

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

**FORM 10-Q**

**Quarterly Report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934**

For the quarterly period ended

November 30, 2020

Commission File No.

000-19860

**SCHOLASTIC CORPORATION**  
(Exact name of Registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction of  
incorporation or organization)  
**557 Broadway,**  
**New York, New York**  
(Address of principal executive offices)

**13-3385513**  
(IRS Employer Identification No.)

**10012**  
(Zip Code)

Registrant's telephone number, including area code (212) 343-6100

<b>Title of Class</b>	<b>Trading Symbol</b>	<b>Name of Each Exchange on Which Registered</b>
Common Stock, \$0.01 par value	SCHL	The NASDAQ Stock Market LLC

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (229.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files).

Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer  Accelerated filer  Non-accelerated filer  Smaller reporting company  Emerging growth company

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

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes  No

Indicate the number of shares outstanding of each of the issuer's classes of Common Stock, as of the latest practicable date:

<b>Title of each class</b>	<b>Number of shares outstanding as of November 30, 2020</b>
Common Stock, \$.01 par value	32,644,991
Class A Stock, \$.01 par value	1,656,200



SCHOLASTIC CORPORATION

FORM 10-Q FOR THE QUARTERLY PERIOD ENDED NOVEMBER 30, 2020

INDEX

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**Part I - Financial Information**

**Page**

<u>Item 1.</u>	<u>Financial Statements</u>	
	<u>Condensed Consolidated Statements of Operations (Unaudited)</u>	<u>3</u>
	<u>Condensed Consolidated Statements of Comprehensive Income (Loss) (Unaudited)</u>	<u>4</u>
	<u>Condensed Consolidated Balance Sheets (Unaudited)</u>	<u>5</u>
	<u>Condensed Consolidated Statements of Changes in Stockholders' Equity (Unaudited)</u>	<u>6</u>
	<u>Condensed Consolidated Statements of Cash Flows (Unaudited)</u>	<u>8</u>
	<u>Notes to Condensed Consolidated Financial Statements (Unaudited)</u>	<u>9</u>
<u>Item 2.</u>	<u>Management's Discussion and Analysis of Financial Condition and Results of Operations</u>	<u>25</u>
<u>Item 3.</u>	<u>Quantitative and Qualitative Disclosures about Market Risk</u>	<u>35</u>
<u>Item 4.</u>	<u>Controls and Procedures</u>	<u>36</u>

**Part II - Other Information**

<u>Item 5.</u>	<u>Other Events</u>	<u>37</u>
<u>Item 6.</u>	<u>Exhibits</u>	<u>38</u>
<u>Signatures</u>		<u>40</u>

PART I - FINANCIAL INFORMATION

Item 1. Financial Statements

SCHOLASTIC CORPORATION  
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS - UNAUDITED  
(Dollar amounts in millions, except per share data)

	Three months ended		Six months ended	
	November 30, 2020	November 30, 2019	November 30, 2020	November 30, 2019
<b>Revenues</b>	\$ 406.2	\$ 597.2	\$ 621.4	\$ 829.8
Operating costs and expenses:				
Cost of goods sold	199.3	264.3	322.5	401.4
Selling, general and administrative expenses	137.0	210.6	258.5	373.7
Depreciation and amortization	15.8	15.4	31.3	30.8
Severance	5.3	1.8	17.3	6.2
Total operating costs and expenses	357.4	492.1	629.6	812.1
<b>Operating income (loss)</b>	<b>48.8</b>	<b>105.1</b>	<b>(8.2)</b>	<b>17.7</b>
Interest income (expense), net	(1.2)	0.0	(2.4)	0.7
Other components of net periodic benefit (cost)	(0.0)	(0.2)	(0.2)	(0.6)
Gain (loss) on sale of assets and other	(0.0)	—	6.6	—
<b>Earnings (loss) before income taxes</b>	<b>47.6</b>	<b>104.9</b>	<b>(4.2)</b>	<b>17.8</b>
Provision (benefit) for income taxes	12.4	33.8	0.4	5.2
<b>Net income (loss)</b>	<b>35.2</b>	<b>71.1</b>	<b>(4.6)</b>	<b>12.6</b>
Less: Net income (loss) attributable to noncontrolling interest	0.1	0.1	0.1	0.1
<b>Net income (loss) attributable to Scholastic Corporation</b>	<b>\$ 35.1</b>	<b>\$ 71.0</b>	<b>\$ (4.7)</b>	<b>\$ 12.5</b>
<b>Basic and diluted earnings (loss) per Share of Class A and Common Stock</b>				
Basic	\$ 1.02	\$ 2.04	\$ (0.14)	\$ 0.36
Diluted	\$ 1.02	\$ 2.02	\$ (0.14)	\$ 0.35

