

Standard Terms and Conditions for Issuances to the Primary Market Corporate Credit Facility (Guarantor Form)

Introduction

- These Standard Terms and Conditions have been specified by the Federal Reserve Bank of New York and Corporate Credit Facilities LLC (“CCF”) for use in connection with issuances of unsecured notes (“Notes”) to CCF under the Primary Market Corporate Credit Facility (the “PMCCF”), where CCF will be the sole purchaser of the Notes (“Sole Investor Transactions”). These Standard Terms and Conditions are designed to promote consistency of terms offered by the PMCCF and to minimize individual negotiation in the context of Sole Investor Transactions, while applying terms that are broadly consistent with market practice for unsecured investment grade or non-investment grade debt (“high yield”) issuances, respectively, in the U.S. capital markets.
- As described in the [PMCCF FAQs](#), documentation procedures for Sole Investor Transactions are expected to conform to typical market practice for distributions of unsecured notes by a rated issuer (whether in an offering registered under the Securities Act or an exempt distribution pursuant to Rule 144A under the Securities Act), including the preparation of a prospectus or offering document describing the issuer and the material terms of the Notes, sale of the Notes to CCF by an eligible broker-dealer acting as an underwriter or initial purchaser, and issuance pursuant to an indenture in a form typical for broadly distributed securities similar to the Notes. Reference to these Standard Terms and Conditions is made in the “[PMCCF Sole Investor Issuer Authorization Form](#)” that is to be delivered to the Investment Manager for the PMCCF in anticipation of a Sole Investor Transaction.
- It is expected that the indenture documenting Notes issued in a Sole Investor Transaction will be based on that used for the issuer’s most recent comparable preceding issuance of notes or bonds, as revised to incorporate these Standard Terms and Conditions, subject to any terms set forth in the precedent indenture that are more restrictive than these Standard Terms and Conditions. In order to allow a variety of possible indenture precedent types, these Standard Terms and Conditions specify only the minimum requirements of the PMCCF, without specifying a broad range of provisions that are standard in indentures for similar transactions and that should be included in the indenture prepared for the Notes. It is expected that the issuer in a Sole Investor Transaction will make drafting adjustments to the relevant indenture precedent as appropriate to incorporate these Standard Terms and Conditions.
- It is expected in most instances that the wording of these Standard Terms and Conditions can be incorporated verbatim, but it is also anticipated that minor variations in phrasing, defined terms, etc. may be necessary depending on the relevant precedent. Variations may be necessary in particular where these Standard Terms and Conditions are subject to specific more restrictive provisions that may be applicable to the issuer based on its precedent

transaction, in accordance with the provisions linked to “Other Debt Terms” in the relevant precedent indenture as described in Section 3.

- When submitting the applicable transaction documentation for evaluation of eligibility for the PMCCF, the issuer (or the relevant underwriter or initial purchaser) is expected to point out to the Investment Manager any significant proposed variations in wording between the Standard Terms and Conditions and the proposed indenture. In certain cases these Standard Terms and Conditions require more issuer-specific information, such as the requirement to describe what types of assets constitute a “Principal Property”. More particular explanation may also be required in describing why a specific term from the precedent indenture should be considered more restrictive than one of the Standard Terms and Conditions.
- These Standard Terms and Conditions also specify certain additional conditions and representations to be incorporated into the underwriting or purchase agreement for the Notes.
- These Standard Terms and Conditions are intended for use where the issuer is a wholly-owned direct or indirect funding subsidiary of the guarantor (i.e., a subsidiary whose primary purpose is to raise funding externally and provide intercompany funding). For issuances without parent guarantees, please see the [Standard Terms and Conditions for Sole Investor Issuances to the Primary Market Corporate Credit Facility \(Company Form\)](#).
- These Standard Terms and Conditions consist of the following numbered sections set out below and are to be incorporated into the indenture, unless specified below as to be included elsewhere:
 1. Ratings related conditions, and certain representations as to features of the Notes in comparison to other indebtedness of the issuer (to be included in the purchase or underwriting agreement).
 2. Representations that the terms of the Notes have been conformed to any more restrictive terms of other specified indebtedness of the issuer (to be included in the purchase or underwriting agreement).
 3. Certain standard covenants and agreements applicable to both investment grade and high yield transactions (with variations for high yield transactions footnoted and in **bold**). Note that because the terms reflect the potential for replacement of more restrictive high yield covenants with less restrictive investment grade covenants based on improvements in ratings, both sets of provisions should always be included in a high yield Notes issuance.
 4. Terms related to the letter agreement to be entered into between CCF and the issuer which specifies remedies of CCF in relation to certain of the issuer’s certifications and statements made in connection with issuance of the Notes.
 5. Certain standard events of default, to be included in the indenture.
 6. Relevant definitions for the standard terms in Sections 1-5.
 7. Additional standard covenants, and purchase or underwriting agreement provisions applicable only to high yield transactions.

8. Relevant additional definitions for the terms in Section 7 relating to provisions for high yield transactions.

Standard Terms Sections

1. Issuance Conditions. The Purchase/Underwriting Agreement for the Notes shall contain the following provision in the section pertaining to conditions to issuance of the Notes:

Section ____ . Additional Conditions to Issuance. It shall be a condition to issuance of the Notes that:

(a) unless the Refinancing Rating Condition is met, then (1) at least one of Moody's, S&P or Fitch is an Applicable Rating Agency and (2) the Company or the Guarantor has received and provided to the [Initial Purchaser/Underwriter] a written confirmation of all of the following which are applicable, not more than five Business Days prior to the Issue Date:

(i) if Moody's is an Applicable Rating Agency, that Moody's has reaffirmed its Rating at a level not lower than "Ba3";

(ii) if S&P is an Applicable Rating Agency, that S&P has reaffirmed its Rating at a level not lower than "BB-";

(iii) if Fitch is an Applicable Rating Agency, that Fitch has reaffirmed its Rating at a level not lower than "BB-";

(iv) if Kroll is an Applicable Rating Agency, that Kroll has reaffirmed its Rating at a level not lower than "BB-";

(v) if DBRS is an Applicable Rating Agency, that DBRS has reaffirmed its Rating at a level not lower than "BB low"; and

(vi) if A.M. Best is an Applicable Rating Agency, that A.M. Best has reaffirmed its Rating at a level not lower than "bb-";

in each case taking into account the anticipated issuance of the Notes.

(b) if the Refinancing Rating Condition is met, then (1) at least one of Moody's, S&P or Fitch is an Applicable Rating Agency and (2) the Company or the Guarantor has received and provided to the [Initial Purchaser/Underwriter] a written confirmation that not more than five Business Days prior to the Issue Date,

(i) if only one of Fitch, Moody's and S&P is an Applicable Rating Agency, then such Rating Agency has reaffirmed its Rating at a level not lower than the Rating Floor; or

(ii) if more than one of A.M. Best, DBRS, Fitch, Kroll, Moody's and S&P is an Applicable Rating Agency, then at least two Applicable Rating Agencies, one of which is Fitch, Moody's or S&P, have reaffirmed their respective Ratings at a level not lower than the Rating Floor;

in each case as applicable and taking into account the anticipated issuance of the Notes.

- (c) the Issuer has executed and delivered the CCF Letter Agreement to CCF.

2. Additional Representations. The Purchase/Underwriting Agreement shall add a section pertaining to representations and warranties which will include the following:

Section ____ . Representation as to Notes and Other Indebtedness Terms. The Company and the Guarantor each represent and warrant to the [Underwriter/Initial Purchaser] that:

(a) the Notes are senior unsecured obligations of the Company and are not subordinated in right of payment to any other Indebtedness of the Company and the Note Guarantee of the Guarantor is a senior unsecured obligation of the Guarantor and is not subordinated in right of payment to any other Indebtedness of the Guarantor. The Note Guarantee of any Subsidiary Guarantor ranks at least pari passu in right of payment with any other Guarantee by such Subsidiary Guarantor of Indebtedness of the Company or the Guarantor under Bonds or Loans outstanding on the Issue Date;

(b) if the Company has obtained the benefit of any Subordination Agreement in relation to any of the Indebtedness of the Company under Bonds or Loans outstanding on the Issue Date (including any Indebtedness of the Guarantor or any Subsidiary Guarantor under Qualifying Bonds or Qualifying Loans in relation to which the Company is obligated under a Guarantee) and has the right to extend the benefit of such Subordination Agreement to the Notes (without further consent of any third parties), the Company has taken any actions required for the Notes to benefit from such Subordination Agreement;

(c) each [Restricted Subsidiary][**Material Subsidiary**]¹ of the Guarantor that has provided a Guarantee in relation to any of the Indebtedness of the Company or the Guarantor under Qualifying Bonds or Qualifying Loans outstanding on the Issue Date, has issued a Note Guarantee in relation to the Notes;

(d) any Parent Company of the Guarantor (and any [Restricted Subsidiary][**Material Subsidiary**] of such Parent Company that is not otherwise a Subsidiary Guarantor) (each an "Additional Guarantor"), in each case if it has provided a Guarantee in relation to any of the Indebtedness of the Company or the Guarantor under Qualifying Bonds or Qualifying Loans outstanding on the Issue Date, has issued a Note Guarantee in relation to the Notes. The Note Guarantee of any Additional Guarantor ranks at least pari passu in right of payment with any other Guarantee by such Additional Guarantor of Indebtedness of the Company or the Guarantor under Qualifying Bonds or Qualifying Loans outstanding on the Issue Date.²

(e) if the Guarantor has obtained the benefit of any Subordination Agreement in relation to any of the Indebtedness of the Guarantor under Qualifying Bonds or

¹ Restricted Subsidiary for Investment Grade and Material Subsidiary for High Yield.

² Not intended for use where this representation implies the need for guarantees other than from a parent guarantor of a funding subsidiary or from a subsidiary guarantor.

Qualifying Loans outstanding on the Issue Date (including any Indebtedness in relation to which the Guarantor is obligated under a Guarantee) and has the right to extend the benefit of such Subordination Agreement to its obligations in respect the Notes and the Note Guarantee of the Guarantor (without further consent of any third parties), the Guarantor has taken any actions required for such obligations to benefit from such Subordination Agreement; and

(f) if any Subsidiary Guarantor has obtained the benefit of any Subordination Agreement in relation to a Guarantee of any Indebtedness of the Company under Qualifying Bonds or Qualifying Loans outstanding on the Issue Date (including any Indebtedness of the Company in relation to which the Company is obligated under a Guarantee) and has the right to extend the benefit of such Subordination Agreement to its obligations in respect of the Notes and the Note Guarantee of the Subsidiary Guarantor (without further consent of any third parties), the Subsidiary Guarantor has taken any actions required for such obligations to benefit from such Subordination Agreement.

