux on the Closing Date in an aggregate principal amount not to exceed its Initial Euro Term Loan Commitment,

(b) each Revolving Facility Lender agrees, severally and not jointly, to make Revolving Facility Loans of a Class in Dollars to any Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (i) such Lender's Revolving Facility Credit Exposure of such Class exceeding such Lender's Revolving Facility Commitment of such Class, or (ii) the Revolving Facility Credit Exposure of such Class exceeding the total Revolving Facility Commitments of such Class. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Facility Loans,

(c) (i) each Lender having an Incremental Term Loan Commitment agrees, severally and not jointly, subject to the terms and conditions set forth in the applicable Incremental Assumption Agreement, to make Incremental Term Loans to any Borrower, in an aggregate principal amount not to exceed its Incremental Term Loan Commitment and (ii) each Lender having an Incremental Revolving Facility Commitment agrees, severally and not jointly, subject to the terms and conditions set forth in the applicable Incremental Assumption Agreement, to make Incremental Revolving Facility Loans to any Borrower, in an aggregate principal amount not to exceed its Incremental Revolving Facility Commitment, and

(d) the full amount of the Initial Term Loan Commitments must be drawn in a single drawing on the Closing Date, and amounts of Term Loans borrowed under Section 2.01(a) or Section 2.01(c)(i) that are repaid or prepaid may not be reborrowed.



## Section 2.02 Loans and Borrowings.

(a) Each Loan shall be made as part of a Borrowing consisting of Loans under the same Facility and of the same Type made by the Lenders ratably in accordance with their respective Commitments under the applicable Facility; provided, however, that Revolving Facility Loans of any Class shall be made by the Revolving Facility Lenders of such Class ratably in accordance with their respective Revolving Facility Percentages on the date such Loans are made hereunder. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided, that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.14, each Borrowing shall be comprised entirely of ABR Loans or Eurocurrency Rate Loans as the applicable Borrower may request in accordance herewith. Each Lender at its option may make any ABR Loan or Eurocurrency Rate Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided that any exercise of such option shall not affect the obligation of the applicable Borrower to repay such Loan in accordance with the terms of this Agreement and such Lender shall not be entitled to any amounts payable under Section 2.15 or 2.17 solely in respect of increased costs resulting from such exercise and existing at the time of such exercise.

(c) [Reserved].

(d) At the commencement of each Interest Period for any Eurocurrency Revolving Facility Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum. At the time that each ABR Revolving Facility Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum; provided, that an ABR Revolving Facility Borrowing may be in an aggregate amount that is equal to the entire unused available balance of the Revolving Facility Commitments or that is required to finance the reimbursement of an L/C Disbursement as contemplated by Section 2.05(e). Borrowings of more than one Type and Class may be outstanding at the same time; provided, however, that no Borrower shall be entitled to request any Borrowing that, if made, and after giving effect to all Borrowings, all conversions of Loans from one type to another, and all continuations of Loans of the same type, would result in more than (i) 10 Eurocurrency Borrowings outstanding under all Term Facilities at any time or (ii) 10 Eurocurrency Borrowings outstanding under all Revolving Facilities at any time. Borrowings having different Interest Periods, regardless of whether they commence on the same date, shall be considered separate Borrowings.

(e) Notwithstanding any other provision of this Agreement, no Borrower shall be entitled to request, or to elect to convert or continue, any Borrowing of any Class if the Interest Period requested with respect thereto would end after the Revolving Facility Maturity Date or Term Facility Maturity Date for such Class, as applicable.

## Section 2.03 Requests for Borrowings.

(a) To request a Revolving Facility Borrowing and/or a Term Borrowing, applicable Borrower shall notify the Administrative Agent of such request (x) in the case of a Eurocurrency Borrowing, not later than 11:00 a.m., Local Time, (I) if denominated in Dollars, three (3) Business Days or (II) if denominated in Euros, four (4) Business Days before the date of the proposed Borrowing, unless such Borrower wishes to request an Interest Period for such Borrowing other than one, three or six months in duration as provided in the definition of "Interest Period," in which case (I) if denominated in Dollars, on the fourth Business

Day or (II) if denominated in Euros, on the fifth Business Day before each such Eurocurrency Borrowing, or (y) in the case of an ABR Borrowing, not later than 10:00 a.m. Local Time, on the Business Day of the proposed Borrowing, whereupon the Administrative Agent shall give prompt notice to the Lenders of such request; provided that any such notice of an ABR Revolving Facility Borrowing to finance the reimbursement of an L/C Disbursement as contemplated by Section 2.05(c) may be given no later than 12:00 p.m., noon, Local Time, on the date of the proposed Borrowing. Each such Borrowing Request shall be irrevocable provided that any Borrowing Request may state that it is conditioned upon the effectiveness of other credit facilities, indentures or similar agreements or other transactions (including, in the case of any Borrowing on the Closing Date, the Acquisition), in which case such notice may be revoked by the applicable Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied and (in the case of telephonic requests) shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Borrowing Request signed by the applicable Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) whether such Borrowing is to be a Borrowing of Initial Term Loans, Other Term Loans or Revolving Facility Loans of a particular Class, as applicable;

(ii) the currency and aggregate amount of the requested Borrowing;

(iii) the date of such Borrowing, which shall be a Business Day;

(iv) whether such Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing;

(v) in the case of a Eurocurrency Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and

(vi) the location (which must be in the United States or, in the case of a Foreign Borrower, the jurisdiction of organization of such Foreign Borrower) and number of such Borrower's account, to which funds are to be disbursed.

If no election as to the Type of Borrowing denominated in Dollars is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurocurrency Borrowing then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section 2.03, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

(b) Each Lender may, at its option, make any Loan available to Parent or any other Borrower that is a Foreign Subsidiary of Parent by causing any foreign or domestic branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of such Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) Notwithstanding anything to the contrary in this Agreement, any Lender may exchange, continue or rollover all or a portion of its Loans in connection with any refinancing, extension, loan modification or similar transaction permitted by the terms of this Agreement, pursuant to a cashless settlement mechanism approved by the applicable Borrower, the Administrative Agent, and such Lender.

Section 2.04 Reserved.

Section 2.05 Letters of Credit.

(a) The Letter of Credit Commitment. (i) Subject to the terms and conditions set forth herein, (A) each Issuing Bank agrees, in reliance upon the agreements of the Revolving Facility Lenders set forth in this Section 2.05, (1) from time to time on any Business Day during the period from the Closing Date until the Letter of Credit Expiration Date for the applicable Revolving Facility, to issue Letters of Credit for the account of any Borrower or jointly for the account of any Borrower and any of its Subsidiaries under any Revolving Facility, and to amend or extend Letters of Credit previously issued by it, in accordance with Section 2.05(b), and (2) to honor drawings under the Letters of Credit; and (B) the Revolving Facility Lenders under each Revolving Facility severally agree to participate in Letters of Credit issued for the account of any Borrower or any of its Subsidiaries under such Revolving Facility and any drawings thereunder; provided that after giving effect to any L/C Credit Extension with respect to any Letter of Credit, (w) the Revolving Facility Credit Exposure under the applicable Revolving Facility shall not exceed the Revolving Facility Commitments thereunder, (x) the Revolving Facility Credit Exposure of any Lender under the applicable Revolving Facility shall not exceed such Lender's Revolving Facility Commitment thereunder, (y) the outstanding amount of the L/C Obligations under all Revolving Facilities shall not exceed the Letter of Credit Sublimit and (z) unless otherwise agreed by such Issuing Bank in its sole discretion, the outstanding amount of the L/C Obligations in respect of Letters of Credit issued by any Issuing Bank shall not exceed such Issuing Bank's Letter of Credit Commitment. Each request by a Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by such Borrower that the L/C Credit Extension so requested complies with the conditions set forth in the proviso to the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, any Borrower's and its Subsidiaries' ability to obtain Letters of Credit shall be fully revolving, and accordingly any Borrower may (for its account or jointly for the account of the applicable Borrower and any of its Subsidiaries), during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed. Any letter of credit issued by a person that is or becomes an Issuing Bank hereunder but which letter of credit was not originally a Letter of Credit but the terms of which then comply with the requirements applicable to Letters of Credit hereunder may, if agreed in writing by the applicable Borrower, such Issuing Bank and the Administrative Agent be designated as a Letter of Credit hereunder (any such letter of credit subject to the foregoing, an "Existing Letter of Credit"), in which event, such Existing Letter of Credit shall, subject to the satisfaction of the applicable conditions set forth in Article IV, be deemed to be a Letter of Credit under this Agreement as of the date that is on or after the Closing Date that is specified in such written agreement. Each Letter of Credit outstanding under the Existing Credit Agreement immediately prior to the Closing Date shall be deemed to be issued pursuant to this Section 2.05(a) on the Closing Date.

(ii) No Issuing Bank shall issue any Letter of Credit under any Revolving Facility if:

(A) subject to Section 2.05(b)(iii), the expiry date of the requested Letter of Credit would occur more than twelve months after the date of issuance or last extension, unless the Required Revolving Facility Lenders under such Revolving Facility have approved such expiry date; or

(B) the expiry date of the requested Letter of Credit would occur after the Letter of Credit Expiration Date for such Revolving Facility, unless (x) all the Revolving Facility Lenders under such Revolving Facility and such Issuing Bank have approved such expiry date or (y) such Letter of Credit is Cash Collateralized on terms and pursuant to arrangements satisfactory to the applicable Issuing Bank.

(iii) No Issuing Bank shall be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain such Issuing Bank from issuing the Letter of Credit, or any Requirement of Law applicable to such Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over such Issuing Bank shall prohibit, or request that such Issuing Bank refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon such Issuing Bank with respect to the Letter of Credit any restriction, reserve or capital requirement (for which such Issuing Bank is not otherwise compensated hereunder) not in effect on the Closing Date, or shall impose upon such Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Closing Date and which such Issuing Bank in good faith deems material to it;

(B) the issuance of such Letter of Credit would violate one or more policies of such Issuing Bank applicable to letters of credit generally;

(C) except as otherwise agreed by the Administrative Agent and such Issuing Bank, the Letter of Credit is in an initial stated amount of less than \$250,000;

(D) such Letter of Credit is to be denominated in a currency other than Dollars;

(E) any Revolving Facility Lender under the applicable Revolving Facility is at that time a Defaulting Lender, unless such Issuing Bank has entered into arrangements, including for the delivery of Cash Collateral, satisfactory to such Issuing Bank (in its sole discretion) with the Borrowers or such Lender to eliminate such Issuing Bank's actual or reasonably determined potential Fronting Exposure (after giving effect to Section 2.24(a)(iv) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Obligations as to which such Issuing Bank has actual or reasonably determined potential Fronting Exposure, as it may elect in its sole discretion); or

(F) the Letter of Credit contains any provisions for automatic reinstatement of the stated amount after any drawing thereunder.

(iv) [reserved].

(v) No Issuing Bank shall be under any obligation to amend any Letter of Credit if (A) such Issuing Bank would have no obligation at such time to issue the Letter of Credit in its amended form under the terms hereof, or (B) the beneficiary of the Letter of Credit does not accept the proposed amendment to the Letter of Credit.

(vi) Subject to the provisions of Section 2.05(f), each Issuing Bank shall act on behalf of the Revolving Facility Lenders under the applicable Revolving Facility with respect to any Letters of Credit issued by it under such Revolving Facility and the documents associated therewith, and each Issuing Bank shall have all of the benefits and immunities (A) provided to the Administrative Agent in Article IX with respect to any acts taken or omissions suffered by such Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and Issuer Documents pertaining to such Letters of Credit as fully as if the term "Administrative Agent" as used in Article VIII included such Issuing Bank with respect to such acts or omissions, and (B) as additionally provided herein with respect to the Issuing Banks.

(b) Procedures for Issuance and Amendment of Letters of Credit; Auto-Extension Letters of Credit.

(i) Each Letter of Credit shall be issued, amended, extended, reinstated or renewed, as the case may be, upon the request of Parent delivered to the applicable Issuing Bank (with a copy to the Administrative Agent) in the form of a Letter of Credit Request, appropriately completed and signed by a Responsible Officer of Parent. Such Letter of Credit Request may be sent by facsimile, by United States mail, by overnight courier, by electronic transmission using the system provided by the applicable Issuing Bank, by personal delivery or by any other means acceptable to such Issuing Bank. Such Letter of Credit Request must be received by the applicable Issuing Bank and the Administrative Agent not later than 11:00 a.m. at least three Business Days (or such later date and time as the Administrative Agent and such Issuing Bank may agree in a particular instance in their sole discretion) prior to the proposed issuance date or date of amendment, as the case may be. In the case of a request for an initial issuance of a Letter of Credit, such Letter of Credit Request shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank: (A) the proposed issuance date of the requested Letter of Credit (which shall be a Business Day); (B) the amount thereof; (C) the expiry date thereof; (D) the name and address of the beneficiary thereof; (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; (H) if more than one Revolving Facility is then in effect, the Revolving Facility under which such Letter of Credit is to be issued; and (I) such other matters as the applicable Issuing Bank may reasonably request. In the case of a request for an amendment, extension, reinstatement or renewal of any outstanding Letter of Credit, such Letter of Credit Request shall specify in form and detail reasonably satisfactory to the applicable Issuing Bank (1) the Letter of Credit to be amended, extended, reinstated or renewed; (2) the proposed date of amendment, extension, reinstatement or renewal thereof (which shall be a Business Day); (3) the nature of the proposed amendment, extension, reinstatement or renewal, as applicable; and (4) such other matters as the applicable Issuing Bank may reasonably request. Additionally, the Borrowers shall furnish to the applicable Issuing Bank and the Administrative Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any Issuer Documents, as such Issuing Bank or the Administrative Agent may reasonably request pursuant to its policies of general applicability to other account parties for whom such Issuing Bank issues letters of credit. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application and reimbursement agreement or other agreement submitted by Parent to, or entered into by Parent with, an Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(ii) Promptly after receipt of any Letter of Credit Request, the applicable Issuing Bank will confirm with the Administrative Agent (by telephone or in writing) that the Administrative Agent has received the pertinent details of such Letter of Credit Request from Parent and, if not, such Issuing Bank will provide the Administrative Agent with such pertinent details. Unless the applicable Issuing Bank has received written notice from the Required Revolving Facility Lenders, the Administrative Agent or any Loan Party, at least one Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article IV shall not then be satisfied, then, subject to the terms and conditions hereof, such Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the applicable Borrower (or jointly for the applicable Borrower and the applicable Subsidiary) or enter into the applicable amendment, as the case may be, in each case in accordance with such Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit under a Revolving Facility, each Revolving Facility Lender under such Revolving Facility shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the applicable Issuing Bank a risk participation in such Letter of Credit in an amount equal to the product of such Revolving Facility Lender's Revolving Facility Percentage of such Revolving Facility times the amount of such Letter of Credit.

(iii) If the applicable Borrower so requests in any applicable Letter of Credit Request, an Issuing Bank may, in its discretion, agree to issue a Letter of Credit that has automatic extension provisions (each, an “Auto-Extension Letter of Credit”); provided that any such Auto-Extension Letter of Credit must permit such Issuing Bank to prevent any such extension at least once in each twelve-month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the “Non-Extension Notice Date”) in each such twelve-month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the applicable Issuing Bank, Parent shall not be required to make a specific request to such Issuing Bank for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Revolving Facility Lenders shall be deemed to have authorized (but may not require) such Issuing Bank to permit the extension of such Letter of Credit at any time to an expiry date not later than the Letter of Credit Expiration Date of the applicable Revolving Facility; provided, however, that no Issuing Bank shall permit any such extension if (A) such Issuing Bank has determined that it would not be permitted at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of clause (ii) or (iii) of Section 2.05(a) or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven Business Days before the Non-Extension Notice Date (1) from the Administrative Agent that the Required Revolving Facility Lenders under the applicable Revolving Facility have elected not to permit such extension or (2) from the Administrative Agent or Parent that one or more of the applicable conditions specified in Article IV is not then satisfied, and in each such case directing such Issuing Bank not to permit such extension.

(iv) Promptly after its delivery of any Letter of Credit or any amendment, extension, reinstatement or renewal relating to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, each Issuing Bank will also deliver to Parent a true and complete copy of such Letter of Credit or amendment, extension, reinstatement or renewal.

(c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the applicable Issuing Bank shall, within the period stipulated by the terms and conditions of the Letter of Credit, examine the drawing document(s). After such examination and provided the drawing documents are compliant, the applicable Issuing Bank shall notify Parent and the Administrative Agent thereof. Not later than 11:00 a.m. one Business Day after the date of notice of any payment by an Issuing Bank under a Letter of Credit or, if Parent shall have received such notice from the Issuing Bank later than 11:00 a.m. on any Business Day, not later than 4:00 p.m. on the next Business Day (each such date of payment by an Issuing Bank, an “Honor Date”), the applicable Borrower shall reimburse such Issuing Bank through the Administrative Agent in an amount equal to the amount of such drawing. If the applicable Borrower fails to so reimburse the applicable Issuing Bank by such time, the Administrative Agent shall promptly notify each Revolving Facility Lender under the applicable Revolving Facility of the Honor Date, the amount of the unreimbursed drawing (the “Unreimbursed Amount”), and the amount of such Revolving Facility Lender’s Revolving Facility Percentage thereof. In such event, Parent shall be deemed to have requested an ABR Revolving Facility Borrowing under the applicable Revolving Facility to be disbursed on such date in an amount equal to the Unreimbursed Amount, without regard to the minimum and multiples specified in Section 2.02 for the principal amount of ABR Loans, but subject to the amount of the unutilized portion of the Revolving Facility Commitments under Section 4.02 and the conditions set forth in Section 4.02 (other than the delivery of a Borrowing Request). Any notice given by an Issuing Bank or the Administrative Agent pursuant to this Section 2.05(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Revolving Facility Lender under the applicable Revolving Facility shall upon any notice pursuant to Section 2.05(c)(i) make funds available (and the Administrative Agent may apply Cash Collateral provided for this purpose) for the account of the applicable Issuing Bank to Administrative Agent in an amount equal to its applicable Revolving Facility Percentage of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Administrative Agent, whereupon, subject to the provisions of Section 2.05(c)(iii), each Revolving Facility Lender that so makes funds available shall be deemed to have made an ABR Loan to Parent in such amount. The Administrative Agent shall remit the funds so received to the applicable Issuing Bank.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Facility Borrowing of ABR Loans because the conditions set forth in Section 4.02 cannot be satisfied or for any other reason, the applicable Borrower shall be deemed to have incurred from the applicable Issuing Bank an L/C Borrowing in the amount of the Unreimbursed Amount that is not so refinanced, which L/C Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate applicable to ABR Loans of the applicable Class. In such event, each Revolving Facility Lender's payment to the Administrative Agent for the account of the applicable Issuing Bank pursuant to Section 2.05(c)(ii) shall be deemed payment in respect of its participation in such L/C Borrowing and shall constitute an L/C Advance from such Lender in satisfaction of its participation obligation under this Section 2.05; provided that the amount of any drawing that is not reimbursed on the Honor Date shall bear interest at the rate applicable to ABR Loans from and including the date of drawing to but excluding the date such amount becomes an Unreimbursed Amount.

(iv) Until each Revolving Facility Lender under the applicable Revolving Facility funds its Revolving Facility Loan or L/C Advance pursuant to this Section 2.05(c) to reimburse an Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Revolving Facility Percentage of such amount shall be solely for the account of such Issuing Bank.

(v) Each Revolving Facility Lender's obligation to make Revolving Facility Loans or L/C Advances to reimburse the Issuing Banks for amounts drawn under Letters of Credit, as contemplated by this Section 2.05(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against any Issuing Bank, the Borrowers or any other person for any reason whatsoever; (B) the occurrence or continuance of a Default, or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Revolving Facility Lender's obligation to make Revolving Facility Loans pursuant to this Section 2.05(c) is subject to the conditions set forth in Section 4.02 (other than delivery by Parent of a Borrowing Request). No such making of an L/C Advance shall relieve or otherwise impair the obligation of the Borrowers to reimburse any Issuing Bank for the amount of any payment made by such Issuing Bank under any Letter of Credit, together with interest as provided herein.

(vi) If any Revolving Facility Lender fails to make available to the Administrative Agent for the account of an Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.05(c) by the time specified in Section 2.05(c)(ii), then, without limiting the other provisions of this Agreement, such Issuing Bank shall be entitled to recover from such Lender (acting through the Administrative Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to such Issuing Bank at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by such Issuing Bank in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by such Issuing Bank in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid (minus the foregoing interest and fees) shall constitute such Lender's Revolving Facility Loan included in the relevant Revolving Facility Borrowing or L/C Advance in respect of the relevant L/C Borrowing, as the case may be. A certificate of an Issuing Bank submitted to any Revolving Facility Lender (through the Administrative Agent) with respect to any amounts owing under this Section 2.05(c)(vi) shall be conclusive absent manifest error.

(d) Repayment of Participations.

(i) At any time after an Issuing Bank has made a payment under any Letter of Credit and has received from any Revolving Facility Lender such Lender's L/C Advance in respect of such payment in accordance with Section 2.05(c), if the Administrative Agent receives for the account of such Issuing Bank any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrowers or otherwise, including proceeds of Cash Collateral applied thereto by the Administrative Agent), the Administrative Agent will distribute to such Lender its Revolving Facility Percentage thereof in the same funds as those received by the Administrative Agent.

(ii) If any payment received by the Administrative Agent for the account of an Issuing Bank pursuant to Section 2.05(c)(i) is required to be returned under any of the circumstances described in Section 9.21 (including pursuant to any settlement entered into by such Issuing Bank in its discretion), each Revolving Facility Lender shall pay to the Administrative Agent for the account of such Issuing Bank its Revolving Facility Percentage thereof on demand of the Administrative Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the Obligations and the termination of this Agreement.

(e) Obligations Absolute. The obligation of the Borrowers to reimburse the relevant Issuing Bank for each drawing under each Letter of Credit and to repay each L/C Borrowing shall be absolute, unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following:

(i) any lack of validity or enforceability of such Letter of Credit, this Agreement, or any other Loan Document;

(ii) the existence of any claim, counterclaim, setoff, defense or other right that the Borrowers or any Subsidiary may have at any time against any beneficiary or any transferee of such Letter of Credit (or any person for whom any such beneficiary or any such transferee may be acting), such Issuing Bank or any other person, whether in connection with this Agreement, the transactions contemplated hereby or by such Letter of Credit or any agreement or instrument relating thereto, or any unrelated transaction;

(iii) any draft, demand, certificate or other document presented under such Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(iv) waiver by such Issuing Bank of any requirement that exists for such Issuing Bank's protection and not the protection of the Borrowers or any waiver by such Issuing Bank which does not in fact materially prejudice the Borrowers;

(v) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;



(vi) any payment made by such Issuing Bank in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under such Letter of Credit if presentation after such date is authorized by the UCC or the ISP, as applicable;

(vii) any payment by such Issuing Bank under such Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit; or any payment made by such Issuing Bank under such Letter of Credit to any person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, examiner, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law; or

(viii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including any other circumstance that might otherwise constitute a defense available to, or a discharge of, any Borrower or any of its Subsidiaries.

Parent shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with Parent's instructions or other irregularity, Parent will promptly notify the relevant Issuing Bank. Parent shall be conclusively deemed to have waived any such claim against the relevant Issuing Bank and its correspondents unless such notice is given as aforesaid.

(f) Role of Issuing Banks. Each Lender and each Borrower agree that, in paying any drawing under a Letter of Credit, other than in respect of any sight draft, certificates and documents expressly required by the Letter of Credit, no Issuing Bank shall have any responsibility to obtain any document or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the person executing or delivering any such document. None of the Issuing Banks, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the Issuing Banks shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Revolving Facility Lenders or the Required Revolving Facility Lenders, as applicable, under the applicable Revolving Facility; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct as finally determined by a court of competent jurisdiction; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or Issuer Document. Each Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude any Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Issuing Banks, the Administrative Agent, any of their respective Related Parties nor any correspondent, participant or assignee of any Issuing Bank shall be liable or responsible for any of the matters described in clauses (i) through (v) of Section 2.05(e); provided, however, that anything in such clauses to the contrary notwithstanding, a Borrower may have a claim against an Issuing Bank, and such Issuing Bank may be liable to such Borrower, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by such Borrower which such Borrower proves were caused by such Issuing Bank's willful misconduct or gross negligence, or such Issuing Bank's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit, in each case, as finally determined by a court of competent jurisdiction. In furtherance and not in limitation of the foregoing, each Issuing Bank may accept documents that appear on their face to be in compliance with the terms of the Letter of Credit, without responsibility for further investigation, regardless of any notice or information to the contrary, and no Issuing Bank shall be responsible for the validity or sufficiency of any instrument transferring or assigning or purporting to

transfer or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. Any Issuing Bank may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication (SWIFT) message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(g) Applicability of ISP. Unless otherwise expressly agreed by the relevant Issuing Bank and Parent when a Letter of Credit is issued (including any such agreement applicable to an Existing Letter of Credit), (i) the rules of the ISP shall apply to each Letter of Credit. Notwithstanding the foregoing, no Issuing Bank shall be responsible to the Borrowers for, and no Issuing Bank's rights and remedies against the Borrowers shall be impaired by, any action or inaction of such Issuing Bank required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including any Requirements of Law or any order of a jurisdiction where such Issuing Bank or the beneficiary is located, the practice stated in the ISP or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade – International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(h) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

(i) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary, the applicable Borrower shall be obligated to reimburse the applicable Issuing Bank hereunder for any and all drawings under such Letter of Credit. Each Borrower hereby acknowledges that the issuance of Letters of Credit for the account of Subsidiaries inures to the benefit of Parent, and that Parent's business derives substantial benefits from the businesses of such Subsidiaries.

(j) Cash Collateralization Following Certain Events. If and when a Borrower is required to Cash Collateralize any Revolving L/C Exposure relating to any outstanding Letters of Credit pursuant to any of Section 2.11(d), 2.11(e), 2.24(a)(v) or 7.01, the applicable Borrower shall deposit in an account with or at the direction of the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Revolving Facility Lenders under each Revolving Facility, an amount in cash equal to 102% of the Revolving L/C Exposure under such Revolving Facility as of such date plus any accrued but unpaid interest thereon (or, in the case of Sections 2.11(d), 2.11(e) and 2.24(a)(v), the portion thereof required by such sections). Each deposit of Cash Collateral (x) made pursuant to this paragraph or (y) made by the Administrative Agent pursuant to Section 2.24(a)(ii), in each case, shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrowers under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over such account and each Borrower hereby grants the Administrative Agent, for the benefit of the Secured Parties, a security interest in such account. Other than any interest earned on the investment of such deposits, which investments shall be made (unless an Event of Default shall be continuing) at the applicable Borrower's request in certain Permitted Investments reasonably acceptable to the Administrative Agent and at the risk and expense of the applicable Borrower, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in such account. Moneys in such account shall be applied by the Administrative Agent to reimburse each Issuing Bank for any disbursements under any Letter of Credit for which such Issuing Bank has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the Revolving L/C Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of Lenders with Revolving L/C Exposure representing greater than 50% of the total Revolving L/C Exposure), be applied to satisfy other Loan Obligations. If any Borrower is required to

provide an amount of Cash Collateral hereunder as a result of the occurrence of an Event of Default or the existence of a Defaulting Lender or the occurrence of a limit under Section 2.11(d) or (e) being exceeded, such amount (to the extent not applied as aforesaid) shall be returned to such Borrower within three (3) Business Days after all Events of Default have been cured or waived or the termination of the Defaulting Lender status or the limits under Sections 2.11(d) and (e) no longer being exceeded, as applicable.

(k) Cash Collateralization Following Termination of the Revolving Facility. Notwithstanding anything to the contrary herein, in the event of the prepayment in full of all outstanding Revolving Facility Loans and the termination of all Revolving Facility Commitments (a "Revolving Facility Termination Event") in connection with which the Borrower notifies any one or more Issuing Banks that it intends to maintain one or more Letters of Credit initially issued under this Agreement in effect after the date of such Revolving Facility Termination Event (each, a "Continuing Letter of Credit"), then the security interest of the Collateral Trustee in the Collateral under the Security Documents may be terminated in accordance with Section 9.18 if each such Continuing Letter of Credit is Cash Collateralized (in the same currency in which such Continuing Letter of Credit is denominated) in an amount equal to the Minimum L/C Collateral Amount, which shall be deposited with or at the direction of each such Issuing Bank.

(l) Additional Issuing Banks. From time to time, Parent may by notice to the Administrative Agent designate any Revolving Facility Lender (in addition to the initial Issuing Banks) which agrees (in its sole discretion) to act in such capacity and is reasonably satisfactory to the Administrative Agent as an Issuing Bank. Each such additional Issuing Bank shall execute a counterpart of this Agreement upon the approval of the Administrative Agent (which approval shall not be unreasonably withheld) and shall thereafter be an Issuing Bank hereunder for all purposes.

(m) Reporting. Unless otherwise requested by the Administrative Agent, each Issuing Bank (other than the Administrative Agent or its Affiliates) shall (i) provide to the Administrative Agent copies of any notice received from Parent pursuant to Section 2.05(b) no later than the next Business Day after receipt thereof (or, if earlier, the time specified thereon) and (ii) report in writing to the Administrative Agent (A) on or prior to each Business Day on which such Issuing Bank expects to issue, amend or extend any Letter of Credit, the date of such issuance, amendment or extension, and the aggregate face amount of the Letters of Credit to be issued, amended or extended by it and outstanding after giving effect to such issuance, amendment or extension occurred (and whether the amount thereof changed), and the Issuing Bank shall be permitted to issue, amend or extend such Letter of Credit if the Administrative Agent shall not have advised the Issuing Bank that such issuance, amendment or extension would not be in conformity with the requirements of this Agreement, (B) on each Business Day on which such Issuing Bank makes any disbursement under any Letter of Credit, the date of such disbursement and the amount of such disbursement and (C) on any other Business Day, such other information with respect to the outstanding Letters of Credit issued by such Issuing Bank as the Administrative Agent shall reasonably request.

#### Section 2.06 Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 2:00 p.m., Local Time (or, in the case of ABR Borrowings, 2:00 p.m. Local Time), to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the applicable Borrower by promptly crediting the amounts so received, in like funds, to an account of the applicable Borrower as specified in the applicable Borrowing Request; provided, that Borrowings made to finance the reimbursement of a L/C Disbursement and reimbursements as provided in Section 2.05(e) shall be remitted by the Administrative Agent to the applicable Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing of Eurocurrency Rate Loans (or, in the case of any Borrowing of ABR Loans, prior to 11:00 a.m., Local Time, 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 clause (a) of this Section and may, in reliance upon such assumption, make available to the relevant Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the Borrowing available to the Administrative Agent, then the applicable Lender and the Borrowers severally agree to pay to the Administrative Agent forthwith on demand such amount with interest thereon, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of a payment to be made by such Lender, the applicable Overnight Rate or (ii) in the case of a payment to be made by a Borrower, the interest rate then applicable to ABR Loans, or, in the case of Loans denominated in Euro, in accordance with such market practice, as applicable. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing. The foregoing shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

#### Section 2.07 Interest Elections.

(a) Each Borrowing initially shall be of the Type, and under the applicable Class, specified in the applicable Borrowing Request and, in the case of a Eurocurrency Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. Thereafter, the applicable Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurocurrency Borrowing, may elect Interest Periods therefor, all as provided in this Section. The applicable Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing. Notwithstanding any other provision of this Section 2.07, the applicable Borrower shall not be permitted to change the Class of any Borrowing.

(b) To make an election pursuant to this Section, the applicable Borrower shall notify the Administrative Agent of such election (by telephone or irrevocable written notice), by the time that a Borrowing Request would be required under Section 2.03 if the applicable Borrower were requesting a Borrowing of the Type and Class resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or electronic means to the Administrative Agent of a written Interest Election Request signed by the applicable Borrower. Notwithstanding any contrary provision herein, this Section 2.07 shall not be construed to permit the applicable Borrower to (i) elect an Interest Period for Eurocurrency Rate Loans that does not comply with Section 2.02(d) or (ii) convert any Borrowing to a Borrowing of a Type not available under the Class of Commitments or Loans pursuant to which such Borrowing was made.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

(ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;

(iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurocurrency Borrowing; and

(iv) if the resulting Borrowing is a Eurocurrency Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which Interest Period shall be a period contemplated by the definition of the term "Interest Period."

If any such Interest Election Request requests a Eurocurrency Borrowing but does not specify an Interest Period, then the applicable Borrower shall be deemed to have selected an Interest Period of one month's duration. If less than all the outstanding principal amount of any Borrowing shall be converted or continued, then each resulting Borrowing shall be in an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum and satisfy the limitations specified in Section 2.02(d) regarding the maximum number of Borrowings of the relevant Type.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender to which such Interest Election Request relates of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the applicable Borrower fails to deliver a timely Interest Election Request with respect to a Eurocurrency Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the written request (including a request through electronic means) of the Required Lenders, so notifies the Parent, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurocurrency Borrowing and (ii) unless repaid, each Eurocurrency Borrowing shall be converted to an ABR Borrowing at the end of the then-current Interest Period.

#### Section 2.08 Termination and Reduction of Commitments.

(a) Unless previously terminated, the Revolving Facility Commitments of each Class shall automatically and permanently terminate on the applicable Revolving Facility Maturity Date for such Class. On the Closing Date (after giving effect to the funding of the Initial Term Loans to be made on such date), the Initial Term Loan Commitments of each Term Lender with an Initial Term Loan Commitment as of the Closing Date will automatically and permanently terminate.

(b) The Parent may at any time terminate, or from time to time reduce, the Revolving Facility Commitments of any Class; provided, that (i) each reduction of the Revolving Facility Commitments of any Class shall be in an amount that is an integral multiple of the Dollar Equivalent of \$1,000,000 and not less than the Dollar Equivalent of \$5,000,000 (or, if less, the remaining amount of the Revolving Facility Commitments of such Class) and (ii) the Parent shall not terminate or reduce the Revolving Facility Commitments of any Class if, after giving effect to any concurrent prepayment of the Revolving Facility Loans in accordance with Section 2.11 and any Cash Collateralization of Letters of Credit in accordance with Section 2.05(j), as applicable, the Revolving Facility Credit Exposure of such Class (excluding any Cash Collateralized Letter of Credit, to the extent so Cash Collateralized) would exceed the total Revolving Facility Commitments of such Class.

(c) The Parent shall notify the Administrative Agent of any election to terminate or reduce the Revolving Facility Commitments of any Class under clause (b) of this Section 2.08 at least three (3) Business Days prior to the effective date of such termination or reduction (or such shorter period acceptable to the Administrative Agent), specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the applicable Lenders of the contents thereof. Each notice delivered by the Parent pursuant to this Section 2.08 shall be irrevocable; provided, that a notice of termination or reduction of the Revolving Facility Commitments of any Class delivered by the Parent may state that such notice is conditioned upon the effectiveness of other credit facilities, indentures or similar agreements or other transactions, in which case such notice may be revoked by the Parent (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments of any Class shall be made ratably among the Lenders in accordance with their respective Commitments of such Class.

Section 2.09 Repayment of Loans; Evidence of Debt.

(a) (i) The Borrower of each Revolving Facility Loan hereby unconditionally promises to pay to the Administrative Agent for the account of each Revolving Facility Lender the then unpaid principal amount of each Revolving Facility Loan of which it is the Borrower on the Revolving Facility Maturity Date applicable to such Revolving Facility Loans and (ii) Jazz Lux hereby unconditionally promises to pay in Dollars or Euros, as applicable, to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Term Loan of such Lender as provided in Section 2.10.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of any Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Facility, Class and Type thereof and the Interest Period (if any) applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the each Borrower to each Lender hereunder and (iii) any amount received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to clause (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided, that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the applicable Borrower to repay its Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a promissory note (a "Note"). In such event, the applicable Borrower shall prepare, execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in the form attached hereto as Exhibit H, or in another form approved by such Lender, the Administrative Agent and the applicable Borrower in their sole discretion. Thereafter, unless otherwise agreed to by the applicable Lender, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the payee named therein (or, if requested by such payee, to such payee and its registered assigns).

Section 2.10 Repayment of Term Loans and Revolving Facility Loans.

(a) Subject to the other clauses of this Section 2.10 and to Section 9.08(e),

(i) Jazz Lux shall repay principal of outstanding Initial Dollar Term Loans under the Initial Dollar Term Facility on the last Business Day of each March, June, September and December of each year (commencing on the last Business Day of the first full fiscal quarter of Parent ending after the Closing Date) and on the Initial Term Facility Maturity Date or, if any such date is not a Business Day, on the immediately preceding Business Day (each such date being referred to as an "Initial Term Loan Installment Date"), in an aggregate principal amount of such Initial Term Loans equal to (A) in the case of quarterly payments due prior to the Initial Term Facility Maturity Date, an amount equal to 0.25% of the aggregate principal amount of such Initial Term Loans incurred on the Closing Date, and (B) in the case of such payment due on the Initial Term Facility Maturity Date, an amount equal to the then unpaid principal amount of such Initial Term Loans outstanding;

(ii) in the event that any Other Term Loans are made, the applicable Borrower shall repay such Other Term Loans on the dates and in the amounts set forth in the related Incremental Assumption Agreement, Extension Amendment or Refinancing Amendment (each such date being referred to as an "Other Term Loan Installment Date"); and

(iii) to the extent not previously paid, all outstanding Term Loans shall be due and payable on the applicable Term Facility Maturity Date.

(b) To the extent not previously paid, all outstanding Initial Euro Term Loans and Revolving Facility Loans shall be due and payable on the applicable Maturity Date (it being understood, for the avoidance of doubt, that the Initial Euro Term Loans shall not be subject to amortization).

(c) Any mandatory prepayment of Term Loans pursuant to Section 2.11(b) or (c) shall be applied so that the aggregate amount of such prepayment is allocated among the Initial Term Loans and the Other Term Loans, if any, pro rata based on the aggregate principal amount of outstanding Initial Term Loans and Other Term Loans, if any, to reduce amounts due on the succeeding Term Loan Installment Dates for such Classes; provided that, subject to the pro rata application to Loans outstanding within any respective Class of Loans, (x) with respect to mandatory prepayments of Term Loans pursuant to Section 2.11(b)(1) and 2.11(c), any Class of Other Term Loans may receive less than its pro rata share thereof (so long as the amount by which its pro rata share exceeds the amount actually applied to such Class is applied to repay (on a pro rata basis) the outstanding Initial Term Loans and any other Classes of then outstanding Other Term Loans), in each case to the extent the respective Class receiving less than its pro rata share has consented thereto and (y) the applicable Borrower shall allocate any repayments pursuant to Section 2.11(b)(2) to repay the respective Class or Classes being refinanced, as provided in said Section 2.11(b)(2). Any optional prepayments of the Term Loans pursuant to Section 2.11(a) shall be applied to the remaining installments of the Term Loans under the applicable Class or Classes as the applicable Borrower may in each case direct.

Prior to any prepayment of any Loan under any Facility hereunder, Parent or the applicable Borrower shall select the Borrowing or Borrowings under the applicable Facility to be prepaid and shall notify the Administrative Agent by telephone (confirmed by electronic means) of such selection not later than 1:00 p.m., Local Time, (i) in the case of an ABR Borrowing on the scheduled date of such prepayment and (ii) in the case of a Eurocurrency Borrowing (A) denominated in Dollars, at least three (3) Business Days and (B) denominated in Euros, at least four (4) Business Days before the scheduled date of such prepayment (or, in each case, such shorter period acceptable to the Administrative Agent). Each such notice

shall be irrevocable; provided that a notice of prepayment may state that such notice is conditioned upon the effectiveness of other credit facilities, indentures or similar agreements or other transactions, in which case such notice may be revoked by the Parent or the applicable Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Each repayment of a Borrowing (x) in the case of the Revolving Facility of any Class, shall be applied to the Revolving Facility Loans included in the repaid Borrowing such that each Revolving Facility Lender receives its ratable share of such repayment (based upon the respective Revolving Facility Credit Exposures of the Revolving Facility Lenders of such Class at the time of such repayment) and (y) in all other cases, shall be applied ratably to the Loans included in the repaid Borrowing. All repayments of Loans shall be accompanied by (1) accrued interest on the amount repaid to the extent required by Section 2.13(d) and (2) break funding payments pursuant to Section 2.16.

(d) Parent or the applicable Borrower shall notify the Administrative Agent in writing of any mandatory prepayment of Term Loans required to be made pursuant to Section 2.11(b)(1) or 2.11(c) at least four (4) Business Days prior to the date of such prepayment. Each such notice shall specify the date of such prepayment and provide a reasonably detailed calculation of the amount and currency of such prepayment. The Administrative Agent will promptly notify each Term Lender of the contents of any such prepayment notice and of such Term Lender's ratable portion of such prepayment (based on such Lender's pro rata share of each relevant Class of the Term Loans). Any Term Lender (a "Declining Term Lender," and any Term Lender which is not a Declining Term Lender, an "Accepting Term Lender") may elect, by delivering written notice to the Administrative Agent and Parent no later than 5:00 p.m. one (1) Business Day after the date of such Term Lender's receipt of notice from the Administrative Agent regarding such prepayment, that the full amount of any mandatory prepayment otherwise required to be made with respect to the Term Loans held by such Term Lender pursuant to Section 2.11(b)(1) or 2.11(c) not be made (the aggregate amount of such prepayments declined by the Declining Term Lenders, the "Declined Prepayment Amount"). If a Term Lender fails to deliver notice setting forth such rejection of a prepayment to the Administrative Agent within the time frame specified above or such notice fails to specify the principal amount of the Term Loans to be rejected, any such failure will be deemed an acceptance of the total amount of such mandatory prepayment of Term Loans. The Declined Prepayment Amount shall be retained by the applicable Borrower; provided that, for the avoidance of doubt, the applicable Borrower may, at its option, apply any amounts so retained to prepay loans in accordance with Section 2.11(a) below.

#### Section 2.11 Prepayment of Loans.

(a) Each Borrower shall have the right at any time and from time to time to prepay any Loan of which it is the Borrower in whole or in part, without premium or penalty (but subject to Section 2.12(d) and Section 2.16 and subject to prior notice in accordance with the second paragraph of Section 2.10(c)), in an aggregate principal amount that is an integral multiple of the Borrowing Multiple and not less than the Borrowing Minimum or, if less, the amount outstanding.

(b) Beginning on the Closing Date, the Parent shall apply (1) all Net Proceeds (other than Net Proceeds of the kind described in the following clause (2)) within five (5) Business Days after receipt thereof to prepay Term Loans in accordance with clauses (c) and (d) of Section 2.10 and (2) all Net Proceeds from any issuance or incurrence of Refinancing Notes, Refinancing Term Loans and Replacement Revolving Facility Commitments (other than solely by means of extending or renewing then existing Refinancing Notes, Refinancing Term Loans and Replacement Revolving Facility Commitments without resulting in any Net Proceeds), no later than three (3) Business Days after the date on which such Refinancing Notes, Refinancing Term Loans and Replacement Revolving Facility Commitments are issued or incurred, to prepay Term Loans and/or Revolving Facility Commitments in accordance with Section 2.23 and the definition of "Refinancing Notes" (as applicable).



(c) Not later than five (5) Business Days after the date on which the annual financial statements are, or are required to be, delivered under Section 5.04(a) with respect to each Excess Cash Flow Period (commencing with the Excess Cash Flow Period ending December 31, 2022), the Parent shall calculate Excess Cash Flow for such Excess Cash Flow Period and, if and to the extent the amount of such Excess Cash Flow exceeds \$0, the Parent shall apply an amount to prepay Term Loans equal to (i) the Required Percentage of such Excess Cash Flow minus (ii) the sum of (a) to the extent not financed using the proceeds of long-term funded Indebtedness, the amount of any voluntary payments of Term Loans and amounts used to repurchase outstanding principal of Term Loans during such Excess Cash Flow Period (plus, without duplication of any amounts previously deducted under this clause (ii), the amount of any such voluntary payments and amounts so used to repurchase principal of Term Loans after the end of such Excess Cash Flow Period but before the date of prepayment under this clause (c)) pursuant to Sections 2.11(a) and Section 2.25 (it being understood that the amount of any such payments pursuant to Section 2.25 shall be calculated to equal the amount of cash used to repay principal and not the principal amount deemed prepaid therewith) and (b) to the extent not financed using the proceeds of long-term funded Indebtedness, the amount of any voluntary payments of Revolving Facility Loans to the extent that Revolving Facility Commitments are terminated or reduced pursuant to Section 2.08 by the amount of such payments. Such calculation will be set forth in a certificate signed by a Financial Officer of Parent delivered to the Administrative Agent setting forth the amount, if any, of Excess Cash Flow for such fiscal year, the amount of any required prepayment in respect thereof and the calculation thereof in reasonable detail.

(d) In the event that the aggregate amount of Revolving Facility Credit Exposure of any Class exceeds the total Revolving Facility Commitments of such Class, the applicable Borrower(s) shall prepay Revolving Facility Borrowings of such Class (or, if no such Borrowings are outstanding, the Parent shall provide Cash Collateral in respect of outstanding Letters of Credit pursuant to Section 2.05(j)) in an aggregate amount equal to such excess.