See accompanying notes

**SCHOLASTIC CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS) - UNAUDITED**  
(Dollar amounts in millions)

	Three months ended		Six months ended	
	November 30, 2020	November 30, 2019	November 30, 2020	November 30, 2019
<b>Net income (loss)</b>	\$ 35.2	\$ 71.1	\$ (4.6)	\$ 12.6
Other comprehensive income (loss), net:				
Foreign currency translation adjustments	0.4	3.9	11.1	1.9
Pension and postretirement adjustments (net of tax)	5.4	0.2	5.5	0.4
<b>Total other comprehensive income (loss), net</b>	\$ 5.8	\$ 4.1	\$ 16.6	\$ 2.3
<b>Comprehensive income (loss)</b>	\$ 41.0	\$ 75.2	\$ 12.0	\$ 14.9
Less: Net income (loss) attributable to noncontrolling interest	0.1	0.1	0.1	0.1
<b>Comprehensive income (loss) attributable to Scholastic Corporation</b>	\$ 40.9	\$ 75.1	\$ 11.9	\$ 14.8

See accompanying notes



**SCHOLASTIC CORPORATION**  
**CONDENSED CONSOLIDATED BALANCE SHEETS - UNAUDITED**  
(Dollar amounts in millions, except per share data)

	November 30, 2020 (unaudited)	May 31, 2020 (audited)	November 30, 2019 (unaudited)
<b>ASSETS</b>			
<b>Current Assets:</b>			
Cash and cash equivalents	\$ 356.6	\$ 393.8	\$ 277.8
Accounts receivable, net	304.7	239.8	325.1
Inventories, net	306.5	270.6	357.8
Income tax receivable	91.9	90.0	8.4
Prepaid expenses and other current assets	51.4	41.1	53.5
<b>Total current assets</b>	<b>1,111.1</b>	<b>1,035.3</b>	<b>1,022.6</b>
<b>Noncurrent Assets:</b>			
Property, plant and equipment, net	567.6	576.9	578.5
Prepublication costs, net	68.1	70.6	71.3
Operating lease right-of-use assets, net	90.2	95.3	76.4
Royalty advances, net	43.5	39.9	52.3
Goodwill	125.6	124.9	125.4
Noncurrent deferred income taxes	19.8	18.6	37.3
Other assets and deferred charges	81.0	72.1	67.9
<b>Total noncurrent assets</b>	<b>995.8</b>	<b>998.3</b>	<b>1,009.1</b>
<b>Total assets</b>	<b>\$ 2,106.9</b>	<b>\$ 2,033.6</b>	<b>\$ 2,031.7</b>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>			
<b>Current Liabilities:</b>			
Lines of credit and current portion of long-term debt	\$ 19.8	\$ 7.9	\$ 13.5
Accounts payable	165.5	153.6	188.9
Accrued royalties	60.1	37.8	54.7
Deferred revenue	150.7	116.5	190.5
Other accrued expenses	183.0	161.5	178.2
Accrued income taxes	3.1	1.4	1.4
Operating lease liabilities	24.4	22.8	23.5
<b>Total current liabilities</b>	<b>606.6</b>	<b>501.5</b>	<b>650.7</b>
<b>Noncurrent Liabilities:</b>			
Long-term debt	175.0	210.6	2.6
Operating lease liabilities	71.6	75.7	56.0
Other noncurrent liabilities	65.8	65.2	61.1
<b>Total noncurrent liabilities</b>	<b>312.4</b>	<b>351.5</b>	<b>119.7</b>
<b>Commitments and Contingencies (see Note 5)</b>	<b>—</b>	<b>—</b>	<b>—</b>
<b>Stockholders' Equity:</b>			
Preferred Stock, \$1.00 par value: Authorized, 2.0 shares; Issued and Outstanding, none	\$ —	\$ —	\$ —
Class A Stock, \$0.01 par value: Authorized, 4.0 shares; Issued and Outstanding, 1.7 shares	0.0	0.0	0.0
Common Stock, \$0.01 par value: Authorized, 70.0 shares; Issued, 42.9 shares; Outstanding, 32.6, 32.5, and 33.0 shares, respectively	0.4	0.4	0.4
Additional paid-in capital	624.3	622.4	621.3
Accumulated other comprehensive income (loss)	(41.7)	(58.3)	(57.4)
Retained earnings	933.1	948.0	1,014.7
Treasury stock, at cost: 10.3, 10.4 and 9.9 shares, respectively	(329.7)	(333.3)	(319.0)
<b>Total stockholders' equity of Scholastic Corporation</b>	<b>1,186.4</b>	<b>1,179.2</b>	<b>1,260.0</b>
Noncontrolling interest	1.5	1.4	1.3
<b>Total stockholders' equity</b>	<b>1,187.9</b>	<b>1,180.6</b>	<b>1,261.3</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 2,106.9</b>	<b>\$ 2,033.6</b>	<b>\$ 2,031.7</b>