3. Additional Covenants. The Indenture shall contain the following provision in the section pertaining to covenants in respect of the Notes:

Section _____. Reference Indebtedness Terms.

(a) The Company acknowledges that the terms and conditions of the Notes relating to Other Debt Terms, other than those required by the PMCCF Standard Terms, have been based on and incorporate Other Debt Terms at least as favorable to the Noteholders as, (A) if the Company has outstanding any Qualifying Bonds on the Issue Date, the outstanding Qualifying Bonds most recently issued by the Company (and guaranteed by the Guarantor) prior to the Issue Date and, (B) if the Company has no outstanding Qualifying Bonds on the Issue Date that are guaranteed by the Guarantor, the Qualifying Loans most recently issued by the Company (and guaranteed by the Guarantor) prior to the Issue Date ((A) or (B) the “Reference Indebtedness”).³ If notwithstanding the foregoing, the Reference Indebtedness has one or more additional and more restrictive Other Debt Terms, then the terms of this Agreement, without any further action on the part of the Company or the Guarantor or any of the holders of the Notes, will unconditionally be deemed on the date hereof to be automatically amended to include the Other Debt Terms (with respect to the same party hereunder that is subject to such Other Debt Terms under the Reference Indebtedness), subject to all applicable terms and provisions of this Agreement, including, without limitation, all rights and remedies exercisable by the holders of the Notes hereunder.

³ If the Company is a newly formed funding subsidiary of the Guarantor this provision may be revised to reference an issuance of a prior funding subsidiary guaranteed by the same Guarantor, or the precedent indenture may be based on an indenture for direct-issued bonds of the Guarantor adapted to include typical funding-sub subsidiary and guarantor terms, and this provision may reference “(A) if the Guarantor has outstanding any Qualifying Bonds on the Issue Date, the outstanding Qualifying Bonds most recently issued by the Guarantor prior to the Issue Date and, (B) if the Guarantor has no outstanding Qualifying Bonds on the Issue Date, the Qualifying Loans most recently issued by the Guarantor prior to the Issue Date ((A) or (B) the “Reference Indebtedness” (it being understood that both the Company and the Guarantor shall be deemed to have entered into and been subject to the terms of the Reference Indebtedness for the purposes of this Section)).”

(b) The Company and the Guarantor shall from time to time, upon request by the Noteholders, promptly execute and deliver at their expense (including, without limitation, the reasonable and documented fees and expenses of one counsel for the holders of the Notes, taken as a whole) an amendment to this Agreement in form and substance reasonably satisfactory to the Noteholders evidencing any Other Debt Terms identified by the Noteholders that are included in the Reference Indebtedness and deemed to be included in this Agreement by virtue of paragraph (a) above, but are not already expressly stated herein (provided that the execution and delivery of such amendment shall not be a precondition to the deemed inclusion of such Other Debt Terms).

(c) The Company shall deliver to the Trustee and the Noteholders (i) on the Issue Date, a copy of the principal instruments evidencing the Reference Indebtedness and (ii) after the Issue Date, a copy of each amendment, modification or waiver of the Reference Indebtedness from time to time, and a copy of each opinion of counsel or officer's certificate delivered by the Company or the Guarantor pursuant to the Reference Indebtedness from time to time.

Section _____. Other Credit Enhancement Terms. Neither the Company nor the Guarantor shall (a) incur any Indebtedness under Bonds or Loans (whether directly or under any Guarantee) which benefits from any Credit Enhancement (including without limitation a Guarantee of such Indebtedness by any [Restricted Subsidiary][**Material Subsidiary**]⁴) not already applicable to the Notes (including any Note Guarantees applicable thereto) or (b) provide or obtain any Credit Enhancement with respect to its existing Indebtedness under Bonds or Loans (or its Guarantees in respect thereof) not already applicable to the Notes (including the Note Guarantees applicable thereto), in each case unless it concurrently provides or obtains such Credit Enhancement for the benefit of the Noteholders, or offers to the Noteholders the right to benefit from such Credit Enhancement on equal and ratable terms by means of a supplemental indenture or other instrument acceptable to the Trustee and the Noteholders.

[Section _____. Liens (IG).

(a) Neither the Company nor the Guarantor will issue, incur, create, assume or guarantee, nor will either of them permit any Restricted Subsidiary to issue, incur, create, assume or guarantee, any Secured Debt (other than Secured Debt secured solely by Permitted Liens (IG)) without in any such case effectively providing, concurrently with issuance, incurrence, creation, assumption or guarantee of any such Secured Debt, or the grant of a Lien with respect to any such Indebtedness, that the Notes (together with, if the Company shall so determine, any other indebtedness of or guarantee by the Company or the Guarantor or such Restricted Subsidiary ranking equally with the Notes and then existing or thereafter created) shall be secured equally and ratably with (or, at the option of the Company, prior to) such Secured Debt.

(b) Notwithstanding subparagraph (a), the Company or the Guarantor or any Restricted Subsidiary will be permitted to issue, incur, create, assume or guarantee Secured Debt which would otherwise be subject to the restrictions above, without equally and ratably securing the Notes, provided that after giving effect thereto, the aggregate amount of Secured Debt

⁴ Restricted Subsidiary for Investment Grade and Material Subsidiary for High Yield.

secured by a Lien (other than Permitted Liens (IG)) that does not equally and ratably secure the Notes does not exceed the Lien Threshold Amount.

Section ____ . Sale and Lease-Back Transactions.

(a) Neither the Company nor the Guarantor will, nor will they cause or permit any Restricted Subsidiary to, enter into any Sale and Lease-Back Transaction with respect to any Principal Property, other than any such transaction involving a lease for a term of not more than three years or any such transaction between the Company or the Guarantor and a Restricted Subsidiary or between Restricted Subsidiaries, unless: (1) the Company, the Guarantor or such Restricted Subsidiary would be entitled to incur Indebtedness secured by a Lien on the Principal Property involved in such transaction in an amount that would be at least equal to the Attributable Debt with respect to such Sale and Lease-Back Transaction, without equally and ratably securing the Notes, pursuant to Section ____ (Liens (IG)) or (2) the Company or the Guarantor shall apply an amount equal to the greater of the net proceeds of such sale or the Attributable Debt with respect to such Sale and Lease-Back Transaction within 180 days of such sale to either (or a combination of) (x) the retirement (other than mandatory retirement, mandatory prepayment or sinking fund payment or by a payment at maturity) of Indebtedness for borrowed money of the Company, the Guarantor or a Restricted Subsidiary that matures more than 12 months after the creation of such Indebtedness or (y) the purchase, construction or development of other comparable property that will be treated as a Principal Property.

(b) Notwithstanding the restrictions outlined in the preceding subparagraph (a), the Company, the Guarantor or any Restricted Subsidiary will be permitted to enter into Sale and Lease-Back Transactions which would otherwise be subject to such restrictions, without applying the net proceeds of such transactions in the manner set forth in clause (2) of subparagraph (a) above, provided that after giving effect thereto, the aggregate amount of such Sale and Lease-Back Transactions, together with the aggregate amount of all Secured Debt permitted under Section ____ (Liens (IG)) above (excluding Secured Debt attributable solely to Permitted Liens), does not exceed the Lien Threshold Amount.]⁵

[Section ____ . Liens (HY). Neither the Company nor the Guarantor will, nor will either cause or permit any of its Subsidiaries to, directly or indirectly, create, incur or assume any Liens (other than Permitted Liens (HY)) against or upon any property or assets of the Company or the Guarantor or any of their Subsidiaries whether owned on the Issue Date or acquired after such date, or any proceeds therefrom, unless (i) in the case of Liens securing Indebtedness that is expressly subordinate or junior in right of payment to the Notes and the Note Guarantee of the Guarantor, the Notes are secured by a Lien on such property, assets or proceeds that is senior in priority to such Liens and (ii) in all other cases, the Notes are equally and ratably secured by such Liens.]

Section ____ . Change of Control. Within 15 days of the occurrence of a Change of Control Trigger Event, the Company shall (i) give written notice of such event to the Noteholders and (ii) at the written direction of Noteholders representing the majority of the principal amount of the Notes, redeem all of the then outstanding Notes on a date designated by such Noteholders occurring not less than 15 and not more than 30 days after the date of such written direction (the "Change of Control Redemption Date"), at a price equal to 101% of the

⁵ For Investment Grade only but always included due to covenant suspension feature for High Yield.

principal amount of the Notes redeemed, *plus* accrued and unpaid interest, if any, to the Change of Control Redemption Date.

[Section _____. Redemption Price. In connection with any call, prepayment or other early redemption of the Notes at the option of the Company, the redemption price payable to the Noteholders shall be:

(I) for any Redemption Date occurring more than 90 days prior to the scheduled final maturity date of the Notes, an amount equal to the sum of:

- (a) 100% of the principal amount of the Notes redeemed, *plus*
- (b) the Applicable Premium as of the date of redemption, *plus*
- (c) accrued and unpaid interest, if any, to the date of redemption; and

(II) for any Redemption Date occurring 90 days or less prior to the scheduled final maturity date of the Notes, a price equal to par plus accrued and unpaid interest, if any, to the date of redemption].⁶

[Section _____. Redemption Price. In connection with any call, prepayment or other early redemption of the Notes at the option of the Company, the redemption price payable to the Noteholders shall be

(I) for any Redemption Date occurring prior to the date falling ____⁷ months after the Issue Date (the "First Call Date"), an amount equal to the sum of:

- (a) 100% of the principal amount of the Notes redeemed, *plus***
- (b) the Applicable Premium as of the Redemption Date, *plus***
- (c) accrued and unpaid interest, if any, to the Redemption Date.**

(II) for any Redemption Date occurring on or after the First Call Date but prior to the date falling ____⁸ months after the Issue Date, a price equal to [par plus a percentage figure equal to 50% of the Note coupon] (the "First Call Date Price") plus accrued and unpaid interest, if any, to the Redemption Date; and

(III) for any Redemption Date occurring after the date falling ____⁹ months after the Issue Date, a price equal to par plus accrued and unpaid interest, if any, to the Redemption Date].¹⁰

Section _____. Fundamental Changes. Neither the Company nor the Guarantor will, nor will they permit any Subsidiary Guarantor (each such entity for this purpose a "Merger Restricted Party"), to directly or indirectly: (A) consolidate or merge with or into another Person

⁶ Investment Grade alternative.