(e) In the event that the aggregate amount of Revolving L/C Exposure of any Class exceeds the total Revolving Facility Commitments of such Class, the Parent shall provide Cash Collateral in respect of outstanding Letters of Credit pursuant to Section 2.05(j)) in an aggregate amount equal to such excess.

#### Section 2.12 Fees.

(a) The Borrowers agree to pay to the Administrative Agent for the account of each Lender, on the last Business Day of each fiscal quarter (commencing on the last Business Day of the first full fiscal quarter after the Closing Date) and on the date on which the Revolving Facility Commitments of all the Lenders shall be terminated as provided herein, a commitment fee (a "Commitment Fee") in Dollars on the daily amount of the applicable Available Unused Commitment of such Lender during the preceding quarter (or other period commencing with the Closing Date or ending with the date on which the last of the Commitments of such Lender shall be terminated) at a rate equal to the Applicable Commitment Fee. All Commitment Fees shall be computed on the basis of the actual number of days elapsed in a year of 360 days. The Commitment Fee due to each Lender shall commence to accrue on the Closing Date and shall cease to accrue on the date on which the last of the Commitments of such Lender shall be terminated as provided herein.

(b) The Borrowers agree to pay from time to time (i) to the Administrative Agent for the account of each Revolving Facility Lender of each Class, on the last Business Day of each fiscal quarter (commencing on the last Business Day of the first full fiscal quarter after the Closing Date) and on the date on which the Revolving Facility Commitments of all the Lenders shall be terminated as provided herein, a fee (an "L/C Participation Fee") on such Lender's Revolving Facility Percentage of the daily average Revolving L/C Exposure (excluding the portion thereof attributable to unreimbursed L/C Disbursements) of such Class, during the preceding quarter (or other period commencing with the Closing Date or ending

with the Revolving Facility Maturity Date or the date on which the Revolving Facility Commitments of such Class shall be terminated; provided, that any such fees accruing after the date on which such Revolving Facility Commitments terminate shall be payable on demand) at the rate per annum equal to the Applicable Margin for Eurocurrency Revolving Facility Borrowings of such Class effective for each day in such period, and (ii) to each Issuing Bank, for its own account (x) on the last Business Day of each fiscal quarter (commencing on the last Business Day of the first full fiscal quarter after the Closing Date) and on the date on which the Revolving Facility Commitments of all the Lenders shall be terminated, a fronting fee in Dollars in respect of each Letter of Credit issued by such Issuing Bank for the period from and including the date of issuance of such Letter of Credit to and including the termination of such Letter of Credit, computed at a rate equal to 0.125% per annum of the daily stated amount of such Letter of Credit, plus (y) in connection with the issuance, amendment, cancellation, negotiation, presentment, renewal, extension or transfer of any such Letter of Credit or any L/C Disbursement thereunder, such Issuing Bank's customary documentary and processing fees and charges (collectively, "Issuing Bank Fees"). All L/C Participation Fees and Issuing Bank Fees that are payable on a per annum basis shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

(c) The Parent agrees to pay to the Administrative Agent, for the account of the Administrative Agent, the "Senior Administration Fee" as set forth in the Fee Letter, in the amounts and, at the times specified therein (the "Administrative Agent Fees").

(d) In the event that, prior to the date that is six months after the Closing Date, the applicable Borrower (i) makes any repayment, prepayment, or purchase of Initial Term Loans under either Initial Term Facility in connection with any Repricing Event or (ii) effects any amendment of this Agreement resulting in a Repricing Event, the Lux Borrower shall pay to the Administrative Agent on the date of effectiveness of such Repricing Event, for the ratable account of each applicable Term Loan Lender (x) in the case of clause (i), a prepayment premium of 1.00% of the aggregate principal amount of the Initial Term Loans so being prepaid, repaid or purchased and (y) in the case of clause (ii), an amount equal to 1.00% of the aggregate principal amount of the Initial Term Loans that are the subject of such Repricing Event and outstanding immediately prior to such amendment.

(e) All Fees shall be paid on the dates due, in Dollars and immediately available funds, to the Administrative Agent for distribution, if and as appropriate, among the Lenders, except that Issuing Bank Fees shall be paid directly to the applicable Issuing Banks. Once paid, none of the Fees shall be refundable under any circumstances.

#### Section 2.13 Interest.

(a) The Loans comprising each ABR Borrowing shall bear interest at the ABR plus the Applicable Margin.

(b) The Loans comprising each Eurocurrency Borrowing shall bear interest at the Eurocurrency Rate for the Interest Period in effect for such Borrowing plus the Applicable Margin.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any Fees or other amount payable by the Parent hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2.00% plus the rate otherwise applicable to such Loan as provided in the preceding clauses of this Section 2.13 or (ii) in the case of any other overdue amount, 2.00% plus the rate applicable to ABR Loans as provided in clause (a) of this Section; provided that this clause (c) shall not apply to any Event of Default that has been waived by the Lenders pursuant to Section 9.08.

(d) Accrued interest on each Loan shall be payable in Dollars or Euros, as applicable, in arrears (i) on each Interest Payment Date for such Loan, (ii) in the case of Revolving Facility Loans, upon termination of the applicable Revolving Facility Commitments and (iii) in the case of the Term Loans, on the applicable Term Facility Maturity Date; provided that (A) interest accrued pursuant to clause (c) of this Section 2.13 shall be payable on demand, (B) in the event of any repayment or prepayment of any Loan (other than a prepayment of a Revolving Facility Loan that is an ABR Loan that is not made in conjunction with a permanent commitment reduction), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment, (C) in the event of any conversion of any Eurocurrency Rate Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion and (D) any Loan that is repaid on the same day on which it is made shall bear interest for one day.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the ABR, shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed. The applicable ABR or Eurocurrency Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

#### Section 2.14 Alternate Rate of Interest.

(a) If in connection with any request for a Eurocurrency Rate Loan or a conversion to or continuation thereof, (i) the Administrative Agent determines that (A) Dollar deposits (whether in Dollars or Euros) are not being offered to banks in the applicable offshore interbank Eurocurrency market for such currency for the applicable amount and Interest Period of such Eurocurrency Rate Loan or (B) (x) adequate and reasonable means do not exist for determining the Eurocurrency Rate for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan (whether in Dollars or Euros) or in connection with an existing or proposed ABR Loan and (y) the circumstances described in Section 2.14(c)(i) do not otherwise apply or (C) solely with respect to Eurocurrency Rate Loans denominated in Euros, a fundamental change has occurred in the foreign exchange or interbank markets with respect to Euros (including, without limitation, changes in national or international financial, political or economic conditions or currency exchange rates or exchange controls) (in each case with respect to this clause (i), "Impacted Loans"), or (ii) the Administrative Agent or the applicable Required Facility Lenders determine that for any reason the Eurocurrency Rate (whether denominated in Dollars or Euros) for any requested Interest Period with respect to a proposed Eurocurrency Rate Loan does not adequately and fairly reflect the cost to such Lenders of funding such Eurocurrency Rate Loan, the Administrative Agent will promptly so notify the Parent and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans in affected currencies shall be suspended, (to the extent of the affected Eurocurrency Rate Loans or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurocurrency Rate component of the ABR, the utilization of the Eurocurrency Rate component in determining the ABR shall be suspended, in each case until the Administrative Agent (or, in the case of any determination by the applicable Required Facility Lenders described in clause (ii) of Section 2.14(a), until the Administrative Agent, upon the instruction of the applicable Required Facility Lenders) revokes such notice. Upon receipt of such notice, (i) the Parent may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans in the affected currency or currencies (to the extent of the affected Eurocurrency Rate Loans or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of ABR Loans denominated in Dollars in the Dollar Equivalent of the amount specified therein and (ii)(A) any outstanding affected Eurocurrency Rate Loans denominated in Dollars will be deemed to have been converted into ABR Loans at the end of the applicable Interest Period and (B) any outstanding affected Eurocurrency Rate Loans denominated in Euros, at the Parent's election, shall either (1) be converted into a Borrowing of ABR Loans denominated in Dollars in the Dollar Equivalent of the amount of such outstanding Eurocurrency Rate Loan at the end of the

applicable Interest Period or (2) be prepaid at the end of the applicable Interest Period in full; provided that if no election is made by Parent by the earlier of (x) the date that is three Business Days after receipt by Parent of such notice and (y) the last day of the current Interest Period for the applicable Eurocurrency Rate Loan, Parent shall be deemed to have elected clause (1) above.

(b) Notwithstanding the foregoing, if the Administrative Agent has made the determination described in clause (i) of Section 2.14(a), the Administrative Agent, in consultation with the Parent, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (i) the Administrative Agent revokes the notice delivered with respect to the Impacted Loans under clause (i) of the first sentence of Section 2.14(a), (ii) the Administrative Agent or the applicable Required Facility Lenders notify the Administrative Agent and the Parent that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (iii) any Lender determines that any Law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable Lending Office to make, maintain or fund Loans whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Administrative Agent and the Parent written notice thereof.

(c) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Administrative Agent determines (which determination shall be conclusive absent manifest error), or the Parent or applicable Required Facility Lenders notify the Administrative Agent (with, in the case of the applicable Required Facility Lenders, a copy to the Parent) that the Parent or applicable Required Facility Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining the Applicable Reference Rate for Dollars or Euros, as applicable, for any Interest Period hereunder or any other tenors of LIBOR or EURIBOR, as applicable, including, without limitation, because the Screen Rate for the applicable currency is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the administrator of the Screen Rate for the applicable currency or a Governmental Authority having jurisdiction over the Administrative Agent or such administrator has made a public statement identifying a specific date after which the Applicable Reference Rate for the applicable currency or the Screen Rate for the applicable currency shall no longer be made available, or used for determining the interest rate of loans denominated in the applicable currency, provided that, in each case, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent, that will continue to provide LIBOR or EURIBOR, as applicable, after such specific date (such specific date, the "Scheduled Unavailability Date"); or

(iii) the administrator of the Screen Rate for the applicable currency or a Governmental Authority having jurisdiction over such administrator has made a public statement announcing that all Interest Periods and other tenors of LIBOR or EURIBOR, as applicable, are no longer representative; or

(iv) syndicated loans currently being executed, or that include language similar to that contained in this Section 2.14, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR or EURIBOR, as applicable;

then,

(A) in the case of Dollars, in the case of clauses (i)-(iii) above, on a date and time determined by the Administrative Agent (any such date, the "Replacement Date"), which date shall be at the end of an Interest Period or on the relevant Interest Payment Date, as applicable, for interest calculated and shall occur within a reasonable period of time after the occurrence of any of the events or circumstances under clauses (i), (ii) or (iii) above and, solely with respect to clause (ii) above, no later than the Scheduled Unavailability Date, LIBOR will be replaced hereunder and under any Loan Document with, subject to the proviso below, the first available alternative set forth in the order below for any payment period for interest calculated that can be determined by the Administrative Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document (the "LIBOR Successor Rate"; and any such rate before giving effect to the Related Adjustment, the "Pre-Adjustment Successor Rate");

(x) Term SOFR *plus* the Related Adjustment; and

(y) SOFR *plus* the Related Adjustment;

and in the case of clause (iv) above, the Parent and Administrative Agent may amend this Agreement solely for the purpose of replacing LIBOR under this Agreement and under any other Loan Document in accordance with the definition of "LIBOR Successor Rate" and such amendment shall become effective at 5:00 p.m., on the fifth Business Day after the Administrative Agent shall have notified all Lenders and the Parent of the occurrence of the circumstances described in clause (iv) above unless, prior to such time, Lenders comprising the applicable Required Facility Lenders have delivered to the Administrative Agent written notice that such Required Facility Lenders object to the implementation of a LIBOR Successor Rate pursuant to such clause; provided that, if the Administrative Agent determines that Term SOFR has become available, is administratively feasible for the Administrative Agent and would have been identified as the Pre-Adjustment Successor Rate in accordance with the foregoing if it had been so available at the time that the LIBOR Successor Rate then in effect was so identified, and the Administrative Agent notifies the Parent and each Lender of such availability, then from and after the beginning of the Interest Period, relevant Interest Payment Date or payment period for interest calculated, in each case, commencing no less than thirty (30) days after the date of such notice, the Pre-Adjustment Successor Rate shall be Term SOFR and the LIBOR Successor Rate shall be Term SOFR *plus* the relevant Related Adjustment; and

(B) in the case of Euros, in the case of clauses (i) – (iv) above, reasonably promptly after such determination by the Administrative Agent or receipt by the Administrative Agent of such notice, as applicable, the Administrative Agent and the Parent may amend this Agreement solely for the purpose of replacing EURIBOR in accordance with this section 2.14 at the end of any Interest Period, relevant Interest Payment Date or payment period for interest calculated, as applicable, with an alternate benchmark rate giving due consideration to any evolving or then-existing convention for similar syndicated credit facilities syndicated in the U.S. and denominated in Euros for such alternative benchmarks and, in each case, including any mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar syndicated credit facilities syndicated in the U.S. and denominated in Euro for such benchmarks, each of which adjustments or methods for calculating such adjustments shall be published on one or more information services as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated (each, a "EURIBOR Adjustment", and any such proposed rate, a "EURIBOR Successor Rate" and, together with the LIBOR Successor Rate, a "Successor Rate"), and any such amendment shall become effective at 5:00 p.m., on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Parent unless, prior to such time, Lenders comprising the applicable Required Facility Lenders have delivered to the Administrative Agent written notice that such Required Facility Lenders object to any such amendment. If no EURIBOR Successor Rate has been determined and the circumstances under clause (i) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify Parent and each Lender.

The Administrative Agent will promptly (in one or more notices) notify the Parent and each Lender of (x) any occurrence of any of the events, periods or circumstances under clauses (i) through (iii) above, (y) a Replacement Date and (z) a Successor Rate, as applicable.

Any Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Administrative Agent, such Successor Rate shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

Notwithstanding anything else herein, (i) if at any time any LIBOR Successor Rate as so determined would otherwise be less than (x) solely in the case of the Initial Dollar Term Loans 0.50% and (y) otherwise, zero, the LIBOR Successor Rate will be deemed to be (x) solely in the case of the Initial Dollar Term Loans 0.50% and (y) otherwise, zero for the purposes of this Agreement and the other Loan Documents and (ii) if at any time any EURIBOR Successor Rate as so determined would otherwise be less than zero, the EURIBOR Successor Rate will be deemed to be zero for the purposes of this Agreement and the other Loan Documents.

In connection with the implementation of a LIBOR Successor Rate, the Administrative Agent will have the right to make LIBOR Successor Rate Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such LIBOR Successor Rate Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such LIBOR Successor Rate Conforming Changes to the Parent and the Lenders reasonably promptly after such amendment becomes effective.

In connection with the implementation of a EURIBOR Successor Rate, the Administrative Agent will have the right to make EURIBOR Successor Rate Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such EURIBOR Successor Rate Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Administrative Agent shall post each such amendment implementing such EURIBOR Successor Rate Conforming Changes to the Parent and the Lenders reasonably promptly after such amendment becomes effective.

If the events or circumstances of the type described in 2.14(c)(i)-(iii) have occurred with respect to a Successor Rate then in effect, then the successor rate thereto shall be determined in accordance with the definition of "LIBOR Successor Rate" or "EURIBOR Successor Rate," as applicable.

(d) Notwithstanding anything to the contrary herein, (i) after any such determination by the Administrative Agent or receipt by the Administrative Agent of any such notice described under Section 2.14(c)(i)-(iii), as applicable, if the Administrative Agent determines that a Successor Rate is not available (or, in the case of the LIBOR Successor Rate, none of the LIBOR Successor Rates is available) on or prior to the Replacement Date, (ii) if the events or circumstances described in Section 2.14(c)(iv) have occurred with respect to LIBOR or EURIBOR, as applicable, but a Successor Rate is not available (or, in the case of the LIBOR Successor Rate, none of the LIBOR Successor Rates is available), or (iii) if the events or circumstances of the type described in Section 2.14(c)(i)-(iii) have occurred with respect to the Successor Rate then in effect for an applicable currency and the Administrative Agent determines that the Successor Rate is not available (or, in the case of the LIBOR Successor Rate, none of the LIBOR Successor Rates is

available), then in each case, the Administrative Agent and the Parent may amend this Agreement solely for the purpose of replacing LIBOR or EURIBOR, as applicable, or any then current Successor Rate for the applicable currency in accordance with this Section 2.14 at the end of any Interest Period, relevant Interest Payment Date or payment period for interest calculated, as applicable, with another alternate benchmark rate giving due consideration to any evolving or then existing convention for similar syndicated credit facilities syndicated in the U.S. and denominated in the applicable currency for such alternative benchmarks and, in each case, including any Related Adjustments and any other mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar syndicated credit facilities syndicated in the U.S. and denominated in the applicable currency for such benchmarks, which adjustment or method for calculating such adjustment shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated. For the avoidance of doubt, any such proposed rate and adjustments shall constitute a Successor Rate. Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Administrative Agent shall have posted such proposed amendment to all Lenders and the Parent unless, prior to such time, Lenders comprising the applicable Required Facility Lenders have delivered to the Administrative Agent written notice that such Required Facility Lenders object to such amendment.

(e) If, at the end of any Interest Period, relevant Interest Payment Date or payment period for interest calculated, no Successor Rate has been determined for an applicable currency in accordance with clauses (c) or (d) of this Section 2.14 and the circumstances under clauses (c)(i) or (c)(iii) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Administrative Agent will promptly so notify the Parent and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurocurrency Rate Loans in each applicable currency shall be suspended, (to the extent of the affected Eurocurrency Rate Loans, Interest Periods, Interest Payment Dates or payment periods), and (y) the Eurocurrency Rate component shall no longer be utilized in determining the ABR, until the LIBOR Successor Rate has been determined in accordance with clauses (c) or (d). Upon receipt of such notice, (i) the Parent may revoke any pending request for a Borrowing of, conversion to or continuation of Eurocurrency Rate Loans denominated in each such affected applicable currency (to the extent of the affected Eurocurrency Rate Loans, Interest Periods, Interest Payment Dates or payment periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of ABR Loans (subject to the foregoing clause (y)) in the amount specified therein and (ii) any outstanding affected Eurocurrency Rate Loans denominated in Euros shall be prepaid at the end of the applicable Interest Period in full.

#### Section 2.15 Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or Issuing Bank; or

(ii) subject the Administrative Agent, any Lender or the Issuing Bank to any Tax on or in respect of its loans, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto (other than (i) Indemnified Taxes and Other Taxes indemnifiable under Section 2.17, (ii) Excluded Taxes, (iii) Indemnified Taxes and Other Taxes that are Irish Tax Deductions that would have been indemnified by Section 2.17 but were not so indemnified because of any exclusions in Section 2.17(h), or (iv) Indemnified Taxes and Other Taxes that are UK Tax Deductions that would have been indemnified by Section 2.17 but were not so indemnified because of any exclusions in Section 2.17(i)); or

(iii) impose on any Lender or Issuing Bank or the London or other relevant interbank market any other condition affecting this Agreement or Eurocurrency Rate Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or Issuing Bank or Administrative Agent, as applicable, of making or maintaining any Eurocurrency Rate Loan or of maintaining its obligation to make any such Loan or to increase the cost to such Lender or Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or Issuing Bank hereunder, whether of principal, interest or otherwise, then the applicable Borrower will pay to such Lender or Issuing Bank or Administrative Agent, as applicable, such additional amount or amounts as will compensate such Lender or Issuing Bank or Administrative Agent, as applicable, for such additional costs incurred or reduction suffered.

(b) If any Lender or Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or Issuing Bank's capital or on the capital of such Lender's or Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans or Commitments made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy and liquidity), then from time to time the Parent shall pay to such Lender or such Issuing Bank, as applicable, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or Issuing Bank or its holding company, as applicable, as specified in clause (a) or (b) of this Section shall be delivered to the Parent and shall be conclusive absent manifest error; provided, that any such certificate claiming amounts described in clause (x) or (y) of the definition of "Change in Law" shall, in addition, state the basis upon which such amount has been calculated and certify that such Lender's or Issuing Bank's demand for payment of such costs hereunder, and such method of allocation is not inconsistent with its treatment of other borrowers, which as a credit matter, are similarly situated to the applicable Borrower and which are subject to similar provisions. The Parent shall pay such Lender or Issuing Bank, as applicable, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Promptly after any Lender or Issuing Bank has determined that it will make a request for increased compensation pursuant to this Section 2.15, such Lender or Issuing Bank shall notify the Parent thereof. Failure or delay on the part of any Lender or Issuing Bank to demand compensation pursuant to this Section 2.15 shall not constitute a waiver of such Lender's or Issuing Bank's right to demand such compensation; provided that no Borrower shall be required to compensate a Lender or an Issuing Bank pursuant to this Section 2.15 for any increased costs or reductions incurred more than 180 days prior to the date that such Lender or Issuing Bank, as applicable, notifies the Parent of the Change in Law giving rise to such increased costs or reductions and of such Lender's or Issuing Bank's intention to claim compensation therefor; provided, further, that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.



Section 2.16 Break Funding Payments. In the event of (a) the payment of any principal of any Eurocurrency Rate Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.10 or 2.11), (b) the conversion of any Eurocurrency Rate Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurocurrency Rate Loan on the date specified in any notice delivered pursuant hereto (whether or not such notice may be revoked) or (d) the assignment of any Eurocurrency Rate Loan other than on the last day of the Interest Period applicable thereto as a result of a request by a Borrower pursuant to Section 2.19, then, in any such event, the Parent shall compensate each Lender for the loss, cost and expense attributable to such event. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender (it being understood that the deemed amount shall not exceed the actual amount) to be the excess, if any, of (i) the amount of interest that would have accrued on the principal amount of such Loan had such event not occurred, at the Eurocurrency Rate that would have been applicable to such Loan, for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in Dollars of a comparable amount and period from other banks in the Eurocurrency market. A certificate of any Lender setting forth any amount or amounts that such Lender is entitled to receive pursuant to this Section 2.16 shall be delivered to the Parent and shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.17 Taxes.

(a) Payments Free of Taxes. Subject to Section 2.17(h) and Section 2.17(i) below, all payments by or on account of any Loan Party under any Loan Document shall be made free and clear of, and without deduction or withholding for or on account of, any Taxes, unless otherwise required by law. If any applicable withholding agent shall be required by law to withhold or deduct any Taxes from or in respect of any sum payable under any Loan Document to any Lender Party or any Agent, (i) the applicable withholding agent shall make all such deductions or withholdings, (ii) the applicable withholding agent shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law, and (iii) to the extent the deduction or withholding is on account of Indemnified Taxes or Other Taxes, the amounts so payable by the applicable Loan Party shall be increased as may be necessary so that, after such withholding agent has made all required deductions or withholdings of Indemnified Taxes and Other Taxes (including deductions or withholdings applicable to additional sums payable under this Section 2.17), such Lender Party (or, in the case of any amount received by an Agent for its own account, such Agent) shall have received an amount equal to the sum it would have received had no such deductions or withholdings been made.

(b) Payment of Other Taxes by each Borrower. Without limiting the provisions of Section 2.17(a) above, each Borrower shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Evidence of Payments. Within 45 days after the date of any payment of Indemnified Taxes or Other Taxes by a Loan Party to a Governmental Authority, such Loan Party shall deliver to the Administrative Agent a copy of an official receipt issued by such Governmental Authority evidencing such payment (or other evidence acceptable to the Administrative Agent, acting reasonably).

(d) Indemnification by each Borrower. Subject to Section 2.17(h) and Section 2.17(i) below, each Borrower shall, without duplication of any additional amounts paid pursuant to Section 2.17(a)(iii) or any amounts paid pursuant to Section 2.17(b), indemnify each Agent, the Collateral Trustee and each Lender Party for and hold them harmless against the full amount of Indemnified Taxes payable in connection with any payments made by or on account of any Loan Party under any Loan Document and Other Taxes (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts

payable under this Section 2.17), and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. This indemnification shall be made within 20 days after written demand therefor. A certificate setting forth in reasonable detail the basis, calculation and amount of such payment or liability delivered to the applicable Borrower by a Lender Party (with a copy to the Administrative Agent), or by an Agent on its own behalf, shall be conclusive absent manifest error. This Section 2.17(d) shall not apply in respect of any Indemnified Taxes or Other Taxes or other expenses that would have compensated by an increased payment under Section 2.17(a) but were not so compensated because one of the exclusions in Section 2.17(h) or (i) applies.

(e) Treatment of Refunds. If the Administrative Agent, the Collateral Trustee or any Lender Party determines, in its good faith discretion, that it has received a refund (in cash or as an offset against other Taxes otherwise due and payable) of any Indemnified Taxes or Other Taxes as to which it has been indemnified by any Loan Party or with respect to which any Loan Party has paid additional amounts pursuant to this Section 2.17, it shall pay to the applicable Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amount paid, by the Loan Party under this Section 2.17 with respect to the Indemnified Taxes or Other Taxes giving rise to such refund), net of all reasonable out-of-pocket expenses (including Taxes) of the Administrative Agent, the Collateral Trustee or such Lender Party, attributable to such refund and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund); provided that the Loan Party, upon the request of the Administrative Agent or such Lender Party, agrees to repay the amount paid over to the applicable Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender Party in the event the Administrative Agent or such Lender Party is required to repay such amount to such Governmental Authority. In such event, such Lender Party or the Administrative Agent, as the case may be, shall, at the Loan Party's request, provide the Loan Party with a copy of any notice of assessment or other evidence of the requirement to repay such refund received from the relevant Governmental Authority (provided, that such Lender Party or the Administrative Agent may delete any information therein that it deems confidential). This Section 2.17(e) shall not be construed to require the Administrative Agent or any Lender Party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to any Loan Party or any other person.

(f) Status of Lenders.

(i) Each Lender Party that is entitled to an exemption from or reduction of any applicable withholding Tax with respect to payments made under any Loan Document shall deliver to the applicable Borrower and the Administrative Agent, at the time or times prescribed by law or reasonably requested by the applicable Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the applicable Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender Party, if reasonably requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Each Lender Party shall, whenever a lapse in time or change in circumstances renders such documentation (including any specific documents required below in this Section 2.17(f)) obsolete, expired or inaccurate in any material respect, deliver promptly to the applicable Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the applicable Borrower or the Administrative Agent) or promptly notify the applicable Borrower and the Administrative Agent in writing of its ineligibility to do so.

(ii) Without limiting the generality of the foregoing each Lender Party (or, if a Lender is disregarded as an entity separate from its owner for U.S. federal tax purposes, the person treated as its owner for U.S. federal tax purposes) shall, if it is legally eligible to do so, deliver to the applicable U.S. Borrower and the Administrative Agent on or prior to the date on which such Lender Party becomes a party hereto, two duly completed and executed originals of whichever of the following is applicable:

(A) in the case of a Lender Party that is a U.S. Person, IRS Form W-9 or any successor form certifying that such Lender Party is exempt from U.S. federal backup withholding;

(B) in the case of a Non-U.S. Lender eligible to claim the benefits of an income tax treaty to which the United States is a party, IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable, establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to such tax treaty;

(C) in the case of a Non-U.S. Lender eligible to claim an exemption from U.S. federal withholding Taxes for income that is effectively connected with a U.S. trade or business, IRS Form W-8ECI;

(D) in the case of a Non-U.S. Lender eligible to claim the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate substantially in the form of Exhibit J-1 to the effect that such Non-U.S. Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Code, a “10 percent shareholder” of the applicable U.S. Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a “controlled foreign corporation” that is related to the applicable U.S. Borrower as described in Section 881(c)(3)(C) of the Code and that no payment under any Loan Document is effectively connected with such Non-U.S. Lender’s conduct of a U.S. trade or business (a “U.S. Tax Compliance Certificate”) and (y) IRS Form W-8BEN or IRS Form W-8BEN-E, as applicable;

(E) to the extent that a Non-U.S. Lender is not the beneficial owner (for example, where the Non-U.S. Lender is a partnership or participating Lender), IRS Form W-8IMY of the Non-U.S. Lender, accompanied by IRS Form W-8ECI, IRS Form W-8BEN or IRS Form W-8BEN-E, a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-1 or Exhibit J-3, IRS Form W-9, and/or other certification documents from each beneficial owner that would be required under this Section 2.17(f) if such beneficial owner were a Lender, as applicable; provided that if the Non-U.S. Lender is a partnership (and not a participating Lender) and one or more beneficial owners are claiming the portfolio interest exemption, such Non-U.S. Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit J-2 or Exhibit J-4 on behalf of such beneficial owner(s); or

(F) any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Taxes, together with such supplementary documentation as may be prescribed by applicable law to permit the applicable U.S. Borrower or the Administrative Agent to reasonably determine the withholding or deduction required to be made.

(iii) If a payment made to a Lender Party under any Loan Document would be subject to U.S. federal withholding Tax imposed under FATCA if the Lender Party were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender Party shall deliver to the Administrative Agent and the applicable U.S. Borrower at the time or times prescribed by law, and at such other time or times reasonably requested by the Administrative Agent or the applicable U.S. Borrower, the documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Administrative Agent or the applicable U.S. Borrower as may be necessary for the Administrative Agent or the applicable U.S. Borrower to comply with its obligations under FATCA and to determine whether the Lender Party has complied with the Lender Party obligations under FATCA, or to determine the amount, if any, to deduct and withhold from the payment. Solely for purposes of this clause (iii), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iv) Each Lender Party hereby authorizes the Administrative Agent to deliver to the Loan Parties and to any successor Administrative Agent any documentation provided by such Lender Party to the Administrative Agent pursuant to this Section 2.17.

(v) Notwithstanding any other provision of this Section 2.17, a Lender Party shall not be required to deliver any form or other documentation that such Lender Party is not legally eligible to deliver.

(g) VAT.

(i) All amounts expressed to be payable under a Loan Document by any party to a Secured Party which constitute consideration for any supply for VAT purposes are deemed to be exclusive of any VAT which is chargeable on that supply, and accordingly, subject to paragraph (ii) below, if VAT is or becomes chargeable on any supply made by any Secured Party to any party in connection with a Loan Document, that party shall (except where the reverse charge mechanism applies and the Secured Party is not obliged to account to the relevant taxation authority for such VAT) pay to such Secured Party (in addition to and at the same time as paying any other consideration for such supply) an amount equal to the amount of the VAT.

(ii) If VAT is or becomes chargeable on any supply made by any Secured Party (the "Supplier") to any other Secured Party (the "Recipient") in connection with a Loan Document, and any party other than the Recipient (the "Relevant Party") is required by the terms of any Loan Document to pay an amount equal to the consideration for that supply to the Supplier:

(A) where the Supplier is the person required to account to the relevant tax authority for the VAT, the Relevant Party shall also pay to the Supplier (at the same time as paying that amount) an additional amount equal to the amount of the VAT. The Recipient shall (where this Section 2.17(g)(ii)(A) applies) promptly pay to the Relevant Party an amount equal to any credit or repayment the Recipient receives from the relevant tax authority which the Recipient determines relates to the VAT chargeable on that supply; and

(B) where the Recipient is the person required to account to the relevant tax authority for the VAT, the Relevant Party shall promptly, following demand from the Recipient, pay to the Recipient an amount equal to the VAT chargeable on that supply but only to the extent that the Recipient determines that it is not entitled to credit or repayment from the relevant tax authority in respect of that VAT.

(iii) Where a Loan Document requires any party to reimburse or indemnify a Secured Party for any cost or expense, that party shall reimburse or indemnify (as the case may be) such Secured Party for the full amount of such cost or expense, including such part thereof as represents VAT, save to the extent that such Secured Party determines that it is entitled to credit or repayment in respect of such VAT from the relevant tax authority.

(iv) Any reference in this Section 2.17(g) to any party shall, at any time when such party is treated as a member of a group or unity (or fiscal unity) for VAT purposes, include (where appropriate and unless the context otherwise requires) a reference to the person who is treated at that time as making the supply, or (as appropriate) receiving the supply, under the grouping rules (provided for in Article 11 of Council Directive 2006/112/EC (or as implemented by the relevant member state of the European Union) or any other similar provision in any jurisdiction which is not a member state of the European Union) so that a reference to a party shall be construed as a reference to that party or the relevant group or unity (or fiscal unity) of which that party is a member for VAT purposes at the relevant time or the relevant representative member (or head) of that group or unity (or fiscal unity) at the relevant time (as the case may be).

(v) In relation to any supply made by a Secured Party to any party under a Loan Document, if requested by such Secured Party, that party shall promptly provide such Secured Party with details of that party's VAT registration (if applicable) and such other information as is requested in connection with such Secured Party's VAT reporting requirements in relation to such supply.

(h) Irish Borrower Loan Provisions. This Section 2.17(h) shall apply solely in respect of any Irish withholding tax imposed in respect of any Loan to an Irish Borrower.

(i) Each Lender that is a Revolving Facility Lender on the date of this Agreement hereby confirms for the benefit of the Administrative Agent and without liability to the Parent or an Irish Borrower that it is an Irish Qualifying Lender other than solely by reason of being an Irish Treaty Lender. Each Irish Qualifying Lender that becomes a Revolving Facility Lender after the date of this Agreement shall confirm for the benefit of the Administrative Agent and without liability to the Parent or an Irish Borrower whether it is (i) an Irish Qualifying Lender (other than an Irish Treaty Lender), (ii) an Irish Treaty Lender or (iii) not an Irish Qualifying Lender in the Assignment and Acceptance that it executes on becoming a Revolving Facility Lender. Any Revolving Facility Lender shall also promptly notify Parent if it ceases to be an Irish Qualifying Lender or becomes an Irish Qualifying Lender after the date on which it becomes a party hereto. If a Lender Party with respect to a Loan to an Irish Borrower fails to inform Parent whether it is an Irish Qualifying Lender, then such Lender shall be treated for purposes of this Agreement as if it was not an Irish Qualifying Lender until such time as it informs Parent otherwise.

(ii) Notwithstanding anything to the contrary in any Loan Document (but subject to the proviso in this Section 2.17(h)(ii)), no Irish Borrower shall be required to make an increased payment to a Lender Party under this Section 2.17 for any Irish Tax Deduction from a payment of interest by any Irish Borrower in respect of any Loan to an Irish Borrower if (i) on the date on which the payment falls due, the payment could have been made to the relevant Revolving Facility Lender without an Irish Tax Deduction if the Revolving Facility Lender was an Irish Qualifying Lender but, on that date, the Revolving Facility Lender is not or has ceased to be an Irish Qualifying Lender other than as a result of any change after the date it became a Revolving Facility Lender under a Loan Document in (or in the interpretation, administration, or application of) any law or Treaty, or any published practice or published concession of any relevant tax authority, or (ii) the relevant Revolving Facility Lender is an Irish Treaty Lender and the applicable Irish Borrower is able to demonstrate that the payment could have been made to the Revolving Facility Lender

without the Irish Tax Deduction had the Irish Treaty Lender complied with its obligations under Section 2.17(h)(iv); provided, however, that (A) if a Revolving Facility Lender assigns or transfers any of its rights or obligations under the Loan Documents to an assignee Revolving Facility Lender (or designates a new Lending Office), and on the date of such assignment or transfer (or designation of a new Lending Office), an Irish Borrower would be obliged to make an increased payment to such assignor Revolving Facility Lender under Section 2.17(a), then such assignee Revolving Facility Lender shall be entitled to receive increased payments under Section 2.17(a) from such Irish Borrower to the same extent such assignor Revolving Facility Lender would have been entitled to if the assignment or transfer (or designation of new Lending Office) had not occurred; and (B) the applicable Irish Borrower shall be required to make increased payments under Section 2.17(a) to a Revolving Facility Lender that is an assignee pursuant to a request by the applicable Borrower under Section 2.17.

(iii) Upon request from an Irish Borrower, each Lender Party with respect to a Loan to an Irish Borrower shall promptly provide such information as shall be reasonably requested to enable such Irish Borrower to comply with the provisions of sections 891A, 891E, 891F and 891G of the TCA (or any regulations made in respect of or in connection with such sections).

(iv) Each Revolving Facility Lender that is an Irish Treaty Lender shall provide to Parent and the Administrative Agent a certificate in the form prescribed by the Irish Revenue Commissioners certifying that it is entitled to receive interest from the Irish Borrowers without any Tax Deduction imposed under the laws of Ireland in accordance with the Treaty entered into between Ireland and that Irish Treaty Lender's country of residence.

(i) UK Borrower Loan Provisions. This Section 2.17(i) shall apply solely in respect of any United Kingdom withholding tax imposed in respect of any Loan to a UK Borrower.

(i) Notwithstanding anything to the contrary in any Loan Document, a UK Borrower shall not be required to make an increased payment, or a payment under an indemnity, to any Lender Party or Agent under this Section 2.17 for any UK Tax Deduction from a payment of interest by a UK Borrower in respect of any Loan to that UK Borrower if on the date on which the payment falls due:

(A) the payment could have been made to the relevant Revolving Facility Lender without a UK Tax Deduction if the Revolving Facility Lender had been a UK Qualifying Lender, but on that date that Lender is not or has ceased to be a UK Qualifying Lender other than as a result of any change, after the date it became a Lender under the Revolving Facility, in (or in the interpretation, administration, or application of) any law or Treaty or any published practice or published concession of any relevant taxing authority; or

(B) (1) the relevant Revolving Facility Lender is a UK Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of "UK Qualifying Lender"; (2) an officer of HM Revenue & Customs has given (and not revoked) a direction (a "Direction") under section 931 of the ITA which relates to the payment and that Lender has received from the relevant UK Borrower a certified copy of that Direction; and (3) the payment could have been made to the Lender without such UK Tax Deduction if that Direction had not been made; or

(C) (1) the relevant Lender is a UK Qualifying Lender solely by virtue of paragraph (a)(ii) of the definition of “UK Qualifying Lender”; (2) the relevant Lender has not given a UK Tax Confirmation to the relevant UK Borrower; and (3) the payment could have been made to the Lender without that UK Tax Deduction if the Lender had given a UK Tax Confirmation to the relevant UK Borrower on the basis that the UK Tax Confirmation would have enabled that UK Borrower to have formed a reasonable belief that the payment was an “excepted payment” for the purpose of section 930 of the ITA; or

(D) the relevant Revolving Facility Lender is a UK Treaty Lender and the relevant UK Borrower is able to demonstrate that (subject to the relevant UK Borrower completing any necessary procedural formalities) the payment could have been made to the Lender without the UK Tax Deduction had that Lender complied with its obligations under Section 2.17(i)(ii) or (i)(iii) below.

(ii) a UK Treaty Lender and a relevant UK Borrower shall co-operate in completing any procedural formalities necessary for that UK Borrower to obtain authorisation to make that payment without a deduction or withholding, and:

(A) a UK Treaty Lender which is a Revolving Facility Lender on the date of this Agreement and that holds a passport under the DTTP Scheme, and which wishes the DTTP Scheme to apply to payments to it under the Revolving Facility, shall confirm its DTTP Scheme reference number and its jurisdiction of tax residence opposite its name in Schedule 2.17(i)(ii); and

(B) a UK Treaty Lender which becomes a Revolving Facility Lender after the date of this Agreement and that holds a passport under the DTTP Scheme, and which wishes the DTTP Scheme to apply to payments to it under the Revolving Facility, shall confirm its DTTP Scheme reference number and its jurisdiction of tax residence in the Assignment and Acceptance which it executes on becoming a Party as a Revolving Facility Lender.

(iii) If a Revolving Facility Lender has confirmed its DTTP Scheme reference number and its jurisdiction of tax residence in accordance with Section 2.17(i)(ii) above and (A) the relevant UK Borrower has not made a Borrower DTTP Filing in respect of that Lender; or (B) the relevant UK Borrower has made a Borrower DTTP Filing in respect of that Lender but (1) that Borrower DTTP Filing has been rejected by HM Revenue & Customs or (2) HM Revenue & Customs has not given the relevant UK Borrower authority to make payments to that Lender without a UK Tax Deduction within 60 days of the date of the Borrower DTTP Filing; and, in each case, the relevant UK Borrower has notified that Lender in writing; then that Lender and that UK Borrower shall co-operate in completing any additional procedural formalities necessary for that UK Borrower to obtain authorization to make that payment without a UK Tax Deduction.

(iv) If a Lender has not confirmed its DTTP Scheme reference number and jurisdiction of tax residence in accordance with Section 2.17(i)(ii) above, the relevant UK Borrower shall not make a Borrower DTTP Filing or file any other form relating to the DTTP Scheme in respect of that Lender’s Commitment(s) or its participation in any Loan unless that Lender otherwise agrees.

(v) The relevant UK Borrower shall, promptly on making a Borrower DTTP Filing, deliver a copy of that Borrower DTTP Filing to the Administrative Agent for delivery to the relevant Revolving Facility Lender.

(vi) A UK Non-Bank Lender which is a Revolving Facility Lender on the date of this Agreement gives a UK Tax Confirmation to the relevant UK Borrower by entering into this Agreement.

(vii) A UK Non-Bank Lender shall promptly notify the relevant UK Borrower and the Administrative Agent if there is any change in the position from that set out in the UK Tax Confirmation.

(viii) Each Lender which becomes a Revolving Facility Lender after the date of this Agreement shall indicate, in the applicable Assignment and Acceptance, which of the following categories it falls in:

(A) not a UK Qualifying Lender;

(B) a UK Qualifying Lender (other than a UK Treaty Lender); or

(C) a UK Treaty Lender.

(ix) If a new Revolving Facility Lender fails to indicate its status in accordance with this Section 2.17(i)(ix), then such Lender shall be treated for the purposes of this Agreement (including by the relevant UK Borrower) as if it is not a UK Qualifying Lender until such time it notifies the Administrative Agent which category applies (and the Administrative Agent, upon receipt of such notification, shall inform the relevant UK Borrower).

(x) A UK Borrower shall promptly upon becoming aware that it must withhold any Taxes from or in respect of any sum payable under any Loan Document to a Lender Party or Agent notify the Agent accordingly. Each Revolving Facility Lender shall, whenever a lapse in time or change in circumstances renders any documentation or confirmation provided pursuant to this Section 2.17(i) obsolete, expired or inaccurate in any material respect, deliver promptly to the applicable UK Borrower and the Administrative Agent updated or other appropriate documentation (including any new documentation reasonably requested by the applicable UK Borrower or the Administrative Agent) or promptly notify the applicable UK Borrower and the Administrative Agent in writing of its ineligibility to do so.

Section 2.18 Payments Generally; Pro Rata Treatment; Sharing of Set-offs.

(a) Unless otherwise specified, each Borrower shall make each payment required to be made by it hereunder (whether of principal, interest, fees or reimbursement of L/C Disbursements, or of amounts payable under Sections 2.15, 2.16 or 2.17, or otherwise) prior to 2:00 p.m., Local Time, on the date when due, in immediately available funds, without condition or deduction for any defense, recoupment, set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent to the applicable account designated to the Parent by the Administrative Agent, except payments to be made directly to the applicable Issuing Bank as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.05 shall be made directly to the persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other person to the appropriate recipient promptly following receipt thereof. Except as otherwise expressly provided herein, if any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments made under the Loan Documents



shall be made in Dollars. Any payment required to be made by the Administrative Agent hereunder shall be deemed to have been made by the time required if the Administrative Agent shall, at or before such time, have taken the necessary steps to make such payment in accordance with the regulations or operating procedures of the clearing or settlement system used by the Administrative Agent to make such payment.

(b) [Reserved].

(c) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of, or interest on, any of its Term Loans, Revolving Facility Loans or participations in L/C Disbursements of a given Class resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Term Loans, Revolving Facility Loans and participations in L/C Disbursements of such Class and accrued interest thereon than the proportion received by any other Lender entitled to receive the same proportion of such payment, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Term Loans, Revolving Facility Loans and participations in L/C Disbursements of such Class of such other Lenders to the extent necessary so that the benefit of all such payments shall be shared by all such Lenders ratably in accordance with the principal amount of each such Lender's respective Term Loans, Revolving Facility Loans and participations in L/C Disbursements of such Class and accrued interest thereon; provided, that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, (ii) the provisions of this clause (c) shall not be construed to apply to any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in L/C Disbursements to any assignee or participant and (iii) nothing in this Section 2.18(c) shall be construed to limit the applicability of Section 7.03 in the circumstances where Section 7.03 is applicable in accordance with its terms. The Borrowers consent to the foregoing and agree, to the extent they may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrowers rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrowers in the amount of such participation.

(d) Unless the Administrative Agent shall have received notice from the Parent or the applicable Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the relevant Lenders or the applicable Issuing Bank hereunder that the applicable Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the relevant Lenders or the applicable Issuing Bank, as applicable, the amount due.

With respect to any payment that the Administrative Agent makes for the account of the Lenders or any Issuing Bank hereunder as to which the Administrative Agent determines (which determination shall be conclusive absent manifest error) that any of the following applies (such payment referred to as the "Rescindable Amount"): (1) the applicable Borrower has not in fact made such payment; (2) the Administrative Agent has made a payment in excess of the amount so paid by the applicable Borrower (whether or not then owed); or (3) the Administrative Agent has for any reason otherwise erroneously made such payment; then each of the Lenders or the applicable Issuing Bank, as applicable, severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount so distributed to such Lender or Issuing Bank, 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 applicable Overnight Rate.

A notice of the Administrative Agent to any Lender or any Borrower with respect to any amount owing under this clause (d) shall be conclusive, absent manifest error.

(e) Subject to Section 2.24, if any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(b), 2.05(d) or (e), 2.06, or 2.18(d), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender under any such Section 2.18; in the case of each of clauses (i) and (ii) above, in any order as determined by the Administrative Agent in its discretion.

#### Section 2.19 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if a Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17 or mitigate the applicability of Section 2.20 or any event that gives rise to the operation of Section 2.20, then such Lender shall use reasonable efforts to designate a different Lending Office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or Affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as applicable, in the future and (ii) would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender in any material respect. Each Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If (i) any Lender requests compensation under Section 2.15 (in a material amount in excess of that being charged by other Lenders) or gives notice under Section 2.20, (ii) the Parent is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.17 (in a material amount in excess of that being charged by other Lenders), or (iii) any Lender is a Defaulting Lender, then the Parent may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require any such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights and obligations under the Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided, that (i) the Parent shall have received the prior written consent of the Administrative Agent (and, if in respect of any Revolving Facility Commitment or Revolving Facility Loan, the Issuing Bank), to the extent consent would be required under Section 9.04(b) for an assignment of Loans or Commitments, as applicable, which consent, in each case, shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in L/C Disbursements, accrued interest thereon, accrued fees and all other amounts payable to it hereunder from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Parent (in the case of all other amounts), (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15, payments required to be made pursuant to Section 2.17 or a notice given under Section 2.20, such assignment will result in a reduction in such compensation or payments and (iv) such assignment does not conflict with any applicable Requirement of Law. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Parent to require such assignment and delegation cease to apply. Nothing in this Section 2.19 shall be deemed to prejudice any rights that the Parent may have against any Lender that is a Defaulting Lender. No action by or consent of the removed Lender shall be necessary in connection with such assignment, which shall be immediately and automatically effective upon payment of such purchase price. In connection with any such assignment the Parent, Administrative Agent, such removed Lender and the replacement Lender shall otherwise comply with Section 9.04, provided, that if such removed Lender does not comply with Section 9.04 within one Business Day after the Parent's request, compliance with Section 9.04 (but only on the part of the removed Lender) shall not be required to effect such assignment.

(c) If any Lender (such Lender, a “Non-Consenting Lender”) has failed to consent to a proposed amendment, waiver or consent which pursuant to the terms of Section 9.08 requires the consent of all of the Lenders or all of the Lenders adversely affected and with respect to which the Required Lenders shall have granted their consent, then the Parent shall have the right (unless such Non-Consenting Lender grants such consent) at its sole expense (including with respect to the processing and recordation fee referred to in Section 9.04(b)(ii)(C)) to replace such Non-Consenting Lender by requiring such Non-Consenting Lender to (and any such Non-Consenting Lender agrees that it shall, upon the Parent’s request) assign its Loans and its Commitments (or, at the Parent’s option, the Loans and Commitments under the Facility that is the subject of the proposed amendment, waiver or consent) hereunder to one or more assignees reasonably acceptable to (i) the Administrative Agent (unless such assignee is a Lender, an Affiliate of a Lender or an Approved Fund) and (ii) if in respect of any Revolving Facility Commitment or Revolving Facility Loan, the Issuing Bank; provided that: (i) all Loan Obligations of the Borrowers owing to such Non-Consenting Lender being replaced in respect of the assigned interest shall be paid in full in same day funds to such Non-Consenting Lender concurrently with such assignment, (ii) the replacement Lender shall purchase the foregoing by paying to such Non-Consenting Lender a price equal to the principal amount thereof plus accrued and unpaid interest thereon and the replacement Lender or, at the option of Parent, the applicable Borrower shall pay any amount required by Section 2.12(d), if applicable, and (iii) the replacement Lender shall grant its consent with respect to the applicable proposed amendment, waiver or consent. No action by or consent of the Non-Consenting Lender shall be necessary in connection with such assignment, which shall be immediately and automatically effective upon payment of such purchase price. In connection with any such assignment the Parent, Administrative Agent, such Non-Consenting Lender and the replacement Lender shall otherwise comply with Section 9.04; provided that if such Non-Consenting Lender does not comply with Section 9.04 within one Business Day after the Parent’s request, compliance with Section 9.04 (but only on the part of the Non-Consenting Lender) shall not be required to effect such assignment.

Section 2.20 Illegality. If any Lender reasonably determines that any Change in Law has made it unlawful, or that any Governmental Authority has asserted after the Closing Date that it is unlawful, for any Lender or its applicable lending office to make, maintain or fund any Eurocurrency Rate Loans, or to determine or charge interest rates based upon the Eurocurrency Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars or Euros in the applicable London interbank market then, on notice thereof by such Lender to the Parent through the Administrative Agent, (i) any obligations of such Lender to make or continue Eurocurrency Rate Loans in the affected currency or currencies or, in the case of Eurocurrency Rate Loans denominated in Dollars, to convert ABR Borrowings to Eurocurrency Borrowings shall be suspended and (ii) if such notice asserts the illegality of such Lender making or maintaining ABR Loans the interest rate on which is determined by reference to the Eurocurrency Rate component of the ABR, the interest rate on which ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the ABR, in each case until such Lender notifies the Administrative Agent and the Parent that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (x) the Parent shall upon demand from such Lender (with a copy to the Administrative Agent), prepay or, if such Loans are denominated in Dollars, convert all Eurocurrency Borrowings of such Lender to ABR Borrowings (the interest rate on such ABR Loans of such Lender shall, if necessary to avoid such illegality, be determined by the Administrative Agent without reference to the Eurocurrency Rate component of the ABR), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurocurrency Borrowings to such day, or immediately, if such Lender may not lawfully continue to maintain such Loans and (y) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurocurrency Rate, the Administrative Agent shall during the period of such suspension compute the ABR applicable to

such Lender without reference to the Eurocurrency Rate component thereof until the Administrative Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurocurrency Rate. Upon any such prepayment or conversion, the Parent shall also pay accrued interest on the amount so prepaid or converted.

Section 2.21 Incremental Commitments.

(a) After the Closing Date has occurred, any Borrower may, by written notice to the Administrative Agent from time to time, request Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments, as applicable, in an amount not to exceed the Incremental Amount available at the time such Incremental Term Loans are funded or Incremental Revolving Facility Commitments are established (except as set forth in clause (C) of the third paragraph under Section 6.01) from one or more Incremental Term Lenders and/or Incremental Revolving Facility Lenders (which, in each case, may include any existing Lender (it being understood that no Lender shall be obligated to provide any Incremental Term Loans or Incremental Revolving Facility Commitments unless it shall have consented thereto), but shall be required to be persons which would qualify as assignees of a Lender in accordance with Section 9.04) willing to provide such Incremental Term Loans and/or Incremental Revolving Facility Commitments, as the case may be, in their sole discretion; provided, that each Incremental Revolving Facility Lender providing a commitment to make revolving loans shall be subject to the approval of the Administrative Agent and, to the extent the same would be required for an assignment under Section 9.04, the Issuing Bank (which approvals shall not be unreasonably withheld, conditioned or delayed). Such notice shall set forth (i) the amount of the Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments being requested (which shall be in minimum increments of the Dollar Equivalent of \$5,000,000 and a minimum amount of the Dollar Equivalent of \$10,000,000, or equal to the remaining Incremental Amount or, in each case, such lesser amount approved by the Administrative Agent), (ii) the date on which such Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments are requested to become effective, (iii) in the case of Incremental Term Loan Commitments, whether such Incremental Term Loan Commitments are to be (x) commitments to make term loans with terms identical to (and which shall together with any then outstanding Initial Term Loans form a single Class of) Initial Term Loans or (y) commitments to make term loans with pricing, maturity, amortization, participation in mandatory prepayments and/or other terms different from the Initial Term Loans ("Other Incremental Term Loans").

(b) The applicable Borrower and each Incremental Term Lender and/or Incremental Revolving Facility Lender shall execute and deliver to the Administrative Agent an Incremental Assumption Agreement and such other documentation as the Administrative Agent shall reasonably specify to evidence the Incremental Term Loan Commitment of such Incremental Term Lender and/or Incremental Revolving Facility Commitment of such Incremental Revolving Facility Lender. Each Incremental Assumption Agreement shall specify the terms of the applicable Incremental Term Loans and/or Incremental Revolving Facility Commitments; provided that:

(i) any (x) commitments to make additional Initial Term Loans shall have the same terms as the Initial Term Loans, and shall form part of the same Class of Initial Term Loans and (y) Incremental Revolving Facility Commitments shall have the same terms as the then outstanding Class of Revolving Facility Commitments (or, if more than one Class of Revolving Facility Commitments is then outstanding, the Revolving Facility Commitments with the then latest Revolving Facility Maturity Date) and shall require no scheduled amortization or mandatory commitment reduction prior to the Latest Maturity Date of the Revolving Facility Commitments,

(ii) the Other Incremental Term Loans incurred pursuant to clause (a) of this Section 2.21 shall rank equally and ratably in right of security with the Initial Term Loans or, at the option of the applicable Borrower, shall rank junior in right of security with the Initial Term Loans (provided that, if such Other Incremental Term Loans rank junior in right of security with the Initial Term Loans, such Other Incremental Term Loans shall be subject to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such security interest and, for the avoidance of doubt, shall not be subject to clause (v) below),

(iii) (x) the final maturity date of any such Other Incremental Term Loans shall be no earlier than the Latest Maturity Date applicable to Term Loans in effect at the date of incurrence of such Other Incremental Term Loans (other than with respect to (I) any Other Incremental Term Loans with amortization in excess of 1% and less than or equal to 10% per year that is marketed principally to regulated commercial banks (as determined by the Parent), (II) Other Incremental Term Loans in an amount not to exceed 50% of Adjusted Consolidated EBITDA for the most recently ended Test Period for which financial statements of Parent have been delivered (or were required to be delivered) under Section 5.04, and (III) customary "bridge loan" facilities with a tenor of no longer than one year (provided that such facilities automatically convert or exchange into long-term debt otherwise meeting the requirements of this clause (iii))), (y) no Incremental Facility shall mature on or prior to the latest Revolving Facility Maturity Date and (z) except as to pricing, fees, amortization, final maturity date, participation in mandatory prepayments and ranking as to security (which shall, subject to the other clauses of this proviso, be determined by the applicable Borrower and the Incremental Term Lenders in their sole discretion), such Other Incremental Term Loans shall have (1) the same terms as the Initial Term Loans or (2) such other terms as shall be reasonably satisfactory to the Administrative Agent (it being understood that, to the extent that any term is added for the benefit of any Other Incremental Term Loans, no consent shall be required from Term Lenders to the extent that such term is (a) also added for the benefit of the Term Loans or (b) is only applicable after the maturity of the Term Loan Facility),

(iv) the Weighted Average Life to Maturity of any such Other Incremental Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Term Loans with the longest remaining Weighted Average Life to Maturity (other than with respect to (I) any Other Incremental Term Loans with amortization in excess of 1% and less than or equal to 10% per year that is marketed principally to regulated commercial banks (as determined by the Parent), (II) Other Incremental Term Loans in an amount not to exceed 50% of Adjusted Consolidated EBITDA for the most recently ended Test Period for which financial statements of Parent have been delivered (or were required to be delivered) under Section 5.04, and (III) customary "bridge loan" facilities with a tenor of no longer than one year (provided that such facilities automatically convert or exchange into long-term debt otherwise meeting the requirements of this clause (iv))),

(v) with respect to any Other Incremental Term Loan, the All-in Yield shall be as agreed by the respective Incremental Term Lenders and the applicable Borrower, except that the All-in Yield in respect of any such Other Incremental Term Loan that is Other First Lien Debt and incurred prior to the date that is eighteen months after the Closing Date may exceed the All-in Yield in respect of the Initial Term Loans by no more than 0.50%, or if it does so exceed such All-in Yield (such difference, the "Term Yield Differential") then the Applicable Margin (or the "LIBOR floor" as provided in the following proviso) applicable to such Initial Term Loans shall be increased such that after giving effect to such increase, the Term Yield Differential shall not exceed 0.50%; provided that, to the extent any portion of the Term Yield Differential is attributable to a higher "LIBOR floor" being applicable to such Other Incremental Term Loans, such floor shall only be included in the calculation of the Term Yield Differential to the extent such floor is greater than the Eurocurrency Rate in effect for an Interest Period of three months' duration at such time, and, with respect to such excess, the "LIBOR floor" applicable to the outstanding Initial Term Loans shall be increased to an amount not to exceed the "LIBOR floor" applicable to such Other Incremental Term Loans prior to any increase in the Applicable Margin applicable to such Initial Term Loans then outstanding,

(vi) such Other Incremental Term Loans may participate on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) than the Initial Term Loans in any mandatory prepayment hereunder,

(vii) there shall be no borrower (other than a Borrower) or guarantor (other than the Guarantors) in respect of any Incremental Term Loan Commitments or Incremental Revolving Facility Commitments,

(viii) Other Incremental Term Loans and Incremental Revolving Facility Commitments shall not be secured by any asset of Parent or its Subsidiaries other than the Collateral; and

(ix) the Parent shall be in Pro Forma Compliance with the Financial Covenants (if then applicable).

Each party hereto hereby agrees that, upon the effectiveness of any Incremental Assumption Agreement, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Incremental Term Loan Commitments and/or Incremental Revolving Facility Commitments evidenced thereby as provided for in Section 9.08(e). Any amendment to this Agreement or any other Loan Document that is necessary to effect the provisions of this Section 2.21 and any such collateral and other documentation shall be deemed "Loan Documents" hereunder and may be memorialized in writing by the Administrative Agent with the Parent's consent (not to be unreasonably withheld) and furnished to the other parties hereto.

(c) Notwithstanding the foregoing, no Incremental Term Loan Commitment or Incremental Revolving Facility Commitment shall become effective under this Section 2.21 unless (i) no Default or Event of Default shall exist; provided, that in the event that any tranche of Incremental Term Loans is used to finance a Limited Condition Acquisition, to the extent the Incremental Term Lenders participating in such tranche of Incremental Term Loans agree, the foregoing clause (i) and clause (ix) of the preceding clause (b) shall be tested at the time of the execution of the acquisition agreement related to such Limited Condition Acquisition (provided, that such Incremental Term Lenders shall not be permitted to waive any Default or Event of Default then existing or existing after giving effect to such tranche of Incremental Term Loans); (ii) the representations and warranties of the Borrowers set forth in this Agreement shall be true and correct in all material respects (other than to the extent qualified by materiality or "Material Adverse Effect", in which case, such representations and warranties shall be true and correct); provided that, in the event that the tranche of Incremental Term Loans is used to finance a Limited Condition Acquisition and to the extent the Incremental Term Lenders participating in such tranche of Incremental Term Loans agree, the foregoing clause (ii) shall be limited to the Specified Representations and those representations of the seller or the target company (as applicable) included in the acquisition agreement related to such Limited Condition Acquisition that are material to the interests of the Lenders and only to the extent that the Parent or its applicable Subsidiary has the right to terminate its obligations under such acquisition agreement as a result of a failure of such representations to be accurate; and (iii) the Administrative Agent shall have received documents and legal opinions consistent with those delivered on the Closing Date as to such matters as are reasonably requested by the Administrative Agent. The Administrative Agent shall promptly notify each Lender as to the effectiveness of each Incremental Assumption Agreement.

(d) Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be reasonably necessary to ensure that (i) all Incremental Term Loans (other than Other Incremental Term Loans), when originally made, are included in each Borrowing of the outstanding applicable Class of Term Loans on a pro rata basis, and (ii) all Revolving Facility Loans in respect of Incremental Revolving Facility Commitments, when originally made, are included in each Borrowing of the applicable Class of outstanding Revolving Facility Loans on a pro rata basis. The Parent agrees that Section 2.16 shall apply to any conversion of Eurocurrency Rate Loans to ABR Loans reasonably required by the Administrative Agent to effect the foregoing.

#### Section 2.22 Extensions of Loans and Commitments.

(a) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(c) (which provisions shall not be applicable to this Section 2.22), pursuant to one or more offers made from time to time by the Parent to all Lenders of any Class of Term Loans and/or Revolving Facility Commitments on a pro rata basis (based, in the case of an offer to the Lenders under any Class of Term Loans, on the aggregate outstanding Term Loans of such Class and, in the case of an offer to the Lenders under any Revolving Facility, on the aggregate outstanding Revolving Facility Commitments under such Revolving Facility, as applicable), and on the same terms to each such Lender (“Pro Rata Extension Offers”), the Parent is hereby permitted to consummate transactions with individual Lenders that agree to such transactions from time to time to extend the maturity date of such Lender’s Loans and/or Commitments of such Class and to otherwise modify the terms of such Lender’s Loans and/or Commitments of such Class pursuant to the terms of the relevant Pro Rata Extension Offer (including, without limitation, increasing the interest rate or fees payable in respect of such Lender’s Loans and/or Commitments and/or modifying the amortization schedule in respect of such Lender’s Loans) (it being understood that no Lender shall be obligated to participate in any Extension (as defined below) unless it shall have consented thereto). For the avoidance of doubt, the reference to “on the same terms” in the preceding sentence shall mean, (i) in the case of an offer to the Lenders under any Class of Term Loans, that all of the Term Loans of such Class are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same and (ii) in the case of an offer to the Lenders under any Revolving Facility, that all of the Revolving Facility Commitments of such Facility are offered to be extended for the same amount of time and that the interest rate changes and fees payable with respect to such extension are the same. Any such extension (an “Extension”) agreed to between the Parent and any such Lender (an “Extending Lender”) will be established under this Agreement by implementing an Other Term Loan for such Lender if such Lender is extending an existing Term Loan (such extended Term Loan, an “Extended Term Loan”) or an Other Revolving Facility Commitment for such Lender if such Lender is extending an existing Revolving Facility Commitment (such extended Revolving Facility Commitment, an “Extended Revolving Facility Commitment”, and any Revolving Facility Loan made pursuant to such Extended Revolving Facility Commitment, an “Extended Revolving Loan”). Each Pro Rata Extension Offer shall specify the date on which the Parent proposes that the Extended Term Loan shall be made or the proposed Extended Revolving Facility Commitment shall become effective, which shall be a date not earlier than five (5) Business Days after the date on which notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion).

(b) The Parent and each Extending Lender shall execute and deliver to the Administrative Agent an amendment to this Agreement (an “Extension Amendment”) and such other documentation as the Administrative Agent shall reasonably specify to evidence the Extended Term Loans and/or Extended Revolving Facility Commitments of such Extending Lender. Each Extension Amendment shall specify the terms of the applicable Extended Term Loans and/or Extended Revolving Facility Commitments; provided that (i) except as to interest rates, fees and any other pricing terms, and amortization, final maturity date and participation in prepayments and commitment reductions (which shall, subject to clauses (ii) and (iii) of this proviso, be determined by the Parent and set forth in the Pro Rata Extension Offer), the Extended Term Loans shall have (x) the same terms as the existing Class of Term Loans from which they are extended, except for any terms which shall not apply until after the then-Latest Maturity Date, or (y) such

other terms as shall be reasonably satisfactory to the Administrative Agent, (ii) the final maturity date of any Extended Term Loans shall be no earlier than the latest Term Facility Maturity Date in effect on the date of incurrence, (iii) the Weighted Average Life to Maturity of any Extended Term Loans shall be no shorter than the remaining Weighted Average Life to Maturity of the Class of Term Loans to which such offer relates, (iv) except as to interest rates, fees, any other pricing terms and final maturity (which shall be determined by the Parent and set forth in the Pro Rata Extension Offer), any Extended Revolving Facility Commitment shall have (x) the same terms as the existing Class of Revolving Facility Commitments from which they are extended, except for any terms which shall not apply until after the then-Latest Maturity Date, or (y) such other terms as shall be reasonably satisfactory to the Administrative Agent and, in respect of any other terms that would affect the rights or duties of any Issuing Bank, such terms as shall be reasonably satisfactory to such Issuing Bank, and (v) any Extended Term Loans may participate on a pro rata basis or a less than pro rata basis (but not a greater than pro rata basis) than the Initial Term Loans in any mandatory prepayment hereunder. Upon the effectiveness of any Extension Amendment, this Agreement shall be amended to the extent (but only to the extent) necessary to reflect the existence and terms of the Extended Term Loans and/or Extended Revolving Facility Commitments evidenced thereby as provided for in Section 9.08(e). Any such deemed amendment may be memorialized in writing by the Administrative Agent with the Parent's consent (not to be unreasonably withheld) and furnished to the other parties hereto. If provided in any Extension Amendment with respect to any Extended Revolving Facility Commitments, and with the consent of each and Issuing Bank, participations in Letters of Credit shall be reallocated to lenders holding such Extended Revolving Facility Commitments in the manner specified in such Extension Amendment, including upon effectiveness of such Extended Revolving Facility Commitment or upon or prior to the maturity date for any Class of Revolving Facility Commitments.

(c) Upon the effectiveness of any such Extension, the applicable Extending Lender's Term Loan will be automatically designated an Extended Term Loan and/or such Extending Lender's Revolving Facility Commitment will be automatically designated an Extended Revolving Facility Commitment. For purposes of this Agreement and the other Loan Documents, (i) if such Extending Lender is extending a Term Loan, such Extending Lender will be deemed to have an Other Term Loan having the terms of such Extended Term Loan and (ii) if such Extending Lender is extending a Revolving Facility Commitment, such Extending Lender will be deemed to have an Other Revolving Facility Commitment having the terms of such Extended Revolving Facility Commitment.

(d) Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.22), (i) no Extended Term Loan or Extended Revolving Facility Commitment is required to be in any minimum amount or any minimum increment, (ii) any Extending Lender may extend all or any portion of its Term Loans and/or Revolving Facility Commitment pursuant to one or more Pro Rata Extension Offers (subject to applicable proration in the case of over participation) (including the extension of any Extended Term Loan and/or Extended Revolving Facility Commitment), (iii) there shall be no condition to any Extension of any Loan or Commitment at any time or from time to time other than notice to the Administrative Agent of such Extension and the terms of the Extended Term Loan or Extended Revolving Facility Commitment implemented thereby, (iv) all Extended Term Loans, Extended Revolving Facility Commitments and all obligations in respect thereof shall be Loan Obligations of the relevant Loan Parties under this Agreement and the other Loan Documents that rank equally and ratably in right of security with all other Obligations of the Class being extended (and all other Obligations secured by Other First Liens), (v) no Issuing Bank shall be obligated to issue Letters of Credit under such Extended Revolving Facility Commitments unless it shall have consented thereto and (vi) there shall be no borrower (other than a Borrower) and no guarantors (other than the Guarantors) in respect of any such Extended Term Loans or Extended Revolving Facility Commitments.



(e) Each Extension shall be consummated pursuant to procedures set forth in the associated Pro Rata Extension Offer; provided that the Parent shall cooperate with the Administrative Agent prior to making any Pro Rata Extension Offer to establish reasonable procedures with respect to mechanical provisions relating to such Extension, including, without limitation, timing, rounding and other adjustments.

Section 2.23 Refinancing Amendments.

(a) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(c) (which provisions shall not be applicable to this Section 2.23), any Borrower may by written notice to the Administrative Agent establish one or more additional tranches of term loans under this Agreement (such loans, "Refinancing Term Loans"), all Net Proceeds of which are used to Refinance in whole or in part any Class of Term Loans pursuant to Section 2.11(b)(2). Each such notice shall specify the date (each, a "Refinancing Effective Date") on which the applicable Borrower proposes that the Refinancing Term Loans shall be made, which shall be a date not earlier than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its sole discretion); provided that:

(i) before and after giving effect to the borrowing of such Refinancing Term Loans on the Refinancing Effective Date each of the conditions set forth in Section 4.02 shall be satisfied;

(ii) the final maturity date of the Refinancing Term Loans shall be no earlier than the Term Facility Maturity Date of the refinanced Term Loans;

(iii) the Weighted Average Life to Maturity of such Refinancing Term Loans shall be no shorter than the then-remaining Weighted Average Life to Maturity of the refinanced Term Loans;

(iv) the aggregate principal amount of the Refinancing Term Loans shall not exceed the outstanding principal amount of the refinanced Term Loans plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith;

(v) all other terms applicable to such Refinancing Term Loans (other than provisions relating to original issue discount, upfront fees, interest rates and any other pricing terms (which original issue discount, upfront fees, interest rates and other pricing terms shall not be subject to the provisions set forth in Section 2.21(b)(v)) and optional prepayment or mandatory prepayment or redemption terms, which shall be as agreed between the applicable Borrower and the Lenders providing such Refinancing Term Loans) taken as a whole shall (as determined by the Parent in good faith) be substantially similar to, or no more restrictive to the Parent and its Subsidiaries than, the terms, taken as a whole, applicable to the Term Loans being refinanced (except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date or are otherwise reasonably acceptable to the Administrative Agent);

(vi) with respect to Refinancing Term Loans secured by Liens on the Collateral that rank junior in right of security to the Initial Term Loans, such Liens will be subject to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such security interest;

(vii) there shall be no borrower (other than a Borrower) and no guarantors (other than the Guarantors) in respect of such Refinancing Term Loans;

(viii) Refinancing Term Loans shall not be secured by any asset of Parent and its subsidiaries other than the Collateral; and

(ix) Refinancing Term Loans may participate on a pro rata basis or on a less than pro rata basis (but not on a greater than pro rata basis) in any mandatory prepayments (other than as provided otherwise in the case of such prepayments pursuant to Section 2.11(b)(2)) hereunder, as specified in the applicable Refinancing Amendment.

(b) The Parent or the applicable Borrower may approach any Lender or any other person that would be a permitted Assignee pursuant to Section 9.04 to provide all or a portion of the Refinancing Term Loans; provided, that any Lender offered or approached to provide all or a portion of the Refinancing Term Loans may elect or decline, in its sole discretion, to provide a Refinancing Term Loan. Any Refinancing Term Loans made on any Refinancing Effective Date shall be designated an additional Class of Term Loans for all purposes of this Agreement; provided, further, that any Refinancing Term Loans may, to the extent provided in the applicable Refinancing Amendment governing such Refinancing Term Loans, be designated as an increase in any previously established Class of Term Loans made to the applicable Borrower.

(c) Notwithstanding anything to the contrary in this Agreement, including Section 2.18(c) (which provisions shall not be applicable to this Section 2.23), the applicable Borrower may by written notice to the Administrative Agent establish one or more additional Facilities (“Replacement Revolving Facilities”) providing for revolving commitments (“Replacement Revolving Facility Commitments” and the revolving loans thereunder, “Replacement Revolving Loans”), which replace in whole or in part any Class of Revolving Facility Commitments under this Agreement. Each such notice shall specify the date (each, a “Replacement Revolving Facility Effective Date”) on which the applicable Borrower proposes that the Replacement Revolving Facility Commitments shall become effective, which shall be a date not less than five (5) Business Days after the date on which such notice is delivered to the Administrative Agent (or such shorter period agreed to by the Administrative Agent in its reasonable discretion); provided, that: (i) before and after giving effect to the establishment of such Replacement Revolving Facility Commitments on the Replacement Revolving Facility Effective Date, each of the conditions set forth in Section 4.02 shall be satisfied; (ii) after giving effect to the establishment of any Replacement Revolving Facility Commitments and any concurrent reduction in the aggregate amount of any other Revolving Facility Commitments, the aggregate amount of Revolving Facility Commitments shall not exceed the aggregate amount of the Revolving Facility Commitments outstanding immediately prior to the applicable Replacement Revolving Facility Effective Date plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith; (iii) no Replacement Revolving Facility Commitments shall have a final maturity date (or require commitment reductions or amortizations) prior to the Revolving Facility Maturity Date for the Revolving Facility Commitments being replaced; (iv) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the applicable Borrower and the Lenders providing such Replacement Revolving Facility Commitments and (y) the amount of any letter of credit sublimit under such Replacement Revolving Facility, which shall be as agreed between the applicable Borrower, the Lenders providing such Replacement Revolving Facility Commitments, the Administrative Agent and the replacement issuing bank, if any, under such Replacement Revolving Facility Commitments) taken as a whole shall (as determined by the Parent in good faith) be substantially similar to, or no more restrictive to the Parent and its Subsidiaries than, those, taken as a whole, applicable to the Revolving Facility Commitments so replaced (except to the extent such covenants and other terms apply solely to any period after the latest Revolving Facility Maturity Date in effect at the time of incurrence or are otherwise reasonably acceptable to the Administrative Agent); (v) there shall be no borrower (other than a Borrower) and no guarantors (other than the Guarantors) in respect of such Replacement Revolving Facility; and (vi)

Replacement Revolving Facility Commitments and extensions of credit thereunder shall not be secured by any asset of Parent and its Subsidiaries other than the Collateral, and (vii) if such Replacement Revolving Facility is secured by Liens on the Collateral that rank junior in right of security to the Initial Revolving Loans, such Liens will be subject to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such Liens. In addition, the applicable Borrower may establish Replacement Revolving Facility Commitments to refinance and/or replace all or any portion of a Term Loan hereunder (regardless of whether such Term Loan is repaid with the proceeds of Replacement Revolving Loans or otherwise), so long as the aggregate amount of such Replacement Revolving Facility Commitments does not exceed the aggregate amount of Term Loans repaid at the time of establishment thereof plus amounts used to pay fees, premiums, costs and expenses (including original issue discount) and accrued interest associated therewith (it being understood that such Replacement Revolving Facility Commitment may be provided by the Lenders holding the Term Loans being repaid and/or by any other person that would be a permitted Assignee hereunder) so long as (i) before and after giving effect to the establishment such Replacement Revolving Facility Commitments on the Replacement Revolving Facility Effective Date each of the conditions set forth in Section 4.02 shall be satisfied to the extent required by the relevant agreement governing such Replacement Revolving Facility Commitments, (ii) the remaining life to termination of such Replacement Revolving Facility Commitments shall be no shorter than the Weighted Average Life to Maturity then applicable to the refinanced Term Loans, (iii) the final termination date of the Replacement Revolving Facility Commitments shall be no earlier than the Term Facility Maturity Date of the refinanced Term Loans, (iv) with respect to Replacement Revolving Loans secured by Liens on Collateral that rank junior in right of security to the Initial Revolving Loans, such Liens will be subject to the Collateral Trust Agreement or any other Intercreditor Agreements, if any, as are reasonably necessary or advisable (and reasonably acceptable to the Administrative Agent) to give effect to such Liens, (v) there shall be no borrower (other than a Borrower) and no guarantors (other than the Guarantors) in respect of such Replacement Revolving Facility; and (vi) all other terms applicable to such Replacement Revolving Facility (other than provisions relating to (x) fees, interest rates and other pricing terms and prepayment and commitment reduction and optional redemption terms which shall be as agreed between the applicable Borrower and the Lenders providing such Replacement Revolving Facility Commitments and (y) the amount of any letter of credit sublimit under such Replacement Revolving Facility, which shall be as agreed between the applicable Borrower, the Lenders providing such Replacement Revolving Facility Commitments, the Administrative Agent and the replacement issuing bank, if any, under such Replacement Revolving Facility Commitments) taken as a whole shall (as determined by the Parent in good faith) be substantially similar to, or no more restrictive to the Parent and its Subsidiaries than, those, taken as a whole, applicable to the Term Loans being refinanced (except to the extent such covenants and other terms apply solely to any period after the Latest Maturity Date or are otherwise reasonably acceptable to the Administrative Agent). Solely to the extent that an Issuing Bank is not a replacement issuing bank, as the case may be, under a Replacement Revolving Facility, it is understood and agreed that such Issuing Bank shall not be required to issue any letters of credit under such Replacement Revolving Facility and, to the extent it is necessary for such Issuing Bank to withdraw as an Issuing Bank, as the case may be, at the time of the establishment of such Replacement Revolving Facility, such withdrawal shall be on terms and conditions reasonably satisfactory to such Issuing Bank, as the case may be, in its sole discretion. The applicable Borrower agrees to reimburse each Issuing Bank, as the case may be, in full upon demand, for any reasonable and documented out-of-pocket cost or expense attributable to such withdrawal.

(d) The Parent or the applicable Borrower may approach any Lender or any other person that would be a permitted Assignee of a Revolving Facility Commitment pursuant to Section 9.04 to provide all or a portion of the Replacement Revolving Facility Commitments; provided that any Lender offered or approached to provide all or a portion of the Replacement Revolving Facility Commitments may elect or decline, in its sole discretion, to provide a Replacement Revolving Facility Commitment. Any Replacement Revolving Facility Commitment made on any Replacement Revolving Facility Effective Date shall be

designated an additional Class of Revolving Facility Commitments for all purposes of this Agreement; provided that any Replacement Revolving Facility Commitments may, to the extent provided in the applicable Refinancing Amendment, be designated as an increase in any previously established Class of Revolving Facility Commitments.

(e) The applicable Borrower and each Lender providing the applicable Refinancing Term Loans and/or Replacement Revolving Facility Commitments (as applicable) shall execute and deliver to the Administrative Agent an amendment to this Agreement (a "Refinancing Amendment") and such other documentation as the Administrative Agent shall reasonably specify to evidence such Refinancing Term Loans and/or Replacement Revolving Facility Commitments (as applicable). For purposes of this Agreement and the other Loan Documents, (A) if a Lender is providing a Refinancing Term Loan, such Lender will be deemed to have an Other Term Loan having the terms of such Refinancing Term Loan and (B) if a Lender is providing a Replacement Revolving Facility Commitment, such Lender will be deemed to have an Other Revolving Facility Commitment having the terms of such Replacement Revolving Facility Commitment. Notwithstanding anything to the contrary set forth in this Agreement or any other Loan Document (including without limitation this Section 2.23), (i) no Refinancing Term Loan or Replacement Revolving Facility Commitment is required to be in any minimum amount or any minimum increment, (ii) there shall be no condition to any incurrence of any Refinancing Term Loan or Replacement Revolving Facility Commitment at any time or from time to time other than those set forth in clauses (a) or (c) above, as applicable, and (iii) all Refinancing Term Loans, Replacement Revolving Facility Commitments and all obligations in respect thereof shall be Loan Obligations under this Agreement and the other Loan Documents that rank equally and ratably in right of security with the Initial Term Loans and other Loan Obligations (other than Other Incremental Term Loans and Refinancing Term Loans that rank junior in right of security with the Initial Term Loans, and except to the extent any such Refinancing Term Loans are secured by the Collateral on a junior lien basis in accordance with the provisions above). For the avoidance of doubt, any Refinancing Amendment of any nature that creates an obligation with respect to the Collateral Trustee or affects any rights thereof shall require the execution of such Refinancing Amendment by the Collateral Trustee.

#### Section 2.24 Defaulting Lender.

(a) *Defaulting Lender Adjustments*. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such 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 definitions of "Required Lenders" or "Required Revolving Facility Lenders", as applicable, and Section 9.08.

(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, following an Event of Default or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.06 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 any Issuing Bank hereunder, third, to Cash Collateralize the Issuing Banks' Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.05(j), fourth, as the Parent 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 Parent, 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 Issuing Banks' future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.05(j), sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks as a result of any judgment of a court of competent jurisdiction obtained by any Lender, Issuing Bank against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Parent as a result of any judgment of a court of competent jurisdiction obtained by the Parent against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement, and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.24 shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) *Certain Fees.* (A) No Defaulting Lender shall be entitled to receive any Commitment Fee for any period during which that Lender is a Defaulting Lender (and, except as provided in clause (C) below, the Parent shall not be required to pay any such fee that otherwise would have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive L/C Participation Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its pro rata share of the stated amount of Letters of Credit for which it has provided Cash Collateral.

(C) With respect to any Commitment Fee or L/C Participation Fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Parent shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letters of Credit that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Bank the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) *Reallocation of Participations to Reduce Fronting Exposure.* All or any part of such Defaulting Lender's participation in Letters of Credit shall be reallocated among the Non-Defaulting Lenders in accordance with their respective pro rata Commitments (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Facility Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Facility Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) *Cash Collateral.* If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Parent shall, without prejudice to any right or remedy available to it hereunder or under law, within three (3) Business Days following the written request of the (i) Administrative Agent or (ii) any Issuing Bank, as applicable (with a copy to the Administrative Agent), Cash Collateralize the Issuing Banks' Fronting Exposure in accordance with the procedures set forth in Section 2.05(j).

(b) *Defaulting Lender Cure*. If the Parent, the Administrative Agent and each Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par (together with any break funding costs incurred by the non-Defaulting Lenders as a result of such purchase) that portion of outstanding Revolving Facility Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit to be held pro rata by the Lenders in accordance with their Revolving Facility Commitments (without giving effect to Section 2.24(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided, that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of Parent while that Lender was a Defaulting Lender; provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) *New Letters of Credit*. So long as any Lender is a Defaulting Lender, the Issuing Banks shall not be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

#### Section 2.25 Loan Repurchases.

(a) Subject to the terms and conditions set forth or referred to below, any Borrower may from time to time, at its discretion, conduct modified Dutch auctions in order to purchase its Term Loans of one or more Classes (as determined by such Borrower) (each, a "Purchase Offer"), each such Purchase Offer to be managed exclusively by the Administrative Agent (or such other financial institution chosen by such Borrower and reasonably acceptable to the Administrative Agent) (in such capacity, the "Auction Manager"), so long as the following conditions are satisfied:

(i) each Purchase Offer shall be conducted in accordance with the procedures, terms and conditions set forth in this Section 2.25 and the Auction Procedures;

(ii) no Default or Event of Default shall have occurred and be continuing on the date of the delivery of each notice of an auction and at the time of (and immediately after giving effect to) the purchase of any Term Loans in connection with any Purchase Offer;

(iii) the principal amount (calculated on the face amount thereof) of each and all Classes of Term Loans that such Borrower offers to purchase in any such Purchase Offer shall be no less than U.S. \$25,000,000 (unless another amount is agreed to by the Administrative Agent) (across all such Classes);

(iv) the aggregate principal amount (calculated on the face amount thereof) of all Term Loans of the applicable Class or Classes so purchased by such Borrower shall automatically be cancelled and retired by such Borrower on the settlement date of the relevant purchase (and may not be resold) (without any increase to Adjusted Consolidated EBITDA as a result of any gains associated with cancellation of debt), and in no event shall such Borrower be entitled to any vote hereunder in connection with such Term Loans;

(v) no more than one Purchase Offer with respect to any Class may be ongoing at any one time;

(vi) such Borrower represents and warrants that no Loan Party shall have any material non-public information with respect to the Loan Parties or their Subsidiaries, or with respect to the Loans or the securities of any such person, that (A) has not been previously disclosed in writing to the Administrative Agent and the Lenders (other than because such Lender does not wish to receive such material non-public information) prior to such time and (B) could reasonably be expected to have a material effect upon, or otherwise be material to, a Lender's decision to participate in the Purchase Offer;

(vii) at the time of each purchase of Term Loans through a Purchase Offer, such Borrower shall have delivered to the Auction Manager an officer's certificate of a Responsible Officer certifying as to compliance with the preceding clause (vi);

(viii) any Purchase Offer with respect to any Class shall be offered to all Term Lenders holding Term Loans of such Class on a pro rata basis;

(ix) no purchase of any Term Loans shall be made from the proceeds of any Revolving Facility Loan; and

(x) the Parent is in Pro Forma Compliance with the Financial Covenants (if applicable).

(b) The applicable Borrower must terminate any Purchase Offer if it fails to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of purchase of Term Loans pursuant to such Purchase Offer. If a Borrower commences any Purchase Offer (and all relevant requirements set forth above which are required to be satisfied at the time of the commencement of such Purchase Offer have in fact been satisfied), and if at such time of commencement such Borrower reasonably believes that all required conditions set forth above which are required to be satisfied at the time of the consummation of such Purchase Offer shall be satisfied, then such Borrower shall have no liability to any Term Lender for any termination of such Purchase Offer as a result of its failure to satisfy one or more of the conditions set forth above which are required to be met at the time which otherwise would have been the time of consummation of such Purchase Offer, and any such failure shall not result in any Default or Event of Default hereunder. With respect to all purchases of Term Loans of any Class or Classes made by such Borrower pursuant to this Section 2.25, (x) such Borrower shall pay on the settlement date of each such purchase all accrued and unpaid interest (except to the extent otherwise set forth in the relevant offering documents), if any, on the purchased Term Loans of the applicable Class or Classes up to the settlement date of such purchase and (y) such purchases (and the payments made by such Borrower and the cancellation of the purchased Loans, in each case in connection therewith) shall not constitute voluntary or mandatory payments or prepayments for purposes of Section 2.11 hereof.

(c) The Administrative Agent and the Lenders hereby consent to the Purchase Offers and the other transactions effected pursuant to and in accordance with the terms of this Section 2.25; provided, that notwithstanding anything to the contrary contained herein, no Lender shall have an obligation to participate in any such Purchase Offer. For the avoidance of doubt, it is understood and agreed that the provisions of Sections 2.16, 2.18 and 9.04 will not apply to the purchases of Term Loans pursuant to Purchase Offers made pursuant to and in accordance with the provisions of this Section 2.25. The Auction Manager acting in its capacity as such hereunder shall be entitled to the benefits of the provisions of Article VIII and Section 9.05 to the same extent as if each reference therein to the "Agents" were a reference to the Auction Manager, and the Administrative Agent shall cooperate with the Auction Manager as reasonably requested by the Auction Manager in order to enable it to perform its responsibilities and duties in connection with each Purchase Offer.

(d) This Section 2.25 shall supersede any provisions in Section 2.18 or 9.06 to the contrary.

Section 2.26 Designated Borrowers.

(a) Parent may at any time, and from time to time on or after the Closing Date, upon not less than 10 Business Days' written notice from Parent to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), request to designate any of Parent's Wholly Owned Subsidiaries (each, an "Applicant Borrower") as a "Designated Borrower" to receive Revolving Facility Loans for purposes of this Agreement by delivering to the Administrative Agent (which shall promptly deliver counterparts thereof to each Revolving Facility Lender) a duly executed Designated Borrower Request and Joinder Agreement. The parties hereto acknowledge and agree that prior to any Applicant Borrower becoming entitled to utilize the Revolving Credit Facility provided for herein, (i) the Administrative Agent and each Revolving Facility Lender must each agree to such Applicant Borrower becoming a Designated Borrower (it being understood, for the avoidance of doubt, that no Revolving Facility Lender shall be required to agree under this clause (i) to any Applicant Borrower becoming a Designated Borrower if such Revolving Facility Lender is not legally permitted to make loans and other extensions of credit to such Subsidiary), (ii) the Administrative Agent and such Revolving Facility Lenders shall have received such supporting resolutions, incumbency certificates, opinions of counsel and other documents or information, in form, content and scope reasonably satisfactory to the Administrative Agent, as may be reasonably required by the Administrative Agent, and Notes signed by such new Designated Borrowers to the extent any Revolving Facility Lender so requires, and (iii) upon the reasonable request of any Revolving Facility Lender or the Administrative Agent, the Applicant Borrowers shall have provided to such Revolving Facility Lender or the Administrative Agent, as applicable, and such Revolving Facility Lender shall be reasonably satisfied with, the documentation and other information so requested in connection with applicable "know your customer" and anti-money-laundering rules and regulations, including, without limitation, the PATRIOT Act, and any Applicant Borrower that qualifies as a "legal entity customer" under the Beneficial Ownership Regulation shall have delivered to each Revolving Facility Lender that so requests a Beneficial Ownership Certification in relation to such Applicant Borrower (the requirements in clauses (i), (ii) and (iii) hereof, the "Designated Borrower Requirements"). If the Designated Borrower Requirements are met, the Administrative Agent shall send a notice in substantially the form of Exhibit B-2 (a "Designated Borrower Notice") to Parent and the Revolving Facility Lenders specifying the effective date upon which the Applicant Borrower shall constitute a Designated Borrower for purposes hereof, whereupon each of the Revolving Facility Lenders agrees to permit such Designated Borrower to receive Revolving Facility Loans hereunder, on the terms and conditions set forth herein, and each of the parties agrees that such Designated Borrower otherwise shall be a Borrower for all purposes of this Agreement; provided that no Borrowing Request or Letter of Credit Request may be submitted by or on behalf of such Designated Borrower until the date five (5) Business Days after such effective date or such shorter period as the Administrative Agent may agree.

(b) Parent may from time to time, upon not less than 10 Business Days' written notice from Parent to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), terminate a Borrower's (other than Parent and Jazz DAC) or Designated Borrower's status as such under the Revolving Facility; provided that there are no outstanding Loan Obligations payable by such Borrower or Designated Borrower, or other amounts payable by such Borrower or Designated Borrower on account of any Loans made to it or Letters of Credit issued on its behalf, as of the effective date of such termination, which written notice of termination shall be executed by such Borrower or Designated Borrower, and shall include an affirmation and ratification by such Borrower or Designated Borrower of its continuing obligations as a Guarantor under the Loan Documents after giving effect to such termination. The Administrative Agent will promptly notify the Revolving Facility Lenders of any such termination of a Borrower or Designated Borrower's status.