⁷ Insert date which is 50% of the Note tenor.

⁸ Insert date which is 75% of the Note tenor.

⁹ Insert date which is 75% of the Note tenor.

¹⁰ High Yield alternative.

(whether or not the Merger Restricted Party is the surviving Person); or (B) sell, lease, assign, transfer, convey or otherwise dispose of all or substantially all of the properties or assets of the Merger Restricted Party and its Material Subsidiaries, taken as a whole, in one or more related transactions, to another Person, unless:

(a) the Merger Restricted Party is the surviving Person, or the Person formed by or surviving any such merger, amalgamation or consolidation (if other than the Merger Restricted Party) or to which such sale, assignment, transfer, lease, conveyance or other disposition will have been made is a Person organized or existing under the laws of the United States, any state thereof, the District of Columbia, or any territory thereof (such Person, as the case may be, being herein called the “Successor Company”);

(b) the Successor Company assumes by supplemental indenture all the obligations of the Merger Restricted Party under the Notes or the relevant Note Guarantee, as applicable, and the Indenture, and expressly assumes the obligations of the Merger Restricted Party under the CCF Letter;

(c) immediately after giving effect to such transaction (and treating any Indebtedness that becomes an obligation of the Merger Restricted Party, the Successor Company or any Subsidiary of the Successor Company as a result of such transaction as having been incurred by the Merger Restricted Party, the Successor Company or such Subsidiary at the time of such transaction), no Default or Event of Default shall have occurred and be continuing;

(d) in the case of a consolidation or merger of the Company or the Guarantor, the Guarantor and each Subsidiary Guarantor (unless it is the other party to the transactions above, in which case paragraph (a) shall apply), if any, shall have by supplemental indenture confirmed that its Note Guarantee shall apply to such Person’s obligations in respect of the Indenture and the Notes;

(e) the Company shall have delivered to the Trustee an Officer’s Certificate and an Opinion of Counsel, each stating that such consolidation, merger or transfer and such supplemental indenture (if any) comply with the Indenture; and

(f) such consolidation or merger shall not result in any withholding tax on interest payments in respect of the Notes (unless fully compensated by gross-up obligation of the Company) or any other adverse tax consequence to the Noteholders;

provided that the foregoing covenant shall not apply to any consolidation or merger of (i) a Subsidiary that is not a Subsidiary Guarantor into any other Subsidiary that is not a Subsidiary Guarantor or (ii) a Subsidiary Guarantor into the Company, the Guarantor or any other Subsidiary Guarantor.

For purposes of this Section ____, the sale, lease, conveyance, assignment, transfer or other disposition of all or substantially all of the properties and assets of one or more Subsidiaries of the Merger Restricted Party which properties and assets, if held by the Merger Restricted Party instead of such Subsidiaries, would constitute all or substantially all of the properties and assets of the Merger Restricted Party on a consolidated basis, shall be deemed to be the transfer of all or substantially all of the properties and assets of the Merger Restricted Party.

4. Agreements with CCF. The Indenture shall contain the following provision.

Section ____. Certain Agreements with CCF.

(a) Each of the Company and the Guarantor acknowledges and agrees that (i) the terms and conditions of this Indenture (and any related provision of the [Purchase][Underwriting] Agreement) shall not be deemed to modify or amend any representation, warranty, agreement or undertaking of the Company or the Guarantor in the CCF Letter Agreement or in the Authorization Form or the “Eligibility Certifications and Issuer Statements” as defined in the CCF Letter Agreement, and (ii) the rights or remedies of the Trustee or the Noteholders hereunder shall not limit any rights or remedies of CCF under the CCF Letter Agreement, which rights and remedies shall be cumulative. CCF shall have no duty or obligation to any other Noteholder with respect to its exercise, non-exercise or manner of exercise of any right or remedy of CCF under the CCF Letter Agreement.

(b) Any amounts paid by the Company or the Guarantor under the CCF Letter Agreement are not subject to Section __. [sharing provision] [if any] or any other provision of this Indenture relating to sharing of payments or expenses or making of pro rata payment among Noteholders.

5. Additional Events of Default. The Indenture shall contain the following provision in the section listing the events of default in relation to the Notes:

() the Company, the Guarantor, or any [Restricted Subsidiary][**Material Subsidiary**]¹¹ shall fail to make when and where due, after giving effect to any applicable grace period, any one or more payments of principal, interest, fees or other amounts owing under one or more agreements or instruments relating to any outstanding Indebtedness of the Company, the Guarantor or such [Restricted Subsidiary][**Material Subsidiary**], having an outstanding principal or commitment amount in aggregate equal to or exceeding the Default Threshold Amount;

() a default, event of default or other similar condition or event (however described) has occurred and is continuing in respect of the Company, the Guarantor, or any [Restricted Subsidiary][**Material Subsidiary**] under one or more agreements or instruments relating to any outstanding Indebtedness of the Company, the Guarantor or any [Restricted Subsidiary][**Material Subsidiary**], having an outstanding principal or commitment amount in aggregate equal to or exceeding the Default Threshold Amount, which has resulted in such Indebtedness becoming declared, due and payable under such agreements or instruments (or otherwise subject to a required early repurchase, redemption or prepayment) before it would otherwise have been due and payable.

The Indenture shall also include the following provision or substantially similar provisions:

____. Notice of Default.

If a Default or an Event of Default occurs and is continuing and the Trustee receives actual notice of such event, the Trustee shall mail to each Noteholder, as their names

¹¹ Restricted Subsidiary for Investment Grade and Material Subsidiary for High Yield.

and addresses appear on the Noteholder list maintained pursuant to this Indenture, notice of the uncured Default or Event of Default promptly after the Trustee receives such notice.

Promptly upon becoming aware of any Default or Event of Default, the Company or the Guarantor shall deliver to the Trustee written notice of events which would constitute such Defaults or Events of Default, their status and what action the Company or the Guarantor is taking or proposes to take in respect thereof. In addition, the Company or the Guarantor shall deliver to the Trustee, within 120 days after the end of each fiscal year, an Officer's Certificate indicating whether the signers thereof know of any Default or Event of Default that occurred during the previous fiscal year.

6. Additional Definitions. The Indenture shall contain the following definitions:

[“Affiliate” means, 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.]¹²

“A.M. Best” means A.M. Best Rating Services, Inc. or any successor thereto.

[“Applicable Premium” means, with respect to any Note on any Redemption Date, the excess, if any, of (a) the present value at such Redemption Date of (i) [the principal amount of such Note][**the First Call Date Price**],¹³ plus (ii) all required remaining scheduled interest payments due on such Note through [the scheduled final maturity date of the Notes][**the First Call Date**]¹⁴ (excluding accrued but unpaid interest to the Redemption Date), computed using a discount rate equal to the Treasury Rate as of such Redemption Date plus 50 basis points; over (b) the then outstanding principal amount of such Note on such Redemption Date, as calculated by the Company or on behalf of the Company by such Person as the Company shall designate; provided, that such calculation shall not be the duty or obligation of the Trustee.]

“Applicable Rating Agency” means a Rating Agency that assigned a Rating as of March 22, 2020.

“Attributable Debt” means, in respect of a Sale and Lease-Back Transaction involving a Principal Property, at the time of determination, the lesser of: (a) the fair value of such property (as determined in good faith by the Board of Directors); or (b) the present value of the total net amount of rent required to be paid under such lease during the remaining term thereof (including any renewal term or period for which such lease has been extended), discounted at the rate of interest set forth or implicit in the terms of such lease or, if not practicable to determine such rate, the weighted average interest rate per annum borne by the Notes compounded semi-annually. For purposes of the foregoing definition, rent shall not include amounts required to be paid by the lessee, whether or not designated as rent or additional rent, on account of or contingent upon maintenance and repairs, insurance, taxes, assessments, water rates and similar charges. In the case of any lease which is terminable by the lessee upon the payment of a penalty, such net amount shall be the lesser of the net amount determined assuming termination upon the first date such lease may be terminated (in which case the net

¹² May also use more general definition in Indenture.

¹³ Bracketed terms for Investment Grade versus High Yield.

¹⁴ Bracketed terms for Investment Grade versus High Yield.

amount shall also include the amount of the penalty, but no rent shall be considered as required to be paid under such lease subsequent to the first date upon which it may be so terminated) and the net amount determined assuming no such termination.

“Authorization Form” means the “PMCCF Sole Investor Issuer Authorization Form” delivered in connection with the Notes dated [date], to BlackRock Financial Markets Advisory (or any successor investment manager), as Investment Manager for the Primary Market Corporate Credit Facility.

“Board” means the Board of Governors of the Federal Reserve System.

“Board of Directors”: [Use definition from Indenture].

“Bond” means an obligation of in respect of Indebtedness for borrowed money that is in the form of, or represented by, a bond, note, certificated debt security or other debt security, but is not a note or other obligation in respect of a Loan.

“Business Days” [may use otherwise applicable Indenture definition].

“Capitalized Lease Obligations” means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital or financing lease obligations under GAAP, but excluding any lease which would be accounted for as an operating lease pursuant to GAAP as in effect for fiscal years beginning prior to December 15, 2019 (whether such lease is in effect on the Issue Date or thereafter) and without giving effect to FASB Accounting Standard Codification Topic 842.¹⁵ For purposes of this definition, the amount of such obligations at any date will be the capitalized amount of such obligations at such date, determined in accordance with GAAP.

“CCF” means Corporate Credit Facilities LLC (or any successor company).

“CCF Letter Agreement” means the letter agreement dated on or before the Issue Date among CCF, the Company and the Guarantor.