(c) Each Borrower (other than the Parent) and each Wholly Owned Subsidiary of Parent that is or becomes a “Designated Borrower” pursuant to this Section 2.26 hereby irrevocably appoints Parent to act as its agent for all purposes of this Agreement and the other Loan Documents and agrees that (i) Parent may execute such documents on behalf of such Borrower or Designated Borrower as Parent deems appropriate in its sole discretion and each Borrower or Designated Borrower shall be obligated by all of the terms of any such document executed on its behalf, (ii) any notice or communication delivered by the Administrative Agent to Parent shall be deemed delivered to each Borrower or Designated Borrower and (iii) the Administrative Agent or the Lenders may accept, and be permitted to rely on, any document, instrument or agreement executed by Parent on behalf of each of the Loan Parties.

### ARTICLE III

#### *Representations and Warranties*

On (i) the Closing Date (after giving effect to the Transactions), solely with respect to the Specified Representations, and (ii) the date of each Credit Event (other than the Closing Date), as provided in Section 4.02, Parent and each other Borrower represents and warrants to the Lenders and the Issuing Banks that:

Section 3.01 Organization; Powers. Each Loan Party and each Material Subsidiary (a) is a partnership, limited liability company, corporation or other entity duly organized, registered or incorporated, validly existing and in good standing (or comparable status) under the laws of the jurisdiction of its organization or registration (to the extent that each such concept exists in such jurisdiction), (b) has all requisite power and authority to own its property and assets and to carry on its business as now conducted, (c) is qualified to do business in each jurisdiction where such qualification is required, except in the case of clause (a) (other than with respect to each Borrower), clause (b) (other than with respect to each Borrower), and clause (c), where the failure so to be or have, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, and (d) has the power and authority to execute, deliver and perform its obligations under each of the Loan Documents and each other agreement or instrument contemplated thereby to which it is or will be a party and, in the case of each Borrower, to borrow and otherwise obtain credit hereunder. In the case of each Loan Party incorporated in Ireland, a reference in paragraph (a) above to it being “in good standing” shall mean that such Loan Party is validly existing and no action has been or is being taken to remove it from the Irish Register of Companies.

Section 3.02 Authorization. The execution, delivery and performance by each Loan Party of each of the Loan Documents to which it is a party and the borrowings and other extensions of credit hereunder (a) have been duly authorized by all corporate, stockholder, partnership, limited liability company or other organizational action required to be obtained by such Loan Parties and (b) will not (i) violate (A) any provision of law, statute, rule or regulation applicable to such Loan Party, (B) the certificate or articles of incorporation or other constitutive documents (including any partnership, limited liability company or operating agreements) or by-laws of such Loan Party, (C) any applicable order of any court or any law, rule, regulation or order of any Governmental Authority applicable to such Loan Party or (D) any provision of any indenture, certificate of designation for preferred stock, agreement or other instrument to which such Loan Party is a party or by which any of them or any of their property is or may be bound (including, without limitation, the Senior Notes Indenture, to the extent such document remains in effect), (ii) result in a breach of or constitute (alone or with due notice or lapse of time or both) a default under, give rise to a right of or result in any cancellation or acceleration of any right or obligation (including any payment) under any such indenture, certificate of designation for preferred stock, agreement or other instrument (including, without limitation, the Senior Notes Indenture, to the extent such document remains

in effect), where any such conflict, violation, breach or default referred to in clause (i) or (ii) of this Section 3.02(b), would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, or (iii) result in the creation or imposition of any Lien upon or with respect to any property or assets now owned or hereafter acquired by such Loan Party, other than the Liens created by the Loan Documents and Permitted Liens.

Section 3.03 Enforceability. This Agreement has been duly executed and delivered by each Borrower and constitutes, and each other Loan Document when executed and delivered by each Loan Party that is party thereto will constitute, a legal, valid and binding obligation of such Loan Party enforceable against such Loan Party in accordance with its terms, subject to (a) the effects of bankruptcy, insolvency, moratorium, reorganization, examinership, fraudulent conveyance or other similar laws affecting creditors' rights generally, (b) general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law), (c) implied covenants of good faith and fair dealing, (d) the need for filings and registrations necessary to perfect the Liens on the Collateral granted by the Loan Parties in favor of the Collateral Trustee and (e) in the case of a UK Loan Party, the UK Legal Reservations.

Section 3.04 Governmental Approvals. No action, consent or approval of, registration or filing with or any other action by any Governmental Authority is or will be required for the execution, delivery or performance of each Loan Document to which any Loan Party is a party, except for (a) the filing of Uniform Commercial Code financing statements, (b) filings with the United States Patent and Trademark Office and the United States Copyright Office and comparable offices in foreign jurisdictions and equivalent filings in foreign jurisdictions, (c) [reserved], (d) such as have been made or obtained and are in full force and effect, (e) such actions, consents and approvals the failure of which to be obtained or made would not reasonably be expected to have a Material Adverse Effect and (f) filings or other actions listed on Schedule 3.04 and any other filings or registrations required to perfect Liens created by the Security Documents.

Section 3.05 Financial Statements. The audited consolidated balance sheets and the statements of income, stockholders' equity, and cash flow (i) for Parent and its consolidated subsidiaries as of and for each fiscal year of Parent in the three-fiscal year period ended on December 31, 2020 and (ii) for GW Pharma and its consolidated subsidiaries as of and for each fiscal year of GW Pharma ended December 31, 2020, December 31, 2019 and September 30, 2018 and for the transition period from October 1, 2018 to December 31, 2018 present fairly in all material respects the consolidated financial position of Parent and its consolidated subsidiaries or GW Pharma and its consolidated subsidiaries (as applicable) as of the dates and for the periods referred to therein and the results of operations and cash flows for the periods then ended, and, except as set forth on Schedule 3.05, were prepared in accordance with GAAP applied on a consistent basis throughout the periods covered thereby, except, in the case of interim period financial statements, for the absence of notes and for normal year-end adjustments and except as otherwise noted therein. The unaudited pro forma consolidated balance sheet of Parent and its Subsidiaries as at December 31, 2020 and the related pro forma consolidated statement of income of Parent and its Subsidiaries for the 12-month period ended December 31, 2020 have been prepared in good faith, based on assumptions believed by Parent to be reasonable as of the date of delivery thereof, assuming that the consummation of the Transactions had actually occurred at such date (in the case of such balance sheet) or at the beginning of such period (in the case of such statement of income).

Section 3.06 No Material Adverse Effect. Since December 31, 2020 (for this purpose, assuming that the Transaction had been consummated before such date), there has been no event or circumstance that, individually or in the aggregate with other events or circumstances, has had or would reasonably be expected to have a Material Adverse Effect.

Section 3.07 Title to Properties; Possession Under Leases. Each of Parent and the Subsidiaries has valid title in fee simple or equivalent to, or valid leasehold interests in, or easements or other limited property interests in, all its Real Properties and has valid title to its personal property and assets, in each case, subject to Permitted Liens and except for defects in title that do not materially interfere with its ability to conduct its business as currently conducted or to utilize such properties and assets for their intended purposes and except where the failures to have such title would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. All such properties and assets are free and clear of Liens, other than Permitted Liens and Liens arising by operation of law.

Section 3.08 [Reserved].

Section 3.09 Litigation; Compliance with Laws.

(a) There are no actions, suits, proceedings or investigations at law or in equity or by or on behalf of any Governmental Authority or in arbitration now pending, or, to the knowledge of the Parent, threatened in writing against the Parent or any of the Subsidiaries or any business, property or rights of any such person (i) that involve any Loan Document, to the extent that the applicable action, suit, proceeding or investigation is brought by the Parent or any of the Subsidiaries or (ii) that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, except for any action, suit, proceeding or investigation at law or in equity or by or on behalf of any Governmental Authority or in arbitration which has been disclosed in any of Parent's Annual Report on Form 10-K for the year ended December 31, 2020 or GW Pharma's Annual Report on Form 10-K for the year ended December 31, 2020. Since December 31, 2020, there have been no developments in any such matter disclosed in the Annual or Quarterly Reports described above which would reasonably be expected, individually or in the aggregate with any such other matters or any additional actions, suits, proceedings or investigations, to result in a Material Adverse Effect.

(b) None of Parent, the Subsidiaries and their respective properties or assets is in violation of (nor will the continued operation of their material properties and assets as currently conducted violate) any law, rule or regulation (including any zoning, building, ordinance, code or approval or any building permit, but excluding any Environmental Laws, which are the subject of Section 3.16) or any restriction of record or indenture, agreement or instrument affecting any Real Property, or is in default with respect to any judgment, writ, injunction or decree of any Governmental Authority, where such violation or default would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, (i) each Loan Party and each Subsidiary is in compliance with the Controlled Substances Act and (ii) no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving any Loan Party or any Subsidiary or properties with respect to the Controlled Substances Act or the Civil Asset Forfeiture Reform Act is pending or, to the knowledge of the Parent, threatened in writing.

Section 3.10 Federal Reserve Regulations. No part of the proceeds of any Loans or any Letter of Credit will be used by the Parent and the Subsidiaries in any manner that would result in a violation of Regulation T, Regulation U or Regulation X.

Section 3.11 Investment Company Act. None of the Loan Parties is required to be registered as an "investment company" within the meaning of the Investment Company Act of 1940, as amended.

Section 3.12 Use of Proceeds.

(a) The Borrowers will use the proceeds of the Revolving Facility Loans, and may request the issuance of Letters of Credit, at the applicable Borrower's election, (i) on the Closing Date to finance a portion of the Transactions and (ii) on and after the Closing Date for the working capital and general corporate purposes of Parent and its Subsidiaries (including, without limitation, for capital expenditures, for Permitted Business Acquisitions, for permitted distributions and, in the case of Letters of Credit, for the back-up or replacement of existing letters of credit).

(b) Jazz Lux will use the proceeds of the Initial Term Loans incurred on the Closing Date to finance a portion of the Transactions and otherwise for working capital and general corporate purposes of Parent and its Subsidiaries (including, without limitation, for capital expenditures, for Permitted Business Acquisitions and for permitted distributions).

### Section 3.13 Taxes.

(1) Except as would not, individually or in the aggregate, reasonably be expected to result in a Material Adverse Effect, the Parent and each of the Subsidiaries: (i) has filed or caused to be filed all U.S. federal, state, local and non-U.S. Tax returns required to have been filed by it (including in its capacity as withholding agent) and each such Tax return is true and correct; (ii) has timely paid or caused to be timely paid all Taxes shown to be due and payable by it on the returns referred to in clause (a) and all other Taxes (or made adequate provision (in accordance with GAAP) for the payment of all Taxes due), except Taxes for which the Parent or any of the Subsidiaries (as the case may be) has set aside on its books adequate reserves in accordance with GAAP and, to the extent such Taxes are due and payable pursuant to a governmental assessment, the validity or the amount thereof is being contested in good faith by appropriate proceedings; and (iii) as of the Closing Date, has no claims being asserted against it in writing with respect to any Taxes.

(2) None of the Borrowers is required to make any Irish Tax Deduction from any payment it may make under any Loan Document to a Lender that is an Irish Qualifying Lender. None of the Borrowers is required to make any UK Tax Deduction from any payment it may make under any Loan Document to a Lender that is:

(a) a UK Qualifying Lender

(i) falling within paragraph (a)(i) of the definition of “UK Qualifying Lender”; or

(ii) except where a Direction has been given under section 931 of the ITA in relation to the payment concerned, falling within paragraph (a)(ii) of the definition of “UK Qualifying Lender” ; or

(iii) falling within paragraph (b) of the definition of “UK Qualifying Lender;” or

(b) a UK Treaty Lender and the payment is one specified in a direction given by the Commissioners of Revenue & Customs under Regulation 2 of the Double Taxation Relief (Taxes on Income) (General) Regulations 1970 (SI 1970/488).

(3) Each of Jazz DAC and Jazz Financing I is a “qualifying company” for the purposes of Section 110 of the TCA.

### Section 3.14 No Material Misstatements.

(a) All written information (other than the Projections, forward looking information and information of a general economic or industry specific nature) (the “Information”) concerning the Parent, the Subsidiaries, the Transactions and any other transactions contemplated hereby included in the Information Memorandum or otherwise prepared by or on behalf of the foregoing or their representatives and made available to any Lenders or the Administrative Agent in connection with the Transactions or the

other transactions contemplated hereby (to the extent such Information relates to GW Pharma on or prior to the Closing Date, to each Borrower's knowledge), when taken as a whole and in light of the circumstances when furnished, was true and correct in all material respects, as of the date such Information was furnished to the Lenders (and as of the Closing Date, with respect to Information provided prior thereto) and did not, taken as a whole, contain any untrue statement of a material fact as of any such date or omit to state a material fact necessary in order to make the statements contained therein, taken as a whole, not materially misleading in light of the circumstances under which such statements were made (giving effect to all supplements and updates provided thereto).

(b) The Projections prepared by or on behalf of Parent or any of its representatives and that have been made available to any Lenders or the Administrative Agent in connection with the Transactions or the other transactions contemplated hereby have been prepared in good faith based upon assumptions believed by the Parent to be reasonable as of the time made and at the date thereof (it being understood that such Projections are as to inherently uncertain future events and are not to be viewed as facts, such Projections are subject to significant uncertainties and contingencies and that actual results during the period or periods covered by any such Projections or other forward looking information may differ significantly from the projected results, and that no assurance can be given or is being given that the projected results will be realized), as of the date such Projections were furnished to the Lenders.

#### Section 3.15 Employee Benefit Plans.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect: (i) no Reportable Event has occurred during the past five years as to which the Parent, any of its Subsidiaries or any ERISA Affiliate was required to file a report with the PBGC; (ii) no ERISA Event has occurred or is reasonably expected to occur; and (iii) none of Parent, the Subsidiaries or any of their ERISA Affiliates has received any written notification that any Multiemployer Plan is in reorganization or has been terminated within the meaning of Title IV of ERISA.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Foreign Pension Plan has been maintained in compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities. Neither Parent nor any of its Subsidiaries has incurred or reasonably expects to incur any obligation in an amount that would reasonably be expected to have a Material Adverse Effect in connection with the termination of or withdrawal from any Foreign Pension Plan.

Section 3.16 Environmental Matters. Except as to matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect: (a) no written notice, request for information, order, complaint or penalty has been received by the Parent or any of its Subsidiaries, and there are no judicial, administrative or other actions, suits or proceedings pending or, to the Parent's knowledge, threatened which allege a violation of or liability under any Environmental Laws, in each case relating to the Parent or any of its Subsidiaries, (b) each of Parent and its Subsidiaries has all environmental permits, licenses, authorizations and other approvals necessary for its operations to comply with all Environmental Laws ("Environmental Permits") and is, and in the prior eighteen (18) month period has been, in compliance with the terms of such Environmental Permits and with all other Environmental Laws, (c) except as set forth on Schedule 3.16, no Hazardous Material is located at, on or under any property currently or, to the Parent's knowledge, formerly owned, operated or leased by the Parent or any of its Subsidiaries that would reasonably be expected to give rise to any cost, liability or obligation of Parent or any of its Subsidiaries under any Environmental Laws or Environmental Permits, and no Hazardous Material has been generated, used, treated, stored, handled, disposed of or controlled, transported or Released at any location in a manner that would reasonably be expected to give rise to any cost, liability or

obligation of Parent or any of its Subsidiaries under any Environmental Laws or Environmental Permits, (d) there are no agreements in which the Parent or any of its Subsidiaries has expressly assumed or undertaken responsibility for any known or reasonably likely liability or obligation of any other person arising under or relating to Environmental Laws and (e) there has been no written environmental assessment or audit conducted (other than customary assessments not revealing anything that would reasonably be expected to result in a Material Adverse Effect), by or on behalf of Parent or any of the Subsidiaries of any property currently or, to the Parent's knowledge, formerly owned, operated or leased by the Parent or any of the Subsidiaries that has not been made available to the Administrative Agent prior to the Closing Date.

Section 3.17 Security Documents.

(a) Each Security Document is effective to create in favor of the Collateral Trustee for the benefit of the Secured Parties a legal, valid and enforceable security interest in the Collateral described therein and proceeds thereof.

(b) In the case of the Pledged Collateral described in the U.S. Collateral Agreement, when certificates or promissory notes, as applicable, representing such Pledged Collateral and required to be delivered under the U.S. Collateral Agreement are delivered to the Collateral Trustee, and in the case of the other Collateral described in the U.S. Collateral Agreement (other than the registered or applied for Intellectual Property), when financing statements and other filings specified in the Perfection Certificate are filed in the offices specified in the Perfection Certificate, the Collateral Trustee (for the benefit of the Secured Parties) shall have a fully perfected first priority Lien (subject to Permitted Liens) on, and security interest in, all right, title and interest of the Loan Parties in such Collateral and, subject to Section 9-315 of the New York Uniform Commercial Code, the proceeds thereof, as security for the Obligations to the extent perfection can be obtained by filing Uniform Commercial Code financing statements or possession or control, in each case prior and superior in right to the Lien of any other person (except Permitted Liens).

(c) When the U.S. Collateral Agreement or an ancillary document thereunder is properly filed and recorded in the United States Patent and Trademark Office and the United States Copyright Office, and, with respect to Collateral in which a security interest cannot be perfected by such filings, upon the proper filing of the financing statements referred to in clause (a) above, the Collateral Trustee (for the benefit of the Secured Parties) shall have a fully perfected Lien on, and security interest in, all right, title and interest of the Loan Parties thereunder in the United States Intellectual Property included in the Collateral listed in such ancillary document, in each case prior and superior in right to the Lien of any other person, except for Permitted Liens (it being understood that subsequent recordings in the United States Patent and Trademark Office and the United States Copyright Office may be necessary to perfect a Lien on registered trademarks and patents, trademark and patent applications and registered copyrights acquired by the Loan Parties after the Closing Date).

(d) When the perfection actions required to be taken pursuant to terms of each Security Document are taken, the Collateral Trustee for the benefit of the Secured Parties (or where required under local law, in favor of the Secured Parties) shall have perfected Liens on and security interests in, all right, title and interest of the Loan Parties in the Collateral described therein, in each case with the priority such Liens are expressed to have within the relevant Security Documents, in each case to the extent, and subject to the provisions, limitations and/or exceptions, set forth therein.

Section 3.18 Solvency. Immediately after giving effect to the consummation of the Transactions on the Satisfaction Date, including the making of each Loan on the Closing Date, and after giving effect to the application of the proceeds of such Loans, (i) the fair value of the assets of Parent and its Subsidiaries on a consolidated basis, exceeds, on a consolidated basis, their debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of Parent and its

Subsidiaries, on a consolidated basis, is greater than the amount that will be required to pay the probable liability, on a consolidated basis, of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) the Parent and its Subsidiaries, on a consolidated basis, are able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; and (iv) the Parent and its Subsidiaries, on a consolidated basis, are not engaged in, and are not about to engage in, business for which they have unreasonably small capital. For purposes of the foregoing, the amount of any contingent liability at any time shall be computed as the amount that would reasonably be expected to become an actual and matured liability.

Section 3.19 Labor Matters. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect: (a) there are no strikes or other labor disputes pending or threatened against the Parent or any of the Subsidiaries; (b) the hours worked and payments made to employees of Parent and the Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable law dealing with such matters; and (c) all payments due from the Parent or any of the Subsidiaries or for which any claim may be made against the Parent or any of the Subsidiaries, on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of Parent or such Subsidiary to the extent required by GAAP. Except as, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect, the consummation of the Transactions will not give rise to a right of termination or right of renegotiation on the part of any union under any material collective bargaining agreement to which the Parent or any of the Subsidiaries (or any predecessor) is a party or by which the Parent or any of the Subsidiaries (or any predecessor) is bound.

Section 3.20 Insurance. Schedule 3.20 sets forth a true, complete and correct description, in all material respects, of all material insurance (excluding any title insurance) maintained by or on behalf of Parent or the Subsidiaries as of the Closing Date. As of such date, such insurance is in full force and effect.

Section 3.21 Intellectual Property; Licenses, Etc. Except as would not reasonably be expected to have a Material Adverse Effect or as set forth in Schedule 3.21, (a) the Parent and each of its Subsidiaries owns, or possesses the right to use, all Intellectual Property that are used or held for use or is otherwise reasonably necessary in the operation of their respective businesses, (b) to the knowledge of the Parent, the Parent and its Subsidiaries are not interfering with, infringing upon, misappropriating or otherwise violating Intellectual Property of any person, and (c) (i) no claim or litigation regarding any of the Intellectual Property owned by the Parent and its Subsidiaries is pending or, to the knowledge of the Parent, threatened and (ii) to the knowledge of the Parent, no claim or litigation regarding any other Intellectual Property described in the foregoing clauses (a) and (b) is pending or threatened.

Section 3.22 USA PATRIOT Act. Except as would not reasonably be expected to have a Material Adverse Effect, the Parent and each of its Subsidiaries is in compliance with the USA PATRIOT Act.

Section 3.23 Anti-Money Laundering; Sanctions; Anti-Corruption Laws. Neither Parent nor any Subsidiary, nor any director, employee or officer of any Borrower, nor, to the knowledge of any Borrower, any director, employee or officer of any Subsidiary, in each case that will act in any capacity in connection with this Agreement, is the subject of Sanctions Laws or in violation, in any material respect, of any Anti-Corruption Laws, Sanctions Laws, or Anti-Money Laundering Laws. Neither the Parent nor any of its Subsidiaries is located, organized or resident in a Sanctioned Country. No part of the proceeds of the Loans and no Letter of Credit shall be used, directly or indirectly, by any Borrower or any Subsidiary in violation of Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions Laws.

Section 3.24 Centre of Main Interests. For the purposes of the EU Insolvency Regulation, each EU Loan Party's centre of main interests (as that term is used in Article 3(1) of EU Insolvency Regulation) is situated in its jurisdiction of organization, registration or incorporation and it has no "establishment" as that term is used in Article 2(10) of the EU Insolvency Regulation) in any other jurisdiction.

## ARTICLE IV

### *Conditions of Lending*

Section 4.01 Closing Date. The effectiveness of this Agreement and the obligations of (a) each Lender with an Initial Term Loan Commitment to make Initial Term Loans to Jazz Lux, (b) the Revolving Facility Lenders to make Revolving Facility Loans to the applicable Borrowers and (c) any Issuing Bank to issue, amend, extend or renew Letters of Credit or increase the stated amounts of Letters of Credit hereunder (each, a "Credit Event") in each case, on the Closing Date are subject to the satisfaction (or waiver in accordance with Section 9.08) of the following conditions:

(a) The Administrative Agent shall have received (i) from each of the Borrowers, the Issuing Banks, the Collateral Trustee and the Lenders a counterpart of this Agreement signed on behalf of such party and (ii) from each of the Collateral Trustee, U.S. Bank, National Association, as trustee under the Senior Notes Indenture, and the Loan Parties a counterpart of the Collateral Trust Agreement signed on behalf of such party.

(b) The Administrative Agent shall have received a Borrowing Request as required by Section 2.03 (or a Borrowing Request shall have been deemed given in accordance with the last paragraph of Section 2.03).

(c) To the extent required to be satisfied on the Closing Date, the Collateral and Guarantee Requirement shall be satisfied (or waived in accordance with Section 9.08) as of the Closing Date.

(d) The Solvency Specified Representation and the Transaction Agreement Representations shall be true and correct in all material respects as of immediately prior to the time of the commencement of the Court hearing to sanction the Scheme and each other Specified Representation shall be true and correct in all material respects as of the Closing Date; provided that, in each case, any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects at such time on such date.

(e) The Lenders shall have received a solvency certificate substantially in the form of Exhibit C and signed by the chief financial officer, chief accounting officer or other officer with equivalent duties of Parent confirming the solvency of Parent and the Subsidiaries on a consolidated basis after giving effect to the Transactions on the Closing Date.

(f) The Administrative Agent shall have received, on behalf of itself, the Lenders and each Issuing Bank, a written opinion of (i) Wachtell, Lipton, Rosen & Katz, as special New York counsel for the Loan Parties, (ii) A&L Goodbody, Irish counsel to the Loan Parties (with respect to the capacity and authority of, and due execution by, the Loan Parties incorporated in Ireland in entering into the applicable Loan Documents and other related matters), (iii) Conyers, Dill & Pearman Limited, Bermuda counsel to the Loan Parties, (iv) Ellul & Co., Gibraltar counsel to the Loan Parties, (v) Arendt & Medernach SA, Luxembourg counsel to the Loan Parties, (vi) Ganado Advocates, Malta Counsel to the Lenders, (vii) Arthur Cox LLP, Irish counsel to the Administrative Agent, with respect to the enforceability of the applicable Irish law Loan Documents and other related matters, (viii) Cahill Gordon & Reindel (UK) LLP, English counsel to the Administrative Agent, with respect to the enforceability of the applicable Loan Documents and other related matters, and (ix) Morris, Nichols, Arsht & Tunnell LLP, Delaware counsel for the Loan Parties, in each case (A) dated the Closing Date, (B) addressed to each Issuing Bank, the Administrative Agent, the Collateral Trustee and the Lenders on the Closing Date and (C) in form and substance reasonably satisfactory to the Administrative Agent covering such matters relating to the Loan Documents as the Administrative Agent shall reasonably request.



(g) The Administrative Agent shall have received a certificate of the Secretary or Assistant Secretary or similar officer (or (x) in the case of a UK Loan Party, authorized signatory, and (y) in the case of a Loan Party incorporated in Ireland, director or secretary) of each Loan Party dated the Closing Date and certifying:

(i) that attached thereto is a true and complete copy of the certificate or articles of incorporation, certificate of limited partnership, certificate of formation or other equivalent constituent and governing documents, including all amendments thereto, of each Loan Party, certified as of a recent date by the Secretary of State (or other similar official or Governmental Authority) of the jurisdiction of its organization or by the Secretary or Assistant Secretary or similar officer (or, in the case of a UK Loan Party, authorized signatory) of such Loan Party or other person duly authorized by the constituent documents of such Loan Party,

(ii) that attached thereto is a true and complete copy of a certificate as to the good standing (or comparable status) of each Loan Party (to the extent that such concept exists in such jurisdiction and other than a UK Loan Party) as of a recent date from such Secretary of State (or other similar official or Governmental Authority) of the jurisdiction of its organization,

(iii) that attached thereto is a true and complete copy of the by-laws (or partnership agreement, limited liability company agreement or other equivalent constituent and governing documents) of each Loan Party as in effect on the Closing Date and at all times since a date prior to the date of the resolutions described in the following clause (iv);

(iv) that attached thereto is a true and complete copy of resolutions duly adopted by the Board of Directors (or equivalent governing body) of each Loan Party, authorizing the execution, delivery and performance by such Loan Party of this Agreement and each of the other Loan Documents to be executed and delivered by such Loan Party and the borrowings hereunder and that such resolutions have not been modified, rescinded or amended and are in full force and effect on the Closing Date,

(v) as to certain other customary certifications with respect to Foreign Loan Parties, and

(vi) as to the incumbency and specimen signature of each officer or authorized signatory executing this Agreement or any other Loan Document delivered in connection herewith on behalf of each Loan Party.

(h) The scheme of arrangement of GW Pharma through which the Acquisition is to be implemented (the "Scheme") shall become effective as a result of the delivery of the order of the High Court of Justice of England and Wales (the "Court") sanctioning the Scheme (the "Court Order") to the Registrar of Companies in England and Wales (the date and time of such delivery, being the time that the Scheme shall become effective, herein referred to as the "Scheme Effective Time"), or the Scheme Effective Time shall occur immediately prior to or concurrently with the funding of the Initial Term Loans, on substantially the terms set forth in the Transaction Agreement without giving effect to any amendments, waivers or consents under the Transaction Agreement by Parent or its applicable subsidiary that are materially adverse to the Lenders in their capacities as such (each, a "Materially Adverse Modification") and that have not been approved by the Original Commitment Parties (such approval not to be unreasonably

withheld, conditioned or delayed) (it being understood and agreed that (i) any waiver or consent required by the Court in order for the Court to sanction the Scheme (a “Court Waiver”) shall be deemed not to be adverse to the Lenders in their capacities as such and (ii) any change to the definition of “Material Adverse Effect”, Section 4.09(a)(ii) or Section 9.02(b) (as it relates to Section 4.09(a)(ii)), in each case, in the Transaction Agreement (other than any change that is a Court Waiver) shall be deemed to be materially adverse to the Lenders in their capacities as such), provided that if the conditions precedent to the Acquisition specified in Sections 9.01 and 9.02 of the Transaction Agreement (other than those conditions that by their nature are to be satisfied on the Closing Date) have been satisfied or waived (without any Materially Adverse Modification) (any date on which such conditions are satisfied or waived, the “Satisfaction Date”) and Parent delivers a notice in writing to the Administrative Agent confirming such satisfaction or waiver, then the condition precedent in this paragraph (h) shall be deemed to have been satisfied on the Satisfaction Date, subject to the Scheme Effective Time occurring within three (3) Business Days following delivery of such notice.

(i) The Administrative Agent shall have received (i) audited consolidated balance sheets and related statements of income (loss) or operations, stockholders’ equity and cash flows of each of Parent and GW Pharma for their respective three most recently completed fiscal years ended at least 90 days prior to the Satisfaction Date and (ii) unaudited condensed consolidated balance sheets and related statements of income (loss) or operations, stockholders’ equity and cash flows of each of Parent and GW Pharma for each of their respective fiscal quarters ended after the close of its most recent fiscal year and at least 45 days prior to the Satisfaction Date (other than the fourth quarter of any fiscal year and subject to normal year-end adjustments); provided that filing of such financial statements on Form 10-K and Form 10-Q by the Parent or GW Pharma will satisfy the foregoing requirements.

(j) The Administrative Agent shall have received a pro forma consolidated balance sheet and related pro forma consolidated statement of income of Parent and its Subsidiaries, in a form customary for inclusion in a confidential information memorandum used to syndicate a bank credit facility, as of and for the 12-month period ending on the last day of the most recently completed four-fiscal quarter period ended at least 45 days (or 90 days, in case such four fiscal-quarter period is the end of Parent’s fiscal year) prior to the Satisfaction Date, prepared after giving effect to the Transactions as if the Transactions had occurred as of such date (in the case of such balance sheet) or at the beginning of such period (in the case of such statement of income), it being understood that such pro forma financial statements shall not be required to include any purchase accounting adjustments.

(k) The Administrative Agent shall have received (a) at least 3 Business Days prior to the Closing Date, all documentation and other information required by regulatory authorities with respect to any Loan Party under applicable “know your customer” and anti-money laundering rules and regulations, including, without limitation, the USA PATRIOT Act, as reasonably requested by the Lead Arrangers in writing at least 10 Business Days prior to the Closing Date and (b) at least three Business Days prior to the Closing Date, if any Borrower qualifies as a “legal entity” customer under the Beneficial Ownership Regulation and the Administrative Agent or a Lender has requested such certification at least ten business days prior to the Closing Date, a beneficial ownership certification in relation to such Borrower.

(l) The Administrative Agent shall have received a certificate, dated the Closing Date and signed by a Responsible Officer of Parent on behalf of each Loan Party, confirming compliance with the conditions precedent set forth in Sections 4.01(d), (h) and (m).

(m) Prior to, or substantially concurrently with, the initial Credit Event on the Closing Date, the Closing Date Refinancing shall have been consummated.

(n) The Administrative Agent shall have received (or substantially simultaneously with the initial Credit Event on the Closing Date, shall receive) all fees and expenses required to be paid to it by the Parent on or prior to the Closing Date pursuant to the Fee Letter or the Commitment Letter and, with respect to expenses, invoiced to the Parent at least three Business Days prior to the Closing Date.

Notwithstanding anything in this Agreement to the contrary, it is understood that (I) with respect to any Collateral of Parent and its Subsidiaries (other than GW Pharma and its subsidiaries), to the extent any such Collateral (other than (x) to the extent that a lien on such Collateral may be perfected by (i) the filing of a financing statement under the Uniform Commercial Code or (ii) the delivery of stock certificates of any Domestic Subsidiary that is a Material Subsidiary of Parent or any Loan Party (other than any subsidiary of GW Pharma) which are required to be pledged under this Agreement, (y) security over the equity interests in the Borrowers, and (z) an English law debenture granted by Jazz UK and an Irish law debenture granted by each of the Irish Borrowers, in each case subject to the Agreed Guarantee and Security Principles and provided that any perfection step in respect of such debentures (including without limitation any requirement to register security at the applicable Companies House or the Companies Registration Office but excluding any requirement to deliver share certificates of Material Subsidiaries required to be pledged under this Agreement) which may under applicable law or regulation be performed within a specified time period after the creation of the relevant security shall not be required to be taken on the Closing Date) is not or cannot be provided or perfected on the Closing Date after the Parent's use of commercially reasonable efforts to do so (consistent with the Transaction Agreement) and (II) with respect to any Collateral of GW Pharma or any of its subsidiaries, in the case of each of (I) and (II), the provision or perfection of a security interest in such Collateral shall not constitute a condition precedent to the availability of the Facilities and the making of the Initial Term Loans and other extensions of credit under this Agreement on the Closing Date, but shall be required to be provided and perfected within 90 days after the Closing Date or, in the case of any Collateral of GW Pharma or any of its subsidiaries, by the GW Pharma Joinder Date (in each case subject to extensions granted by the applicable Administrative Agent, in its reasonable discretion).

Notwithstanding anything in this Agreement to the contrary, (x) GW Pharma and its subsidiaries shall not be required to become Guarantors or to pledge assets as Collateral to secure any Obligations until the GW Pharma Joinder Date and (y) the Equity Interests issued by GW Pharma and its subsidiaries shall not be required to be pledged as Collateral to secure any Obligations until the GW Pharma Joinder Date.

Section 4.02 Subsequent Credit Events. Each Credit Event after the Closing Date is subject to the satisfaction (or waiver in accordance with Section 9.08) of the following conditions on the date of each Borrowing and on the date of each issuance, amendment, extension or renewal of a Letter of Credit:

(a) The Administrative Agent shall have received, in the case of a Borrowing, a Borrowing Request as required by Section 2.03 (or a Borrowing Request shall have been deemed given) or, in the case of the issuance of a Letter of Credit, the applicable Issuing Bank and the Administrative Agent shall have received a notice requesting the issuance of such Letter of Credit as required by Section 2.05(b).

(b) Except as set forth in Section 2.21(c) with respect to Incremental Term Loans used to finance a Limited Condition Acquisition, the representations and warranties of Parent and each other Loan Party contained in Article III or any other Loan Document shall be true and correct in all material respects on and as of the date of such Credit Event; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date; provided, further, that any representation and warranty that is qualified as to "materiality," "Material Adverse Effect" or similar language shall be true and correct (after giving effect to any qualification therein) in all respects on such respective dates.

(c) Except as set forth in Section 2.21(c) with respect to Incremental Term Loans used to finance a Limited Condition Acquisition, at the time of and immediately after such Credit Event (other than an amendment, extension or renewal of a Letter of Credit without any increase in the stated amount of such Letter of Credit), as applicable, no Event of Default or Default shall have occurred and be continuing.

Section 4.03 Determinations Under Section 4.01. For purposes of determining compliance with the conditions specified in Section 4.01, each Lender shall be deemed to have consented to, approved or accepted or to be satisfied with each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to the Administrative Agent or the Lenders unless an officer of the Administrative Agent responsible for the transactions contemplated by this Agreement shall have received written notice from such Lender prior to, with respect to conditions specified in Section 4.01, the Closing Date, specifying its objection thereto in reasonable detail. The Administrative Agent shall promptly notify the Lenders and the Parent in writing of the occurrence of each of the Closing Date and the Closing Date and each such notification shall be conclusive and binding.

## ARTICLE V

### *Affirmative Covenants*

Each Borrower covenants and agrees with each Lender and each Issuing Bank that from and after the Closing Date until the Termination Date, unless the Required Lenders shall otherwise consent in writing, each Borrower will, and will cause each of the Subsidiaries to:

#### Section 5.01 Existence; Business and Properties.

(a) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence, except (i) in the case of a Subsidiary of Parent (other than a Borrower), where the failure to do so would not reasonably be expected to have a Material Adverse Effect, (ii) as otherwise permitted under Section 6.05, and (iii) for the liquidation or dissolution of Subsidiaries (other than a Borrower) if the assets of such Subsidiaries to the extent they exceed estimated liabilities are acquired by the Parent or a Wholly Owned Subsidiary of Parent in such liquidation or dissolution; provided that (x) Loan Parties may not be liquidated into Subsidiaries that are not Loan Parties and (y) Domestic Subsidiaries may not be liquidated into Foreign Subsidiaries (except in each case as permitted under Section 6.05).

(b) Except where the failure to do so would not reasonably be expected to have a Material Adverse Effect, do or cause to be done all things necessary to (i) lawfully obtain, preserve, renew, extend and keep in full force and effect the permits, franchises, authorizations, Intellectual Property, licenses and rights with respect thereto used in the conduct of its business, and (ii) at all times maintain, protect and preserve all property necessary to the normal conduct of its business and keep such property in good repair, working order and condition (ordinary wear and tear excepted), from time to time make, or cause to be made, all needful and proper repairs, renewals, additions, improvements and replacements thereto necessary in order that the business carried on in connection therewith, if any, may be properly conducted at all times (in each case except as permitted by this Agreement).

#### Section 5.02 Insurance.

(a) Maintain, with financially sound and reputable insurance companies, insurance (subject to customary deductibles and retentions) in such amounts and against such risks as are customarily maintained by similarly situated companies engaged in the same or similar businesses operating in the same or similar locations, and within sixty (60) days after the Closing Date (or such later date as the Administrative Agent may agree in its reasonable discretion), cause the Collateral Trustee to be (and provide evidence to the

Administrative Agent that the Collateral Trustee has been) listed as a lender loss payee on property and casualty policies with respect to tangible personal property and assets constituting Collateral located in the United States of America and as an additional insured on all liability policies. Notwithstanding the foregoing, the Parent and the Subsidiaries may (i) maintain all such insurance with any combination of primary and excess insurance, (ii) maintain any or all such insurance pursuant to master or so-called "blanket policies" insuring any or all Collateral and/or other Real Property which does not constitute Collateral (and in such event the co-payee endorsement shall be limited or otherwise modified accordingly), and/or self-insure with respect to such risks with respect to which companies of established reputation engaged in the same general line of business in the same general area usually self-insure.

(b) In connection with the covenants set forth in this Section 5.02, it is understood and agreed that:

(i) the Administrative Agent, the Collateral Trustee, the Lenders, the Issuing Bank and their respective agents or employees shall not be liable for any loss or damage insured by the insurance policies required to be maintained under this Section 5.02, it being understood that (A) the Loan Parties shall look solely to their insurance companies or any other parties other than the aforesaid parties for the recovery of such loss or damage and (B) such insurance companies shall have no rights of subrogation against the Administrative Agent, the Collateral Trustee, the Lenders, any Issuing Bank or their agents or employees. If, however, the insurance policies, as a matter of the internal policy of such insurer, do not provide waiver of subrogation rights against such parties, as required above, then the Parent, on behalf of itself and behalf of each of its Subsidiaries, hereby agrees, to the extent permitted by law, to waive, and further agrees to cause each of their Subsidiaries to waive, its right of recovery, if any, against the Administrative Agent, the Collateral Trustee, the Lenders, any Issuing Bank and their agents and employees;

(ii) the designation of any form, type or amount of insurance coverage by the Administrative Agent or the Collateral Trustee under this Section 5.02 shall in no event be deemed a representation, warranty or advice by the Administrative Agent or the Collateral Trustee or the Lenders that such insurance is adequate for the purposes of the business of Parent and the Subsidiaries or the protection of their properties; and

(iii) the amount and type of insurance that the Parent and its Subsidiaries have in effect as of the Closing Date and the certificates listing the Collateral Trustee as a co-loss payee or additional insured, as the case may be, satisfy for all purposes the requirements of this Section 5.02.

Section 5.03 Taxes. Pay its obligations in respect of all Taxes, before the same shall become delinquent or in default, except where (i) the Parent or a Subsidiary thereof has set aside on its books adequate reserves therefor in accordance with GAAP and, to the extent due and payable pursuant to a governmental assessment, the validity or amount thereof is being contested in good faith by appropriate proceedings or (ii) the failure to make payment could not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 5.04 Financial Statements, Reports, Etc. Furnish to the Administrative Agent (which will promptly furnish such information to the Lenders):

(a) within 90 days after the end of each fiscal year (commencing with the first fiscal year ending after the Closing Date), a consolidated balance sheet and related statements of income, stockholders' equity, and cash flow showing the financial position of Parent and its Subsidiaries as of the close of such fiscal year and the consolidated results of their operations during such year and setting forth in comparative form the corresponding figures for the prior fiscal year, which consolidated balance sheet and related

statements of income, stockholders' equity, and cash flow shall be accompanied by customary management's discussion and analysis and audited by independent public accountants of recognized national standing and accompanied by an opinion of such accountants (which opinion shall not be qualified as to scope of audit or as to the status of Parent or any Material Subsidiary as a going concern, other than solely with respect to, or resulting solely from, an upcoming maturity date under any series of Indebtedness incurred under this Agreement occurring within one year from the time such opinion is delivered) to the effect that such consolidated financial statements fairly present, in all material respects, the financial position and results of operations of Parent and its Subsidiaries on a consolidated basis in accordance with GAAP (it being understood that the delivery by the Parent of annual reports on Form 10-K of Parent and its consolidated Subsidiaries shall satisfy the requirements of this Section 5.04(a) to the extent such annual reports include the information specified herein and are delivered within the time period specified above);

(b) within 45 days after the end of each of the first three fiscal quarters of each fiscal year (commencing with the first fiscal quarter ending after the Closing Date), a consolidated balance sheet and related statements of operations and cash flows showing the financial position of Parent and its Subsidiaries as of the close of such fiscal quarter and the consolidated results of their operations during such fiscal quarter and the then-elapsed portion of the fiscal year and setting forth in comparative form the corresponding figures for the corresponding periods of the prior fiscal year or, to the extent permitted by the SEC, prior fiscal period, all of which shall be in reasonable detail, which consolidated balance sheet and related statements of operations and cash flows shall be accompanied by customary management's discussion and analysis and which consolidated balance sheet and related statements of operations and cash flows shall be certified by a Financial Officer of Parent on behalf of Parent as fairly presenting, in all material respects, the financial position and results of operations of Parent and its Subsidiaries on a consolidated basis in accordance with GAAP (subject to normal year-end audit adjustments and the absence of footnotes) (it being understood that the delivery by the Parent of quarterly reports on Form 10-Q of Parent and its consolidated Subsidiaries shall satisfy the requirements of this Section 5.04(b) to the extent such quarterly reports include the information specified herein and are delivered within the time period specified above);

(c) on or prior to the tenth Business Day following any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of Parent (i) certifying that no Event of Default or Default has occurred since the date of the last certificate delivered pursuant to this Section 5.04(c) (or since the Closing Date in the case of the first such certificate) or, if such an Event of Default or Default has occurred, specifying the nature and extent thereof and any corrective action taken or proposed to be taken with respect thereto, (ii) commencing with the end of the first full fiscal quarter after the Closing Date, setting forth computations in reasonable detail satisfactory to the Administrative Agent demonstrating compliance with the Financial Covenants (if applicable) and (iii) setting forth the calculation and uses of the Available Amount for the fiscal period then ended if the Parent shall have used the Available Amount for any purpose during such fiscal period;

(d) promptly after the same become publicly available, copies of all periodic and other publicly available reports, proxy statements and, to the extent requested by the Administrative Agent, other materials filed by the Parent or any of the Subsidiaries with the SEC, or distributed to its stockholders generally, as applicable; provided, however, that such reports, proxy statements, filings and other materials required to be delivered pursuant to this clause (d) shall be deemed delivered for purposes of this Agreement when posted to the website of Parent or the website of the SEC;

(e) within 90 days after the beginning of each fiscal year that commences after the Closing Date, a consolidated annual budget for such fiscal year consisting of a projected consolidated balance sheet of Parent and its Subsidiaries as of the end of such fiscal year and the related consolidated statements of projected cash flow and projected income (collectively, the "Budget"), which Budget shall in each case be accompanied by the statement of a Financial Officer of Parent to the effect that the Budget is based on assumptions believed by the Parent to be reasonable as of the date of delivery thereof;

(f) on or prior to the tenth Business Day following the delivery of financial statements under clause (a) above, an updated Perfection Certificate reflecting all changes since the date of the information most recently received pursuant to this clause (f) or Section 5.10(c) (or a certificate of a Responsible Officer certifying as to the absence of any changes to the previously delivered update, if applicable); and

(g) promptly, from time to time, such other information regarding the operations, business affairs and financial condition of Parent or any of the Subsidiaries, or compliance with the terms of any Loan Document as in each case the Administrative Agent may reasonably request (for itself or on behalf of any Lender).