“Change of Control” means (a) an event or series of events by which the consummation of a transaction pursuant to which any “person” or “group” (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, but excluding any employee benefit plan of such person or its Subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan) becomes the “beneficial owner” (as defined in Rules 13d-3 and 13d-5 under the Securities Exchange Act of 1934, except that a person or group shall be deemed to have “beneficial ownership” of all securities that such person or group has the right to acquire, whether such right is exercisable immediately or only after the passage of time (such right, an “option right”)), directly or indirectly, of more than 50% of the Equity Interests of (i) the Guarantor entitled to vote for members of the board of directors or equivalent governing body of the Guarantor, as applicable, or (ii) any Successor Company in connection with a transaction involving the Company or the Guarantor described in Section ___ (Fundamental Changes), in each case on a fully-diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right), (b) the Company or the Guarantor sells, leases, assigns, transfers,

¹⁵ A similar exclusion may be made for comparable treatment under IFRS.

conveys or otherwise disposes of all or substantially all of its properties or assets to any other Person other than the Guarantor, (c) the Company or the Guarantor is liquidated or dissolved or adopts a plan of liquidation; or (d) at any time, the Company ceases to be a direct or indirect wholly-owned subsidiary of the Guarantor.

“Change of Control Trigger Event” means a Change of Control and a Rating Downgrade Event.

“Company” means [issuer entity].

“Contractual Obligation” means, 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.

“Consolidated Net Income” means, for any period, the consolidated net income (or loss) of the Guarantor and its Subsidiaries on a consolidated basis; provided that there shall be excluded (a) the income (or deficit) of any Person accrued prior to the date it becomes a Subsidiary of the Guarantor or is merged into or consolidated with the Guarantor or any of its Subsidiaries, (b) the income (or deficit) of any Person (other than a Subsidiary of the Guarantor) in which the Guarantor or any of its Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Guarantor or such Subsidiary in the form of dividends or similar distributions and (c) the undistributed earnings of any Subsidiary of the Guarantor to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any Contractual Obligation (other than under this Indenture) or requirement of law applicable to such Subsidiary.

“Consolidated Net Tangible Assets” means, as of any date of determination, (i) (a) the Consolidated Total Assets less (b) the amount thereof constituting goodwill and other intangibles, as calculated in accordance with GAAP, other than intangibles consisting of intellectual property and similar items used in the ordinary course of business of the Guarantor and its consolidated Subsidiaries, less (ii) all current liabilities of the Guarantor and its consolidated Subsidiaries.

“Consolidated Total Assets” means on any date, the amount of consolidated total assets of the Guarantor and its Subsidiaries determined in accordance with the Guarantor’s most recent annual or quarterly GAAP financial statements issued as of such date.

[“Control” means 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 ability to exercise voting power, by contract or otherwise. “Controlling” and “Controlled” have meanings analogous thereto.]¹⁶

“Credit Enhancement” means, in relation to any Indebtedness, any Guarantee of such Indebtedness or any Subordination Agreement benefiting such Indebtedness (but Liens securing any outstanding Indebtedness shall be deemed not to be a Credit Enhancement).

¹⁶ Include if needed for “Affiliate” definition.

“DBRS” means DBRS, Inc. or any successor thereto.

“Default” means any event or condition that constitutes an Event of Default or that, with the giving of any notice, the passage of time, or both, would be an Event of Default.

“Default Threshold Amount” means on any date the greater of (A) the lesser of (i) an amount equal to [15%] / [10%]¹⁷ of the Consolidated Net Tangible Assets as of such date and (ii) [\$100,000,000] or (B) the lowest such amount as is specified for the corresponding event of default under any Qualifying Loans outstanding on the Issue Date; provided that the Default Threshold Amount shall not exceed the relevant threshold applicable for the relevant event of default under the terms of the Reference Indebtedness.

“Disposition” or “Dispose” means the sale, transfer, license, lease or other disposition of any property by any Person (including any sale and leaseback transaction and any issuance of Equity Interests by a Subsidiary of such Person), including any sale, assignment, transfer or other disposal, with or without recourse, of any notes or accounts receivable or any rights and claims associated therewith.

“Equity Interests” means, as to any Person, all of the shares of capital stock of (or other ownership or profit interests in) such Person, all of the warrants, options or other rights for the purchase or acquisition from such Person of shares of capital stock of (or other ownership or profit interests in) such Person, all of the securities convertible into or exchangeable for shares of capital stock of (or other ownership or profit interests in) such Person or warrants, rights or options for the purchase or acquisition from such Person of such shares (or such other interests), and all of the other ownership or profit interests in such Person (including partnership, member or trust interests therein), whether voting or nonvoting, and whether or not such shares, warrants, options, rights or other interests are outstanding on any date of determination.

“Event of Default” [Indenture should have a definition that refers to EOD section].

“First Call Date” has the meaning ascribed thereto under [*insert the section number for the Redemption Price provisions*].¹⁸

“Fitch” means Fitch Ratings, Inc. or any successor thereto.

[“GAAP” means generally accepted accounting principles consistently applied as in effect in the United States from time to time.]¹⁹

[“Governmental Authority” means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or

¹⁷ Bracketed alternatives are 15% for Investment Grade and 10% for High Yield.

¹⁸ High Yield provision.

¹⁹ For GAAP issuers. Language may also reflect provision permitting company to elect into IFRS.

functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank).]²⁰

“Guarantee” means, as to any Person, any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person in any manner, whether directly or indirectly.

“Guarantor” means [parent guarantor entity] (and for the avoidance of doubt does not refer to any Subsidiary Guarantor or Additional Guarantor).

[“IFRS” means the International Financial Reporting Standards, as promulgated by the International Accounting Standards Board (or any successor board or agency).]

“Indebtedness” means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations of such Person for borrowed money and all obligations of such Person evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) all direct or contingent obligations of such Person arising under (i) letters of credit (including standby and commercial), bankers’ acceptances and bank guaranties and (ii) surety bonds, performance bonds and similar instruments issued or created by or for the account of such Person;
- (c) net obligations of such Person under any Swap Contract;
- (d) all obligations of such Person to pay the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and not overdue by more than 90 days);
- (e) all Capitalized Lease Obligations or Sale and Lease-Back Transactions of such Person;
- (f) indebtedness (excluding prepaid interest thereon) secured by a Lien on property owned or being purchased by such Person (including indebtedness arising under conditional sales or other title retention agreements), whether or not such indebtedness shall have been assumed by such Person or is limited in recourse; and
- (g) all Guarantees of such Person in respect of any of the foregoing.

“Investment Grade Floor” means (i) in the case of a Rating by A.M. Best, “bbb-”; (ii) in the case of DBRS, “BBB low”; (iii) in the case of Moody’s, Baa3; and (iv) in the case of

²⁰ Include if needed for “Person” definition.

Fitch, Kroll or S&P, “BBB-” (and in the case of any other Rating Agency its equivalent rating to (i) through (iv)).

“Issue Date” means the date of issuance of the Notes.

“Kroll” means Kroll Bond Rating Agency, Inc. or any successor thereto.

“Lien” means any mortgage, pledge, hypothecation, collateral assignment, deposit arrangement, encumbrance, lien (statutory or other), charge, or preference, priority or other security interest of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any easement, right of way or other encumbrance on title to real property, and any Capitalized Lease Obligation having substantially the same economic effect as any of the foregoing).

“Lien Threshold Amount” means on any date an amount equal to [15%]/[10%]²¹ of the Consolidated Net Tangible Assets as of such date; provided that the Lien Threshold Amount shall not exceed the relevant threshold applicable for the corresponding covenant under the terms of the Reference Indebtedness.

“Loan” means an obligation of in respect of Indebtedness for borrowed money that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement.

“Material Subsidiary” means:

(a) (1) a Subsidiary of the Guarantor that as of such time meets the definition of a “significant subsidiary” contained as of the date hereof in Regulation S-X of the SEC; or (2) any Subsidiary that owns, directly or indirectly, Equity Interests in any other Material Subsidiary; provided that if (i) on the last day of any financial quarter or (ii) on the date after any Investment in a Subsidiary that was not previously a Material Subsidiary is consummated, the total assets or total revenues of all the Subsidiaries that are not Material Subsidiaries would exceed 20% of the Consolidated Total Assets or total revenues, as the case may be, of the Guarantor and its Subsidiaries (based upon and as of the date of delivery of the most recent consolidated financial statements of the Guarantor (giving pro forma effect to such Investment, in the case of clause (ii))), the Guarantor shall, within 30 days of the date of the most recent consolidated financial statements of the Guarantor or the date of such Investment, as the case may be, designate (by delivering an officers’ certificate and board resolution to the indenture trustee) one or more Subsidiaries as Material Subsidiaries such that the total assets or total revenues of all the Subsidiaries that are not Material Subsidiaries would no longer exceed such 20% figure; and

(b) the Company and any other Subsidiary of the Guarantor which is a Subsidiary Guarantor.

“Moody’s” means Moody’s Investors Service, Inc. or any successor thereto.

²¹ Bracketed alternatives are 15% for Investment Grade and 10% for High Yield.

“Note Guarantee” means a Guarantee of the Notes in the form of [reference form of Guarantee of the Notes].

“Officer’s Certificate” [should reference otherwise applicable term in the Indenture].

“Opinion of Counsel” [should reference otherwise applicable term in the Indenture].

“Other Debt Terms” means each of (i) covenants applicable to the Company or the Guarantor (including covenants in instruments documenting Indebtedness of the Company or the Guarantor that are applicable to Material Subsidiaries [and/or Restricted Subsidiaries]²² of the Guarantor with respect to (a) limitations on incurrence of other Indebtedness, (b) limitations on incurrence of Liens, (c) limitations on Restricted Payments and Investments, (d) limitations on mergers and other fundamental changes, (e) limitations on Dispositions, (f) repurchase upon Change of Control or merger, (g) limitations on transactions with Affiliates and (h) other conditions or restrictions on the operations of the Company or the Guarantor and its Subsidiaries, (ii) all events of default (including relevant grace periods therein) and (iii) conditions to issuance such as required certifications, filings, legal opinions and similar matters.

“Parent Company” of any relevant Person means another Person with respect to which such relevant Person is a Subsidiary.

[“Permitted Liens (IG)” means:

- (a) Liens existing on the Issue Date;
- (b) Liens securing the Notes issued under this Indenture;
- (c) Liens securing obligations to the Company or the Guarantor or a Wholly Owned Subsidiary of the Company or the Guarantor on assets of any Subsidiary of the Company or the Guarantor;
- (d) Liens securing Refinancing Indebtedness which is incurred to Refinance any Indebtedness which has been secured by a Permitted Lien (IG) and which has been incurred in accordance with the provisions of this Indenture; provided, however, that such Liens (X) shall be limited to all or part of the same property (plus improvements, accessions, proceeds or dividends or distributions in respect thereof and after-acquired property as provided for in the terms of the original Lien) that secured the original Lien (plus improvements and accessions on such property) and proceeds and products thereof and (Y) do not extend to or cover any property or assets of the Company or the Guarantor or any of its Subsidiaries not securing the Indebtedness so Refinanced;
- (e) any Lien existing on any property or asset prior to the acquisition thereof by the Guarantor or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection

²² Reference to Restricted Subsidiaries will only be relevant for Investment Grade.

with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Guarantor or any Subsidiary and (iii) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be;

(f) Liens securing Purchase Money Indebtedness;

(g) Liens securing obligations (contingent or otherwise) of the Guarantor or any Restricted Subsidiary existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of mitigating risks associated with liabilities, commitments, investments, assets or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for speculative purposes;

(h) Liens securing obligations in respect of Taxes not yet due or that are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(i) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 30 days or that are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(j) pledges or deposits in the ordinary course of business in connection with (i) workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA, and (ii) public utility services provided to the Guarantor or a Subsidiary;

(k) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(l) easements, rights-of-way, restrictions and other similar encumbrances affecting real property that, in the aggregate, are not substantial in amount, and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person, and any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Guarantor and its Subsidiaries;

(m) Liens securing judgments for the payment of money so long as such Lien is adequately bonded and any appropriate legal proceedings which may have been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceeding may be initiated has not expired;

(n) “Backup” Liens granted solely for the purpose of perfecting a security interest of a purchaser over purchased assets in the event that a transaction intended as a sale might be characterized as a financing;

(o) Liens (i) of a collecting bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, and (ii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of setoff) that are customary in the banking industry;

(p) any interest or title of a lessor, sublessor, licensor or sublicensor under leases or licenses permitted by this Agreement that are entered into in the ordinary course of business;

(q) leases, licenses, subleases or sublicenses granted to others in the ordinary course of business that do not (i) interfere in any material respect with the ordinary conduct of the business of the Guarantor and its Subsidiaries, or (ii) secure any Indebtedness;

(r) 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 in the ordinary course of business.]²³

[“Permitted Liens (HY)” means:

(a) **Liens existing on the Issue Date;**

(b) **Liens securing the Notes issued under this Indenture;**

(c) **Liens securing obligations to the Company or the Guarantor or a Wholly Owned Subsidiary of the Company or the Guarantor on assets of any Subsidiary of the Company or the Guarantor;**

(d) **Liens securing Refinancing Indebtedness which is incurred to Refinance any Indebtedness which has been secured by a Permitted Lien (HY) and which has been incurred in accordance with the provisions of this Indenture; provided, however, that such Liens (X) shall be limited to all or part of the same property (plus improvements, accessions, proceeds or dividends or distributions in respect thereof and after-acquired property as provided for in the terms of the original lien) that secured the original Lien (plus improvements and accessions on such property) and proceeds and products thereof and (Y) do not extend to or cover any property or assets of the Company or the Guarantor or any of its Subsidiaries not securing the Indebtedness so Refinanced;**

(e) **any Lien existing on any property or asset prior to the acquisition thereof by the Guarantor or any Subsidiary or existing on any property or asset of any Person that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in**

²³ Investment Grade version.

contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Guarantor or any Subsidiary and (iii) such Lien shall secure only those obligations that it secures on the date of such acquisition or the date such Person becomes a Subsidiary, as the case may be;

(f) Liens securing Purchase Money Indebtedness permitted under this Indenture;

(g) Liens securing obligations (contingent or otherwise) of the Guarantor or any Material Subsidiary existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of mitigating risks associated with liabilities, commitments, investments, assets or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for speculative purposes;

(h) Liens securing obligations in respect of Taxes not yet due or that are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person in accordance with GAAP;

(i) carriers', warehousemen's, mechanics', materialmen's, repairmen's or other like Liens arising in the ordinary course of business that are not overdue for a period of more than 30 days or that are being contested in good faith and by appropriate proceedings diligently conducted, if adequate reserves with respect thereto are maintained on the books of the applicable Person;

(j) pledges or deposits in the ordinary course of business in connection with (i) workers' compensation, unemployment insurance and other social security legislation, other than any Lien imposed by ERISA, and (ii) public utility services provided to the Guarantor or a Subsidiary;

(k) deposits to secure the performance of bids, trade contracts and leases (other than Indebtedness), statutory obligations, surety and appeal bonds, performance bonds and other obligations of a like nature incurred in the ordinary course of business;

(l) easements, rights-of-way, restrictions and other similar encumbrances affecting real property that, in the aggregate, are not substantial in amount, and that do not in any case materially detract from the value of the property subject thereto or materially interfere with the ordinary conduct of the business of the applicable Person, and any zoning or similar law or right reserved to or vested in any Governmental Authority to control or regulate the use of any real property that does not materially interfere with the ordinary conduct of the business of the Guarantor and its Subsidiaries;

(m) Liens securing judgments for the payment of money so long as such Lien is adequately bonded and any appropriate legal proceedings which may have

been duly initiated for the review of such judgment have not been finally terminated or the period within which such proceeding may be initiated has not expired;

(n) **“Backup” Liens granted solely for the purpose of perfecting a security interest of a purchaser over purchased assets in the event that a transaction intended as a sale might be characterized as a financing;**

(o) **Liens (i) of a collecting bank arising under Section 4-210 of the Uniform Commercial Code on items in the course of collection, and (ii) in favor of a banking institution arising as a matter of law encumbering deposits (including the right of setoff) that are customary in the banking industry;**

(p) **any interest or title of a lessor, sublessor, licensor or sublicensor under leases or licenses permitted by this Agreement that are entered into in the ordinary course of business;**

(q) **leases, licenses, subleases or sublicenses granted to others in the ordinary course of business that do not (i) interfere in any material respect with the ordinary conduct of the business of the Guarantor and its Subsidiaries, or (ii) secure any Indebtedness;**

(r) **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 in the ordinary course of business;**

(s) **Liens incurred with respect to receivables and inventory financings in the ordinary course of business and in a manner consistent with past practices; and**

(t) **Liens securing other Indebtedness in an aggregate amount (inclusive of any Refinancing Indebtedness arising from a Refinancing of Indebtedness incurred pursuant to this clause (t)) not exceeding the Lien Threshold Amount].²⁴**

“Person” [may be defined as per generally applicable Indenture definition but if not defined:] means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

“Preferred Stock” means any Equity Interest of a Person, however designated, which entitles the holder thereof to a preference with respect to dividends, distributions or liquidation proceeds of such Person over the holders of other Equity Interests issued by such Person.

“PMCCF Standard Terms” means the Standard Terms and Conditions for issuance to the Primary Market Corporate Credit Facility set forth on the website of the Federal Reserve Bank of New York.

“Primary Market Corporate Credit Facility” means the facility established as such consistent with the terms of the term sheet entitled “Primary Market Corporate Credit Facility”

²⁴ High Yield version.

dated March 23, 2020 and published on the website of the Board, as amended on April 9, 2020, and as further adjusted or amended from time to time by the Board and the United States Secretary of the Treasury and announced on the Board's website.

[“Principal Property” means (i) each [describe each type of principal properties used in the Guarantor's consolidated business]²⁵ which: (a) is owned by the Guarantor or any Subsidiary; (b) is located within any of the present 50 states of the United States of America (or the District of Columbia) or any territories thereof; (c) has not been determined in good faith by the Board of Directors not to be materially important to the total business conducted by the Guarantor and its Subsidiaries taken as a whole; and (d) has a book value on the date as of which the determination is being made in excess of 1% of Consolidated Net Tangible Assets of the Guarantor as most recently determined on or prior to such date; and (ii) the Equity Interests of any Restricted Subsidiary.]

“Purchase Money Indebtedness” means Indebtedness (including Capitalized Lease Obligations) incurred or issued by the Guarantor or any [Restricted Subsidiary]/[**Material Subsidiary**]²⁶ to finance the purchase, lease, replacement or improvement of property (real or personal), equipment or other assets, to be used in a Similar Business, whether through:

- (a) the direct purchase, lease, replacement or improvement of such assets by the Guarantor or a [Restricted Subsidiary]/[**Material Subsidiary**],
- (b) the acquisition of Equity Interests of any Person owning such assets which becomes a [Restricted Subsidiary]/[**Material Subsidiary**] as a result of such acquisition, or
- (c) the acquisition of Equity Interests of a [Restricted Subsidiary]/[**Material Subsidiary**] that is not a Wholly Owned Subsidiary owning such assets from a Person other than the Guarantor or another [Restricted Subsidiary]/[**Material Subsidiary**],

as well as Indebtedness incurred or issued to (i) refinance or replace in whole or in part such Indebtedness or Indebtedness incurred or issued pursuant to another provision of this covenant, the proceeds of which were used for the purposes specified in clauses (a), (b) or (c) above, or (ii) replenish in whole or in part other funds used for the purposes specified in clauses (a), (b) or (c) above;

provided, however, that any such Indebtedness (or the Indebtedness refinanced or replaced by such Indebtedness) is incurred or issued at the date of such purchase, lease, replacement or improvement or within 360 days thereafter.

“Qualifying Bonds” means senior unsecured Bonds that were issued and sold by the Company or the Guarantor to unaffiliated third party investors in a registered distribution under the Securities Act, a distribution made in accordance with Regulation S under the Securities Act or a distribution exempt from registration under Rule 144A under the Securities

²⁵ These should include such properties as a manufacturing plant, manufacturing facility, warehouse, equipment yard, distribution facility, or other property of a type included in the definition of “Principal Property” under any one or more Qualifying Bonds issued prior to the Issue Date.

²⁶ Restricted Subsidiary for Investment Grade and Material Subsidiary for High Yield.

Act, in a single issuance amount at least equal to the lesser of (i) \$100 million or (ii) 5% of the Consolidated Net Tangible Assets as of such date (or its equivalent in any other currency).

“Qualifying Loans” means senior unsecured Loans that were obtained by the Company or the Guarantor from unaffiliated third party lenders, in a single facility or commitment amount at least equal to \$50 million or its equivalent in any other currency.

“Rating” means a rating of the long-term senior unsecured indebtedness of the Guarantor (i.e., the issuer rating).