The Borrowers hereby acknowledge that (a) the Administrative Agent and/or the Arrangers may, but shall not be obligated to, make available to the Lenders and the Issuing Banks materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar, or a substantially similar electronic transmission system (the "Platform") and (b) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to the Parent or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such persons' securities. The Borrowers hereby agree that (w) the Borrower Materials that are to be distributed to the Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," the Borrowers shall be deemed to have authorized the Administrative Agent, the Arrangers, the Issuing Banks and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to the Parent, its Subsidiaries or any of their respective securities for purposes of United States Federal securities laws (provided, however, that such Borrower Materials shall be treated as set forth in Section 9.16, to the extent such Borrower Materials constitute information subject to the terms thereof); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) the Administrative Agent and the Arrangers shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information."

The Parent acknowledges and agrees that all financial statements furnished pursuant to paragraphs (a), (b) and (d) above are hereby deemed to be Borrower Materials suitable for distribution, and to be made available, to Public Lenders as contemplated above and may be treated by the Administrative Agent and the Lenders as if the same had been marked "PUBLIC" in accordance with such paragraph (unless the Parent otherwise notifies the Administrative Agent in writing on or prior to delivery thereof).

Section 5.05 Litigation and Other Notices. Furnish to the Administrative Agent (which will promptly thereafter furnish to the Lenders) written notice of the following promptly after any Responsible Officer of the Parent obtains actual knowledge thereof:

(a) any Event of Default or Default, specifying the nature and extent thereof and the corrective action (if any) proposed to be taken with respect thereto;

(b) the filing or commencement of, or any written threat or notice of intention of any person to file or commence, any action, suit or proceeding, whether at law or in equity or by or before any Governmental Authority or in arbitration, against the Parent or any of the Subsidiaries as to which an adverse determination is reasonably probable and which, if adversely determined, would reasonably be expected to have a Material Adverse Effect;

(c) any other development specific to the Parent or any of the Subsidiaries that is not a matter of general public knowledge and that has had, or would reasonably be expected to have, a Material Adverse Effect; and

(d) the occurrence of any ERISA Event that, together with all other ERISA Events that have occurred, would reasonably be expected to have a Material Adverse Effect.

Each notice delivered under this Section 5.05 shall be accompanied by a statement of a Responsible Officer of Parent setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 5.06 Compliance with Laws. Comply with all laws, rules, regulations and orders of any Governmental Authority applicable to it or its property, including, without limitation, the USA PATRIOT Act, Sanctions Laws, Anti-Corruption Laws, Anti-Money Laundering Laws and similar laws in the jurisdiction of organization of any Borrower and the Controlled Substances Act, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect; provided that this Section 5.06 shall not apply to Environmental Laws, which are the subject of Section 5.09, or to laws related to Taxes, which are the subject of Section 5.03.

Section 5.07 Maintaining Records; Access to Properties and Inspections. Maintain all financial records in accordance with GAAP and permit any persons designated by the Administrative Agent or, upon the occurrence and during the continuance of an Event of Default, any Lender to visit and inspect the financial records and the properties of Parent or any of the Subsidiaries at reasonable times, upon reasonable prior notice to the Parent, and as often as reasonably requested and to make extracts from and copies of such financial records, and permit any persons designated by the Administrative Agent or, upon the occurrence and during the continuance of an Event of Default, any Lender upon reasonable prior notice to the Parent to discuss the affairs, finances and condition of Parent or any of the Subsidiaries with the officers thereof and independent accountants therefor (so long as the Parent has the opportunity to participate in any such discussions with such accountants), in each case, subject to reasonable requirements of confidentiality, including requirements imposed by law or by contract.

Section 5.08 Use of Proceeds. Use the proceeds of the Loans made and Letters of Credit issued in the manner contemplated by Section 3.12.

Section 5.09 Compliance with Environmental Laws. Comply, and make reasonable efforts to cause all lessees and other persons occupying its properties to comply, with all applicable Environmental Laws; and obtain and renew all required Environmental Permits, except, in each case with respect to this Section 5.09, to the extent the failure to do so would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 5.10 Further Assurances; Additional Security.

(a) Execute any and all further documents, financing statements, agreements and instruments, and take all such further actions (including the filing and recording of financing statements and other documents), that are required or that the Administrative Agent or the Collateral Trustee may reasonably request (including, without limitation, those required by applicable law), to satisfy the Collateral and Guarantee Requirement and to cause the Collateral and Guarantee Requirement to be and remain satisfied, all at the expense of the Loan Parties and provide to the Collateral Trustee and the Administrative Agent, from time to time upon reasonable request, evidence reasonably satisfactory to the Collateral Trustee and the Administrative Agent as to the perfection and priority of the Liens created or intended to be created by the Security Documents.



(b) if any asset is acquired by any Loan Party after the Closing Date or owned by an entity at the time it becomes a Loan Party (in each case other than (x) assets constituting Collateral under a Security Document that automatically become subject to the Lien of such Security Document upon acquisition thereof and (y) assets constituting Excluded Property), such Loan Party, will, (i) notify the Collateral Trustee and the Administrative Agent of such acquisition or ownership and (ii) cause such asset to be subjected to a Lien (subject to any Permitted Liens) securing the Obligations, and take, and cause the Loan Parties to take, such actions as shall be required or reasonably requested by the Collateral Trustee or the Administrative Agent to cause the Collateral and Guarantee Requirement to be satisfied with respect to such asset, including actions described in clause (a) of this Section 5.10, all at the expense of the Loan Parties, subject to the last two paragraphs of this Section 5.10.

(c) If any additional direct or indirect Subsidiary of Parent is formed, acquired (with any Subsidiary Redesignation resulting in an Unrestricted Subsidiary becoming a Subsidiary being deemed to constitute the acquisition of a Subsidiary) or ceases to constitute an Excluded Subsidiary following the Closing Date and such Subsidiary is (1) a Wholly Owned Subsidiary of Parent that is not an Excluded Subsidiary or (2) any other Subsidiary of Parent that may be designated by the Parent in its sole discretion, within ninety (90) days after the date such Subsidiary is formed or acquired or meets such criteria (or first becomes subject to such requirement) (or such longer period as the Administrative Agent may agree in its sole discretion), notify the Collateral Trustee and the Administrative Agent thereof and, within 135 days after the date such Subsidiary is formed or acquired or meets such criteria (or first becomes subject to such requirement) or 180 days with respect to Foreign Loan Parties, in each case or such longer period as the Administrative Agent may agree in its sole discretion, subject in the case of a Subsidiary that is a Foreign Subsidiary, to the Agreed Guarantee and Security Principles, cause such Subsidiary to become a Guarantor and cause the Collateral and Guarantee Requirement to be satisfied with respect to such Subsidiary and with respect to any Equity Interest in or Indebtedness of such Subsidiary owned by or on behalf of any Loan Party, subject to the penultimate paragraph of this Section 5.10. Notwithstanding anything to the contrary herein, in no circumstance shall an Excluded Subsidiary become a Guarantor unless designated as a Guarantor by the Parent in its sole discretion.

(d) Furnish to the Collateral Trustee and the Administrative Agent prompt written notice of any change (A) in any Loan Party's corporate or organization name, (B) in any Loan Party's identity or organizational structure, (C) in any Loan Party's organizational identification number (to the extent relevant in the applicable jurisdiction of organization) and (D) in any Loan Party's jurisdiction of organization; provided, that within thirty (30) days following such change (or such longer period as the Administrative Agent may agree in its sole discretion), Parent shall make all filings under the Uniform Commercial Code (or its equivalent in any applicable jurisdiction) and take such other actions that are required in order for the Collateral Trustee to continue, following such change, to have a valid, legal and perfected security interest in all the Collateral for the benefit of the Secured Parties.

Notwithstanding anything to the contrary in this Agreement or in the other Loan Documents, the Collateral and Guarantee Requirement and the other provisions of this Section 5.10 and the other Loan Documents with respect to Collateral need not be satisfied with respect to any of the following (collectively, the "Excluded Property"): (i) (x) any leasehold interest in real property, (y) any interest in fee-owned real property owned by any U.S. Loan Party and (z) any interest in fee-owned real property owned by any Foreign Loan Party with a Fair Market Value less than \$25.0 million (unless a security interest in such Real Property can be perfected without additional perfection steps); (ii) motor vehicles and other assets subject to certificates of title (except to the extent perfection can be obtained by filing of financing statements or

similar filing under applicable law, or automatically without any additional perfection steps); (iii) letter of credit rights (except to the extent perfection can be obtained by filing of financing statements or similar filing under applicable law, or automatically without any additional perfection steps); (iv) Commercial Tort Claims (as defined in the Uniform Commercial Code) with a value of less than \$10,000,000 (except to the extent perfection can be obtained by filing of financing statements or similar filing under applicable law, or automatically without any additional perfection steps); (v) any lease, license or other similar agreement or any property subject to a purchase money security interest, capital lease or similar arrangement, in each case, not prohibited by this Agreement, to the extent that a grant of a security interest therein would violate or invalidate such lease, license or other agreement or purchase money arrangement, capital lease, or similar arrangement or create a right of termination in favor of any other party thereto (other than a Loan Party) after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law and other than proceeds and receivables thereof, the assignment of which is expressly deemed effective under applicable law notwithstanding such prohibition; (vi) any U.S. intent-to-use trademark application prior to the filing of a "Statement of Use" or "Amendment to Allege Use" with respect thereto; (vii) any governmental licenses or state or local franchises, licenses, permits, charters and authorizations, to the extent security interests therein are prohibited or restricted thereby after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law; (viii) any Equity Interests of (a) Unrestricted Subsidiaries, (b) any Immaterial Subsidiary, (c) any Insurance Subsidiary, (d) any not-for-profit subsidiaries, (e) any employee benefit trust company and (f) any person that is not a Borrower or a Wholly Owned Subsidiary to the extent the granting of a security interest therein would violate the terms of such person's organizational documents or any shareholders' agreement or joint venture agreement relating to such person (after giving effect to applicable anti-assignment provisions of the UCC or other applicable law); (ix) receivables and related assets securing any Qualified Receivables Facility in compliance with Section 6.02(z); (x) any assets to the extent a pledge thereof would be prohibited by applicable law, rule or regulation after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law, or by any applicable contractual requirement in existence on the Closing Date or otherwise not prohibited by this Agreement, that is binding on and related to such asset on the date of the acquisition of such subsidiary that owns such assets (not created in contemplation of the acquisition by the Parent of such subsidiary) (and only for so long as such restriction or any replacement or renewal thereof is in effect) after giving effect to the applicable anti-assignment provisions of the UCC or other applicable law; (xi) Margin Stock; (xii) any assets as to which the Administrative Agent reasonably determines in consultation with the Parent that the costs or other consequences (including, without limitations, tax consequences) of obtaining a security interest are excessive in relation to the value of the security afforded thereby; and (xiii) solely with respect to loans to a U.S. Borrower, voting Equity Interests (and any other interests constituting "voting stock" within the meaning of Treasury Regulations Section 1.956-2(c)(2)) in excess of 65% of all such voting Equity Interests (or such other interests) in any Foreign Subsidiary of such U.S. Borrower that is a CFC or any FSHCO; provided that Excluded Property shall not include any proceeds, substitutions or replacements of any Excluded Property referred to in clause (i) through (xiii) (unless such proceeds, substitutions or replacements would constitute Excluded Property referred to in clauses (i) through (xiii)).

In addition, in no event shall (1) deposit or securities account control agreements or control, lockbox or similar arrangements be required with respect to deposit accounts, securities accounts or commodities accounts, (2) landlord, mortgagee and bailee waivers or subordination agreements be required or (3) notices be required to be sent to account debtors or other contractual third parties unless an Event of Default has occurred and is continuing (and, in connection with Collateral of a UK Loan Party, unless instruction from the Administrative Agent is received following the occurrence of an Event of Default that is continuing) (other than, in each case, customary notices or acknowledgments to create or perfect security solely to the extent necessary under any relevant non-U.S. law in order to grant a security interest in the applicable Collateral and subject in each case to the Agreed Guarantee and Security Principles).

Notwithstanding anything herein or in any other Loan Document to the contrary, (A) the Administrative Agent may grant extensions of time or waiver or modification of requirement for the creation or perfection of security interests in or the obtaining of insurance with respect to particular assets (including extensions beyond the Closing Date for the perfection of security interests in the assets of the Loan Parties on such date) where it reasonably determines, in consultation with Parent, that perfection or obtaining of such items cannot reasonably be accomplished without undue effort or expense or is otherwise impracticable by the time or times at and/or in the form or manner in which it would otherwise be required by this Agreement or the other Loan Documents, (B) Liens required to be granted from time to time pursuant to, or any other requirements of, the Collateral and Guarantee Requirement and the Security Documents shall be subject to exceptions and limitations set forth in the Security Documents and (C) in the case of Foreign Loan Parties, the provisions of this Section 5.10 and the Guarantee and Collateral Requirement shall in all cases be subject to, and limited by, the Agreed Guarantee and Security Principles.

Section 5.11 Rating. Use commercially reasonable efforts to obtain and to maintain (a) public ratings from any two of Moody's, S&P and Fitch for the Initial Term Loans and (b) public corporate credit ratings and corporate family ratings from any two of Moody's, S&P and Fitch in respect of Parent; provided, however, in each case, that the Parent and its Subsidiaries shall not be required to obtain or maintain any specific rating.

Section 5.12 Restricted and Unrestricted Subsidiaries. Designate any Subsidiary as an Unrestricted Subsidiary only in accordance with the definition of "Unrestricted Subsidiary" contained herein.

Section 5.13 Lender Calls. No later than ten Business Days following delivery of the financial statements (or the date such financial statements were required to be delivered) pursuant to Section 5.04, or such later date as may be agreed by the Administrative Agent, hold a conference call with management of Parent to review the financial results of the most recently ended fiscal quarter, the financial condition and business of Parent and its Subsidiaries, and Parent shall invite the Lenders to attend the same (provided that posting of a press release on Parent's website shall constitute an invitation for such purpose), provided that the holding of a quarterly conference call for the holders of Parent's securities shall satisfy for all purposes the requirements of this Section 5.13.

Section 5.14 Minimum Convertible Debt Cash Amount. Maintain at all times prior to August 15, 2021 Unrestricted Cash in an amount equal at any time to the lesser of \$219,000,000 and the aggregate outstanding principal amount of the Convertible Notes for so long as any Convertible Notes are outstanding (such amount, the "Minimum Convertible Debt Cash Amount").

Section 5.15 Post-Closing. Take all necessary actions to satisfy the items described on Schedule 5.15 within the applicable period of time specified in such Schedule (or such longer period as the Administrative Agent may agree in its sole discretion).

## ARTICLE VI

### *Negative Covenants*

Each Borrower covenants and agrees with each Lender that from the Closing Date until the Termination Date, unless the Required Lenders (or, in the case of Section 6.12, the Required Revolving Facility Lenders voting as a single Class) shall otherwise consent in writing, Parent will not, and will not permit any of its Subsidiaries to:

Section 6.01 Indebtedness. Incur, create, assume or permit to exist any Indebtedness, except:

(a) Indebtedness (other than as described in Section 6.01(b) below) existing or committed on the Closing Date (provided, that any such Indebtedness (x) that is owed to any person other than Parent or one or more of its Subsidiaries, in an aggregate amount in excess of \$5,000,000 shall be set forth in Part A of Schedule 6.01 and (y) that is owed to Parent or one or more of its Subsidiaries in excess of \$5,000,000 shall be set forth on Part B of Schedule 6.01) and any Permitted Refinancing Indebtedness incurred to Refinance such Indebtedness; provided that (1) any Indebtedness outstanding pursuant to this clause (a) which is owed by a Loan Party to any Subsidiary that is not a Loan Party shall be subordinated in right of payment to the same extent required pursuant to Section 6.01(e) and (2) any Permitted Refinancing Indebtedness at any time incurred with respect to any Indebtedness described in this Section 6.01(a) outstanding on the Closing Date (or an issue of Permitted Refinancing Indebtedness incurred in respect thereof or prior to the incurrence of such Permitted Refinancing Indebtedness) that is owing to Parent or a Subsidiary may only be owed to Parent or its respective Subsidiary to which the Indebtedness described in clause (y) above outstanding on the Closing Date was owed;

(b) Indebtedness created hereunder (including pursuant to Section 2.21, Section 2.22 and Section 2.23) and under the other Loan Documents and any Refinancing Notes incurred to Refinance such Indebtedness;

(c) Indebtedness of Parent or any Subsidiary pursuant to Hedging Agreements entered into for non-speculative purposes;

(d) Indebtedness owed to (including obligations in respect of letters of credit or bank guarantees or similar instruments for the benefit of) any person providing workers' compensation, health, disability or other employee benefits or property, casualty or liability insurance to Parent or any Subsidiary, pursuant to reimbursement or indemnification obligations to such person, in each case in the ordinary course of business or consistent with past practice or industry practices;

(e) Indebtedness of Parent to any Subsidiary and of any Subsidiary to Parent or any other Subsidiary; provided that (i) Indebtedness of any Subsidiary that is not a Loan Party owing to a Loan Party incurred pursuant to this Section 6.01(e) shall be subject to Section 6.04(b) and (ii) Indebtedness owed by any Loan Party to any Subsidiary that is not a Loan Party incurred pursuant to this Section 6.01(e) shall be subordinated in right of payment to the Loan Obligations under this Agreement on terms reasonably satisfactory to the Administrative Agent;

(f) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations, in each case provided in the ordinary course of business or consistent with past practice or industry practices, including those incurred to secure health, safety and environmental obligations in the ordinary course of business or consistent with past practice or industry practices;

(g) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business or other cash management services, in each case incurred in the ordinary course of business;

(h) (i) Indebtedness of a Subsidiary acquired after the Closing Date or a person merged or consolidated with Parent or any Subsidiary after the Closing Date and Indebtedness otherwise assumed by any Loan Party in connection with the acquisition of assets or Equity Interests (including a Permitted Business Acquisition), where such acquisition, merger, amalgamation or consolidation is not prohibited by

this Agreement; provided that (x) Indebtedness incurred pursuant to preceding sub clause (h)(i) shall be in existence prior to the respective acquisition of assets or Equity Interests (including a Permitted Business Acquisition) and shall not have been created in contemplation thereof or in connection therewith, and (y) after giving effect to the incurrence of such Indebtedness, (A) the Parent shall be in Pro Forma Compliance with the Financial Covenants (if then applicable) and (B) the Total Net Leverage Ratio shall not be greater than the greater of (1) 5.00 to 1.00 or (2) the Total Net Leverage Ratio immediately prior to giving effect to such incurrence of Indebtedness, in the case of each of clause (A) and (B) calculated on a Pro Forma Basis for the then most recently ended Test Period; and (ii) any Permitted Refinancing Indebtedness incurred to Refinance any such Indebtedness;

(i) (x) Capitalized Lease Obligations, mortgage financings and other Indebtedness incurred by Parent or any Subsidiary prior to or within 360 days after the acquisition, lease, construction, repair, replacement or improvement of the respective property (real or personal, and whether through the direct purchase of property or the Equity Interest of any person owning such property) permitted under this Agreement in order to finance such acquisition, lease, construction, repair, replacement or improvement, in an aggregate principal amount that immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this Section 6.01(i), would not exceed the greater of \$150,000,000 and 1.0% of Consolidated Total Assets when incurred, created or assumed, and (y) any Permitted Refinancing Indebtedness in respect thereof;

(j) (x) Capitalized Lease Obligations and any other Indebtedness incurred by Parent or any Subsidiary arising from any Permitted Sale Lease-Back Transaction, and (y) any Permitted Refinancing Indebtedness in respect thereof;

(k) (x) other Indebtedness of Parent or any Subsidiary, in an aggregate principal amount that, immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this Section 6.01(k), would not exceed the greater of \$400,000,000 and 4.0% of Consolidated Total Assets when incurred, created or assumed and (y) any Permitted Refinancing Indebtedness in respect thereof;

(l) the Senior Notes and any Permitted Refinancing Indebtedness in respect thereof;

(m) Guarantees (i) by any Loan Party of any Indebtedness of any Loan Party permitted to be incurred under this Agreement, (ii) by any Loan Party of Indebtedness otherwise permitted hereunder of any Subsidiary that is not a Guarantor to the extent such Guarantees are permitted by Section 6.04 (other than Section 6.04(r)), (iii) by any Subsidiary that is not a Guarantor of Indebtedness of another Subsidiary that is not a Guarantor, and (iv) by any Loan Party of Indebtedness of Subsidiaries that are not Guarantors incurred for working capital purposes in the ordinary course of business on ordinary business terms so long as such Indebtedness is permitted to be incurred under Section 6.01(q) and to the extent such Guarantees are permitted by Section 6.04 (other than Section 6.04(r)); provided, that Guarantees by any Loan Party under this Section 6.01(m) of any other Indebtedness of a person that is subordinated in right of payment to other Indebtedness of such person shall be expressly subordinated in right of payment to the Loan Obligations to at least the same extent as such underlying Indebtedness is subordinated in right of payment;

(n) Indebtedness arising from agreements of Parent or any Subsidiary providing for indemnification, adjustment of purchase or acquisition price or similar obligations (including earn-outs), in each case, incurred or assumed in connection with the Transactions, any Permitted Business Acquisition, other Investments or the disposition of any business, assets or a Subsidiary not prohibited by this Agreement;

(o) Indebtedness in respect of letters of credit, bank guarantees, warehouse receipts or similar instruments issued in the ordinary course of business or consistent with past practice or industry practices and not supporting obligations in respect of Indebtedness for borrowed money;

(p) (i) Permitted Debt so long as immediately after giving effect to the incurrence of such Permitted Debt and the use of proceeds thereof, (A) the Total Net Leverage Ratio on a Pro Forma Basis is not greater than 5.90 to 1.00 and (B) no Default or Event of Default shall have occurred and be continuing or shall result therefrom, and (ii) any Permitted Refinancing Indebtedness in respect thereof;

(q) (x) Indebtedness of Subsidiaries that are not Guarantors in an aggregate principal amount outstanding that, immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this Section 6.01(q), would not exceed the greater of \$350,000,000 and 3.5% of Consolidated Total Assets when incurred, created or assumed and (y) any Permitted Refinancing Indebtedness in respect thereof;

(r) Indebtedness incurred in the ordinary course of business in respect of obligations of Parent or any Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Hedging Agreements;

(s) Indebtedness representing deferred compensation to employees, consultants or independent contractors of Parent or any Subsidiary incurred in the ordinary course of business;

(t) (x) Indebtedness in connection with Qualified Receivables Facilities in an aggregate principal amount outstanding that, immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this Section 6.01(t), would not exceed the greater of \$150,000,000 and 1.5% of Consolidated Total Assets when incurred, created or assumed, unless the proceeds thereof are used to prepay the Term Loan Facility in accordance with Section 2.11, and (y) any Permitted Refinancing Indebtedness in respect thereof;

(u) obligations in respect of Cash Management Agreements;

(v) (x) Permitted Debt secured by Other First Liens or Junior Liens on the Collateral in an aggregate principal amount, together with all other Indebtedness outstanding utilizing the Incremental Amount and/or pursuant to this clause (v), not to exceed at the time of incurrence the Incremental Amount available at such time; provided that any such Permitted Debt shall (1) if incurred in the form of term loans, comply with the requirements of Section 2.21(b)(v) as if such Permitted Debt was incurred as an Incremental Term Loan thereunder (and with pricing increases with respect to the Initial Term Loans to occur as, and to the extent, provided in Section 2.21(b)(v) as if such Permitted Debt was incurred as an Incremental Term Loan hereunder), and (2) count as a usage of the Incremental Amount for purposes of Section 2.21, and (y) Permitted Refinancing Indebtedness in respect thereof;

(w) Indebtedness of, incurred on behalf of, or representing Guarantees of Indebtedness of, joint ventures subject to compliance with Section 6.04 (other than Section 6.04(r));

(x) Indebtedness issued by Parent or any Subsidiary to current or former officers, directors and employees, their respective estates, spouses or former spouses to finance the purchase or redemption of Equity Interests of Parent permitted by Section 6.06;

(y) Indebtedness consisting of obligations of the Parent or any Subsidiary under deferred compensation or other similar arrangements incurred by such person in connection with the Transactions and Permitted Business Acquisitions or any other Investment permitted hereunder;

(z) Indebtedness of Parent or any Subsidiary to or on behalf of any joint venture (regardless of the form of legal entity) that is not a Subsidiary arising in the ordinary course of business in connection with the cash management operations (including with respect to intercompany self-insurance arrangements) of Parent and the Subsidiaries;

(aa) Indebtedness consisting of (i) the financing of insurance premiums or (ii) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(bb) (x) Indebtedness of Foreign Subsidiaries, and guarantees thereof by Foreign Subsidiaries, in respect of local lines of credit, letters of credit, bank guarantees and similar extensions of credit, in an aggregate principal amount that, immediately after giving effect to the incurrence of such Indebtedness and the use of proceeds thereof, together with the aggregate principal amount of any other Indebtedness outstanding pursuant to this Section 6.01(bb), would not exceed the greater of (I) \$100,000,000 and (II) 1.0% of Consolidated Total Assets when incurred, created or assumed and (y) any Permitted Refinancing Indebtedness in respect thereof;

(cc) Guarantees of Indebtedness of directors, officers, employees, agents and advisors of Parent or any of its Subsidiaries in respect of expenses of such persons in connection with relocations and other ordinary course of business purposes, if the aggregate amount of Indebtedness so Guaranteed, when added to the aggregate amount of unreimbursed payments theretofore made in respect of such Guarantees and the amount of loans and advances then outstanding under Section 6.04(e), shall not at any time exceed \$10,000,000; and

(dd) letters of credit (whether secured or unsecured) issued on behalf of any Subsidiary for the benefit of any Insurance Subsidiary in aggregate principal amount outstanding at any time not to exceed \$100,000,000.

For purposes of determining compliance with this Section 6.01 or Section 6.02, the amount of any Indebtedness denominated in any currency other than Dollars shall be calculated based on customary currency exchange rates in effect, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) on or prior to the Closing Date, on the Closing Date and, in the case of such Indebtedness incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness) after the Closing Date, on the date on which such Indebtedness was incurred (in respect of term Indebtedness) or committed (in respect of revolving Indebtedness); provided that if such Indebtedness is incurred to refinance other Indebtedness denominated in a currency other than Dollars (or in a different currency from the Indebtedness being refinanced), and such refinancing would cause the applicable Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such Dollar-denominated restriction shall be deemed not to have been exceeded so long as the principal amount of such refinancing Indebtedness does not exceed (i) the outstanding or committed principal amount, as applicable, of such Indebtedness being refinanced plus (ii) the aggregate amount of fees, underwriting discounts, premiums (including tender premiums), defeasance costs and other costs and expenses incurred in connection with such refinancing.

Further, for purposes of determining compliance with this Section 6.01, (A) Indebtedness need not be permitted solely by reference to one category of permitted Indebtedness (or any portion thereof) described in Sections 6.01(a) through (dd) but may be permitted in part under any relevant combination thereof (and subject to compliance, where relevant, with Section 6.02), (B) in the event that an item of

Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Indebtedness (or any portion thereof) described in Sections 6.01(a) through (dd), the Parent may, in its sole discretion, classify or divide such item of Indebtedness (or any portion thereof) in any manner that complies with this Section 6.01 and will be entitled to only include the amount and type of such item of Indebtedness (or any portion thereof) in one of the above clauses (or any portion thereof) and such item of Indebtedness (or any portion thereof) shall be treated as having been incurred or existing pursuant to only such clause or clauses (or any portion thereof); provided that all Indebtedness outstanding under this Agreement shall at all times be deemed to have been incurred pursuant to clause (b) of this Section 6.01 and (C) at the option of Parent by written notice to the Administrative Agent, any Indebtedness and/or Lien incurred to finance a Limited Condition Acquisition shall be deemed to have been incurred on the date the definitive acquisition agreement relating to such Limited Condition Acquisition was entered into (and not at the time such Limited Condition Acquisition is consummated) and the Interest Coverage Ratio, First Lien Secured Net Leverage Ratio, Secured Net Leverage Ratio and/or the Total Net Leverage Ratio shall be tested (x) in connection with such incurrence, as of the date the definitive acquisition agreement relating to such Limited Condition Acquisition was entered into, giving pro forma effect to such Limited Condition Acquisition, to any such Indebtedness or Lien, and to all transactions in connection therewith and (y) in connection with any other incurrence after the date the definitive acquisition agreement relating to such Limited Condition Acquisition was entered into and prior to the earlier of the consummation of such Limited Condition Acquisition or the termination of such definitive agreement prior to the incurrence (but not, for the avoidance of doubt, for purposes of determining the Applicable Margin, the Required Percentage or actual compliance with the Financial Covenants), both (i) on the basis set forth in clause (x) above and (ii) without giving effect to such Limited Condition Acquisition or the incurrence of any such Indebtedness or Liens or the other transactions in connection therewith. In addition, with respect to any Indebtedness that was permitted to be incurred hereunder on the date of such incurrence, any Increased Amount of such Indebtedness shall also be permitted hereunder after the date of such incurrence.

This Agreement will not treat (1) unsecured Indebtedness as subordinated or junior in right of payment to secured Indebtedness merely because it is unsecured or (2) senior Indebtedness as subordinated or junior in right of payment to any other senior Indebtedness merely because it has a junior priority with respect to the same collateral.

Section 6.02 Liens. Create, incur, assume or permit to exist any Lien on any property or assets (including stock or other securities of any person) of Parent or any Subsidiary now owned or hereafter acquired by it or on any income or revenues or rights in respect of any thereof, except the following (collectively, "Permitted Liens"):

(a) Liens on property or assets of Parent and the Subsidiaries existing on the Closing Date and, to the extent securing Indebtedness in an aggregate principal amount in excess of \$5,000,000, set forth on Schedule 6.02(a) and any modifications, replacements, renewals or extensions thereof; provided that such Liens shall secure only those obligations that they secure on the Closing Date (and any Permitted Refinancing Indebtedness in respect of such obligations permitted by Section 6.01) and shall not subsequently apply to any other property or assets of Parent or any Subsidiary other than (A) after-acquired property that is affixed or incorporated into the property covered by such Lien and (B) proceeds and products thereof;

(b) any Lien created under the Loan Documents (including Liens created under the Security Documents securing obligations in respect of Secured Hedge Agreements and Secured Cash Management Agreements);



(c) any Lien on any property or asset of Parent or any Subsidiary securing Indebtedness or Permitted Refinancing Indebtedness permitted by Section 6.01(h); provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such person becoming a Subsidiary, as the case may be, and (ii) such Lien does not apply to any other property or assets of Parent or any of the Subsidiaries not securing such Indebtedness at the date of the acquisition of such property or asset and accessions and additions thereto and proceeds and products thereof (other than accessions thereto and proceeds thereof so acquired or any after-acquired property of such person becoming a Subsidiary (but not of Parent or any other Loan Party, including any Loan Party into which such acquired entity is merged) required to be subjected to such Lien pursuant to the terms of such Indebtedness (and refinancings thereof));

(d) Liens for Taxes, assessments or other governmental charges or levies not yet delinquent by more than 30 days or that are being contested in good faith in compliance with Section 5.03;

(e) Liens imposed by law, constituting landlord's, carriers', warehousemen's, mechanics', materialmen's, repairmen's, supplier's, construction or other like Liens, securing obligations that are not overdue by more than 30 days or that are being contested in good faith by appropriate proceedings and in respect of which, if applicable, Parent or any Subsidiary shall have set aside on its books reserves in accordance with GAAP;

(f) (i) pledges and deposits and other Liens made in the ordinary course of business in compliance with the Federal Employers Liability Act or any other workers' compensation, unemployment insurance and other social security laws or regulations and deposits securing liability to insurance carriers under insurance or self-insurance arrangements in respect of such obligations and (ii) pledges and deposits and other Liens securing liability for reimbursement or indemnification obligations of (including obligations in respect of letters of credit or bank guarantees for the benefit of) insurance carriers providing property, casualty or liability insurance to Parent or any Subsidiary;

(g) deposits and other Liens to secure the performance of bids, trade contracts (other than for Indebtedness), leases (other than Capitalized Lease Obligations), statutory obligations, surety and appeal bonds, performance and return of money bonds, bids, leases, government contracts, trade contracts, agreements with utilities, and other obligations of a like nature (including letters of credit in lieu of any such bonds or to support the issuance thereof), in each case to the extent such deposits and other Liens are incurred in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business;

(h) zoning, land use and building restrictions, regulations and ordinances, easements, survey exceptions, minor encroachments by and on the Real Property, railroad trackage rights, sidings and spur tracks, leases (other than Capitalized Lease Obligations), subleases, licenses, special assessments, rights-of-way, covenants, conditions, restrictions and declarations on or with respect to the use of Real Property, reservations, restrictions and leases of or with respect to oil, gas, mineral, riparian and water rights and water usage, servicing agreements, development agreements, site plan agreements and other similar encumbrances incurred in the ordinary course of business and title defects or irregularities that are of a minor nature and that, in the aggregate, do not interfere in any material respect with the ordinary conduct of the business of Parent or any Subsidiary;

(i) Liens securing Indebtedness permitted by Section 6.01(i); provided, that such Liens do not apply to any property or assets of Parent or any Subsidiary other than the property or assets acquired, leased, constructed, replaced, repaired or improved with such Indebtedness (or the Indebtedness Refinanced thereby), and accessions and additions thereto, proceeds and products thereof, customary security deposits and related property; provided, further, that individual financings provided by one lender may be cross-collateralized to other financings provided by such lender (and its Affiliates) (it being understood that with respect to any Liens on the Collateral being incurred under this clause (i) to secure Permitted Refinancing Indebtedness, if Liens on the Collateral securing the Indebtedness being Refinanced (if any) were Junior Liens, then any Liens on such Collateral being incurred under this clause (i) to secure Permitted Refinancing Indebtedness shall also be Junior Liens);

(j) Liens arising out of any Permitted Sale Lease-Back Transaction, so long as such Liens attach only to the property sold and being leased in such transaction and any accessions and additions thereto or proceeds and products thereof and related property;

(k) non-consensual Liens securing judgments that do not constitute an Event of Default under Section 7.01(j);

(l) any interest or title of a ground lessor or any other lessor, sublessor or licensor under any ground leases or any other leases, subleases or licenses entered into by Parent or any Subsidiary in the ordinary course of business, and all Liens suffered or created by any such ground lessor or any other lessor, sublessor or licensor (or any predecessor in interest) with respect to any such interest or title in the real property which is subject thereof;

(m) Liens that are contractual rights of set-off (i) relating to the establishment of depository relations with banks and other financial institutions not given in connection with the issuance of Indebtedness, (ii) relating to pooled deposits, sweep accounts, reserve accounts or similar accounts of Parent or any Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of Parent or any Subsidiary, including with respect to credit card charge-backs and similar obligations, or (iii) relating to purchase orders and other agreements entered into with customers, suppliers or service providers of Parent or any Subsidiary in the ordinary course of business;

(n) Liens (i) arising solely by virtue of any statutory or common law provision relating to banker's liens, rights of set-off or similar rights, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business, (iii) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to brokerage accounts incurred in the ordinary course of business and not for speculative purposes, (iv) in respect of Third Party Funds or (v) in favor of credit card companies pursuant to agreements therewith;

(o) Liens securing obligations in respect of letters of credit, bank guarantees, warehouse receipts or similar obligations permitted under Section 6.01(f) or (o) and incurred in the ordinary course of business or consistent with past practice or industry practices and not supporting obligations in respect of Indebtedness for borrowed money;

(p) leases or subleases, and licenses or sublicenses (including with respect to any fixtures, furnishings, equipment, vehicles or other personal property, or Intellectual Property), granted to others in the ordinary course of business not interfering in any material respect with the business of Parent and its Subsidiaries, taken as a whole;

(q) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(r) Liens solely on any cash earnest money deposits made by Parent or any of the Subsidiaries in connection with any letter of intent or purchase agreement in respect of any Investment permitted hereunder;

(s) Liens with respect to property or assets of any Subsidiary that is not a Loan Party securing obligations of a Subsidiary that is not a Loan Party permitted under Section 6.01;

(t) Liens on any amounts held by a trustee under any indenture or other debt agreement issued in escrow pursuant to customary escrow arrangements pending the release thereof, or under any indenture or other debt agreement pursuant to customary discharge, redemption or defeasance provisions;

(u) the prior rights of consignees and their lenders under consignment arrangements entered into in the ordinary course of business;

(v) agreements to subordinate any interest of Parent or any Subsidiary in any accounts receivable or other proceeds arising from inventory consigned by Parent or any Subsidiary pursuant to an agreement entered into in the ordinary course of business;

(w) Liens arising from precautionary Uniform Commercial Code financing statements regarding operating leases or other obligations not constituting Indebtedness;

(x) Liens (i) on Equity Interests in joint ventures that are not Subsidiaries (A) securing obligations of such joint venture or (B) pursuant to the relevant joint venture agreement or arrangement and (ii) on Equity Interests in Unrestricted Subsidiaries;

(y) Liens on securities that are the subject of repurchase agreements constituting Permitted Investments under clause (c) of the definition thereof;

(z) Liens in respect of Qualified Receivables Facilities entered into in reliance on Section 6.01(t) that extend only to Permitted Receivables Facility Assets, Permitted Receivables Related Assets or the Equity Interests of any Receivables Entity;

(aa) Liens securing insurance premiums financing arrangements; provided that such Liens are limited to the applicable unearned insurance premiums;

(bb) in the case of Real Property that constitutes a leasehold interest, any Lien to which the fee simple or freehold interest (or any superior leasehold interest) is subject;

(cc) Liens securing Indebtedness or other obligations (i) of Parent or a Subsidiary in favor of any Loan Party and (ii) of any Subsidiary that is not a Guarantor in favor of any Subsidiary that is not a Guarantor;

(dd) Liens on cash or Permitted Investments securing Hedging Agreements in the ordinary course of business submitted for clearing in accordance with applicable Requirements of Law;

(ee) Liens on goods or inventory the purchase, shipment or storage price of which is financed by a documentary letter of credit or bank guarantee issued or created for the account of Parent or any Subsidiary in the ordinary course of business; provided, that such Lien secures only the obligations of Parent or such Subsidiaries in respect of such letter of credit, bank guarantee or banker's acceptance to the extent permitted under Section 6.01;

(ff) Subordination, non-disturbance and/or attornment agreements with any ground lessor, lessor or any mortgagor of any of the foregoing, with respect to any ground lease or other lease or sublease entered into by Parent or any Subsidiary;

(gg) Liens on Collateral that are Other First Liens or Junior Liens, so long as such Other First Liens or Junior Liens secure Indebtedness permitted by Section 6.01(b), Section 6.01(l) or 6.01(v) and guarantees thereof permitted by Section 6.01(m);

(hh) Liens arising out of conditional sale, title retention or similar arrangements for the sale or purchase of goods by Parent or any of the Subsidiaries in the ordinary course of business;

(ii) With respect to any Real Property which is acquired in fee after the Closing Date, Liens which exist immediately prior to the date of acquisition, excluding any Liens securing Indebtedness which is not otherwise permitted hereunder; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition and (ii) such Lien does not apply to any other property or assets of Parent or any of its Subsidiaries;

(jj) other Liens with respect to property or assets of Parent or any Subsidiary securing (x) obligations in an aggregate outstanding principal amount that, together with the aggregate principal amount of other obligations that are secured pursuant to this clause (jj), immediately after giving effect to the incurrence of such Liens, would not exceed the greater of \$400,000,000 and 4.0% of Consolidated Total Assets when incurred, created or assumed and (y) Permitted Refinancing Indebtedness incurred to Refinance obligations secured pursuant to the preceding clause (x);

(kk) in the case of (A) any subsidiary of Parent that is not a Wholly Owned Subsidiary or (B) the Equity Interests in any person that is not a subsidiary of Parent, any encumbrance or restriction, including any put and call arrangements, related to Equity Interests in such subsidiary or such other person set forth in the organization documents of such subsidiary or such other person or any related joint venture, shareholders' or similar agreement; and

(ll) Liens to secure Indebtedness permitted under Section 6.01(dd);

For purposes of determining compliance with this Section 6.02, (A) a Lien securing an item of Indebtedness need not be permitted solely by reference to one category of permitted Liens (or any portion thereof) described in Sections 6.02(a) through (ll) but may be permitted in part under any combination thereof and (B) in the event that a Lien securing an item of Indebtedness (or any portion thereof) meets the criteria of one or more of the categories of permitted Liens (or any portion thereof) described in Sections 6.02(a) through (ll), Parent may, in its sole discretion, classify or divide such Lien securing such item of Indebtedness (or any portion thereof) in any manner that complies with this Section 6.02 and will be entitled to only include the amount and type of such Lien or such item of Indebtedness secured by such Lien (or any portion thereof) in one of the above clauses and such Lien securing such item of Indebtedness (or portion thereof) will be treated as being incurred or existing pursuant to only such clause or clauses (or any portion thereof).

In addition to the foregoing, Parent will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on or over the Equity Interests of any Subsidiary organized in Italy under any security agreement that is expressed to be governed by Italian law securing Consolidated Debt, unless (i) such Subsidiary constitutes an Immaterial Subsidiary at the time such Lien is granted or (ii) such Equity Interests are pledged pursuant to any security agreement in favor of the Collateral Trustee for the benefit of the Secured Parties that is expressed to be governed by Italian law.

Section 6.03 Limitations on Dispositions and other Transfers of Material Intellectual Property.

(a) in the case of a Loan Party, Dispose (including pursuant to an Investment) of any Material Intellectual Property that is owned by, or exclusively licensed to, a Loan Party to any Subsidiary that is not a Loan Party in a transaction the principal purpose of which (as determined by the Parent in good faith) is for incurring structurally senior debt on such Material Intellectual Property.

(b) in the case of Parent and its Subsidiaries, Dispose (including pursuant to an Investment) of any Material Intellectual Property that is owned by, or exclusively licensed to, Parent or any Subsidiary to any Unrestricted Subsidiary.