“Rating Agency” each of A.M. Best, DBRS, Fitch, Kroll, Moody’s and S&P (and any other major nationally recognized statistical rating organization identified as applicable for purposes of the PMCCF Standard Terms from time to time as specified in the FAQs and posted on the website of the Federal Reserve Bank of New York) if on the relevant date of determination such agency currently assigns a Rating; provided that A.M. Best shall be a Rating Agency only where the Guarantor is an insurance company.

“Rating Downgrade Event” means the rating on the Notes is lowered from the rating then in effect by any of the Rating Agencies to a rating that is lower than the Investment Grade Floor (including any reduction of the Rating then in effect if such Rating is already lower than the Investment Grade Floor) on any date during the period (the “Trigger Period”) commencing on the date of the first public announcement of any Change of Control and ending 60 days following consummation of such Change of Control (which Trigger Period will be extended following consummation of a Change of Control for so long as any of the Rating Agencies has publicly announced prior to the end of the 60 days following consummation of the Change of Control that it is considering a possible ratings change); provided that a Rating Downgrade Event otherwise arising by virtue of a particular lowering in rating will not be deemed to have occurred in respect of a particular Change of Control if the Rating Agency making the lowering in rating to which this definition would otherwise apply does not announce or publicly confirm or notify the holders in writing in response to a request made at the direction of holders of a majority in principal amount of the then outstanding Notes that the reduction was the result, in whole or in part, of any event or circumstance comprised of or arising as a result of, or in respect of, the applicable Change of Control. In no event shall the Trustee be charged with knowledge of the rating of the Notes or the Guarantor, nor shall it be charged with monitoring such rating. Notwithstanding the foregoing, no Rating Downgrade Event will be deemed to have occurred in connection with any particular Change of Control unless and until such Change of Control has actually been consummated.

“Rating Floor” means (i) in the case of a Rating by A.M. Best, “bb-”; (ii) in the case of DBRS, “BB low”; (iii) in the case of Moody’s, Ba3; and (iv) in the case of Fitch, Kroll or S&P, “BB-”.

“Redemption Date” means a date of early redemption of the Notes pursuant to [reference appropriate section for optional redemption].

“Refinance” means, in respect of any Indebtedness, to refinance, extend, renew, refund, repay, prepay, redeem, defease or retire, or to incur Indebtedness in exchange or replacement for, such Indebtedness in whole or in part. “Refinanced” and “Refinancing” shall have correlative meanings.

“Refinancing Indebtedness” means any Refinancing by the Guarantor or any Subsidiary of the Guarantor of Indebtedness or Preferred Stock that is outstanding on the Issue Date, or has been incurred as permitted Purchase Money Indebtedness hereunder, to the extent that **[(1)]** such Refinancing does not result in an increase in the aggregate principal amount of the Indebtedness of such Person as of the date of such proposed Refinancing (other than a result of any portion of the relevant Refinancing Indebtedness or Preferred Stock attributable to premium required to be paid under the terms of the instrument governing such Indebtedness or Preferred Stock or to the amount of reasonable expenses incurred by the Guarantor or such Subsidiary in connection with such Refinancing), **[(2) such new Indebtedness has a weighted average life to maturity, as determined in a commercially reasonable manner, that is equal to or greater than the weighted average life to maturity of the Indebtedness being Refinanced, (3) such new Indebtedness has a final maturity that is either (x) later than the Notes or (y) later than the final maturity of the Indebtedness being Refinanced; and (4) if the Indebtedness being Refinanced is subordinated indebtedness, then such Refinancing Indebtedness will be subordinated to the Notes and each applicable Note Guarantee, at least to the same extent and in the same manner as the Indebtedness being Refinanced.]**²⁷

Refinancing Indebtedness shall not include:

- (a) Indebtedness or Preferred Stock of a Subsidiary of the Guarantor that is not a Subsidiary Guarantor that refinances Indebtedness of the Company or the Guarantor; or
- (b) Indebtedness or Preferred Stock of a Subsidiary of the Company that is not a Subsidiary Guarantor that refinances Indebtedness or Preferred Stock of a Subsidiary Guarantor.

“Refinancing Rating Condition” means that the sole use of proceeds of the Notes is to Refinance existing Indebtedness, the scheduled maturity date of which falls not more than three months from the Issue Date.

“Restricted Payment” means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interest of any Person (other than a payment of principal or interest in respect of Specified Equity Interests), or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interest, or on account of any return of capital to such Person’s shareholders, partners or members (or the equivalent Persons thereof), other than a payment of principal or interest in respect of Specified Equity Interests.

“Restricted Subsidiary” means any Subsidiary which owns any Principal Property; provided, however, that the term “Restricted Subsidiary” shall not include any Subsidiary which is principally engaged in financing receivables or inventory in the ordinary course of business, or which is principally engaged in financing the Guarantor’s operations outside the United States of America.

“S&P” means S&P Global Ratings or any successor thereto.

²⁷ Bracketed alternative for High Yield.

“Sale and Lease-Back Transaction” means any arrangement providing for the leasing by the Company or the Guarantor or any of its Restricted Subsidiaries of any real or tangible personal property, which property has been or is to be sold or transferred by the Company, the Guarantor or any Restricted Subsidiary to a third Person in contemplation of such leasing.

“Secured Debt” means any Indebtedness for borrowed money secured by a Lien upon any Principal Property of the Company, the Guarantor or any Restricted Subsidiary or upon any shares of stock or indebtedness of any Restricted Subsidiary (whether such Principal Property, shares or indebtedness are now existing or owed or hereafter created or acquired).

“Similar Business” means (1) any business conducted or proposed to be conducted by the Guarantor or any of its [Restricted Subsidiaries][**Material Subsidiaries**]²⁸ on the Issue Date, or (2) any business or other activities that are reasonably similar, ancillary, incidental, complementary or related to, or a reasonable extension, development or expansion of, the businesses in which the Guarantor or any of its Material Subsidiaries conduct or propose to conduct on the Issue Date.

“Specified Equity Interest” means Indebtedness which constitutes an Equity Interest by virtue of being convertible into other Equity Interests.

“Subsidiary” of a Person means a corporation, partnership, limited liability company, association or joint venture or other business entity of which a majority of the Equity Interests having ordinary voting power for the election of directors or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time owned or the management of which is controlled, directly, or indirectly through one or more intermediaries, by such Person.

“Subsidiary Guarantor” means a Subsidiary which has issued a Note Guarantee.

“Subordination Agreement” means in relation to any Indebtedness, any subordination, standstill or similar agreement benefiting such Indebtedness that is entered into by holders of other Indebtedness.

“Swap Contract” means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, that are subject to the terms and conditions of, or governed by, any form of master agreement published by the

²⁸ Restricted Subsidiaries for Investment Grade and Material Subsidiaries for High Yield.

International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement.

“Treasury Rate” means, as of any Redemption Date, the most recent yield to maturity as of such Redemption Date of United States Treasury securities with a constant maturity most nearly equal to the period from the Redemption Date to scheduled final maturity of the Notes, (as compiled and published in the most recent Federal Reserve Statistical Release H.15 (or any successor publication which is published weekly by the Board of Governors of the Federal Reserve System)), or, if such Statistical Release is no longer published, any source of similar market data, that is publicly available as of two Business Days prior to the Redemption Date; *provided*, that if the period from the Redemption Date to such date is less than one year, the weekly average yield on actively traded United States Treasury securities adjusted to a constant maturity of one year will be used.

“Trustee” [refer to Indenture definition].

“Wholly Owned Subsidiary” of the Guarantor means any Subsidiary of the Guarantor of which all the outstanding voting securities (other than in the case of a foreign Subsidiary, directors’ qualifying shares or an immaterial amount of shares required to be owned by other Persons pursuant to applicable law) are owned by the Guarantor or any Wholly Owned Subsidiary of the Guarantor.

7. Additional Provisions only for High Yield Issuances

Additional Purchase/Underwriting Agreement Provision:

Section ____. Representation as to Notes and Other Indebtedness Terms. The representations and warranties under “Notes and Other Indebtedness” in the Purchase/Underwriting Agreement shall include the following additional subsection:

(g) each Material Subsidiary any Indebtedness of which has been Guaranteed by the Company or the Guarantor has issued a Note Guarantee.

Additional Required Indenture Sections:

Section ____. Restricted Payments. The Guarantor will not, and will not permit any Subsidiary to, declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that, so long as no Default or Event of Default shall have occurred and be continuing at the time of any action described below or would result therefrom:

(a) each Subsidiary may make Restricted Payments to the Guarantor and any other Person that owns an Equity Interest in such Subsidiary, ratably according to their respective holdings of such Equity Interests in respect of which such Restricted Payment is being made;

(b) the Guarantor and each Subsidiary may declare and make dividend payments or other distributions payable solely in common Equity Interests of the Guarantor or such Subsidiary, as applicable;

(c) the Guarantor and each Subsidiary may purchase, redeem or otherwise acquire Equity Interests issued by it with the proceeds received from the substantially concurrent issue of new common Equity Interests;

(d) the Guarantor and each Subsidiary may pay withholding or similar taxes payable by any future, present or former employee, director or officer (or any spouses, former spouses, successors, executors, administrators, heirs, legatees or distributees of any of the foregoing) in connection with any repurchases of Equity Interests or the exercise of stock options;

(e) the Guarantor and each Subsidiary may make cash payments reasonably required to be made in lieu of issuing fractional Equity Interests in connection with (I) any dividend, split or combination thereof or (II) the exercise of warrants, options or other securities convertible into or exchangeable for Equity Interests of the Guarantor or any of its Material Subsidiaries;

(f) the Guarantor and each Subsidiary may make any other Restricted Payment if, after giving effect thereto, the aggregate value of Restricted Payments paid or made in any quarterly period does not exceed the greater of (x) the average of the aggregate values of Restricted Payments paid or made in each quarterly period during the four fiscal quarters immediately preceding March 22, 2020 and (y) 50% of the average quarterly Consolidated Net Income of the Guarantor for the four immediately preceding fiscal quarters; and

(g) the Guarantor and each Subsidiary may repurchase capital stock of (or other ownership or profit interests in) the Guarantor or options, warrants or other securities exercisable or convertible into capital stock of (or other ownership or profit interests) of the Guarantor or such Subsidiary from employees or directors of the Guarantor or such Subsidiary or their authorized representatives upon the death, disability or termination of employment or directorship of the employees or directors, in an amount not to exceed in any calendar year the highest amount of such repurchases made by the Guarantor or such Subsidiary, as applicable, in any of the 3 calendar years prior to the Issue Date.

[Section ____ . Indebtedness. The Company and the Guarantor will not, nor will it permit any Material Subsidiary to, directly or indirectly, create, incur, issue, assume, guarantee or otherwise become liable with respect to (collectively, “*incur*” and collectively, an “*incurrence*”) any Indebtedness, and the Company and the Guarantor will not issue or permit any Material Subsidiary to issue any shares of Preferred Stock; *provided*, that

(a) the Company and the Guarantor and any Material Subsidiary may incur Indebtedness, and any Material Subsidiary may issue shares of Preferred Stock, if the *pro forma* Consolidated Fixed Charge Coverage Ratio of the Guarantor (i.e., after giving effect to the

incurrence of the relevant Indebtedness and to the application of the proceeds thereof) is greater than 2.0 to 1.0 (the "Ratio Test") and subject to paragraph (c) below; and

(b) notwithstanding the foregoing paragraph (a), the Company, the Guarantor and any Material Subsidiary may incur

(i) Indebtedness under this Agreement;

(ii) Indebtedness outstanding on the date hereof;

(iii) Guarantees of the Company, the Guarantor or any Material Subsidiary in respect of Indebtedness otherwise permitted hereunder of the Company or any Subsidiary; provided that (1) if the Company, the Guarantor or any Subsidiary Guarantor Guarantees any Indebtedness of any Subsidiary, that Subsidiary has also provided a Note Guarantee and (2) this subparagraph (b)(iii) shall not extend to Guarantees of any Indebtedness permitted under subparagraph (b)(vii) below;

(iv) any Refinancing Indebtedness in respect of Indebtedness described in clause (i), (ii) or (iii) (or in this clause (iv));

(v) obligations (contingent or otherwise) existing or arising under any Swap Contract, provided that such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of mitigating risks associated with liabilities, commitments, investments, assets or property held or reasonably anticipated by such Person, or changes in the value of securities issued by such Person, and not for speculative purposes;

(vi) Indebtedness that is (A) in respect of Capitalized Lease Obligations or Synthetic Lease Obligations or (B) Purchase Money Indebtedness; provided that the aggregate amount of all such Indebtedness at any time that would be outstanding on any date after an incurrence of Indebtedness to be permitted under this subparagraph (b)(vi) shall not exceed 5% of the Consolidated Net Tangible Assets as of such date;

(vii) Indebtedness of any Person that becomes a Material Subsidiary after the date hereof; provided that such Indebtedness exists at the time such Person becomes a Material Subsidiary and is not created in contemplation of or in connection with such Person becoming a Material Subsidiary;

(viii) Indebtedness of (A) the Company or the Guarantor to any Wholly Owned Subsidiary, (B) any Material Subsidiary to the Company or the Guarantor, (C) the Company the Guarantor or any Material Subsidiary to any Eligible Subsidiary; provided that if as of any date any Person that is not the Company, the Guarantor, a Wholly Owned Subsidiary or an Eligible Subsidiary owns or holds any such Indebtedness it shall be excluded from this clause and deemed newly incurred for purposes of paragraph (a) and the Ratio Test;

(ix) Indebtedness of the Company or the Guarantor or any Material Subsidiary as an account party in respect of commercial letters of credit in the ordinary course of business;

(x) Indebtedness in respect of performance bonds, bid bonds, appeal bonds, surety bonds and completion guarantees and similar obligations not in connection with money borrowed, in each case provided in the ordinary course of business, including those incurred to secure health, safety and environmental obligations in the ordinary course of business;

(xi) Indebtedness (A) resulting from a bank or other financial institution honoring a check, draft or similar instrument in the ordinary course of business or (B) arising under or in connection with cash management services in the ordinary course of business;

(xii) Indebtedness consisting of the financing of insurance premiums payable within one (1) year;

(xiii) Indebtedness owed on a short-term basis of no longer than 30 days to banks and other financial institutions incurred in the ordinary course of business of the Guarantor and its Material Subsidiaries with such banks or other financial institutions that arises in connection with ordinary banking arrangements to manage cash balances of the Guarantor and its Material Subsidiaries, and Indebtedness in respect of cash management services in the ordinary course of business for (x) the Guarantor and its Material Subsidiaries or (y) joint ventures to which the Guarantor and its Material Subsidiaries are a party;

(xiv) Indebtedness arising from receivables and inventory financings in the ordinary course of business and in a manner consistent with past practices, to the extent that incurrence of such Indebtedness is separately permitted under the terms of the Reference Indebtedness; and

(xv) other Indebtedness; provided that the aggregate amount of all such Indebtedness at any time that would be outstanding on any date (whether incurred by the Guarantor or any one or more Material Subsidiaries) after an incurrence of Indebtedness to be permitted under this subparagraph (b)(xv) shall not exceed the greater of (x) zero and (y) 5% of the Consolidated Net Tangible Assets as of such date less the amount of outstanding Indebtedness incurred in reliance on subparagraph (xiv) above.

(c) Notwithstanding paragraph (a), Material Subsidiaries that are not Eligible Subsidiaries may not incur Indebtedness or issue Preferred Stock pursuant to the Ratio Test in paragraph (a) if, after giving pro forma effect to such incurrence or issuance (including the pro forma application of the proceeds therefrom) the aggregate outstanding amount of such Indebtedness and Preferred Stock of Material Subsidiaries that are not Eligible Subsidiaries would exceed 5% of Consolidated Net Tangible Assets (in each case, determined on the date of incurrence or issuance).

Section ____ . Dispositions. The Company and the Guarantor will not, and will not permit any Material Subsidiary to, make any Disposition or enter into any agreement to make any Disposition, except:

- (a) Dispositions of obsolete or worn out property, whether now owned or hereafter acquired, in the ordinary course of business;
- (b) Dispositions of inventory and Investments (other than Investments in Material Subsidiaries) in the ordinary course of business;
- (c) Dispositions of equipment or real property to the extent that (i) such property is exchanged for credit against the purchase price of similar replacement property or (ii) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;
- (d) Dispositions of property by any Material Subsidiary to the Guarantor or to a Wholly Owned Subsidiary, or by the Guarantor to a Subsidiary Guarantor the Note Guarantee of which ranks senior to or pari passu with all other Indebtedness of such Subsidiary;
- (e) Dispositions permitted by Section ____ [Fundamental Changes];
- (f) leases, licenses, subleases or sublicenses (including the provision of open source software under an open source license) granted in the ordinary course of business and on ordinary commercial terms that do not interfere in any material respect with the business of the Guarantor and its Subsidiaries;
- (g) Dispositions of intellectual property rights that are no longer used or useful in the business of the Guarantor and its Subsidiaries;
- (h) the discount, write-off or Disposition of delinquent accounts receivable or the sale of any such accounts receivable for the purpose of collection to any collection agency, in each case in the ordinary course of business;
- (i) the unwinding of any Swap Contract entered into in the ordinary course of business;
- (j) Permitted Dispositions; or
- (k) Restricted Payments permitted by Section ____ [Restricted Payments] and Investments permitted by Section ____ [Investments].

Section ____ . Investments. The Company and the Guarantor will not, and will not permit any Material Subsidiary to, make any Investments, except:

- (a) Investments held by the Company or the Guarantor or such Subsidiary in the form of cash equivalents;
- (b) Investments in existence on the Issue Date and any refinancing, refunding, renewal or extension of any such Investment that does not increase the amount thereof;

(c) (i) Investments of the Company or the Guarantor in any Wholly Owned Subsidiary or (ii) Investments of any Wholly Owned Subsidiary in the Company or the Guarantor or in another Wholly Owned Subsidiary (including in each of (i) or (ii) any Investment in a non-Wholly Owned Subsidiary which becomes a Wholly Owned Subsidiary by virtue of such Investment);

(d) Investments in any Subsidiary which is a Subsidiary Guarantor under a Note Guarantee ranking senior to or pari passu with all other Indebtedness of such Subsidiary;

(e) Investments in Subsidiaries having a value not exceeding in the aggregate at any time 5% of the Consolidated Net Tangible Assets as of the date of the relevant Investment;

(f) Investments consisting of extensions of credit in the nature of accounts receivable or notes receivable arising from the grant of trade credit in the ordinary course of business, and Investments received in satisfaction or partial satisfaction thereof from financially troubled account debtors to the extent reasonably necessary in order to prevent or limit loss;

(g) Investments consisting of the indorsement by the Guarantor or any Subsidiary of negotiable instruments payable to such Person for deposit or collection in the ordinary course of business;

(h) any Investment in any Subsidiary or any joint venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business;

(i) to the extent constituting an Investment, transactions otherwise permitted by Sections ___ [Indebtedness], ___ [Fundamental Changes] and ___ [Restricted Payments]; or

(j) other Investments having a value not exceeding in the aggregate 5% of the Consolidated Net Tangible Assets as of the date of the relevant Investment.

Section ____. Transactions with Affiliates. The Company and the Guarantor will not, and will not permit any Material Subsidiary to, enter into any transaction of any kind with any Affiliate of the Guarantor (“Affiliate Transaction”), whether or not in the ordinary course of business, other than on fair and reasonable terms substantially as favorable to the Company, the Guarantor or such Material Subsidiary, as applicable, as would be obtainable by the Company, the Guarantor or such Material Subsidiary, as applicable, at the time in a comparable arm’s-length transaction with a Person other than an Affiliate, and with respect to any Affiliate Transaction or series of related Affiliate Transactions involving aggregate payments or consideration in excess of \$50 million, a written opinion from an Independent Financial Advisor stating that such Affiliate Transaction is fair to the Company, the Guarantor or such Material Subsidiary, as applicable, from a financial point of view or stating that the terms are not materially less favorable to the Company, the Guarantor or such Material Subsidiary, as applicable, taken as a whole than those that would have been obtained by the Company, the Guarantor or such Material Subsidiary, as applicable, at such time in a comparable transaction on

an arms'-length basis with a Person that is not an Affiliate of the Guarantor; provided that the foregoing restrictions shall not apply to (a) transactions between or among the Company or the Guarantor and any of its Wholly Owned Subsidiaries or between and among any Wholly Owned Subsidiaries, (b) Restricted Payments permitted by Section ____, (c) Investments permitted by Section ____ (b), (c), (d), (e) or (j), or (d) other Affiliate Transactions in existence on the Issue Date and any renewal or extension thereof that does not increase the amount thereof.