Section 6.04 Investments, Loans and Advances. (i) Purchase or acquire (including pursuant to any merger with a person that is not a Wholly Owned Subsidiary immediately prior to such merger) any Equity Interests, evidences of Indebtedness or other securities of any other person, (ii) make any loans or advances to or Guarantees of the Indebtedness of any other person, (iii) purchase or otherwise acquire, in one transaction or a series of related transactions, (x) all or substantially all of the property and assets or business of another person or (y) assets constituting a business unit, line of business or division of such person, or (iv) acquire an Exclusive License (each of the foregoing, an "Investment"), except:

(a) Investments to effect the Transactions;

(b) (i) Investments (x) by Parent or any Subsidiary in the Equity Interests of any Subsidiary as of the Closing Date and set forth on Part A of Schedule 6.04 and (y) by Parent or any Subsidiary consisting of intercompany loans from Parent or any Subsidiary to Parent or any Subsidiary as of the Closing Date and set forth on Part B of Schedule 6.04; provided that, to the extent any such intercompany loan that is owing by a non-Guarantor to any Loan Party (the "Scheduled Loans") (or any additional Investments made by any Loan Party pursuant to this proviso) is repaid after the Closing Date or any Loan Party receives, after the Closing Date, any dividend, distribution, interest payment, return of capital, repayment or other amount in respect of any scheduled Investment in the Equity Interests of any non-Guarantor (a "Return of Scheduled Equity"), then additional Investments may be made by any Loan Party in any non-Guarantor in an aggregate amount up to the amount actually received by any Loan Party after the Closing Date as payment in respect of such Investments; provided further that in no event will the aggregate amount of additional Investments made by any Loan Party in non-Guarantors pursuant to this proviso exceed the sum of the original principal amount of the Scheduled Loans on the Closing Date and the aggregate amount of Returns of Scheduled Equity; (ii) Investments in any Loan Party; (iii) Investments by any Subsidiary that is not a Loan Party in any other Subsidiary that is not a Loan Party; (iv) Investments by any Loan Party in any Subsidiary that is not a Loan Party in an aggregate amount for all such outstanding Investments made after the Closing Date not to exceed the greater of \$350,000,000 and 3.5% of Consolidated Total Assets when made *plus* an aggregate amount equal to any cash returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (excluding any returns in excess of the amount originally invested) to the extent such amounts do not increase the Available Amount; (v) other intercompany liabilities amongst the Loan Parties incurred in the ordinary course of business; (vi) other intercompany liabilities amongst Subsidiaries that are not Loan Parties incurred in the ordinary course of business in connection with the cash management operations of such Subsidiaries; and (vii) Investments by any Loan Party in any Subsidiary that is not a Loan Party consisting solely of (x) the contribution or other Disposition of Equity Interests or Indebtedness of any other Subsidiary that is not a Loan Party held directly by such Loan Party in exchange for Indebtedness, Equity Interests (or additional share premium or paid in capital in respect of Equity Interests) or a combination thereof of the Subsidiary to which such contribution or other Disposition is made or (y) an exchange of Equity Interests of any other Subsidiary that is not a Loan Party for Indebtedness of such Subsidiary; provided that, immediately following the consummation of an Investment pursuant to the preceding clause (x) or (y), the Subsidiary whose Equity Interests or Indebtedness are the subject of such Investment remains a Subsidiary;

(c) Permitted Investments and Investments that were Permitted Investments when made;

(d) Investments arising out of the receipt by Parent or any Subsidiary of non-cash consideration for the Disposition of assets permitted under Section 6.05;

(e) loans and advances to officers, directors, employees or consultants of Parent or any Subsidiary (i) in the ordinary course of business in an aggregate outstanding amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed \$10,000,000, (ii) in respect of payroll payments and expenses in the ordinary course of business and (iii) in connection with such person's purchase of Equity Interests of Parent;

(f) accounts receivable, security deposits and prepayments arising and trade credit granted in the ordinary course of business and any assets or securities received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss and any prepayments and other credits to suppliers made in the ordinary course of business;

(g) Hedging Agreements entered into for non-speculative purposes;

(h) Investments (not in Subsidiaries, which are provided in clause (b) above) existing on, or contractually committed as of, the Closing Date and set forth on Part C of Schedule 6.04 and any extensions, renewals, replacements or reinvestments thereof, so long as the aggregate amount of all Investments pursuant to this clause (h) is not increased at any time above the amount of such Investment existing or committed on the Closing Date (other than pursuant to an increase as required by the terms of any such Investment as in existence on the Closing Date or as otherwise permitted by this Section 6.04);

(i) Investments resulting from pledges and deposits under Sections 6.02(f), (g), (n), (q), (r), (dd) and (ii);

(j) other Investments by Parent or any Subsidiary in an aggregate outstanding amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed the sum of (X) the greater of \$1,000,000,000 and 10.0% of Consolidated Total Assets when made, plus (Y) so long as no Default or Event of Default shall have occurred and be continuing, any portion of the Available Amount on the date of such election that Parent elects to apply to this Section 6.04(j)(Y) in a written notice of a Responsible Officer thereof, which notice shall set forth calculations in reasonable detail the amount of Available Amount immediately prior to such election and the amount thereof elected to be so applied, plus (Z) an amount equal to any cash returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (excluding any returns in excess of the amount originally invested) pursuant to clause (X) to the extent such amounts do not increase the Available Amount; provided that, if any Investment pursuant to this Section 6.04(j) is made in any person that was not a Subsidiary on the date on which such Investment was made but becomes a Subsidiary thereafter, then such Investment may, at the option of Parent, upon such person becoming a Subsidiary and so long as such person remains a Subsidiary, be deemed to have been made pursuant to Section 6.04(b) (to the extent permitted by the provisions thereof) and not in reliance on this Section 6.04(j);

(k) Investments constituting Permitted Business Acquisitions;

(l) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with or judgments against, customers and suppliers, in each case in the ordinary course of business or Investments acquired by Parent or a Subsidiary as a result of a foreclosure by Parent or any of the Subsidiaries with respect to any secured Investments or other transfer of title with respect to any secured Investment in default;

(m) Investments of a Subsidiary (including Exclusive Licenses) acquired after the Closing Date or of a person merged into Parent or merged into or consolidated with a Subsidiary after the Closing Date, in each case, (i) to the extent such acquisition, merger, amalgamation or consolidation is permitted under this Section 6.04, (ii) in the case of any acquisition, merger, amalgamation or consolidation, in accordance with Section 6.05 and (iii) to the extent that such Investments were not made in contemplation of or in connection with such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(n) acquisitions by Parent of obligations of one or more officers or other employees of Parent or its Subsidiaries in connection with such officer's or employee's acquisition of Equity Interests of Parent, so long as no cash is actually advanced by Parent or any of the Subsidiaries to such officers or employees in connection with the acquisition of any such obligations;

(o) Guarantees by Parent or any Subsidiary of operating leases (other than Capitalized Lease Obligations) or of other obligations that do not constitute Indebtedness of the kind described in clauses (b), (e), (f), (g), (h), (i), (j) or (k) of the definition thereof, in each case entered into by Parent or any Subsidiary in the ordinary course of business;

(p) Investments to the extent that payment for such Investments is made with Qualified Equity Interests of Parent; provided that the issuance of such Equity Interests are not included in any determination of the Available Amount;

(q) Investments in the ordinary course of business consisting of Uniform Commercial Code Article 3 endorsements for collection or deposit and Uniform Commercial Code Article 4 customary trade arrangements with customers;

(r) any customary upfront milestone, marketing or other funding payment consistent with past and/or industry practice to another person in connection with obtaining a right to receive royalty or other payments in the future;

(s) advances in the form of a prepayment of expenses, so long as such expenses are being paid in accordance with customary trade terms of Parent or such Subsidiary;

(t) Investments by Parent and the Subsidiaries, if Parent or any Subsidiary would otherwise be permitted to make a Restricted Payment under Section 6.06(g) in such amount (provided that the amount of any such Investment shall also be deemed to be a Restricted Payment under Section 6.06(g) for all purposes of this Agreement);

(u) Investments consisting of transfers of Permitted Receivables Facility Assets or arising as a result of Qualified Receivables Facilities;

(v) subject to Section 6.03, Investments consisting of the licensing or contribution of Intellectual Property pursuant to joint marketing or other similar arrangements with other persons;

(w) to the extent constituting Investments, purchases and acquisitions of inventory, supplies, materials and equipment or purchases of contract rights or licenses or leases of Intellectual Property in each case in the ordinary course of business;

(x) Exclusive Licenses from a Subsidiary that is not a Loan Party to a Loan Party of rights to a drug or other pharmaceutical products, diagnostics, delivery technologies, medical devices or biotechnology businesses; provided that such drug or other pharmaceutical products, diagnostics, delivery technologies, medical devices or biotechnology businesses was not acquired by such Subsidiary in an acquisition prohibited by Section 6.03 or Section 6.05;

(y) any Investment in fixed income or other assets by any Subsidiary that is a so-called “captive” insurance company or insurance “cell” (each, an “Insurance Subsidiary”) consistent with customary practices of portfolio management;

(z) any Investment in Insurance Subsidiaries (a) that are required by law or applicable regulators, (b) (i) in an aggregate amount for all such Investments not to exceed the greater of \$50,000,000 and 0.50% of Consolidated Total Assets when made *plus* (ii) an aggregate amount equal to any cash returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (excluding any returns in excess of the amount originally invested) pursuant to clause (b)(i) to the extent such amounts do not increase the Available Amount or (c) constituting letters of credit permitted under Section 6.01(dd);

(aa) Investments in joint ventures and acquisitions of Equity Interests that would constitute Permitted Business Acquisitions but for the fact that persons in which such Equity Interests are acquired do not become Wholly Owned Subsidiaries of Parent; provided that the sum of the aggregate amount of such Investments, plus the aggregate consideration paid in all such acquisitions, made under this clause (aa) after the Closing Date shall not exceed (A) the greater of \$350,000,000 and 3.5% of Consolidated Total Assets at any time outstanding *plus* (B) an aggregate amount equal to any cash returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (excluding any returns in excess of the amount originally invested) to the extent such amounts do not increase the Available Amount; and

(bb) additional Investments, so long as, at the time any such Investment is made and immediately after giving effect thereto, (x) no Default or Event of Default shall have occurred and is continuing and (y) the Total Net Leverage Ratio on a Pro Forma Basis is not greater than 4.00 to 1.00.

For purposes of determining compliance with this Section 6.04, (A) an Investment need not be permitted solely by reference to one category of permitted Investments (or any portion thereof) described in Sections 6.04(a) through (bb) but may be permitted in part under any relevant combination thereof and (B) in the event that an Investment (or any portion thereof) meets the criteria of one or more of the categories of permitted Investments (or any portion thereof) described in Sections 6.04(a) through (bb), the Parent may, in its sole discretion, classify or divide such Investment (or any portion thereof) in any manner that complies with this Section 6.04 and will be entitled to only include the amount and type of such Investment (or any portion thereof) in one or more (as relevant) of the above clauses (or any portion thereof) and such Investment (or any portion thereof) shall be treated as having been made or existing pursuant to only such clause or clauses (or any portion thereof); provided, that all Investments described in Schedule 6.04 shall be deemed outstanding under Section 6.04(b) or Section 6.04(h), as applicable.

Any Investment in any person other than a Loan Party that is otherwise permitted by this Section 6.04 may be made through intermediate Investments in Subsidiaries that are not Loan Parties and such intermediate Investments shall be disregarded for purposes of determining the outstanding amount of Investments pursuant to any clause set forth above. The amount of any Investment made other than in the form of cash or cash equivalents shall be the Fair Market Value thereof valued at the time of the making thereof, and without giving effect to any subsequent write-downs or write-offs thereof.



For purposes of determining compliance with this Section 6.04, the value of Investments in “Exclusive Licenses” shall be limited to the aggregate cash paid by the Parent or any Subsidiary on or prior to the consummation of an Exclusive License (and which, for the avoidance of doubt, shall not include any purchase price adjustment, licensing payment, royalty, earnout, Milestone Payment, contingent payment, back-end payment or any other deferred payment or any payments related to profit sharing).

Section 6.05 Mergers, Consolidations, Sales of Assets and Acquisitions. Merge into, amalgamate with or consolidate with any other person, or permit any other person to merge into, amalgamate with or consolidate with it, or Dispose of (in one transaction or in a series of related transactions) all or any part of its assets (whether now owned or hereafter acquired) in excess of \$10,000,000, or Dispose of any Equity Interests of any Subsidiary, or purchase, lease or otherwise acquire (in one transaction or a series of related transactions) all or substantially all of the assets of any other person or division or line of business of a person, except that this Section 6.05 shall not prohibit:

(a) (i) the purchase and Disposition of inventory in the ordinary course of business by Parent or any Subsidiary, (ii) the acquisition or lease (pursuant to an operating lease) of any other asset in the ordinary course of business by Parent or any Subsidiary or, with respect to operating leases, otherwise for Fair Market Value on market terms (as determined in good faith by Parent), (iii) the Disposition of surplus, obsolete, damaged or worn out equipment or other property in the ordinary course of business by Parent or any Subsidiary or (iv) the Disposition of Permitted Investments in the ordinary course of business;

(b) if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing or would result therefrom, (i) the merger, amalgamation or consolidation of any Subsidiary with or into the Parent or another Borrower in a transaction in which the Parent or such other Borrower is the survivor, (ii) the merger, amalgamation or consolidation of any Subsidiary (other than a Borrower) with or into any Guarantor in a transaction in which the surviving or resulting entity is or becomes a Guarantor and, in the case of each of clauses (i) and (ii), no person other than a Borrower or a Guarantor receives any consideration (unless otherwise permitted by Section 6.04), (iii) the merger, amalgamation or consolidation of any Subsidiary that is not a Borrower or a Guarantor with or into any other Subsidiary that is not a Borrower or a Guarantor, (iv) the liquidation or dissolution or change in form of entity of any Subsidiary (other than a Borrower) if (x) Parent determines in good faith that such liquidation, dissolution or change in form is in the best interests of Parent and is not materially disadvantageous to the Lenders and (y) the same meets the requirements contained in the proviso to Section 5.01(a), (v) any Subsidiary (other than a Borrower) may merge, amalgamate or consolidate with any other person in order to effect an Investment permitted pursuant to Section 6.04 so long as the continuing or surviving person shall be a Subsidiary (unless otherwise permitted by Section 6.04 (other than Section 6.04(m)(ii))), which shall be a Loan Party if the merging, amalgamating or consolidating Subsidiary was a Loan Party and which together with each of its Subsidiaries shall have complied with any applicable requirements of Section 5.10 or (vi) any Subsidiary (other than a Borrower) may merge, amalgamate or consolidate with any other person in order to effect an Asset Sale otherwise permitted pursuant to this Section 6.05;

(c) Dispositions to Parent or a Subsidiary; provided that any Dispositions by a Loan Party to a Subsidiary that is not a Loan Party in reliance on this clause (c) shall be made in compliance with Section 6.04;

(d) Dispositions of any property subject to a Permitted Sale Lease-Back Transaction;

(e) (i) Investments permitted by Section 6.04 (other than Section 6.04(m)(ii)), Permitted Liens, and Restricted Payments permitted by Section 6.06 and (ii) the Transactions to the extent otherwise prohibited by this Section 6.05;

(f) the discount or sale, in each case without recourse and in the ordinary course of business, of past due receivables arising in the ordinary course of business, but only in connection with the compromise or collection thereof consistent with customary industry practice (and not as part of any bulk sale or financing of receivables);

(g) other Dispositions of assets; provided that (i) the Net Proceeds thereof, if any, are applied in accordance with Section 2.11(b) to the extent required thereby, (ii) any such Dispositions shall comply with the final sentence of this Section 6.05 and (iii) no Borrower may dispose of all or substantially all of the assets of such Borrower and its Subsidiaries taken as a whole pursuant to this clause (g) unless the surviving entity is an entity organized or existing under the laws of a Designated Jurisdiction and expressly assumes all obligations of the relevant Borrower under the Loan Documents; provided, further, that, notwithstanding anything to the contrary, any entity that succeeds Jazz Lux with respect to the Term Loans shall be an entity organized or existing under the laws of Luxembourg, the United States, any state thereof or the District of Columbia or such other jurisdiction as the Parent and the Administrative Agent may agree;

(h) Permitted Business Acquisitions (including any merger, consolidation or amalgamation in order to effect a Permitted Business Acquisition); provided that, following any such merger, consolidation or amalgamation involving a Borrower, such Borrower is the surviving entity or the requirements of Section 6.05(n) are otherwise complied with;

(i) leases, licenses or subleases or sublicenses of any real or personal property in the ordinary course of business;

(j) Dispositions of inventory or Dispositions or abandonment of Intellectual Property of Parent and its Subsidiaries determined in good faith by the management of Parent to be no longer economically practicable to maintain or useful or necessary in the operation of the business of Parent or any of the Subsidiaries;

(k) [reserved];

(l) the purchase and Disposition (including by capital contribution) of Permitted Receivables Facility Assets including pursuant to Qualified Receivables Facilities;

(m) any exchange or swap of assets (other than cash and Permitted Investments) for other assets (other than cash and Permitted Investments) of comparable or greater value or usefulness to the business of Parent and the Subsidiaries as a whole, determined in good faith by the management of Parent; provided that the Fair Market Value of any such exchanges or swaps shall not, in the aggregate, exceed \$75,000,000 in any fiscal year; and

(n) if at the time thereof and immediately after giving effect thereto no Event of Default shall have occurred and be continuing or would result therefrom, any Subsidiary or any other person may be merged, amalgamated or consolidated with or into Parent or another Borrower; provided that (A) Parent or such other Borrower shall be the surviving entity or (B) if the surviving entity is not Parent or such other Borrower (such other person, the "Successor Borrower"), (1) the Successor Borrower shall be an entity organized or existing under the laws of any Designated Jurisdiction, (2) the Successor Borrower shall expressly assume all the obligations of Parent or the other applicable Borrower under this Agreement and the other Loan Documents pursuant to a supplement hereto or thereto in form reasonably satisfactory to the Administrative Agent, (3) each Guarantor, unless it is the other party to such merger, amalgamation or consolidation, shall have by a supplement to the Guarantee Agreement, as applicable, confirmed that its guarantee thereunder shall apply to any Successor Borrower's obligations under this Agreement, (4) each

Guarantor, unless it is the other party to such merger, amalgamation or consolidation, shall have by a supplement to any applicable Security Document affirmed that its obligations thereunder shall apply to its guarantee as reaffirmed pursuant to clause (3), (5) [reserved] and (6) the Successor Borrower shall have delivered to the Administrative Agent (x) a certificate of a Responsible Officer stating that such merger, amalgamation or consolidation does not violate this Agreement or any other Loan Document and (y) if requested by the Administrative Agent, an opinion of counsel to the effect that such merger, amalgamation or consolidation does not violate this Agreement or any other Loan Document and covering such other matters as are contemplated by the Collateral and Guarantee Requirement to be covered in opinions of counsel (it being understood that if the foregoing are satisfied, the Successor Borrower will succeed to, and be substituted for, the relevant Borrower under this Agreement); provided, further, that, notwithstanding anything to the contrary, any Borrower that succeeds Jazz Lux as Borrower with respect to the Term Loans shall be an entity organized or existing under the laws of Luxembourg, the United States, any state thereof or the District of Columbia or such other jurisdiction as the Parent and the Administrative Agent may agree.

Notwithstanding anything to the contrary contained in this Section 6.05, no Disposition of assets under Section 6.05(g) shall in each case be permitted unless (i) such Disposition is for Fair Market Value, and (ii) at least 75% of the proceeds of such Disposition (except to Loan Parties) consist of cash or Permitted Investments; provided that the provisions of this clause (ii) shall not apply to any individual transaction or series of related transactions involving assets with a Fair Market Value of less than \$25,000,000; provided, further, that for purposes of this clause (ii), each of the following shall be deemed to be cash: (a) the amount of any liabilities (as shown on Parent's or such Subsidiary's most recent balance sheet or in the notes thereto) that are assumed by the transferee of any such assets or are otherwise cancelled in connection with such transaction, (b) any notes or other obligations or other securities or assets received by Parent or such Subsidiary from the transferee that are converted or capable of being converted by Parent or such Subsidiary into cash within 180 days after receipt thereof and (c) any Designated Non-Cash Consideration received by Parent or any of its Subsidiaries in such Disposition or any series of related Dispositions, having an aggregate Fair Market Value not to exceed, in the aggregate, the greater of \$300,000,000 and 3.0% of Consolidated Total Assets when received (with the Fair Market Value of each item of Designated Non-Cash Consideration being measured at the time received and without giving effect to subsequent changes in value).

Section 6.06 Restricted Payments. (i) Declare or pay any dividend or make any other distribution (by reduction of capital or otherwise), whether in cash, property, securities or a combination thereof, with respect to any of its Equity Interests (other than dividends and distributions on Equity Interests payable solely by the issuance of Qualified Equity Interests of the person declaring, paying or making such dividends or distributions), (ii) directly or indirectly redeem, purchase, retire or otherwise acquire for value (or permit any Subsidiary to purchase or acquire) any of Parent's Equity Interests or set aside any amount for any such purpose (other than through the issuance of Qualified Equity Interests) or (iii) make any Junior Debt Restricted Payment, (all of the foregoing, "Restricted Payments"); provided, however, that:

(a) Restricted Payments may be made to Parent or any Subsidiary (provided that Restricted Payments made by a non-Wholly Owned Subsidiary to Parent or any Subsidiary that is a direct or indirect parent of such Subsidiary must be made on a pro rata basis (or more favorable basis from the perspective of Parent or such Subsidiary) based on its ownership interests in such non-Wholly Owned Subsidiary);

(b) Restricted Payments may be made by Parent to purchase or redeem the Equity Interests of Parent (including related stock appreciation rights or similar securities) held by then present or former directors, consultants, officers or employees of Parent or any of the Subsidiaries or by any Plan or any shareholders' agreement then in effect upon such person's death, disability, retirement or termination of employment or under the terms of any such Plan or any other agreement under which such shares of

stock or related rights were issued; provided that the aggregate amount of such purchases or redemptions under this clause (b) shall not exceed in any fiscal year \$25,000,000 (plus (x) the amount of net proceeds contributed to Parent that were received by Parent during such calendar year from sales of Qualified Equity Interests of Parent to directors, consultants, officers or employees of Parent or any Subsidiary in connection with permitted employee compensation and incentive arrangements; provided, that such proceeds are not included in any determination of the Available Amount and (y) the amount of net proceeds of any key-man life insurance policies received during such calendar year, which, if not used in any year, may be carried forward to any subsequent calendar year); and provided, further, that cancellation of Indebtedness owing to Parent or any Subsidiary from members of management of Parent or its Subsidiaries in connection with a repurchase of Equity Interests of Parent will not be deemed to constitute a Restricted Payment for purposes of this Section 6.06;

(c) any person may make non-cash repurchases of Equity Interests deemed to occur upon exercise or settlement of stock options or other Equity Interests if such Equity Interests represent a portion of the exercise price of or withholding obligation with respect to such options or other Equity Interests;

(d) so long as, at the time any such Restricted Payment is made and immediately after giving effect thereto (x) no Default or Event of Default shall have occurred and is continuing and (y) the Total Net Leverage Ratio on a Pro Forma Basis is not greater than 5.00 to 1.00, Restricted Payments may be made in an aggregate amount equal to a portion of the Available Amount on the date of such election that Parent elects to apply to this Section 6.06(d), which such election shall be set forth in a written notice of a Responsible Officer of Parent, which notice shall set forth calculations in reasonable detail of the Available Amount immediately prior to such election and the amount thereof elected to be so applied;

(e) Restricted Payments may be made in connection with the consummation of the Acquisition to the extent contemplated by the Transaction Agreement;

(f) Restricted Payments may be made to make payments, in cash, in lieu of the issuance of fractional shares, upon the exercise of warrants or upon the conversion or exchange of Equity Interests of any such person;

(g) other Restricted Payments may be made in an aggregate amount not to exceed the greater of \$350,000,000 and 3.5% of Consolidated Total Assets when made;

(h) additional Restricted Payments, so long as, at the time any such Restricted Payment is made and immediately after giving effect thereto, (x) no Default or Event of Default shall have occurred and is continuing and (y) the Total Net Leverage Ratio on a Pro Forma Basis is not greater than 4.00 to 1.00;

(i) Junior Debt Restricted Payments, so long as, at the time any such Restricted Payment is made and immediately after giving effect thereto, (x) no Default or Event of Default shall have occurred and is continuing and (y) the First Lien Secured Net Leverage Ratio on a Pro Forma Basis is not greater than 3.00 to 1.00; and

(j) any person may exercise any call or similar rights to purchase Equity Interests of Parent pursuant to customary Hedging Agreements entered into contemporaneously and otherwise in connection with the issuance of convertible or exchangeable debt securities.

Notwithstanding anything herein to the contrary, the foregoing provisions of Section 6.06 will not prohibit the payment of any Restricted Payment or the consummation of any redemption, purchase, defeasance or other payment within 60 days after the date of declaration thereof or the giving of notice, as applicable, if at the date of declaration or the giving of such notice such payment would have complied with the provisions of this Section 6.06 (it being understood that such Restricted Payment shall be deemed to have been made on the date of declaration or notice for purposes of such provision).

Section 6.07 Transactions with Affiliates. (a) Sell or transfer any property or assets to, or purchase or acquire any property or assets from, or otherwise engage in any other transaction with, any of its Affiliates (other than Parent, and the Subsidiaries or any person that becomes a Subsidiary as a result of such transaction) in a transaction (or series of related transactions) involving aggregate payments or consideration in excess of \$50,000,000 unless such transaction is (i) otherwise permitted (or required) under this Agreement; or (ii) upon terms that are substantially no less favorable to Parent or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate and, with respect to any such transaction involving aggregate payments or consideration in excess of \$100,000,000, as determined by the Board of Directors of Parent in good faith.

(b) The foregoing clause (a) shall not prohibit, to the extent otherwise permitted under this Agreement,

(i) any issuance of securities, or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, equity purchase agreements, stock options and stock ownership plans approved by the Board of Directors of Parent,

(ii) [reserved],

(iii) transactions among Parent or any Subsidiary or any entity that becomes a Subsidiary as a result of such transaction (including via merger, consolidation or amalgamation in which Parent or a Subsidiary is the surviving entity),

(iv) the payment of fees, reasonable out-of-pocket costs and indemnities to directors, officers, consultants and employees of Parent and the Subsidiaries in the ordinary course of business,

(v) the Transactions (including the payment of all fees, expenses, bonuses and awards relating thereto) and any transactions pursuant to the Transaction Documents and permitted transactions, agreements and arrangements in existence on the Closing Date and, to the extent involving aggregate consideration in excess of \$25,000,000, set forth on Schedule 6.07 or any amendment thereto or replacement thereof or similar arrangement to the extent such amendment, replacement or arrangement is not adverse to the Lenders when taken as a whole in any material respect (as determined by Parent in good faith),

(vi) (A) any employment agreements entered into by Parent or any of the Subsidiaries in the ordinary course of business, (B) any subscription agreement or similar agreement pertaining to the repurchase of Equity Interests pursuant to put/call rights or similar rights with employees, officers or directors, and (C) any employee compensation, benefit plan or arrangement, any health, disability or similar insurance plan which covers employees, and any reasonable employment contract and transactions pursuant thereto,

(vii) Restricted Payments permitted under Section 6.06 and Investments permitted under Section 6.04,

(viii) transactions for the purchase or sale of goods, equipment, products, parts and services entered into in the ordinary course of business,

(ix) any transaction in respect of which Parent delivers to the Administrative Agent a letter addressed to the Board of Directors of Parent from an accounting, appraisal or investment banking firm, in each case of nationally recognized standing that is in the good faith determination of Parent qualified to render such letter, which letter states that (i) such transaction is on terms that are substantially no less favorable to Parent or such Subsidiary, as applicable, than would be obtained in a comparable arm's-length transaction with a person that is not an Affiliate or (ii) such transaction is fair to Parent or such Subsidiary, as applicable, from a financial point of view,

(x) transactions with joint ventures for the purchase or sale of goods, equipment, products, parts and services entered into in the ordinary course of business,

(xi) transactions pursuant to any Qualified Receivables Facility,

(xii) transactions between Parent or any of the Subsidiaries and any person, a director of which is also a director of Parent; provided, however, that (A) such director abstains from voting as a director of Parent on any matter involving such other person and (B) such person is not an Affiliate of Parent for any reason other than such director's acting in such capacity,

(xiii) transactions permitted by, and complying with, the provisions of Section 6.05 (other than Section 6.05(m)),

(xiv) intercompany transactions undertaken in good faith (as certified by a Responsible Officer of Parent) for the purpose of improving the consolidated Tax efficiency of Parent and the Subsidiaries and not for the purpose of circumventing any covenant set forth herein,

(xv) payments, loans (or cancellation of loans) or advances to employees or consultants that are (i) approved by a majority of the Disinterested Directors of Parent in good faith, (ii) made in compliance with applicable law and (iii) otherwise permitted under this Agreement, and

(xvi) transactions with customers, clients or suppliers, or purchasers or sellers of goods or services, in each case in the ordinary course of business that are fair to Parent or the Subsidiaries.

Section 6.08 Business of Parent and the Subsidiaries; Etc. Notwithstanding any other provisions hereof, engage at any time to any material respect in any business or business activity substantially different from any business or business activity conducted by any of them on the Closing Date or any Similar Business, and in the case of a Receivables Entity, Qualified Receivables Facilities and related activities.

Section 6.09 Restrictions on Subsidiary Distributions and Negative Pledge Clauses. Permit Parent or any Subsidiary to enter into any agreement or instrument that by its terms restricts (A) the payment of dividends or other distributions or the making of cash advances to Parent or any Subsidiary that is a direct or indirect parent of such Subsidiary or (B) the granting of Liens by Parent or any Guarantor pursuant to the Security Documents, in each case other than those arising under any Loan Document, except, in each case, restrictions existing by reason of:

(a) restrictions imposed by applicable law;

(b) contractual encumbrances or restrictions in effect on the Closing Date under Indebtedness existing on the Closing Date and set forth on Schedule 6.01 or the Senior Notes or contained in any Indebtedness outstanding pursuant to Section 6.01(z), or any agreements related to any Permitted Refinancing Indebtedness in respect of any such Indebtedness that does not materially expand the scope of any such encumbrance or restriction (as determined in good faith by Parent);

(c) any restriction on a Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Equity Interests or assets of a Subsidiary pending the closing of such sale or disposition;

(d) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures entered into in the ordinary course of business;

(e) any restrictions imposed by any agreement relating to secured Indebtedness permitted by this Agreement to the extent that such restrictions apply only to the specific property or assets securing such Indebtedness;

(f) any restrictions imposed by any agreement relating to Indebtedness incurred pursuant to Section 6.01 or Permitted Refinancing Indebtedness in respect thereof, to the extent such restrictions are not materially more restrictive, taken as a whole, than the restrictions contained in this Agreement (in each case, as determined in good faith by Parent);

(g) customary provisions contained in leases or licenses of Intellectual Property and other similar agreements entered into in the ordinary course of business;

(h) customary provisions restricting subletting or assignment of any lease governing a leasehold interest;

(i) customary provisions restricting assignment, mortgaging or hypothecation of any agreement entered into in the ordinary course of business;

(j) customary restrictions and conditions contained in any agreement relating to the sale, transfer, lease or other disposition of any asset permitted under Section 6.05 pending the consummation of such sale, transfer, lease or other disposition;

(k) Permitted Liens and customary restrictions and conditions contained in the document relating thereto, so long as (1) such restrictions or conditions relate only to the specific asset subject to such Lien, and (2) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this Section 6.09;

(l) customary net worth provisions contained in Real Property leases entered into by Subsidiaries, so long as Parent has determined in good faith that such net worth provisions would not reasonably be expected to impair the ability of Parent and its Subsidiaries to meet their ongoing obligations;

(m) any agreement in effect at the time such subsidiary becomes a Subsidiary, so long as such agreement was not entered into in contemplation of such person becoming a Subsidiary;

(n) restrictions in agreements representing Indebtedness permitted under Section 6.01 of a Subsidiary that is not a Guarantor that apply only to such Subsidiary and its Subsidiaries that are not Guarantors;

(o) customary restrictions contained in leases, subleases, licenses or Equity Interests or asset sale agreements otherwise permitted hereby as long as such restrictions relate to the Equity Interests and assets subject thereto;

(p) restrictions on cash or other deposits imposed by customers under contracts entered into in the ordinary course of business;

(q) restrictions contained in any Permitted Receivables Facility Documents with respect to any Receivables Entity;

(r) [reserved];

(s) any encumbrances or restrictions of the type referred to in clause (A) above imposed by any other instrument or agreement entered into after the Closing Date that contains encumbrances and restrictions that, as determined by Parent in good faith, will not materially adversely affect Parents ability to make payments on the Loans; and

(t) any encumbrances or restrictions of the type referred to in clause (i) or (ii) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of or similar arrangements to the contracts, instruments or obligations referred to in clauses (a) through (s) above; provided, that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements, refinancings or similar arrangements are, in the good faith judgment of Parent, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions as contemplated by such provisions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement, refinancing or similar arrangement.

Section 6.10 [Reserved].

Section 6.11 Fiscal Quarter and/or Fiscal Year. In the case of Parent, permit any change to its fiscal quarter and/or fiscal year; provided that Parent and its Subsidiaries may change their fiscal quarter and/or fiscal year end one or more times, subject to such adjustments to this Agreement as Parent and Administrative Agent shall reasonably agree are necessary or appropriate in connection with such change (and the parties hereto hereby authorize Parent and the Administrative Agent to make any such amendments to this Agreement as they jointly deem necessary to give effect to the foregoing).

Section 6.12 Financial Covenants.

(a) If the Testing Condition is satisfied, with respect to the Revolving Facility only, permit the First Lien Secured Net Leverage Ratio as of the last day of any fiscal quarter (beginning with the end of the first full fiscal quarter after the Closing Date) to exceed the ratio set forth opposite such period below:



Fiscal Quarter Ended	Maximum First Lien Secured Net Leverage Ratio
The first full fiscal quarter ending after the Closing Date	5.50 to 1.00
The second full fiscal quarter ending after the Closing Date	5.25 to 1.00
The third full fiscal quarter ending after the Closing Date	5.00 to 1.00
The fourth full fiscal quarter ending after the Closing Date	4.75 to 1.00
The fifth full fiscal quarter ending after the Closing Date	4.50 to 1.00
The sixth full fiscal quarter ending after the Closing Date	4.50 to 1.00
The seventh full fiscal quarter ending after the Closing Date	4.00 to 1.00
The eighth full fiscal quarter ending after the Closing Date	4.00 to 1.00
The ninth full fiscal quarter ending after the Closing Date and each fiscal quarter thereafter	3.50 to 1.00

(b) If the Testing Condition is satisfied, with respect to the Revolving Facility only, permit the Interest Coverage Ratio as of the last day of any fiscal quarter (beginning with the end of the first full fiscal quarter after the Closing Date) to be less than the ratio set forth opposite such period below:

Fiscal Quarter Ended	Minimum Interest Coverage Ratio
The first, second, third and fourth full fiscal quarters ending after the Closing Date	2.50 to 1.00
The fifth, sixth, seventh and eighth full fiscal quarters ending after the Closing Date	3.00 to 1.00
The ninth full fiscal quarter ending after the Closing Date and each fiscal quarter thereafter	3.50 to 1.00

## ARTICLE VII

### *Events of Default*

Section 7.01 Events of Default. In case of the happening of any of the following events (each, an “Event of Default”):

(a) any representation or warranty made or deemed made by Parent or any Guarantor herein or in any other Loan Document or any certificate or document delivered pursuant hereto or thereto shall prove to have been false or misleading in any material respect when so made or deemed made;

(b) default shall be made in the payment of any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or by acceleration thereof or otherwise, and in the currency required hereunder;

(c) default shall be made in the payment of any interest on any Loan or in the payment of any Fee or any other amount (other than an amount referred to in clause (b) above) due under any Loan Document, when and as the same shall become due and payable, and in the currency required hereunder and such default shall continue unremedied for a period of five (5) Business Days;

(d) default shall be made in the due observance or performance by Parent of any covenant, condition or agreement contained in Section 5.01(a) (solely with respect to Parent or any Borrower’s existence), 5.05(a) or 5.08 or in Article VI; provided that the failure to observe or perform any Financial Covenant shall not in and of itself constitute an Event of Default with respect to any Term Facility unless the Required Revolving Facility Lenders have accelerated any Revolving Facility Loans then outstanding as a result of such breach and such declaration has not been rescinded on or before the date on which the Term Lenders declare an Event of Default in connection therewith;

(e) default shall be made in the due observance or performance by Parent or any of the Guarantors of any covenant, condition or agreement contained in any Loan Document (other than those specified in clauses (b), (c) and (d) above) and such default shall continue unremedied for a period of 30 days after notice thereof from the Administrative Agent to Parent;

(f) (i) any event or condition occurs that (A) results in any Material Indebtedness becoming due prior to its scheduled maturity or (B) enables or permits (with all applicable grace periods having expired) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any such Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity, in each case without such Material Indebtedness having been discharged, or any such event of or condition having been cured promptly; provided that any breach of any Financial Covenant giving rise to an event described in clause (B) above shall not, by itself, constitute an Event of Default under any Term Facility unless the Required Revolving Facility Lenders have accelerated any Revolving Facility Loans then outstanding as a result of such breach and such declaration has not been rescinded on or before the date on which the Term Lenders declare an Event of Default in connection therewith; or (ii) Parent or any Material Subsidiary (or a group of Subsidiaries that together would constitute a Material Subsidiary) shall fail to pay the principal of any of their Material Indebtedness at the stated final maturity thereof; provided, that this clause (f) shall not apply to any secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness if (x) such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness and (y) repayments are made as required by the terms of the respective Indebtedness;

(g) there shall have occurred a Change of Control;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed in a court of competent jurisdiction seeking (i) relief in respect of Parent or any of the Material Subsidiaries, or of a substantial part of the property or assets of Parent or any Material Subsidiary, under the Bankruptcy Code, or any other federal, state or foreign bankruptcy, insolvency, receivership or any other Debtor Relief Law, (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator, examiner, liquidator or similar official for Parent or any of the Material Subsidiaries or for a substantial part of the property or assets of Parent or any of the Material Subsidiaries or (iii) the winding-up, liquidation, reorganization, dissolution, compromise, arrangement or other relief of Parent or any Material Subsidiary (except in a transaction permitted hereunder); and such proceeding or petition shall continue undismissed for sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) Parent or any Material Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking relief under the Bankruptcy Code, as now constituted or hereafter amended, or any other federal, state or foreign bankruptcy, insolvency, receivership or any other Debtor Relief Law, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or the filing of any petition described in clause (h) above, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator, examiner, liquidator or similar official for Parent or any of the Material Subsidiaries or for a substantial part of the property or assets of Parent or any Material Subsidiary, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) become unable or fail generally to pay its debts as they become due;

(j) the failure by Parent or any Material Subsidiary (or a group of Subsidiaries that together would constitute a Material Subsidiary) to pay one or more final judgments aggregating in excess of \$100,000,000, which judgments are not discharged or effectively waived or stayed for a period of sixty (60) consecutive days, or any action shall be legally taken by a judgment creditor to attach or levy upon assets or properties of Parent or any Material Subsidiary to enforce any such judgment;

(k) (i) an ERISA Event shall have occurred, (ii) the PBGC shall institute proceedings (including giving notice of intent thereof) to terminate any Plan or Plans, or (iii) Parent or any Subsidiary or any ERISA Affiliate shall have been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is in reorganization or is being terminated, within the meaning of Title IV of ERISA; and in each case in clauses (i) through (iii) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to have a Material Adverse Effect; or

(l) (i) any Loan Document shall for any reason be asserted in writing by Parent or any Guarantor not to be a legal, valid and binding obligation of any party thereto, (ii) any security interest purported to be created by any Security Document and to extend to assets that constitute a material portion of the Collateral shall cease to be, or shall be asserted in writing by Parent or any other Loan Party not to be, a valid and perfected security interest (perfected as or having the priority required by this Agreement or the relevant Security Document and subject to such limitations and restrictions as are set forth herein and therein) in the securities, assets or properties covered thereby, except to the extent that any such loss of perfection or priority results from the limitations of foreign laws, rules and regulations as they apply to pledges of Equity Interests in Foreign Subsidiaries that are organized outside of the jurisdictions of organization of the Loan Parties or the application thereof or from failure of the Collateral Trustee to maintain possession of certificates actually delivered to it representing securities pledged under the Security Documents (so long as such failure does not result from the breach or non-compliance with the Loan Documents by any Loan Party), or (iii) a material portion of the Guarantees pursuant to the Loan Documents by the Guarantors guaranteeing the Obligations, shall cease to be in full force and effect (other than in accordance with the terms thereof), or shall be asserted in writing by Parent or any Guarantor not to be in effect or not to be legal, valid and binding obligations (other than in accordance with the terms thereof),

provided that no Event of Default shall occur under this Section 7.01(l) if the Loan Parties cooperate with the Collateral Trustee to replace or perfect such security interest and Lien, such security interest and Lien is promptly replaced or perfected (as needed) and the rights, powers and privileges of the Secured Parties are not materially adversely affected by such replacement,

then, and in every such event (other than an event with respect to Parent described in clause (h) or (i) above), and at any time thereafter during the continuance of such event, the Administrative Agent, at the request of the Required Lenders (or in the case of a termination of the Revolving Facility Commitments pursuant to clause (i) below, the Required Revolving Facility Lenders or, in the case of a failure to observe or perform any Financial Covenant, unless the Required Revolving Facility Lenders have accelerated any Revolving Facility Loans then outstanding as a result of such breach and such declaration has not been rescinded on or before the date on which the Term Lenders declare an Event of Default in connection therewith, the Required Revolving Facility Lenders), shall, by notice to Parent, take any or all of the following actions, at the same or different times: (i) terminate forthwith the Commitments, (ii) declare the Loans then outstanding to be forthwith due and payable in whole or in part (in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of Parent accrued hereunder and under any other Loan Document, shall become forthwith due and payable, without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by Parent, anything contained herein or in any other Loan Document to the contrary notwithstanding and (iii) if the Loans have been declared due and payable pursuant to clause (ii) above, demand Cash Collateral pursuant to Section 2.05(k); and in any event with respect to Parent described in clause (h) or (i) above, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and any unpaid accrued Fees and all other liabilities of Parent accrued hereunder and under any other Loan Document, shall automatically become due and payable and the Administrative Agent shall be deemed to have made a demand for Cash Collateral to the full extent permitted under Section 2.05(k), without presentment, demand, protest or any other notice of any kind, all of which are hereby expressly waived by Parent, anything contained herein or in any other Loan Document to the contrary notwithstanding; provided that notwithstanding anything to the contrary in this Agreement (including whether any condition to the occurrence of the Closing Date may subsequently be determined not to have been satisfied or that any representation given as a condition thereof or otherwise was incorrect or whether Parent would fail to comply with the funding of each Revolving Facility Loan on the Closing Date except as otherwise specified in Section 4.01), the funding of each Revolving Facility Loan on the Closing Date and the use of the proceeds thereof to consummate the Merger, other than as a result of an Event of Default with respect to Parent described in clause (h) or (i) above, (x) no Revolving Facility Commitment may be terminated and no Revolving Facility Lender may refuse to participate in the making of each Revolving Facility Loan on the Closing Date, (y) no Secured Party may exercise any right of set-off or counterclaim in connection herewith, and (z) no Loan may be declared due and payable, in each case, to the extent to do so would prevent, limit or delay the funding of each Revolving Facility Loan on the Closing Date and the use of the proceeds thereof to consummate the Merger; provided, for the avoidance of doubt, that the funding of any Revolving Facility Loan on the Closing Date is subject to the satisfaction or waiver of the conditions set forth in Section 4.01.

Without limiting the foregoing, upon the occurrence of an Event of Default if and for so long as the same is continuing, the Administrative Agent may exercise on behalf of itself, the Lenders and the other Secured Parties all rights and remedies available to it, the Lenders and the other Secured Parties under the Loan Documents and applicable law and may instruct the Collateral Trustee to exercise on behalf of the Secured Parties all rights and remedies available to it, the Lenders and other Secured Parties under the Loan Documents.

All rights, protections, and indemnities afforded to the Collateral Trustee under the Collateral Trust Agreement shall apply with respect to any action or inaction hereunder or in connection herewith. In addition to the foregoing, the Collateral Trustee shall only act hereunder or in connection herewith at the written direction of the Administrative Agent in accordance with the terms hereof and subject to the Collateral Trust Agreement.

Section 7.02 Clean-Up Period.

(a) Notwithstanding anything in Section 7.01 or elsewhere in this Agreement to the contrary, during the period from the Closing Date until the date that is 60 days after the Closing Date (the "Clean-Up Period"), any breach of a covenant, inaccuracy of or inability to make a representation or warranty (other than a Specified Representation) or other Default or Event of Default by reason of any matter or circumstance relating to GW Pharma or its subsidiaries will be deemed not to be a breach of a covenant, an inaccuracy of or failure to make a representation or warranty or a Default or Event of Default for all purposes hereunder so long as the circumstances giving rise thereto:

(i) do not have a Material Adverse Effect on the consolidated results of operations or financial condition of Parent and the Subsidiaries (including GW Pharma and its subsidiaries) taken as a whole, such that Parent and the Subsidiaries (including GW Pharma and its subsidiaries) taken as a whole would be unable to perform the payment obligations under the Facilities;

(ii) were not knowingly procured or approved by Parent;

(iii) are capable of remedy and reasonable steps are being taken to remedy them; and

(iv) do not constitute a breach of the covenants relating to the accession of Guarantors beyond thirty (30) days after the Closing Date (or, in the case of GW Pharma and its subsidiaries, beyond the GW Pharma Joinder Date).

(b) For the avoidance of doubt, if any breach of a covenant, inaccuracy of or inability to make a representation or warranty or other Default or Event of Default shall be deemed to not exist due to Section 7.02(a), then it shall be deemed not to exist for purposes of Section 4.01 and Section 4.02 for so long as (but in no event later than the end of the Clean-Up Period) it shall be deemed not to exist due to the provisions of Section 7.02(a).

Section 7.03 Application of Proceeds. Any proceeds of Collateral received by the Administrative Agent (whether as a result of any realization on the Collateral, any setoff rights, any distribution in connection with any proceedings or other action of any Loan Party in respect of Debtor Relief Laws or otherwise and whether received in cash or otherwise) (i) not constituting (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied on a pro rata basis among the relevant Lenders under the Class of Loans being prepaid as specified by the Parent) or (B) a mandatory prepayment (which shall be applied in accordance with Section 2.11) or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, and after the exercise of remedies pursuant to Section 7.01, all payments in respect of the Obligation shall be applied, subject to the provisions of any applicable Intercreditor Agreement, first, to pay any fees, indemnities, expense reimbursements and other amounts then due to the Administrative Agent, in its capacity as such, second, to pay any fees, indemnities or expense reimbursements then due to the Lenders and the Issuing Banks from the Borrowers ratably among the applicable Lenders and Issuing Banks, third, to pay interest (including post-petition interest, whether or not an allowed claim in any claim or proceeding under any Debtor Relief Laws) then due and payable on the Loans and unreimbursed L/C Disbursements ratably among the Lenders and the Issuing Banks, and fourth,

to repay principal on the Loans and unreimbursed L/C Disbursements, to Cash Collateralize all outstanding Letters of Credit, any other amounts owing with respect to Secured Cash Management Agreements and Secured Hedge Agreements, and any other Obligations ratably among the applicable Secured Parties; provided that amounts which are applied to Cash Collateralize outstanding Letters of Credit that remain available after expiry of the applicable Letter of Credit shall be applied in the manner set forth herein. Notwithstanding the foregoing, Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements shall be excluded from the application described above if the Administrative Agent has not received written notice thereof, together with such supporting documentation as the Administrative Agent may reasonably request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Cash Management Bank or Hedge Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Collateral Trustee pursuant to the Collateral Trust Agreement and the appointment of the Administrative Agent as its agent pursuant to the terms of Article VIII hereof for itself and its Affiliates as if it were a "Lender" party hereto.

## ARTICLE VIII

### *The Agents*

#### Section 8.01 Appointment.

(a) Each Lender (in its capacities as a Lender and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements and Secured Hedge Agreements) and each Issuing Bank (in such capacities and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements and Secured Hedge Agreements) hereby irrevocably designates and appoints the Administrative Agent as the agent of such Lender under this Agreement and the other Loan Documents and each such Lender irrevocably authorizes the Administrative Agent, in such capacity, to take such action (and to instruct the Collateral Trustee to take such actions) on its behalf under the provisions of this Agreement and the other Loan Documents and to exercise such powers and perform such duties as are expressly delegated to the Administrative Agent or to the Collateral Trustee by the terms of this Agreement and the other Loan Documents, together with such other powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary elsewhere in this Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth herein, or any fiduciary relationship with any Lender, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Loan Document or otherwise exist against the Administrative Agent. The provisions of this Article (other than the final paragraph of Section 8.12 hereof) are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and neither the Parent nor any other Loan Party shall have any rights as a third-party beneficiary of any such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Loan Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) The Administrative Agent, each Lender (in its capacities as a Lender and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements or Secured Hedge Agreements) and each Issuing Bank (in such capacities and on behalf of itself and its Affiliates as potential counterparties to Secured Cash Management Agreements and Secured Hedge Agreements) hereby appoints and authorizes the Collateral Trustee to act as the agent, security trustee and collateral agent of the Administrative Agent, such Lender and Issuing Bank for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Loan Parties to secure any of the

Obligations, and exercising such powers and performing such duties as are expressly delegated to the Collateral Trustee under the Loan Documents, together with such powers and discretion as are reasonably incidental thereto. In furtherance of the foregoing, the Administrative Agent and the Collateral Trustee are authorized to enter into the Collateral Trust Agreement and the Security Documents on behalf of the Secured Parties and to take such actions which may be necessary to create, perfect and maintain perfected the security interest in and Liens upon the Collateral granted pursuant to the Security Documents for the benefit of the Secured Parties.

Section 8.02 Delegation of Duties. Any Agent and the Collateral Trustee may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by such Agent. Such Agent and any such sub-agent, and the Collateral Trustee, may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article VIII shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Agent. The Agent and the Collateral Trustee shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Agent or the Collateral Trustee acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 8.03 Exculpatory Provisions. None of the Agents, the Collateral Trustee, Joint Bookrunners or Arrangers, or their respective Affiliates or any of their respective officers, directors, employees, agents, attorneys-in-fact or affiliates shall be (a) liable for any action lawfully taken or omitted to be taken by it or such person under or in connection with this Agreement or any other Loan Document (except to the extent that any of the foregoing are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from its or such person's own gross negligence or willful misconduct) or (b) responsible in any manner to any of the Lenders for any recitals, statements, representations or warranties made by any Loan Party or any officer thereof contained in this Agreement or any other Loan Document or in any certificate, report, statement or other document referred to or provided for in, or received by any Agent, the Collateral Trustee, Joint Bookrunner or Arranger under or in connection with, this Agreement or any other Loan Document or for the value, validity, effectiveness, genuineness, enforceability or sufficiency of this Agreement or any other Loan Document or for any failure of any Loan Party a party thereto to perform its obligations hereunder or thereunder. No Agent, Joint Bookrunner or Arranger shall be under any obligation to any Lender to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement or any other Loan Document, or to inspect the properties, books or records of any Loan Party. No Agent, Joint Bookrunner or Arranger shall have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, (a) no Agent, Joint Bookrunner or Arranger shall be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing, (b) no Agent, Joint Bookrunner or Arranger shall have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the respective Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Loan Documents); provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Laws or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Laws, (c) no Agent, Joint Bookrunner or Arranger shall have any duty or responsibility to disclose, and no Agent, Joint Bookrunner or Arranger shall be liable for the failure to disclose, to any Lender or any Issuing Bank any

credit or other information concerning the business, prospects, operations, property, financial and other condition or creditworthiness of any of the Loan Parties or any of their Affiliates that is communicated to, obtained or in the possession of, any Agent, Joint Bookrunner, any Arranger or any of their Related Parties in any capacity, except for notices, reports and other documents expressly required to be furnished to the Lenders by the Administrative Agent herein and (d) no Agent, Joint Bookrunner or Arranger shall be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 7.01 and 9.08) or (ii) in the absence of its own gross negligence or willful misconduct, as determined by a court of competent jurisdiction by a final and nonappealable judgment. Neither the Agents nor the Collateral Trustee shall be deemed to have knowledge of any Default or Event of Default unless and until written notice describing such Default or Event of Default is given to the Administrative Agent in accordance with Section 8.05. No Agent shall be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default or Event of Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or the creation, perfection or priority of any Lien purported to be created by the Security Documents, (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Lenders. Without limiting the generality of the foregoing, the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Lender or (y) have any liability with respect to or arising out of any assignment or participation of Loans and/or Commitments, or disclosure of confidential information, to any Disqualified Lender.

Section 8.04 Reliance by Agents. Each Agent and the Collateral Trustee shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) or conversation believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper person. Each Agent and the Collateral Trustee also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to any Credit Event, that by its terms must be fulfilled to the satisfaction of a Lender or any Issuing Bank, each Agent and the Collateral Trustee may presume that such condition is satisfactory to such Lender or Issuing Bank unless such Agent or the Collateral Trustee shall have received notice to the contrary from such Lender or Issuing Bank prior to such Credit Event. Each Agent and the Collateral Trustee may consult with legal counsel (including counsel to the Parent), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. Each Agent and the Collateral Trustee may deem and treat the Lender specified in the Register with respect to any amount owing hereunder as the owner thereof for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with such Agent or the Collateral Trustee in accordance with Section 9.04. Each Agent and the Collateral Trustee shall be fully justified in failing or refusing to take any action under this Agreement or any other Loan Document unless it shall first receive such advice or concurrence of the Required Lenders (or, if so specified by this Agreement, all or other Lenders) as it deems appropriate or it shall first be indemnified to its satisfaction by the Lenders against any and all liability and expense that may be incurred by it by reason of taking or continuing to take any such action. Each Agent and the Collateral Trustee shall in all cases be



fully protected in acting, or in refraining from acting, under this Agreement and the other Loan Documents in accordance with a request of the Required Lenders (or, if so specified by this Agreement, all or other Lenders), and such request and any action taken or failure to act pursuant thereto shall be binding upon all the Lenders and all future holders of the Loans.

Section 8.05 Notice of Default. Neither Agent nor the Collateral Trustee shall be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless such Agent or Collateral Trustee has received written notice from a Lender or the Parent referring to this Agreement, describing such Default or Event of Default and stating that such notice is a "Notice of Default." In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give notice thereof to the Lenders and the Collateral Trustee. The Administrative Agent shall take such action with respect to such Default or Event of Default as shall be reasonably directed by the Required Lenders (or, if so specified by this Agreement, all or other Lenders); provided, that unless and until the Administrative Agent shall have received such directions, the Administrative Agent may (but shall not be obligated to) take such action, or refrain from taking such action, with respect to such Default or Event of Default as it shall deem advisable in the best interests of the Lenders.

Section 8.06 Non-Reliance on Agents, Joint Bookrunners, Arrangers and Other Lenders. Each Lender and Issuing Bank expressly acknowledges that none of the Agents, Joint Bookrunners nor Arrangers has made any representation or warranty to it, and that no act by any Agent, Joint Bookrunner or Arranger hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Loan Party of any Affiliate thereof, shall be deemed to constitute any representation or warranty by such Agent, Joint Bookrunner or Arranger to any Lender or each Issuing Bank as to any matter, including whether any Agent, Joint Bookrunner or Arranger has disclosed material information in their (or their Related Parties') possession. Each Lender and each Issuing Bank represents to the Agents, Joint Bookrunners and Arrangers that it has, independently and without reliance upon the Agents, the Joint Bookrunners, the Arrangers, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties and their Subsidiaries, and all applicable bank or other regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrowers hereunder. Each Lender and each Issuing Bank also acknowledges that it will, independently and without reliance upon the Agents, the Joint Bookrunners, the Arrangers, any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Loan Parties. Each Lender and each Issuing Bank represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial loans in the ordinary course and is entering into this Agreement as a Lender or Issuing Bank for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or Issuing Bank, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender and each Issuing Bank agrees not to assert a claim in contravention of the foregoing. Each Lender and each Issuing Bank represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or such Issuing Bank, and either it, or the person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

Section 8.07 Indemnification. The Lenders agree to indemnify each Agent and the Collateral Trustee, and the Revolving Facility Lenders agree to indemnify each Issuing Bank in its capacity as such (to the extent not reimbursed by the Parent and without limiting the obligation of Parent to do so), in the amount of its *pro rata* share (based on, in the case of the indemnification of each Issuing Bank, its aggregate Revolving Facility Credit Exposure and, in the case of the indemnification of each Agent and Collateral Trustee, its aggregate outstanding Term Loans and unused Commitments hereunder (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure); provided that the aggregate principal amount of L/C Disbursements owing to any Issuing Bank shall be considered to be owed to the Revolving Facility Lenders ratably in accordance with their respective Revolving Facility Credit Exposure) (determined at the time such indemnity is sought or, if the respective Obligations have been repaid in full, as determined immediately prior to such repayment in full), from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent, the Collateral Trustee or such Issuing Bank in any way relating to or arising out of the Commitments, the Loans, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent, Collateral Trustee, Issuing Bank under or in connection with any of the foregoing; provided that no Lender shall be liable for the payment of any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements that are found by a final and non-appealable decision of a court of competent jurisdiction to have resulted from such Agent's, Collateral Trustee's or Issuing Bank's gross negligence or willful misconduct. The failure of any Lender to reimburse any Agent, the Collateral Trustee or Issuing Bank, as the case may be, promptly upon demand for its ratable share of any amount required to be paid by the Lenders to such Agent, the Collateral Trustee or Issuing Bank, as the case may be, as provided herein shall not relieve any other Lender of its obligation hereunder to reimburse such Agent, the Collateral Trustee or such Issuing Bank, as the case may be, for its ratable share of such amount, but no Lender shall be responsible for the failure of any other Lender to reimburse such Agent, the Collateral Trustee or Issuing Bank, as the case may be, for such other Lender's ratable share of such amount. To the extent that the Borrowers for any reason fail to indefeasibly pay any amount required under Section 9.05 to be paid by it to any Agent (or any sub-agent thereof), the Collateral Trustee, any Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to such Agent (or any such sub-agent), such Collateral Trustee, such Issuing Bank or such Related Party, as the case may be, such Lender's Pro Rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) based on each Lender's share of the aggregate principal amount of Term Loans and Revolving Facility Commitments in effect at such time (or, if the Revolving Facility Commitments have terminated, Revolving Facility Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lenders' Pro Rata Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought); provided, further, that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against such Agent (or any such sub-agent), such Collateral Trustee, such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for such Agent (or any such sub-agent), such Collateral Trustee or such Issuing Bank in connection with such capacity. Notwithstanding the foregoing, in no event shall this Section 8.07 (x) require any Secured Party to indemnify the Collateral Trustee or the Administrative Agent against any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind in excess of such Secured Party's pro rata share of the Obligations or (y) require any Secured Party to indemnify the Collateral Trustee against any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind relating to any Senior Lien Obligations (as defined in the Collateral Trust Agreement) (other than those relating to the Obligations) or an equivalent term as defined in any Additional Intercreditor Agreement (other than those relating to the Obligations) or any Junior Lien Obligations (as defined in the Collateral Trust Agreement) or an equivalent term as defined in an Additional Intercreditor Agreement.

The agreements in this Section shall survive the payment of the Loans and all other amounts payable hereunder.

Section 8.08 Agent in Its Individual Capacity. Each Agent and its affiliates and the Collateral Trustee may make loans to, accept deposits from, and generally engage in any kind of business with any Loan Party as though such Agent or Collateral Trustee were not an agent hereunder. With respect to its Loans made or renewed by it and with respect to any Letter of Credit issued, or Letter of Credit participated in, by it, each Agent and the Collateral Trustee shall have the same rights and powers under this Agreement and the other Loan Documents as any Lender and may exercise the same as though it were not an agent hereunder, and the terms “Lender” and “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include each person servicing as an agent hereunder in its individual capacity. Such person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with Parent or any Subsidiary or other Affiliate thereof as if such person were not an agent hereunder and without any duty to account therefor to the Lenders.

Section 8.09 Successor Administrative Agent. The Administrative Agent may resign as Administrative Agent under this Agreement and the other Loan Documents upon 30 days’ notice to the Lenders and the Parent. Any such resignation by the Administrative Agent hereunder shall also constitute its resignation as an Issuing Bank, in which case the resigning Administrative Agent (x) shall not be required to issue any further Letters of Credit and (y) shall maintain all of its rights as Issuing Bank with respect to any Letters of Credit issued by it prior to the date of such resignation. Upon any notice of such resignation, then the Required Lenders shall have the right, subject to the reasonable consent of Parent (so long as no Event of Default under Section 7.01(b), (c), (h) or (i) shall have occurred and be continuing), to appoint a successor which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States, whereupon such successor agent shall succeed to the rights, powers and duties of the Administrative Agent, and the term “Administrative Agent” shall mean such successor agent effective upon such appointment and approval, and the former Administrative Agent’s rights, powers, obligations and duties as Administrative Agent shall be terminated, without any other or further act or deed on the part of such former Administrative Agent or any of the parties to this Agreement or any holders of the Loans. If no successor agent has accepted appointment as Administrative Agent by the date that is 30 days following a retiring Administrative Agent’s notice of resignation, the retiring Administrative Agent’s resignation shall nevertheless thereupon become effective, and the Lenders shall assume and perform all of the duties of the Administrative Agent hereunder until such time, if any, as the Required Lenders appoint a successor agent as provided for above. After any retiring Administrative Agent’s resignation as Administrative Agent, the provisions of this Article VIII and Section 9.05 shall inure to its benefit as to any actions taken or omitted to be taken by it, its subagents and their respective Related Parties while it was Administrative Agent under this Agreement and the other Loan Documents. Upon the acceptance of a successor’s appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Administrative Agent (other than as provided in Section 2.17 and other than any rights to indemnity payments or other amounts owed to the retiring Administrative Agent as of the resignation effective date), and the retiring Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section 8.09). Upon the appointment by Parent of a successor Issuing Bank hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (a) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank, (b) the retiring Issuing Bank shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (c) the

successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to the retiring Issuing Bank to effectively assume the obligations of the retiring Issuing Bank with respect to such Letters of Credit.

Section 8.10 Arrangers, Etc. Notwithstanding any other provision of this Agreement or any provision of any other Loan Document, each Joint Bookrunner, each Arranger and each of the persons named on the cover page hereof as syndication agent, documentation agent or co-manager is named as such for recognition purposes only, and in its capacity as such shall have no rights, duties, responsibilities or liabilities with respect to this Agreement or any other Loan Document, except in its capacity, as applicable, as an Agent, Lender or Issuing Bank hereunder and except that each such person and its Affiliates shall be entitled to the rights expressly stated to be applicable to them in Section 9.05 and 9.17 (subject to the applicable obligations and limitations as set forth therein).

Section 8.11 Security Documents and Collateral Trustee. The Lenders and the other Secured Parties authorize the Administrative Agent to instruct the Collateral Trustee and the Collateral Trustee upon instruction from the Administrative Agent to release any Collateral in accordance with Section 9.18 or if approved, authorized or ratified in accordance with Section 9.08. The Lenders and the other Secured Parties hereby irrevocably authorize the Administrative Agent to (and to instruct the Collateral Trustee to), without any further consent of any Lender or any other Secured Party, enter into (or acknowledge and consent to) or amend, renew, extend, supplement, restate, replace, waive or otherwise modify the Collateral Trust Agreement, any other intercreditor or subordination agreement (in form satisfactory to the Collateral Trustee and deemed appropriate by it) with the collateral agent or other representative of holders of Indebtedness secured (and permitted to be secured) by a Lien on assets constituting a portion of the Collateral under (1) any of Sections 6.02(c), (i), (j), (v), (z) or (gg) (and in accordance with the relevant requirements thereof) and (2) any other provision of Section 6.02 so long as such Lien is junior or equal and ratable with the liens securing the Obligations (it being acknowledged and agreed that the Administrative Agent shall be under no obligation to execute (or to instruct the Collateral Trustee to execute) any agreement pursuant to this clause (2), and may elect to do so, or not do so, in its sole and absolute discretion) (any of the foregoing that is approved by the Administrative Agent, an "Additional Intercreditor Agreement"). Furthermore, the Lenders and the other Secured Parties hereby authorize the Administrative Agent to instruct the Collateral Trustee (and the Collateral Trustee upon instruction of the Administrative Agent) to release any Lien on any property granted to or held by the Collateral Trustee under any Loan Document (i) to the holder of any Lien on such property that is permitted by clauses (c), (i), (j), (v) or (z) of Section 6.02 in each case to the extent the contract or agreement pursuant to which such Lien is granted prohibits any other Liens on such property or (ii) that is or becomes Excluded Property; and the Administrative Agent and the Collateral Trustee shall do so upon request of the Parent; provided, that prior to any such request, Parent shall have in each case delivered to the Administrative Agent a certificate of a Responsible Officer of Parent certifying (x) in the case of a request pursuant to clause (i) of this sentence, that such Lien is permitted under this Agreement and that the contract or agreement pursuant to which such Lien is granted prohibits any other Lien on such property and (y) in the case of a request pursuant to clause (ii) of this sentence, that (A) such property is or has become Excluded Property and (B) if such property has become Excluded Property as a result of a contractual restriction, such restriction does not violate Section 6.09.

Section 8.12 Right to Realize on Collateral, Enforce Guarantees and Credit Bidding. In case of the pendency of any proceeding under any Debtor Relief Laws or other judicial proceeding relative to any Loan Party, (i) the Administrative Agent (irrespective of whether the principal of any Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Parent) shall be entitled and empowered, by intervention in such proceeding or otherwise (A) to file and prove a claim for the whole amount of the

principal and interest owing and unpaid in respect of any or all of the Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent and any subagents allowed in such judicial proceeding, and (B) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same, and (ii) any custodian, receiver, examiner, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and Issuing Bank to make such payments to the Administrative Agent and, if the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under the Loan Documents. Nothing contained herein shall be deemed to authorize the Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender or Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lender or Issuing Bank or to authorize the Administrative Agent to vote in respect of the claim of any Lender or Issuing Bank in any such proceeding.

Anything contained in any of the Loan Documents to the contrary notwithstanding, the Parent, the Administrative Agent, the Collateral Trustee and each Secured Party hereby agree that (a) no Secured Party shall have any right individually to realize upon any of the Collateral or to enforce any Guarantee set forth in any Loan Document, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent and the Collateral Trustee, on behalf of the Secured Parties in accordance with the terms hereof and all powers, rights and remedies under the Security Documents may be exercised solely by the Collateral Trustee (at the direction of the Administrative Agent); provided that, notwithstanding the foregoing, the Lenders may exercise the set-off rights contained in Section 9.06 in the manner set forth therein, and (b) in the event of a foreclosure by the Collateral Trustee on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Trustee or any Lender may be the purchaser or licensor of any or all of such Collateral at any such sale or other disposition and the Collateral Trustee, as agent for and representative of the Secured Parties (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Trustee at such sale or other Disposition.

The Secured Parties hereby irrevocably authorize the Administrative Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (a) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar laws in any other jurisdictions to which a Loan Party is subject or (b) at any other sale or foreclosure or acceptance of Collateral in lieu of debt conducted by (or with the consent or at the direction of) the Administrative Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the Equity Interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (i) the Administrative Agent shall be authorized (x) to form one or more acquisition vehicles to make a bid, (y) to adopt documents providing for the governance

of the acquisition vehicle or vehicles (provided that any actions by the Administrative Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or Equity Interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in clauses (i) through (ix) of Section 9.08(b) of this Agreement, and (z) the Administrative Agent shall be authorized to assign the relevant Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any Equity Interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (ii) to the extent that Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the acquisition vehicle or otherwise), such Obligations shall automatically be reassigned to the Lenders pro rata and the Equity Interests and/or debt instruments issued by any acquisition vehicle on account of the Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

Section 8.13 Withholding Tax. To the extent required by applicable law, the Administrative Agent may deduct or withhold from any payment to any Lender Party an amount equivalent to any applicable withholding Tax. If any taxing authority asserts a claim that the Administrative Agent did not properly withhold Tax from amounts paid to or for the account of any Lender Party for any reason (including, without limitation, because the appropriate documentation was not delivered or was not properly executed, or because such Lender Party failed to notify the Administrative Agent of a change in circumstances that rendered the applicable exemption from, or reduction of, withholding Tax ineffective), such Lender Party shall indemnify the Administrative Agent (to the extent that the Administrative Agent has not already been reimbursed by any applicable Loan Party and without limiting the obligation of any applicable Loan Party to do so) fully for all amounts paid, directly or indirectly, by the Administrative Agent as Tax or otherwise, including penalties, fines, additions to Tax and interest, together with all expenses incurred, including legal expenses, allocated staff costs and any out of pocket expenses. A certificate as to the amount of such payment or liability delivered to any Lender Party by the Administrative Agent shall be conclusive absent manifest error. Each Lender Party hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender Party under this Agreement, any other Loan Document or otherwise against any amount due to the Administrative Agent under this Section 8.13.

Section 8.14 Secured Cash Management Agreements and Secured Hedge Agreements. No Cash Management Bank or Hedge Bank that obtains the benefits of Section 7.03, any Guarantee or any Collateral by virtue of the provisions hereof or of the Guarantee Agreement or any Security Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article VIII to the contrary, the Administrative Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Secured Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements unless the Administrative Agent has received written notice of such Secured Obligations, together with such supporting documentation as the Administrative Agent may reasonably request, from the applicable Cash Management Bank or Hedge Bank, as the case may be.

Section 8.15 Certain ERISA Matters.

(a) Each Lender (x) represents and warrants, as of the date such person became a Lender party hereto, to, and (y) covenants, from the date such person became a Lender party hereto to the date such person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of Parent or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a “Qualified Professional Asset Manager” (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (2) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such person became a Lender party hereto, to, and (y) covenants, from the date such person became a Lender party hereto to the date such person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of Parent or any other Loan Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender’s entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Loan Document or any documents related hereto or thereto).

Section 8.16 Recovery of any Erroneous Payments. Without limitation of any other provision in this Agreement, if at any time the Administrative Agent makes a payment hereunder in error to any Lender or any Issuing Bank (the “**Credit Party**”), whether or not in respect of an Obligation due and owing by any Borrower at such time, where such payment is a Rescindable Amount, then in any such event, each Credit Party receiving a Rescindable Amount severally agrees to repay to the Administrative Agent forthwith on demand the Rescindable Amount received by such Credit Party in immediately available funds in the currency so received, with interest thereon, for each day from and including the date such Rescindable Amount is received by it to but excluding the date of payment to the Administrative Agent, at the greater of the applicable Overnight Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation. Each Credit Party irrevocably waives any and all defenses, including any “discharge for value” (under which a creditor might otherwise claim a right to retain funds mistakenly paid by a third party in respect of a debt owed by another) or similar defense to its obligation to return any Rescindable Amount. The Administrative Agent shall inform each Credit Party promptly upon determining that any payment made to such Credit Party comprised, in whole or in part, a Rescindable Amount.

## ARTICLE IX

### *Miscellaneous*

#### Section 9.01 Notices; Communications.

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in Section 9.01(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 telecopier or other electronic means as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to any Loan Party or the Administrative Agent or the Collateral Trustee, any Issuing Banks as of the Closing Date to the address, telecopier number, electronic mail address or telephone number specified for such person on Schedule 9.01; and

(ii) if to any other Lender or Issuing Bank, to the address, telecopier number, electronic mail address or telephone number specified in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders and the Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent; provided, that the foregoing shall not apply to notices to any Lender or Issuing Bank pursuant to Article II if such Lender or Issuing Bank, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Parent may, in their discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by them, provided, that approval of such procedures may be limited to particular notices or communications.

(c) 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 telecopier 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 9.01(b) above shall be effective as provided in such Section 9.01(b).



(d) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto.

(e) Documents required to be delivered pursuant to Section 5.04 (to the extent any such documents are included in materials otherwise filed with the SEC) may be delivered electronically (including as set forth in Section 9.17) and if so delivered, shall be deemed to have been delivered on the date (i) on which Parent posts such documents, or provides a link thereto on Parent's website on the Internet at the website address listed on Schedule 9.01, or (ii) on which such documents are posted on Parent's behalf on an Internet or intranet website, if any, to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided, that (A) the Parent shall deliver paper copies of such documents to the Administrative Agent or any Lender that requests the Parent to deliver such paper copies until a written request to cease delivering paper copies is given by the Administrative Agent or such Lender, (B) the Parent shall notify the Administrative Agent (by telecopier or electronic mail) of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents, and (C) if any financial statement, certificate or other information required to be delivered pursuant to Section 5.04 shall be required to be delivered on any date that is not a Business Day, such financial statement, certificate or other information may be delivered to the Administrative Agent on the next succeeding Business Day after such date. Except for such certificates required by Section 5.04(c), the Administrative Agent shall have no obligation to request the delivery or to maintain copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Parent with any such request for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Section 9.02 Survival of Agreement. All covenants, agreements, representations and warranties made by the Loan Parties herein, in the other Loan Documents and in the certificates or other instruments prepared or delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the making by the Lenders of the Loans and the execution and delivery of the Loan Documents and the issuance of the Letters of Credit, regardless of any investigation made by such persons or on their behalf, and shall continue in full force and effect until the Termination Date. Without prejudice to the survival of any other agreements contained herein, the provisions of Sections 2.15, 2.16, 2.17 and 9.05 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the occurrence of the Termination Date, the termination of this Agreement or any other Loan Document or any provision hereof or thereof, the resignation of the Administrative Agent or the replacement of any Lender.

Section 9.03 Binding Effect. This Agreement shall become effective when it shall have been executed by the Parent and the Administrative Agent and when the Administrative Agent shall have received copies hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of Parent, the Administrative Agent, each Issuing Bank and each Lender and their respective permitted successors and assigns.

Section 9.04 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that (i) other than as permitted by Section 6.05, no Borrower may assign or otherwise transfer any of its respective rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by such Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or

obligations hereunder except in accordance with this Section 9.04. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in clause (c) of this Section 9.04), and, to the extent expressly contemplated hereby, the Related Parties of each of the Agents, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement or the other Loan Documents.

(b) (i) Subject to the conditions set forth in subclause (ii) below, any Lender may assign to one or more assignees (each, an “Assignee”) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans at the time owing to it) with the prior written consent of:

(1) the Parent (such consent not to be unreasonably withheld, delayed or conditioned), which consent will be deemed to have been given if the Parent has not responded within five (5) Business Days after the delivery of a written request for such consent; provided that no consent of Parent shall be required (x) for an assignment of a Term Loan to a Lender, an Affiliate of a Lender or an Approved Fund (as defined below), or for an assignment of a Revolving Facility Commitment or Revolving Facility Loan to a Revolving Facility Lender, an Affiliate of a Revolving Facility Lender or Approved Fund with respect to a Revolving Facility Lender or (y) if an Event of Default under Section 7.01(b), (c), (h) or (i) has occurred and is continuing, for an assignment to any person;

(2) the Administrative Agent (such consent not to be unreasonably withheld or delayed); provided that no consent of the Administrative Agent shall be required for an assignment of all or any portion of (1) a Term Loan to (x) a Lender, an Affiliate of a Lender, or an Approved Fund, or (y) the Parent or an Affiliate of Parent made in accordance with Section 2.25 or (2) a Revolving Facility Commitment or a Revolving Facility Loan to a Revolving Facility Lender an Affiliate of a Revolving Facility Lender or an Approved Fund with respect to a Revolving Facility Lender; and

(3) each Issuing Bank (such consent not to be unreasonably withheld or delayed); provided that no consent of each Issuing Bank shall be required for an assignment of all or any portion of a Term Loan.

(ii) Assignments (other than pursuant to Section 2.25) shall be subject to the following additional conditions:

(1) except in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender’s Commitments or Loans under any Facility, the amount of the applicable Commitments or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Acceptance with respect to such assignment is delivered to the Administrative Agent) shall not be less than (x) the Dollar Equivalent of \$1,000,000 or an integral multiple of the Dollar Equivalent of \$1,000,000 in excess thereof in the case of Term Loans and (y) the Dollar Equivalent of \$5,000,000 or an integral multiple of the Dollar Equivalent of \$1,000,000 in excess thereof in the case of Revolving Facility Loans or Revolving Facility Commitments, unless each of Parent and the Administrative Agent otherwise consent; provided, that no such consent of Parent shall be required if an Event of Default under Section 7.01(b), (c), (h) or (i) has occurred and is continuing; provided, further, that such amounts shall be aggregated in respect of each Lender and its Affiliates or Approved Funds (with simultaneous assignments to or by two or more Related Funds being treated as one assignment), if any;

(2) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement; provided, that this clause shall not be construed to prohibit the assignment of a proportionate part of all the assigning Lender's rights and obligations in respect of one Class of Commitments or Loans;

(3) the parties to each assignment shall (1) execute and deliver to the Administrative Agent an Assignment and Acceptance and any form required to be delivered pursuant to Section 2.17 via an electronic settlement system acceptable to the Administrative Agent or (2) if previously agreed with the Administrative Agent, manually execute and deliver to the Administrative Agent an Assignment and Acceptance, in each case together with a processing and recordation fee of \$3,500 (which fee may be waived or reduced in the sole discretion of the Administrative Agent);

(4) the Assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Parent and its Affiliates and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws; and

(5) the Assignee shall not be (i) the Parent or any of Parent's Affiliates or Subsidiaries except with respect to assignments to Parent in accordance with Section 2.25, (ii) any Disqualified Lender subject to Section 9.04(i), (iii) a natural person (or a holding company, investment vehicle or trust for, owned and operated by or for the primary benefit of one or more natural persons) or (iv) a Defaulting Lender.

For the purposes of this Section 9.04, "Approved Fund" means any person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

Notwithstanding the foregoing or anything to the contrary herein, no Lender shall be permitted to assign or transfer any portion of its rights and obligations under this Agreement (A) with respect to the Initial Term Loan Commitments and Initial Term Loans, prior to the funding of the Initial Term Loans on the Closing Date and (B) with respect to the Revolving Facility Commitments, prior to the funding of all Revolving Facility Loans requested by the Parent on the Closing Date, in each case, to any person, unless consented to by the Parent. Any assigning Lender shall, in connection with any potential assignment, provide to the Parent a copy of its request (including the name of the prospective assignee) concurrently with its delivery of the same request to the Administrative Agent irrespective of whether or not a Default or an Event of Default has occurred and is continuing.

(iii) Subject to acceptance and recording thereof pursuant to subclause (v) below, from and after the effective date specified in each Assignment and Acceptance, the Assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Acceptance, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Acceptance, be released from its obligations under this Agreement (and, in the case of an Assignment and Acceptance covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.15, 2.16, 2.17 and 9.05 (subject to the limitations and requirements of those Sections)). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with clause (c) of this Section 9.04 (except to the extent such participation is not permitted by such clause (c) of this Section 9.04, in which case such assignment or transfer shall be null and void).

(iv) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of Parent, shall maintain at one of its offices in the United States a copy of each Assignment and Acceptance delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal and interest amounts of the Loans and Revolving L/C Exposure 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 Parent, the Administrative Agent, each Issuing Bank and the Lenders shall treat each person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by each Borrower, any Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Acceptance executed by an assigning Lender and an Assignee, the Assignee’s completed Administrative Questionnaire (unless the Assignee shall already be a Lender hereunder), the processing and recordation fee referred to in clause (b)(ii) (C) of this Section 9.04, if applicable, and any written consent to such assignment required by clause (b) of this Section 9.04, the Administrative Agent shall accept such Assignment and Acceptance and promptly record the information contained therein in the Register; provided, that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.04(c), 2.05(d) or (e), 2.06(b), 2.18(d) or 8.07, the Administrative Agent shall have no obligation to accept such Assignment and Acceptance and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment, whether or not evidenced by a promissory note, shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this subclause (v).

(c) (i) Any Lender may, without the consent of Parent or the Administrative Agent or the Issuing Bank, sell participations in Loans and Commitments to one or more banks or other entities other than any person that, at the time of such participation, is (I) a natural person (or a holding company, investment vehicle or trust for, owned and operated by or for the primary benefit of one or more natural persons), (II) the Parent or any of its Subsidiaries or any of their respective Affiliates, (III) a Disqualified Lender subject to Section 9.04(i) or (IV) a Defaulting Lender (a “Participant”) in all or a portion of such Lender’s rights and obligations under this Agreement (including all or a portion of its Commitments and the Loans owing to it); provided that (A) such Lender’s obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Parent, the Administrative Agent, each Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. Any agreement pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and the other Loan Documents and to approve any amendment, modification or waiver of any provision of this Agreement and the other Loan Documents; provided, that (x) such agreement may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver that both (1) requires the consent of each Lender directly affected thereby pursuant to the first proviso to Section 9.08(b) and (2) directly affects such Participant (but, for the avoidance of doubt, not any waiver of any Default or Event of Default) and (y) no other agreement with respect to amendment, modification or waiver may exist between such Lender and such Participant. Subject to clause (c)(iii) of this Section 9.04, the Parent agrees that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the limitations and requirements of those Sections and Section 2.19 (it being understood that the documentation required under Section 2.17 shall be delivered to the Lender who sells the participation on or before the date on which such sale occurs) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to clause (b) of this Section 9.04. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.06 as though it were a Lender; provided, that such Participant shall be subject to Section 2.18(c) as though it were a Lender.

(ii) Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of Parent, maintain a register on which it enters the name and address of each Participant to which it sells a participation and the principal amounts and interest amounts of each such Participant's interest in the Loans or other obligations under the Loan Documents (the "Participant Register"). The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. Without limitation of the requirements of this Section 9.04(c), no Lender shall have any obligation to disclose all or any portion of a Participant Register to any person (including the identity of any Participant or any information relating to a Participant's interest in any Commitments, Loans or other Loan Obligations under any Loan Document), except to the extent that such disclosure is necessary to establish that such Commitment, Loan or other Loan Obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(iii) A Participant shall not be entitled to receive any greater payment under Section 2.15, 2.16 or 2.17 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Parent's prior written consent (not to be unreasonably withheld or delayed; provided, that each potential Participant shall provide such information as is reasonably requested by the Parent in order for the Parent to determine whether to provide its consent) or the right to receive a greater payment results from a Change in Law after such participant becomes a Participant.

(d) Any 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 such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank and in the case of any Lender that is an Approved Fund, any pledge or assignment to any holders of obligations owed, or securities issued, by such Lender, including to any trustee for, or any other representative of, such holders, and this Section 9.04 shall not apply to any such pledge or assignment of a security interest; provided, that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or Assignee for such Lender as a party hereto.

(e) The Parent, upon receipt of written notice from the relevant Lender, agrees to issue Notes to any Lender requiring Notes to facilitate transactions of the type described in clause (d) above.

(f) [Reserved].

(g) Each purchase of Term Loans pursuant to Section 2.25 shall, for purposes of this Agreement, be deemed to be an automatic and immediate cancellation and extinguishment of such Term Loans and the Parent shall, upon consummation of any such purchase, notify the Administrative Agent that the Register should be updated to record such event as if it were a prepayment of such Loans.

(h) In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions,

including funding, with the consent of Parent and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Bank or any other Lender hereunder (and interest accrued thereon) and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit in accordance with its Revolving Facility Percentage; provided, that notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

(i) Disqualified Lenders.

(i) No assignment or, to the extent the DQ List has been posted on the Platform for all Lenders, participation shall be made to any Person that was a Disqualified Lender as of the date (the "Trade Date") on which the applicable Lender entered into a binding agreement to sell and assign or participate all or a portion of its rights and obligations under this Agreement to such Person (unless Parent has consented to such assignment as otherwise contemplated by this Section 9.04, in which case such Person will not be considered a Disqualified Lender for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee or participant that becomes a Disqualified Lender after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Lender"), (x) such assignee shall not retroactively be disqualified from becoming a Lender or participant and (y) the execution by the applicable Borrower of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Lender. Any assignment in violation of this clause (i)(i) shall not be void, but the other provisions of this clause (i) shall apply.

(ii) If any assignment or participation is made to any Disqualified Lender without the Parent's prior written consent in violation of clause (i) above, or if any Person becomes a Disqualified Lender after the applicable Trade Date, the applicable Borrower may, at its sole expense and effort, upon notice to the applicable Disqualified Lender and the Administrative Agent, (A) terminate any Revolving Commitment of such Disqualified Lender and repay all obligations of the Borrowers owing to such Disqualified Lender in connection with such Revolving Commitment; provided that proceeds of Revolving Loans may not be used for such purpose, (B) in the case of outstanding Term Loans held by Disqualified Lenders, purchase or prepay such Term Loan by paying the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such Term Loans, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder; provided that proceeds of Revolving Loans may not be used for such purpose and/or (C) require such Disqualified Lender to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 9.04) all of its interest, rights and obligations under this Agreement to one or more eligible assignees at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Lender paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder; provided that, in the case of clause (C) such assignment does not conflict with applicable laws.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Lenders (A) will not (x) have the right to receive information, reports or other materials provided to Lenders by the applicable Borrower, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent,

or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Lender will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Lenders consented to such matter, and (y) for purposes of voting on any plan of reorganization or plan of liquidation pursuant to any Bankruptcy Laws (a "Bankruptcy Plan"), each Disqualified Lender party hereto hereby agrees (1) not to vote on such Bankruptcy Plan, (2) if such Disqualified Lender does vote on such Bankruptcy Plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the Bankruptcy Code (or any similar provision in any other Bankruptcy Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Bankruptcy Plan in accordance with Section 1126(c) of the Bankruptcy Code (or any similar provision in any other Bankruptcy Laws) and (3) not to contest any request by any party for a determination by the court hearing such proceeding (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(iv) The Administrative Agent shall have the right, and Parent hereby expressly authorizes the Administrative Agent, to (A) post the list of Disqualified Lenders provided by Parent and any updates thereto from time to time (collectively, the "DQ List") on the Platform, including that portion of the Platform that is designated for "public side" Lenders and/or (B) provide the DQ List to each Lender requesting the same.

(j) Luxembourg Law Provisions. Each Lux Borrower hereby expressly accepts and confirms for the purposes of articles 1278 and 1281 of the Luxembourg civil code that, notwithstanding any assignment, transfer and/or novation made pursuant to this Agreement or any other document to which it is a party, any security granted pursuant to any Security Documents shall be preserved for the benefit of the Collateral Trustee, any new lender and the remaining Secured Parties.

#### Section 9.05 Expenses; Limitation of Liability; Indemnity.

(a) Each Borrower, jointly and severally, agrees to pay (i) all reasonable and documented out-of-pocket expenses (including, subject to Section 9.05(f), Other Taxes) incurred by the Administrative Agent or the Collateral Trustee, the Arrangers, and their respective Affiliates in connection with the syndication and distribution (including, without limitation, via the internet or through a service such as Intralinks) of the credit facilities provided for herein, the preparation and administration (other than routine administrative procedures and excluding costs and expenses relating to assignments and participations of lenders) of this Agreement and the other Loan Documents, or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), including the reasonable fees, charges and disbursements of one primary counsel for the Administrative Agent, the Collateral Trustee, and the Arrangers, and, if deemed reasonably necessary by such parties, the reasonable fees, charges and disbursements of one firm of local counsel per jurisdiction, (ii) all reasonable and documented out-of-pocket expenses incurred by each Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses (including Other Taxes) incurred by the Agents, the Collateral Trustee, any Issuing Bank or any Lender in connection with the enforcement of their rights in connection with this Agreement and any other Loan Document, in connection with the Loans made or the Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit and including the fees, charges and disbursements of a single counsel for all such persons, taken as a whole, and, if deemed reasonably

necessary by such persons, a single local counsel in each appropriate jurisdiction and/or (if appropriate) a single regulatory counsel for all such persons, taken as a whole (and, in the case of an actual or perceived conflict of interest where such person affected by such conflict informs the Parent of such conflict and thereafter retains its own counsel, of another firm of such for such affected person).

(b) Each Borrower, jointly and severally, agrees to indemnify the Administrative Agent, the Collateral Trustee, the Arrangers, each Issuing Bank, each Lender, each of their respective Affiliates, successors and assignors, and each of their respective Related Parties, (each such person being called an “Indemnitee”) against, and to hold each Indemnitee harmless from, any and all Liabilities and reasonable and documented out-of-pocket expenses reasonably related thereto, including reasonable counsel fees, charges and disbursements (excluding the allocated costs of in house counsel and limited to not more than one counsel for all such Indemnitees, taken as a whole, and, if deemed reasonably necessary by such parties, a single local counsel in each appropriate jurisdiction and/or a single regulatory counsel for all such Indemnitees, taken as a whole (and, in the case of an actual or perceived conflict of interest where the Indemnitee affected by such conflict informs the Parent of such conflict and thereafter retains its own counsel, of another firm of counsel for such affected Indemnitee)), incurred by or asserted against any Indemnitee arising out of, in connection with or as a result of (i) the execution or delivery of this Agreement or any other Loan Document or any agreement or instrument contemplated hereby or thereby, (ii) the performance by the parties hereto and thereto of their respective obligations thereunder or the consummation of the Transactions and the other transactions contemplated hereby, (iii) the use of the proceeds of the Loans or the use of any Letter of Credit (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit) or (iv) any Proceeding relating to any of the foregoing (whether or not any Indemnitee is a party thereto and regardless of whether such matter is initiated by a third party or by the Parent or any of its subsidiaries or Affiliates; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such Liabilities and/or related costs or expenses (x) are determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of such Indemnitee or any of its Related Parties or a material breach of this Agreement or any of the Loan Documents by such Indemnitee or any of its Related Parties or (y) arose from any Proceeding that does not involve an act or omission of Parent or any of its Affiliates and is brought by an Indemnitee against another Indemnitee (other than any Proceeding against any Agent, the Collateral Trustee, or an Arranger in its capacity as such).

(c) Each Borrower, jointly and severally, agrees that (i) in no event shall any Arranger, the Administrative Agent, the Collateral Trustee, any Issuing Bank or any Lender, their respective Affiliates and their respective officers, directors, employees, advisors, and agents (each, and including, without limitation, each Arranger, the Administrative Agent, the Collateral Trustee, each Issuing Bank and each Lender, a “Lender-Related Person”) or any Borrower (or any of their subsidiaries or Affiliates) have any Liabilities, on any theory of liability, for any special, indirect, consequential or punitive damages arising out of, in connection with, or as a result of, this Agreement, any other Loan Document, or any other agreement or instrument contemplated hereby or thereby and (ii) no Lender-Related Person shall have any Liabilities arising from, or be responsible for, the use by others of information or other materials (including, without limitation, any personal data) obtained through electronic, telecommunications or other information transmission systems, including an electronic platform or otherwise via the internet (except to the extent such damages are determined by a final, non-appealable judgment of a court of competent jurisdiction to have resulted from the willful misconduct or gross negligence, of any Lender-Related Person or any of its Related Persons or a material breach by such Lender-Related Person or any of its Related Persons of the terms of this Agreement or any other agreement or instrument contemplated hereby); provided that, nothing in this clause (c) shall relieve the Borrowers of any obligation they may have to indemnify an Indemnitee, as provided in the immediately preceding clause (b), against any special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party. Each Borrower agrees, to the extent permitted by applicable law, to not assert any claims against any Lender-Related Person with respect to any of the foregoing.



(d) Each Lender severally agrees to pay any amount required to be paid by an Loan Party under paragraphs (a), (b) or (c) of this Section 9.05 to the Administrative Agent, the Collateral Trustee and each Issuing Bank, and each Related Party of any of the foregoing persons (each, an “Agent-Related Person”) (to the extent not reimbursed by any Loan Party and without limiting the obligation of such Loan Party to do so), ratably according to their respective Applicable Percentage in effect on the date on which such payment is sought under this Section (or, if such payment is sought after the date upon which the Commitments shall have terminated and the Loans shall have been paid in full, ratably in accordance with such Applicable Percentage immediately prior to such date), from and against any and all Liabilities and related expenses, including the fees, charges and disbursements of any kind whatsoever that may at any time (whether before or after the payment of the Loans) be imposed on, incurred by or asserted against such Agent-Related Person in any way relating to or arising out of the Commitments, this Agreement, any of the other Loan Documents or any documents contemplated by or referred to herein or therein or the transactions contemplated hereby or thereby or any action taken or omitted by such Agent-Related Person under or in connection with any of the foregoing; provided that the unreimbursed expense or Liability or related expense, as the case may be, was incurred by or asserted against such Agent-Related Person in its capacity as such; provided further that no Lender shall be liable for the payment of any portion of such Liabilities, costs, expenses or disbursements that are found by a final and nonappealable decision of a court of competent jurisdiction to have resulted primarily from such Agent-Related Party’s gross negligence or willful misconduct.