Section __. Effectiveness of Covenants.

(a) After the Issue Date, following the first day: (i) the Covenants Rating Condition is met; and (ii) no Default or Event of Default has occurred and is continuing under this Indenture; the Company and the Guarantor, following their delivery of written notice of such circumstance to the Trustee, will not be subject to Sections __. (Liens)(HY), __. (Restricted Payments), __. (Indebtedness), __. (Dispositions), __. (Investments) and __. (Transactions with Affiliates) of this Indenture (collectively, the "Suspended Covenants") but will instead be subject (from the date of such written notice) to Sections __. (Liens)(IG) and __. (Sale and Leaseback Transactions) (the "Conditional Covenants").

(b) If at any time the Covenants Rating Condition is no longer met, then the Suspended Covenants will thereafter be reinstated as if such covenants had never been suspended (the "Reinstatement Date") and be applicable pursuant to the terms of this Indenture (including in connection with performing any calculation or assessment to determine compliance with the terms of this Indenture), and the Conditional Covenants will cease to apply, unless and until the Covenants Rating Condition subsequently is again met and no Default or Event of Default is in existence (in which case subparagraph (a) will again apply subject to this subparagraph (b)); provided, however, that no Default, Event of Default or breach of any kind shall be deemed to exist or have occurred under this Indenture with respect to the Suspended Covenants based on the Suspension Period or any actions taken prior to the Reinstatement Date, regardless of whether such actions or events would have been permitted if the applicable Suspended Covenants remained in effect during such period. The period of time between the date of suspension of the Suspended Covenants on the date of written notice under subparagraph (a) and the Reinstatement Date is referred to as the "Suspension Period."

(c) On the Reinstatement Date, all Indebtedness incurred during the Suspension Period will be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (ii) of paragraph (b) of Section __. (Indebtedness). Calculations made after the Reinstatement Date of the amount available to be made as Restricted Payments under subparagraph (f) of Section __. (Restricted Payments) will be made as though Section __. (Restricted Payments) had been in effect since the Issue Date and throughout the Suspension Period. Accordingly, Restricted Payments made during the Suspension Period may reduce the amount available to be made as Restricted Payments under subparagraph (f) of Section __. (Restricted Payments) to the extent such Restricted Payments were not otherwise permitted to be made pursuant to subparagraphs (a) through (e) and (g) of Section __. (Restricted Payments), provided that the amount available to be made as Restricted Payments on the Reinstatement Date shall not be reduced below zero by operation of this provision.

8. Additional Definitions

“Consolidated EBITDA” means, with respect to the Guarantor for any period, (i) if defined in the Reference Indebtedness, the meaning as determined under the terms of the Reference Indebtedness and, (ii) otherwise, the Consolidated Net Income of the Guarantor and its Material Subsidiaries for such period:

(1) increased (without duplication) by the following, in each case to the extent deducted (and not added back) in determining Consolidated Net Income for such period:

(a) provisions for taxes based on income, profits, capital or property and withholding taxes;

(b) Consolidated Fixed Charges for such period;

(c) depreciation and amortization expense and amortized debt discount; and

(d) any other non-cash charges other than any non-cash charge representing an accrual or reserve for cash payments to be made in any future period; and

(2) decreased (without duplication), in each case to the extent included in determining Consolidated Net Income for such period, by non-cash gains increasing Consolidated Net Income, excluding any non-cash gains that represent the reversal of an accrual or reserve for any anticipated cash payments in any prior period (other than any such accrual or reserve that has been added back to Consolidated Net Income in calculating Consolidated EBITDA in accordance with this definition).

“Consolidated Fixed Charges” means, with respect to any specified Person for any period, the sum, without duplication, for such period of:

(1) the consolidated interest expense of such Person and its Subsidiaries for such period as determined in accordance with GAAP, but including without limitation (whether or not interest expense in accordance with GAAP):

(a) any amortization or accretion of debt discount or any interest paid on Indebtedness of such Person and its Subsidiaries in the form of additional Indebtedness;

(b) any amortization of deferred financing costs;

(c) the net cash effect of all payments made or received pursuant to Swap Contracts in respect of interest rates (but excluding amortization of fees);

(d) the interest portion of any deferred payment obligations;

(e) the interest component of Capitalized Lease Obligations paid, accrued and/or scheduled to be paid or accrued by such Person and its Subsidiaries during such period; and

(f) commissions, discounts and other fees and charges incurred in respect of letter of credit or bankers' acceptance financings; plus

(2) the consolidated interest expense of such Person and its Subsidiaries that was capitalized during such period; plus

(3) any item included in clause (1) or (2) above in respect of Indebtedness of another Person that is guaranteed by such Person or one of its Subsidiaries or secured by a Lien on assets of such Person or one of its Subsidiaries (whether or not paid by such Person or one of its Subsidiaries); plus

(4) all cash dividend payments or other distributions (and non-cash dividend payments in the case of a Person that is a Subsidiary) on any series of preferred equity of such Person, other than dividends and other distributions on Equity Interests that are payable solely in Equity Interests of the Guarantor which are not Specified Equity Interests and are not subject to mandatory redemption prior to the maturity date of the Notes or that are payable to the Guarantor or a Material Subsidiary.

“Consolidated Fixed Charge Coverage Ratio” means the ratio of Consolidated EBITDA during the four full fiscal quarters (the “Four Quarter Period”) ending on or prior to the date of the transaction giving rise to the need to calculate the Consolidated Fixed Charge Coverage Ratio (the “Transaction Date”) to Consolidated Fixed Charges for the Four Quarter Period. In addition to and without limitation of the foregoing, for purposes of this definition, “Consolidated EBITDA” and “Consolidated Fixed Charges” shall be calculated after giving effect on a pro forma basis for the period of such calculation to (i) the incurrence or repayment of any Indebtedness of the Guarantor or any of its Material Subsidiaries (and the application of the proceeds thereof) giving rise to the need to make such calculation and any incurrence or repayment of other Indebtedness (and the application of the proceeds thereof), other than the incurrence or repayment of Indebtedness in the ordinary course of business for working capital purposes pursuant to working capital facilities, occurring during the Four Quarter Period or at any time subsequent to the last day of the Four Quarter Period and on or prior to the Transaction Date, as if such incurrence or repayment, as the case may be (and the application of the proceeds thereof), occurred on the first day of the Four Quarter Period and (ii) any Dispositions or asset acquisitions occurring during the Four Quarter Period or at any time subsequent to the last day of the Four Quarter Period and on or prior to the Transaction Date, as if such Disposition or asset acquisitions (including the incurrence, assumption or liability for any such acquired Indebtedness) occurred on the first day of the Four Quarter Period. If the Guarantor or any of its Material Subsidiaries directly or indirectly guarantees Indebtedness of a third Person, the preceding sentence shall give effect to the incurrence of such guaranteed Indebtedness as if the Guarantor or any of its Material Subsidiaries had directly incurred or otherwise assumed such guaranteed Indebtedness. Furthermore, in calculating “Consolidated Fixed Charges” for purposes of determining the denominator (but not the numerator) of this “Consolidated Fixed Charge Coverage Ratio,” (1) interest on outstanding Indebtedness determined on a fluctuating basis as of the Transaction Date and which will continue to be so determined thereafter shall be deemed to have accrued at a fixed rate per annum equal to the rate of interest on such Indebtedness in effect on the Transaction Date; (2) if interest on any Indebtedness actually incurred on the Transaction Date 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 rates, then the interest rate in effect on the Transaction Date will be deemed to have been in effect during the Four Quarter Period; and (3) notwithstanding clause (1) above, interest on Indebtedness determined on a fluctuating basis, to

the extent such interest is covered by agreements relating to Swap Contracts, shall be deemed to accrue at the rate per annum resulting after giving effect to the operation of such agreements.

“Covenants Rating Condition” means a condition satisfied on any date on which (i) if only one of Fitch, Moody’s and S&P then assigns a Rating, such Rating Agency currently assigns a Rating at a level not lower than the Investment Grade Floor or (ii) if more than one Rating Agency then assigns a Rating, at least two Rating Agencies, one of which is Fitch, Moody’s or S&P, currently assigns a Rating at a level not lower than the Investment Grade Floor.

“Eligible Subsidiary” means a Material Subsidiary that is a Subsidiary Guarantor and has issued a Note Guarantee that ranks senior to or pari passu with all other Indebtedness of such Material Subsidiary.

“Independent Financial Advisor” means an accounting, appraisal, investment banking firm or consultant of nationally recognized standing that is, in the good faith judgment of the Guarantor, qualified to perform the task for which it has been engaged and that has not received material underwriting, advisory or other fees from the Company or the Guarantor or its Affiliates in the preceding three years.

“Investment” means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests or debt or other securities of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor incurs Indebtedness of the type referred to in clause (g) of the definition of “Indebtedness” in respect of such other Person, or (c) the purchase or other acquisition (in one transaction or a series of transactions) of all or substantially all of the property and assets or business of another Person or assets constituting a business unit, line of business or division of such Person. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment but giving effect to any returns or distributions of capital or repayment of principal actually received in case by such Person with respect thereto.

“Permitted Disposition” means a Disposition pursuant to which the Guarantor or the relevant Subsidiary

(a) receives consideration at the time of such Disposition that is (i) at least equal to the fair market value of the assets sold or otherwise Disposed of as determined at the time the commitment to make such Disposition is made and (ii) at least 75% in the form of cash; and

(b) applies all such consideration within 180 days to (i) permanently reduce the principal amount of (A) the Notes, (B) any Indebtedness ranking senior to the Notes, (C) Indebtedness ranking pari passu with the Notes and which has a final maturity prior to that of the Notes or (D) Indebtedness that was outstanding on the Issue Date and secured by a Lien on property having a fair value at least equal to the amount of such Indebtedness, (ii) to make

capital expenditures, or (iii) to acquire assets (other than current assets), in the case of each of (ii) and (iii), used or useful in a Similar Business or that replace the businesses and/or assets that are the subject of such Disposition.

“Synthetic Lease Obligation” means the monetary obligation of a Person under (a) a so-called synthetic, off-balance sheet or tax retention lease or (b) an agreement for the use or possession of property creating obligations that do not appear on the balance sheet of such Person but, upon the insolvency or bankruptcy of such Person, would be characterized as the indebtedness of such Person (without regard to accounting treatment).