(e) The provisions of this Section 9.05 shall remain operative and in full force and effect regardless of the expiration of the term of this Agreement, the consummation of the transactions contemplated hereby, the repayment of any of the Obligations, the occurrence of the Termination Date, the invalidity or unenforceability of any term or provision of this Agreement or any other Loan Document, or any investigation made by or on behalf of the Administrative Agent, any Issuing Bank or any Lender. All amounts due under this Section 9.05 shall be payable within 15 days after written demand therefor accompanied by reasonable documentation with respect to any reimbursement, indemnification or other amount requested.

(f) Except as expressly provided in Section 9.05(a) with respect to Other Taxes, which shall not be duplicative with any amounts paid pursuant to Section 2.17, this Section 9.05 shall not apply to any Taxes (other than Taxes that represent Liabilities, etc. resulting from a non-Tax claim).

(g) No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems (including the internet) in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(h) The agreements in this Section 9.05 shall survive the resignation or removal of the Administrative Agent, the Collateral Trustee or any Issuing Bank, the replacement of any Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all the other Obligations, the occurrence of the Termination Date and the termination of this Agreement, any other Loan Document or any provision hereof or thereof.

Section 9.06 Right of Set-off. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final and in whatever currency denominated) at any time held

and other obligations at any time owing by such Lender or such Issuing Bank to or for the credit or the account of Parent or any Subsidiary against any of and all the obligations of Parent now or hereafter existing under this Agreement or any other Loan Document held by such Lender or such Issuing Bank, irrespective of whether or not such Lender or such Issuing Bank shall have made any demand under this Agreement or such other Loan Document and although the obligations may be unmatured; provided, that any recovery by any Lender or any Affiliate pursuant to its setoff rights under this Section 9.06 is subject to the provisions of Section 2.18(c); provided, further, that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.24 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender and each Issuing Bank under this Section 9.06 are in addition to other rights and remedies (including other rights of set-off) that such Lender or such Issuing Bank may have.

Section 9.07 Applicable Law. **THIS AGREEMENT AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSES OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS OF THE STATE OF NEW YORK;** provided that (a) the accuracy of any Transaction Agreement Representations and whether as a result of a breach thereof Parent (or any of the Subsidiaries) has the right under the Transaction Agreement not to consummate the Acquisition as a result of such representations in the Transaction Agreement being inaccurate and (b) whether the Acquisition has been consummated in accordance with the Transaction Agreement, shall be governed by, and construed in accordance with the laws of the State of Delaware, without giving effect to any choice or conflict of laws provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware.

Section 9.08 Waivers; Amendment.

(a) No failure or delay of the Administrative Agent, the Collateral Trustee, any Issuing Bank or any Lender in exercising any right or power hereunder or under any Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Collateral Trustee, each Issuing Bank and the Lenders hereunder and under the other Loan Documents are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or any other Loan Document or consent to any departure by the Parent or any other Loan Party therefrom shall in any event be effective unless the same shall be permitted by clause (b) below, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice or demand on the Parent or any other Loan Party in any case shall entitle such person to any other or further notice or demand in similar or other circumstances. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default or Event of Default, regardless of whether the Administrative Agent, the Collateral Trustee, any Lender or the Issuing Bank may have had notice or knowledge of such Default or Event of Default at the time.

(b) Neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (x) as provided in Section 2.14, 2.21, 2.22 or 2.23, (y) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Parent and the Required Lenders (except that any waiver, amendment or modification of the Financial Covenants or of any defined term (or component defined term) used therein (but only to the extent as used therein) (or any Default or Event of Default or exercise of remedies by the Required Revolving Facility Lenders in respect or as a result thereof) shall require the Required Revolving Facility Lenders voting as a single Class, rather than the Required Lenders) and (z) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by each Loan Party party thereto and the Administrative Agent and consented to by the Required Lenders; provided, however, that no such agreement shall:

(i) decrease or forgive the principal amount of, or extend the final maturity of, or decrease the rate of interest on, any Loan or any reimbursement obligation with respect to any L/C Disbursement, or extend the stated expiration of any Letter of Credit beyond the applicable Revolving Facility Maturity Date, without the prior written consent of each Lender directly adversely affected thereby (which, notwithstanding the foregoing, such consent of such Lender directly adversely affected thereby shall be the only consent required hereunder to make such modification); provided that (x) any amendment to the financial definitions in this Agreement shall not constitute a reduction in the rate of interest for purposes of this clause (i) even if the effect of such amendment would be to reduce the rate of interest on any Loan or any reimbursement obligation with respect to any L/C Disbursement or to reduce any fee payable hereunder and (y) only the consent of the Required Lenders shall be necessary to reduce or waive any obligation of Parent to pay interest or Fees at the applicable default rate set forth in Section 2.13(c);

(ii) increase or extend the Commitment of any Lender, or decrease the Commitment Fees, L/C Participation Fees or any other Fees of any Lender without the prior written consent of such Lender (which, notwithstanding the foregoing, with respect to any such extension or decrease, such consent of such Lender shall be the only consent required hereunder to make such modification); provided that waivers or modifications of conditions precedent, covenants, Defaults or Events of Default, mandatory prepayments or of a mandatory reduction in the aggregate Commitments shall not constitute an increase or extension of the Commitments of any Lender for purposes of this clause (ii);

(iii) extend or waive any Term Loan Installment Date or reduce the amount due on any Term Loan Installment Date, extend or waive any Revolving Facility Maturity Date or reduce the amount due on any Revolving Facility Maturity Date or extend any date on which payment of interest (other than interest payable at the applicable default rate of interest set forth in Section 2.13(c)) on any Loan or any L/C Disbursement or any Fees is due, without the prior written consent of each Lender directly adversely affected thereby (which, notwithstanding the foregoing, such consent of such Lender directly adversely affected thereby shall be the only consent required hereunder to make such modification);

(iv) amend the provisions of Section 2.18(c) in a manner that would by its terms alter the pro rata sharing of payments required thereby or Section 7.03 without the prior written consent of each Lender adversely affected thereby;

(v) amend or modify the provisions of this Section 9.08 or the definition of the terms “Required Lenders,” “Required Revolving Facility Lenders,” “Majority Lenders” or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the prior written consent of each Lender adversely affected thereby (it being understood that, with the consent of the Required Lenders, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Lenders on substantially the same basis as the Loans and Commitments are included on the Closing Date);

(vi) except as provided in Section 9.18, release all or substantially all of the Collateral or all or substantially all of the Guarantors from their respective Guarantees without the prior written consent of each Lender;

(vii) effect any waiver, amendment or modification that by its terms adversely affects the rights in respect of payments or collateral of Lenders participating in any Facility differently from those of Lenders participating in another Facility, without the consent of the Majority Lenders participating in the adversely affected Facility (it being agreed that the Required Lenders may waive, in whole or in part, any prepayment or Commitment reduction required by Section 2.11 so long as the application of any prepayment or Commitment reduction still required to be made is not changed);

(viii) effect any waiver of the provisions of Section 4.02 with respect to the funding of Revolving Facility Loans pursuant to Section 2.01(d) without the prior consent of the Required Revolving Facility Lenders; or

(ix) subordinate the Obligations hereunder, or the Liens securing the Obligations, to any other Indebtedness or Liens, other than Indebtedness or Liens in respect of which such subordination is permitted hereunder, without the prior written consent of each Lender affected thereby;

provided, further, that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, the Collateral Trustee or the Issuing Banks hereunder without the prior written consent of the Administrative Agent, the Collateral Trustee or each Issuing Bank affected thereby, as applicable. Each Lender shall be bound by any waiver, amendment or modification authorized by this Section 9.08 and any consent by any Lender pursuant to this Section 9.08 shall bind any Assignee of such Lender.

Notwithstanding anything to the contrary herein, no Defaulting Lender shall have the right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender may be affected with the consent of the applicable Lenders other than Defaulting Lenders), except that (x) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (y) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender.

(c) Without the consent of any Lender or Issuing Bank, the Loan Parties and the Administrative Agent and the Collateral Trustee (at the direction of the Administrative Agent) may (in their respective sole discretion, or shall, to the extent required or contemplated by any Loan Document) enter into any amendment, modification, supplement or waiver of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, to include holders of Other First Liens or Junior Liens (to the extent necessary or advisable under applicable local law) in the benefit of the Security Documents in connection with the incurrence of any Other First Lien Debt or Indebtedness permitted to be secured by Junior Liens and to give effect to any Intercreditor Agreement associated therewith, or as required by local law to give effect to, or protect, any security interest for the benefit of the Secured Parties in any property or so that the security interests therein comply with applicable law or this Agreement or in each case to otherwise enhance the rights or benefits of any Lender under any Loan Document.

(d) Notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of the Required Lenders, the Administrative Agent, the Parent (i) to permit additional extensions of credit to be outstanding hereunder from time to time and the accrued interest and fees and other obligations in respect thereof to share ratably in the benefits of this Agreement and the other Loan Documents with the Term Loans and the Revolving Facility Loans and the accrued interest and fees and other obligations in respect thereof and (ii) to include appropriately the holders of such extensions of credit in any determination of the requisite lenders required hereunder, including Required Lenders and the Required Revolving Facility Lenders, and for purposes of the relevant provisions of Section 7.03.

(e) Notwithstanding the foregoing, technical and conforming modifications to the Loan Documents may be made with the consent of Parent and the Administrative Agent (but without the consent of any Lender) to the extent necessary (A) to integrate any Other Term Loan Commitments, Other Revolving Facility Commitments, Other Term Loans and Other Revolving Loans in a manner consistent with Sections 2.21, 2.22 and 2.23 as may be necessary to establish such Other Term Loan Commitments, Other Revolving Facility Commitment, Other Term Loans or Other Revolving Loans as a separate Class or tranche from the existing Term Facility Commitments, Revolving Facility Commitments, Term Loans or Revolving Facility Loans, as applicable, and, in the case of Extended Term Loans, to reduce the amortization schedule of the related existing Class of Term Loans proportionately, (B) to integrate any Other First Lien Debt or (C) to cure any ambiguity, omission, error, defect or inconsistency. In addition, notwithstanding the foregoing, this Agreement may be amended (or amended and restated) with the written consent of Parent and the Administrative Agent (but without the consent of any Lender or Issuing Bank) to include any additional financial maintenance covenant (or any financial maintenance covenant that is already included in this Agreement but with covenant levels and component definitions that are more restrictive to Parent) for the benefit of the Lenders of all of the Facilities (but not fewer than all of the Facilities) then existing.

(f) Each of the parties hereto hereby agrees that the Administrative Agent may take any and all action as may be necessary to ensure that all Term Loans established pursuant to Section 2.21 after the Closing Date that will be included in an existing Class of Term Loans outstanding on such date (an "Applicable Date"), when originally made, are included in each Borrowing of outstanding Term Loans of such Class (the "Existing Class Loans"), on a pro rata basis, and/or to ensure that, immediately after giving effect to such new Term Loans (the "New Class Loans" and, together with the Existing Class Loans, the "Class Loans"), each Lender holding Class Loans will be deemed to hold its Pro Rata Share of each Class Loan on the Applicable Date (but without changing the amount of any such Lender's Term Loans), and each such Lender shall be deemed to have effectuated such assignments as shall be required to ensure the foregoing. The "Pro Rata Share" of any Lender on the Applicable Date is the ratio of (1) the sum of such Lender's Existing Class Loans immediately prior to the Applicable Date plus the amount of New Class Loans made by such Lender on the Applicable Date over (2) the aggregate principal amount of all Class Loans on the Applicable Date.

(g) Notwithstanding anything to the contrary contained in Section 9.08, guarantees, collateral or security documents and related documents executed by Foreign Subsidiaries in connection with this Agreement may be, together with this Agreement, amended or modified (and any provisions therein may be waived) with the consent of the Administrative Agent at the request of Parent without the need to obtain the consent of any other Lender if such amendment, modification or waiver is intended (i) to comply with the local Law or advice of local counsel, (ii) to cure ambiguities or defects or (iii) to cause such guarantee, collateral or security document or other document to be consistent with this Agreement and the other Loan Documents (including, without limitation, the Agreed Guarantee and Security Principles).

Section 9.09 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the applicable interest rate, together with all fees and charges that are treated as interest under applicable law (collectively, the “Charges”), as provided for herein or in any other document executed in connection herewith, or otherwise contracted for, charged, received, taken or reserved by any Lender or any Issuing Bank, shall exceed the maximum lawful rate (the “Maximum Rate”) that may be contracted for, charged, taken, received or reserved by such Lender or Issuing Bank in accordance with applicable law, the rate of interest payable hereunder, together with all Charges payable to such Lender or such Issuing Bank, shall be limited to the Maximum Rate; provided, that such excess amount shall be paid to such Lender or such Issuing Bank on subsequent payment dates to the extent not exceeding the legal limitation. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Maximum Rate, such person may, to the extent permitted by applicable law, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the contemplated term of the Obligations hereunder.

Section 9.10 Entire Agreement. This Agreement, the other Loan Documents and the agreements regarding certain Fees referred to herein constitute the entire contract between the parties relative to the subject matter hereof. Any previous agreement among or representations from the parties or their Affiliates with respect to the subject matter hereof is superseded by this Agreement and the other Loan Documents. Notwithstanding the foregoing, the Fee Letter shall survive the execution and delivery of this Agreement and remain in full force and effect. Nothing in this Agreement or in the other Loan Documents, expressed or implied, is intended to confer upon any party other than the parties hereto and thereto (and the Indemnitees, the Cash Management Banks under any Secured Cash Management Agreement and the Hedge Banks under any Secured Hedge Agreement) rights, remedies, obligations or liabilities under or by reason of this Agreement or the other Loan Documents.

Section 9.11 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, AS APPLICABLE, BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION 9.11.

Section 9.12 Severability. In the event any one or more of the provisions contained in this Agreement or in any other Loan Document should be held invalid, illegal or unenforceable in any respect in any jurisdiction, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby as to such jurisdiction, and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

Section 9.13 Counterparts; Electronic Execution of Assignments and Certain Other Documents. This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute but one contract, and shall become effective as provided in Section 9.03. Delivery of an executed counterpart to this Agreement by facsimile transmission

(or other electronic transmission pursuant to procedures approved by the Administrative Agent) shall be as effective as delivery of a manually signed original. This Agreement and any document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a "Communication"), including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Loan Parties agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on each of the Loan Parties to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of each of the Loan Parties enforceable against such in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Loan Parties, the Administrative Agent and each of the Secured Parties of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. Each of the Loan Parties, the Administrative Agent and each of the Secured Parties may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of the such person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Neither the Administrative Agent nor the Collateral Trustee shall have any duty to confirm that the person sending any notice, instruction or other communication (a "Notice") by electronic transmission (including by e-mail, facsimile transmission, web portal or other electronic methods) is, in fact, a person authorized to do so. Each other party assumes all risks arising out of the use of electronic signatures and electronic methods to send Notices to the Administrative Agent or Collateral Trustee, including without limitation the risk of the Administrative Agent or Collateral Trustee acting on an unauthorized Notice, and the risk of interception or misuse by third parties. Notwithstanding anything contained herein to the contrary, neither the Administrative Agent nor the Collateral Trustee is under any obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent or the Collateral Trustee, as applicable, pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent or the Collateral Trustee, as applicable, has agreed to accept such Electronic Signature, the Administrative Agent, the Collateral Trustee and each of the Secured Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Loan Party without further verification and (b) upon the request of the Administrative Agent, the Collateral Trustee or any Lender, any Electronic Signature shall be promptly followed by such manually executed counterpart. For purposes hereof, "Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

Section 9.14 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and are not to affect the construction of, or to be taken into consideration in interpreting, this Agreement.

Section 9.15 Jurisdiction; Consent to Service of Process.

(a) The Parent and each other Loan Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind or description, whether in law or equity, whether in contract or in tort or otherwise, against the Administrative Agent, the Collateral Trustee, any Lender, any Arranger or any Affiliate of the foregoing in any way relating to this Agreement or any other Loan Document or the transactions relating hereto or thereto, in any forum other than the courts of the State

of New York sitting in New York County, Borough of Manhattan, and of the United States District Court of the Southern District of New York, sitting in New York County, Borough of Manhattan, and any appellate court from any thereof, and each of the parties hereto irrevocably and unconditionally submits to the jurisdiction of such courts and agrees that all claims in respect of any such action, litigation or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by applicable law, in such federal court. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Loan Document shall affect any right that the Administrative Agent, any Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against the Parent or any other Loan Party or its properties in the courts of any jurisdiction, and with respect to any Lux Borrowers, in any jurisdiction where the head office, central administration, centre of main interest, place of effective management, domicile and/or establishment of such Lux Borrower are situated.

(b) Each of the parties hereto hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or the other Loan Documents in any court referred to in paragraph (a) of this Section 9.15. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(c) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Each Borrower (including, for the avoidance of doubt, any Designated Borrower) hereby irrevocably appoints Jazz U.S. as its agent for service of process with respect to all of the Loan Documents and all other related agreements to which it is a party (the "Process Agent") and Jazz U.S. hereby accepts such appointment as the Process Agent and hereby agrees to forward promptly to each other Borrower, as applicable, all legal process addressed to such Borrower, as applicable, received by the Process Agent. Nothing in this Agreement will affect the right of any party to this Agreement or any other Loan Document to serve process in any other manner permitted by law.

Section 9.16 Confidentiality. Each of the Lenders, each Issuing Bank and each of the Agents agrees that it shall maintain in confidence any information relating to the Parent and any Subsidiary or their respective businesses furnished to it by or on behalf of Parent or any Subsidiary (other than information that (a) has become generally available to the public other than as a result of a disclosure by such party in breach of this Section 9.16, (b) has been independently developed by such Lender, such Issuing Bank or such Agent without violating this Section 9.16 or (c) was available to such Lender, such Issuing Bank or such Agent from a third party having, to such person's knowledge, no obligations of confidentiality to the Parent or any other Loan Party) and shall not reveal the same other than to its Related Parties and any numbering, administration or settlement service providers or to any person that approves or administers the Loans on behalf of such Lender (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 9.16), except: (A) to the extent necessary to comply with applicable laws or any legal process or the requirements of any Governmental Authority purporting to have jurisdiction over such person or its Related Parties, the National Association of Insurance Commissioners or of any securities exchange on which securities of the disclosing party or any Affiliate of the disclosing party are listed or traded, (B) as part of reporting or review procedures to, or examinations by, Governmental Authorities or self-regulatory authorities, including the National Association of Insurance Commissioners or the Financial Industry Regulatory Authority, Inc., (C) to its parent companies, Affiliates and their Related Parties including auditors, accountants, legal counsel and other advisors (so long as each such person shall have been instructed to keep the same confidential in accordance with this Section 9.16), (D) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder



or thereunder, (E) to any pledgee under Section 9.04(d) or any other prospective assignee of, or prospective Participant in, any of its rights under this Agreement (so long as such person shall have been instructed to keep the same confidential in accordance with this Section 9.16), (F) to any direct or indirect contractual counterparty (or its Related Parties) in Hedging Agreements or such contractual counterparty's professional advisor (so long as such contractual counterparty or professional advisor to such contractual counterparty agrees to be bound by the provisions of this Section 9.16), (G) on a confidential basis to (i) any rating agency in connection with rating the Parent or its Subsidiaries or the facilities evidenced by this Agreement, (ii) the provider of any Platform or other electronic delivery service used by the Administrative Agent, any Issuing Bank to deliver the Borrower Materials or notices to the Lenders or (iii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers with respect to the facilities evidenced by this Agreement, (H) with the prior written consent of Parent and (I) to any other party to this Agreement.

Section 9.17 Platform. THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE". THE ADMINISTRATIVE AGENT, ITS RELATED PARTIES AND THE ARRANGERS DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY THE ADMINISTRATIVE AGENT, ANY OR ITS RELATED PARTIES OR ANY ARRANGER IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM.

Section 9.18 Release of Liens and Guarantees.

(a) The Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably agree that the Liens granted to the Collateral Trustee by the Loan Parties on any Collateral shall (1) be automatically released: (i) in full upon the occurrence of the Termination Date as set forth in Section 9.18(d) below; (ii) upon the Disposition (other than any lease or license) of such Collateral by any Loan Party to a person that is not (and is not required to become) a Loan Party in a transaction permitted by this Agreement (and the Administrative Agent and the Collateral Trustee may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (iii) to the extent that such Collateral comprises property leased to a Loan Party, upon termination or expiration of such lease (and the Administrative Agent and the Collateral Trustee may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (iv) if the release of such Lien is approved, authorized or ratified in writing by the Required Lenders (or such other percentage of the Lenders whose consent may be required in accordance with Section 9.08), (v) to the extent that the property constituting such Collateral is owned by any Guarantor, upon the release of such Guarantor from its obligations under the Guarantee in accordance with the Guarantee Agreement or clause (b) below (and the Administrative Agent and the Collateral Trustee may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without further inquiry), (vi) as required by the Collateral Trustee to effect any Disposition of Collateral in connection with any exercise of remedies of the Collateral Trustee pursuant to the Security Documents pursuant to a direction from the Administrative Agent or (vii) in the case of Permitted Receivables Facility Assets, upon the Disposition thereof permitted under this Agreement by any Loan Party to a Receivables Entity of such Permitted Receivables Facility Assets pursuant to a Qualified Receivables Facility and (2) be released in the circumstances, and subject to the terms and conditions, provided in Section 8.11 (and the Administrative Agent and the Collateral Trustee may rely conclusively on a certificate to that effect provided to it by any Loan Party upon its reasonable request without any further inquiry). Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those being released) upon (or obligations (other than those being released) of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any Disposition, all of which shall continue to constitute part of the Collateral except to the extent otherwise released in accordance with the provisions of the Loan Documents.

(b) In addition, the Lenders, the Issuing Banks and the other Secured Parties hereby irrevocably agree that the respective Guarantor (other than Parent or any other Borrower) shall be released from its respective Guarantee (i) upon consummation of any transaction permitted hereunder (x) resulting in such Subsidiary ceasing to constitute a Subsidiary (including because such Subsidiary is designated an “Unrestricted Subsidiary”) or (y) in the case of any Guarantor which would not be required to be a Guarantor because it is or has become an Excluded Subsidiary, in each case following a written request by the Parent to the Administrative Agent requesting that such person no longer constitute a Guarantor and certifying its entitlement to the requested release (and the Administrative Agent may rely conclusively on a certificate to the foregoing effect without further inquiry); provided that any such release pursuant to preceding clause (y) shall only be effective if (A) no Default or Event of Default has occurred and is continuing or would result therefrom, (B) at the time of such release (and after giving effect thereto), all outstanding Indebtedness of such Subsidiary would then be permitted to be made in accordance with the relevant provisions of Sections 6.01 and 6.04 (for this purpose, with the Parent being required to reclassify any such items made in reliance upon the respective Subsidiary being a Guarantor on another basis as would be permitted by such applicable Section), and any previous Dispositions thereto pursuant to Section 6.05 shall be re-characterized and would then be permitted as if same were made to a Subsidiary that was not a Guarantor (and all items described above in this clause (B) shall thereafter be deemed recharacterized as provided above in this clause (B)) and (C) such Subsidiary shall not be (or shall be simultaneously be released as) a guarantor (if applicable) with respect to any Refinancing Notes, Permitted Debt or any Permitted Refinancing Indebtedness with respect to the foregoing or (ii) if the release of such Guarantor is approved, authorized or ratified by the Required Lenders (or such other percentage of Lenders whose consent is required in accordance with Section 9.08).

(c) The Lenders, the Issuing Banks and the other Secured Parties hereby authorize the Administrative Agent and the Collateral Trustee (at the direction of the Administrative Agent), as applicable, to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Guarantor or Collateral pursuant to the foregoing provisions of this Section 9.18, all without the further consent or joinder of any Lender or any other Secured Party. Upon the effectiveness of any such release, any representation, warranty or covenant contained in any Loan Document relating to any such Collateral or Guarantor shall no longer be deemed to be made. The Administrative Agent and the Collateral Trustee (at the direction of the Administrative Agent) shall promptly (and the Secured Parties hereby authorize the Administrative Agent and the Collateral Trustee to) take such action and execute any such documents as may be reasonably requested by the Parent and at the Parent’s expense in connection with the release of any Lien on the Collateral or Guarantor under the Loan Documents pursuant to the foregoing provisions of this Section 9.18; provided that (i) the Administrative Agent shall have received a certificate of a Responsible Officer of Parent containing such certifications as the Administrative Agent shall reasonably request, (ii) the Administrative Agent or the Collateral Trustee shall not be required to execute any such document on terms which, in the applicable Agent’s reasonable opinion, would expose such Agent to liability or create any obligation or entail any consequence other than the release of such Liens without recourse or warranty, and (iii) such release shall not in any manner discharge, affect or impair the Obligations. Any execution and delivery of documents pursuant to this Section 9.18(c) shall be without recourse to or warranty by the Administrative Agent or Collateral Trustee.

(d) Notwithstanding anything to the contrary contained herein or any other Loan Document, on the Termination Date, upon request of Parent, the Administrative Agent and/or the Collateral Trustee (at the direction of the Administrative Agent), as applicable, shall (without notice to, or vote or consent of, any Secured Party) take such actions as shall be required to release its security interest in all Collateral, and

to release all obligations under any Loan Document, whether or not on the date of such release there may be any (i) obligations in respect of any Secured Hedge Agreements or any Secured Cash Management Agreements and (ii) any contingent indemnification obligations or expense reimbursement claims not then due; provided, that the Administrative Agent shall have received a certificate of a Responsible Officer of Parent containing such certifications as the Administrative Agent shall reasonably request. Any such release of obligations shall be deemed subject to the provision that such obligations shall be reinstated if after such release any portion of any payment in respect of the obligations guaranteed thereby shall be rescinded, avoided or must otherwise be restored or returned upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of Parent or any Guarantor, or upon or as a result of the appointment of a receiver, intervenor or conservator of, or trustee or similar officer for, the Parent or any Guarantor or any substantial part of its property, or otherwise, all as though such payment had not been made. The Parent agrees to pay all reasonable and documented out-of-pocket expenses incurred by the Administrative Agent or the Collateral Trustee (and their respective representatives) in connection with taking such actions to release security interests in all Collateral and all obligations under the Loan Documents as contemplated by this Section 9.18(d).

(e) Obligations of Parent or any of its Subsidiaries under any Secured Cash Management Agreement or Secured Hedge Agreement (after giving effect to all netting arrangements relating to such Secured Hedge Agreements) shall be secured and guaranteed pursuant to the Security Documents only to the extent that, and for so long as, the other Obligations are so secured and guaranteed. No person shall have any voting rights under any Loan Document solely as a result of the existence of obligations owed to it under any such Secured Hedge Agreement or Secured Cash Management Agreement. For the avoidance of doubt, no release of Collateral or Guarantors effected in the manner permitted by this Agreement shall require the consent of any holder of obligations under Secured Hedge Agreements or any Secured Cash Management Agreements.

Section 9.19 USA PATRIOT Act Notice. Each Lender that is subject to the USA PATRIOT Act and the Administrative Agent and the Collateral Trustee (for themselves and not on behalf of any Lender) hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender or the Administrative Agent or the Collateral Trustee, as applicable, to identify each Loan Party in accordance with the USA PATRIOT Act. Each of the other Loan Parties hereby appoints the Parent as its agent for all purposes relevant to this Agreement and the other Loan Documents, including the giving and receipt of notices and the execution and delivery of all documents, instruments and certificates contemplated herein and therein and all modifications hereto and thereto. Each Borrower shall, promptly following a request by the Administrative Agent, the Collateral Trustee or any Lender, provide all documentation and other information that the Administrative Agent, the Collateral Trustee or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" an anti-money laundering rules and regulations, including the Patriot Act. This notice is given in accordance with the requirements of the Patriot Act and is effective as to the Lenders and the Administrative Agent.

Section 9.20 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document) (the "Applicable Transactions"), each Loan Party acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent, the Collateral Trustee, the Arrangers, the Issuing Banks and the Lenders are arm's-length commercial transactions between the Loan Parties, on the one hand, and the Administrative Agent, the Collateral Trustee, the Arrangers and the Lenders, on the other hand, (B) the Loan Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent they have deemed appropriate, and (C) the Loan Parties are capable of evaluating, and understand and accept, the terms, risks

and conditions of the Applicable Transactions; (ii) (A) each of the Administrative Agent, the Collateral Trustee, the Arrangers, the Issuing Banks and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Loan Parties, or any other Person and (B) neither the Administrative Agent nor the Collateral Trustee nor the Arrangers nor the Issuing Banks nor any of the Lenders has any obligation to the Loan Parties with respect to the Applicable Transactions except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent, the Collateral Trustee, the Arrangers, the Issuing Banks, the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Loan Parties and their Affiliates, and neither the Administrative Agent nor the Collateral Trustee nor the Arrangers nor any of the Issuing Banks nor any of the Lenders has any obligation to disclose any of such interests to the Loan Parties or their Affiliates. To the fullest extent permitted by law, the Loan Parties hereby agree and covenant that they will not assert any claims that it may have against the Administrative Agent, the Collateral Trustee, the Arrangers, the Issuing Banks and the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of the Applicable Transactions.

Section 9.21 Payments Set Aside. To the extent that any payment by or on behalf of any Borrower is made to the Administrative Agent, any Issuing Bank or any Lender, or the Administrative Agent, any Issuing Bank or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Administrative Agent, such Issuing Bank or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and each Issuing Bank severally agrees to pay to the Administrative Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Administrative Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the applicable Overnight Rate from time to time in effect, in the applicable currency of such recovery or payment. The obligations of the Lenders and the Issuing Banks under clause (b) of the preceding sentence shall survive the payment in full of the Loan Obligations and the termination of this Agreement.

Section 9.22 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender or Issuing Bank that is an Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-in Action on any such liability, including, if applicable:

(1) a reduction in full or in part or cancellation of any such liability;

(2) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(3) the variation of the terms of such liability in connection with the exercise of the Write-Down and Conversion powers of the applicable Resolution Authority.

Section 9.23 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Swap Contract or any other agreement or instrument that is a QFC (such support, “QFC Credit Support”, and each such QFC, a “Supported QFC”), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the “U.S. Special Resolution Regimes”) in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a “Covered Party”) becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 9.23, the following terms have the following meanings:

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“QFC” has the meaning assigned to the term “qualified financial contract” in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

Section 9.24 [Reserved].

Section 9.25 Judgment Currency.

(a) The obligations of the Loan Parties hereunder and under the other Loan Documents to make payments in a specified currency (the "Obligation Currency") shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any currency other than the Obligation Currency, except to the extent that such tender or recovery results in the effective receipt by a Secured Party of the full amount of the Obligation Currency expressed to be payable to it under this Agreement or another Loan Document. If, for the purpose of obtaining or enforcing judgment against any Loan Party in any court or in any jurisdiction, it becomes necessary to convert into or from any currency other than the Obligation Currency (such other currency being hereinafter referred to as the "Judgment Currency") an amount due in the Obligation Currency, the conversion shall be made, at the rate of exchange (as quoted by the Administrative Agent or if the Administrative Agent does not quote a rate of exchange on such currency, by a known dealer in such currency designated by the Administrative Agent) determined, in each case, as of the Business Day immediately preceding the date on which the judgment is given (such Business Day being hereinafter referred to as the "Judgment Currency Conversion Date").

(b) If there is a change in the rate of exchange prevailing between the Judgment Currency Conversion Date and the date of actual payment of the amount due, each Borrower covenants and agrees to pay, or cause to be paid, or remit, or cause to be remitted, such additional amounts, if any (but in any event not a lesser amount), as may be necessary to ensure that the amount paid in the Judgment Currency, when converted at the rate of exchange prevailing on the date of payment, will produce the amount of the Obligation Currency which could have been purchased with the amount of Judgment Currency stipulated in the judgment or judicial award at the rate of exchange prevailing on the Judgment Currency Conversion Date.

(c) For purposes of determining any rate of exchange or currency equivalent for this Section 9.25, such amounts shall include any premium and costs payable in connection with the purchase of the Obligation Currency.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first written above.

JAZZ FINANCING LUX S.À R.L., as Lux Borrower

By: /s/ Erik Adam

Name: Erik Adam

Title: Class B Manager

1, rue Hildegard von Bingen

L – 1282 Luxembourg

R.C.S. Luxembourg No: B178623

Tax ID: 2013 2428 906

JAZZ PHARMACEUTICALS PUBLIC LIMITED  
COMPANY, as Parent and an Irish Borrower

By: /s/ Patricia Carr

Name: Patricia Carr

Title: Authorised Signatory

JAZZ SECURITIES DESIGNATED ACTIVITY  
COMPANY, as an Irish Borrower

By: /s/ Patricia Carr

Name: Patricia Carr

Title: Director

JAZZ FINANCING I DESIGNATED ACTIVITY  
COMPANY, as an Irish Borrower

By: /s/ Patricia Carr

Name: Patricia Carr

Title: Director

JAZZ PHARMACEUTICALS IRELAND LIMITED, as an  
Irish Borrower

By: /s/ Patricia Carr

Name: Patricia Carr

Title: Director

[Signature page to Credit Agreement]

JAZZ FINANCING HOLDINGS LIMITED, as an Irish  
Borrower

By: /s/ Patricia Carr

Name: Patricia Carr

Title: Director

JAZZ PHARMACEUTICALS UK HOLDINGS LIMITED,  
as a UK Borrower

By: /s/ Samantha Pearce

Name: Samantha Pearce

Title: Director

JAZZ PHARMACEUTICALS, INC., as a U.S. Borrower

By: /s/ Renée Galá

Name: Renée Galá

Title: Executive Vice President and Chief Financial  
Officer

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BANK OF AMERICA, N.A.,  
as Administrative Agent

By: /s/ Henry C. Pennell  
Name: Henry C. Pennell  
Title: Vice President

[Signature page to Credit Agreement]

U.S. BANK NATIONAL ASSOCIATION,  
as Collateral Trustee

By: /s/ Christopher J. Grell

Name: Christopher J. Grell

Title: Vice President

[Signature page to Credit Agreement]

BANK OF AMERICA, N.A.,  
as Issuing Bank and as a Lender

By: /s/ Sebastian Lurie  
Name: Sebastian Lurie  
Title: SVP

[Signature page to Credit Agreement]

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JPMORGAN CHASE BANK, N.A.,  
as a Lender and an Issuing Bank

By: /s/ Erik Barragan

Name: Erik Barragan

Title: Authorized Officer

[Signature page to Credit Agreement]

BARCLAYS BANK PLC,  
as a Lender and an Issuing Bank

By: /s/ Ronnie Glenn  
Name: Ronnie Glenn  
Title: Director

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CITIBANK, N.A.,  
as a Lender and an Issuing Bank

By: /s/ Michael Tortora

Name: Michael Tortora

Title: Managing Director & Vice President

[Signature page to Credit Agreement]

CREDIT SUISSE AG, CAYMAN ISLANDS BRANCH,  
as a Lender and an Issuing Bank

By: /s/ Judith E. Smith

Name: Judith E. Smith

Title: Authorized Signatory

By: /s/ Brady Bingham

Name: Brady Bingham

Title: Authorized Signatory

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DNB (UK) LTD.,  
as a Lender and an Issuing Bank

By: /s/ Craig Ramsay  
Name: Craig Ramsay  
Title: Authorised Signatory

By: /s/ Gemma Coppen  
Name: Gemma Coppen  
Title: Authorised Signatory

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MUFG BANK, LTD.,  
as a Lender and an Issuing Bank

By: /s/ Kevin Wood  
Name: Kevin Wood  
Title: Director

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ROYAL BANK OF CANADA,  
as a Lender and an Issuing Bank

By: /s/ Scott MacVicar

Name: Scott MacVicar

Title: Authorized Signatory

[Signature page to Credit Agreement]

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SUMITOMO MITSUI BANKING CORPORATION,  
as a Lender and an Issuing Bank

By: /s/ Gail Motonaga

Name: Gail Motonaga

Title: Executive Director

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TRUIST BANK,  
as a Lender and an Issuing Bank

By: /s/ Aaron Peyton

Name: Aaron Peyton

Title: Managing Director

[Signature page to Credit Agreement]



## Jazz Pharmaceuticals Completes Acquisition of GW Pharmaceuticals plc

DUBLIN, May 5, 2021 – Jazz Pharmaceuticals (Nasdaq: JAZZ) today announced the completion of its acquisition of GW Pharmaceuticals plc (Nasdaq: GWPH) (“GW”), a leader in the science, development and commercialization of cannabinoid-based prescription medicines.

“We are excited to welcome our GW colleagues to Jazz as we mark a transformative milestone in creating an innovative, high-growth, global biopharma leader in neuroscience with a worldwide commercial and operational footprint,” said Bruce Cozadd, chairman and chief executive officer of Jazz Pharmaceuticals. “The addition of GW further diversifies our commercial portfolio and innovative pipeline with therapies that are complementary to our existing business, including *Epidiolex*, a high-growth commercial product with near-term blockbuster potential. We are fortunate to be combining two companies that share a passion for, and track record of, developing differentiated therapies that advance science and the care of patients with often-overlooked diseases. We look forward to building an even stronger company together and are excited about the greater impact we will continue to drive for patients, customers and shareholders.”

### Compelling Strategic Rationale

- **Adds third high-growth commercial franchise:** Epidiolex® (cannabidiol) oral solution is a transformative treatment for childhood-onset epilepsy that provides a critical therapeutic option for refractory seizures. Launched in the U.S. in 2018, *Epidiolex* exceeded \$500 million in annual net sales in 2020. With a recent launch in Europe (under the tradename Epidyolex®) and ongoing research in additional indications, the Company believes *Epidiolex* has near-term blockbuster potential.
- **Diversifies pipeline to drive sustainable growth:** The Company’s robust pipeline now includes clinical-stage development programs addressing significant unmet patient needs across neuroscience and oncology, including in sleep, movement disorders, psychiatry, hematology and solid tumors.
- **Shared culture and exceptional talent advances our goal to support patients:** The global teams at Jazz and GW possess unique talents and expertise, as well as a shared commitment to, and proven success in, delivering differentiated therapies to support people with serious, often-overlooked diseases. GW, like Jazz, has a demonstrated history of honoring values that include integrity, collaboration, passion, innovation and the pursuit of excellence, and a culture where diversity, equity, inclusion and belonging are a priority.
- **Expected to deliver substantial shareholder value:** This transaction is expected to provide accelerated double-digit top-line revenue growth and to be accretive in the first full calendar year of combined operations, and substantially accretive thereafter. Jazz’s strong cash flow profile provides the capability to rapidly deleverage to a target net leverage of less than 3.5x by the end of 2022.

### Business Updates

- Chris Tovey, chief operating officer (COO) of GW since 2012, will join Jazz’s executive management as executive vice president, chief operating officer, and managing director Europe & International, reporting to Dan Swisher, president. Mr. Tovey brings over 30

years of commercial and operations experience in the pharmaceutical industry and deep knowledge of GW's growing global cannabinoid business. In his role, Mr. Tovey will be responsible for commercialization activities outside North America, manufacturing and supply chain, and information systems and security.

- The Company plans to provide 2021 financial guidance for the combined Jazz/GW organization within the next 45 days.
- Under the terms of the agreement, holders of GW ADSs, which each represented 12 GW ordinary shares, will be entitled to receive \$220.00 for each GW ADS, consisting of \$200.00 in cash and \$20.00 in Jazz ordinary shares. The number of Jazz ordinary shares received per GW ADS is 0.12036, based on the volume weighted average price of Jazz ordinary shares on Nasdaq for the 15 consecutive trading day period beginning on the 18<sup>th</sup> trading day immediately preceding the closing date of the transaction. Holders of GW ordinary shares that are not in ADS form will be entitled to receive the foregoing consideration divided by 12 per GW ordinary share.

### **About Jazz Pharmaceuticals plc**

Jazz Pharmaceuticals plc (NASDAQ: JAZZ) is a global biopharmaceutical company whose purpose is to innovate to transform the lives of patients and their families. We are dedicated to developing life-changing medicines for people with serious diseases – often with limited or no therapeutic options. We have a diverse portfolio of marketed medicines and novel product candidates, from early- to late-stage development, in neuroscience and oncology. We actively explore new options for patients including novel compounds, small molecules and biologics, and through cannabinoid science and innovative delivery technologies. Jazz is headquartered in Dublin, Ireland and has employees around the globe, serving patients in nearly 75 countries. For more information, please visit [www.jazzpharmaceuticals.com](http://www.jazzpharmaceuticals.com) and follow @JazzPharma on Twitter.

### **Caution Concerning Forward Looking Statements**

This press release contains forward-looking statements, including, but not limited to, statements related to Jazz Pharmaceuticals' growth prospects and future financial and operating results, including statements related to the acquisition of GW Pharmaceuticals and the anticipated results and benefits thereof, including the sales prospects for Epidiolex, double-digit increases in top line revenue growth and expectations about the accretive impact of the acquisition; the company's expected cash flow supporting the company's rapid de-leveraging and positioning the company to meet its stated leverage targets; and other statements that are not historical facts. These forward-looking statements are based on the company's current plans, objectives, estimates, expectations and intentions and inherently involve significant risks and uncertainties.

Actual results and the timing of events could differ materially from those anticipated in such forward-looking statements as a result of these risks and uncertainties, which include, without limitation, risks and uncertainties associated with: risks related to diverting the attention of GW Pharmaceuticals and Jazz Pharmaceuticals management from ongoing business operations; failure to realize the expected benefits of the acquisition; significant transaction costs and/or unknown or inestimable liabilities; the risk that GW Pharmaceuticals' business will not be integrated successfully or that such integration may be more difficult, time-consuming or costly than expected; risks related to future opportunities and plans for the combined company, including the uncertainty of expected future regulatory filings, financial performance and results of the combined company following completion of the acquisition; GW Pharmaceuticals'

dependence on the successful commercialization of Epidiolex/Epidyolex and the uncertain market potential of Epidiolex; pharmaceutical product development and the uncertainty of clinical success; the regulatory approval process, including the risks that GW Pharmaceuticals may be unable to submit anticipated regulatory filings on the timeframe anticipated, or at all, or that GW Pharmaceuticals may be unable to obtain regulatory approvals of any of its product candidates, including nabiximols and Epidiolex for additional indications, in a timely manner or at all; disruption from the acquisition of GW Pharmaceuticals, making it more difficult to conduct business as usual or maintain relationships with customers, employees or suppliers; effects relating to the consummation of the acquisition on the market price of Jazz Pharmaceuticals' ordinary shares; the possibility that, if Jazz Pharmaceuticals does not achieve the perceived benefits of the acquisition as rapidly or to the extent anticipated by financial analysts or investors, the market price of Jazz Pharmaceuticals' ordinary shares could decline; regulatory initiatives and changes in tax laws; market volatility; the ultimate duration and severity of the COVID-19 pandemic and resulting global economic, financial, and healthcare system disruptions and the current and potential future negative impacts to the company's business operations and financial results; maintaining or increasing sales of and revenue from the company's oxybate products and other key marketed products; effectively launching and commercializing the company's other products and product candidates; the time-consuming and uncertain regulatory approval process, including the risk that the company's planned regulatory submissions may not be submitted, accepted or approved by applicable regulatory authorities in a timely manner or at all; the costly and time-consuming pharmaceutical product development process and the uncertainty of clinical success, including risks related to failure or delays in successfully initiating or completing clinical trials and assessing patients such as those being experienced, and expected to continue to be experienced, by the company as a result of the effects of the COVID-19 pandemic; protecting and enhancing the company's intellectual property rights; delays or problems in the supply or manufacture of the company's products and product candidates; complying with applicable U.S. and non-U.S. regulatory requirements; government investigations, legal proceedings and other actions; obtaining and maintaining adequate coverage and reimbursement for the company's products; identifying and acquiring, in-licensing or developing additional products or product candidates, financing these transactions and successfully integrating acquired product candidates, products and businesses; the company's ability to realize the anticipated benefits of its collaborations and license agreements with third parties; the company's ability to achieve expected future financial performance and results and the uncertainty of future tax and other provisions and estimates; and other risks and uncertainties affecting the company and GW Pharmaceuticals, including those described from time to time under the caption "Risk Factors" and elsewhere in Jazz Pharmaceuticals' and GW Pharmaceuticals' Securities and Exchange Commission filings and reports, including the company's Form 10-K for the year ended December 31, 2020, GW Pharmaceuticals' Form 10-K for the year ended December 31, 2020 and future filings and reports by either company. In addition, while the company expects the COVID-19 pandemic to continue to adversely affect its business operations and financial results, the extent of the impact on the company's ability to generate sales of and revenues from its approved products, execute on new product launches, its clinical development and regulatory efforts, its corporate development objectives and the value of and market for its ordinary shares, will depend on future developments that are highly uncertain and cannot be predicted with confidence at this time, such as the ultimate duration and severity of the pandemic, governmental "stay-at-home" orders and travel restrictions, quarantines, social distancing and business closure requirements in the U.S., Ireland and other countries, and the effectiveness of actions taken globally to contain and treat the disease. Moreover, other risks and uncertainties of which the company is not currently aware may also affect the company's forward-looking statements and may cause actual results and the timing of events to differ materially from those anticipated.

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