See accompanying notes

**SCHOLASTIC CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN STOCKHOLDERS' EQUITY - UNAUDITED**  
(Dollar amounts in millions, except per share data)

	Class A Stock		Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings	Treasury Stock At Cost	Total Stockholders' Equity of Scholastic Corporation	Noncontrolling Interest	Total Stockholders' Equity
	Shares	Amount	Shares	Amount							
<b>Balance at June 1, 2019</b>	1.7	\$ 0.0	33.4	\$ 0.4	\$ 620.8	\$ (59.7)	\$ 1,012.6	\$ (302.6)	\$ 1,271.5	\$ 1.3	\$ 1,272.8
Net Income (loss)	—	—	—	—	—	—	(58.5)	—	(58.5)	0.0	(58.5)
Foreign currency translation adjustment	—	—	—	—	—	(2.0)	—	—	(2.0)	—	(2.0)
Pension and post-retirement adjustments (net of tax of \$0.0)	—	—	—	—	—	0.2	—	—	0.2	—	0.2
Stock-based compensation	—	—	—	—	1.5	—	—	—	1.5	—	1.5
Purchases of treasury stock at cost	—	—	(0.3)	—	—	—	—	(12.6)	(12.6)	—	(12.6)
Treasury stock issued pursuant to equity-based plans	—	—	0.0	—	(0.1)	—	—	0.6	0.5	—	0.5
Dividends (\$0.15 per share)	—	—	—	—	—	—	(5.2)	—	(5.2)	—	(5.2)
<b>Balance at August 31, 2019</b>	1.7	\$ 0.0	33.1	\$ 0.4	\$ 622.2	\$ (61.5)	\$ 948.9	\$ (314.6)	\$ 1,195.4	\$ 1.3	\$ 1,196.7
<b>Net Income (loss)</b>	—	—	—	—	—	—	71.0	—	71.0	0.0	71.0
Foreign currency translation adjustment	—	—	—	—	—	3.9	—	—	3.9	—	3.9
Pension and post-retirement adjustments (net of tax of \$0.0)	—	—	—	—	—	0.2	—	—	0.2	—	0.2
Stock-based compensation	—	—	—	—	0.9	—	—	—	0.9	—	0.9
Proceeds pursuant to stock-based compensation plans	—	—	—	—	0.3	—	—	—	0.3	—	0.3
Purchases of treasury stock at cost	—	—	(0.1)	—	—	—	—	(7.1)	(7.1)	—	(7.1)
Treasury stock issued pursuant to equity-based plans	—	—	0.0	—	(2.1)	—	—	2.7	0.6	—	0.6
Dividends (\$0.15 per share)	—	—	—	—	—	—	(5.2)	—	(5.2)	—	(5.2)
<b>Balance at November 30, 2019</b>	1.7	\$ 0.0	33.0	\$ 0.4	\$ 621.3	\$ (57.4)	\$ 1,014.7	\$ (319.0)	\$ 1,260.0	\$ 1.3	\$ 1,261.3

See accompanying notes

	Class A Stock		Common Stock		Additional Paid-in Capital	Accumulated Other Comprehensive Income (Loss)	Retained Earnings	Treasury Stock At Cost	Total Stockholders' Equity of Scholastic Corporation	Noncontrolling Interest	Total Stockholders' Equity
	Shares	Amount	Shares	Amount							
<b>Balance at June 1, 2020</b>	1.7	\$ 0.0	32.5	\$ 0.4	\$ 622.4	\$ (58.3)	\$ 948.0	\$ (333.3)	\$ 1,179.2	\$ 1.4	\$ 1,180.6
Net Income (loss)	—	—	—	—	—	—	(39.8)	—	(39.8)	0.0	(39.8)
Foreign currency translation adjustment	—	—	—	—	—	10.7	—	—	10.7	—	10.7
Pension and post-retirement adjustments (net of tax of \$0.0)	—	—	—	—	—	0.1	—	—	0.1	—	0.1
Stock-based compensation	—	—	—	—	0.6	—	—	—	0.6	—	0.6
Treasury stock issued pursuant to equity-based plans	—	—	0.0	—	(0.2)	—	—	0.5	0.3	—	0.3
Dividends (\$0.15 per share)	—	—	—	—	—	—	(5.1)	—	(5.1)	—	(5.1)
<b>Balance at August 31, 2020</b>	1.7	\$ 0.0	32.5	\$ 0.4	\$ 622.8	\$ (47.5)	\$ 903.1	\$ (332.8)	\$ 1,146.0	\$ 1.4	\$ 1,147.4
Net Income (loss)	—	—	—	—	—	—	35.1	—	35.1	0.1	35.2
Foreign currency translation adjustment	—	—	—	—	—	0.4	—	—	0.4	—	0.4
Pension and post-retirement adjustments (net of tax of \$1.8)	—	—	—	—	—	5.4	—	—	5.4	—	5.4
Stock-based compensation	—	—	—	—	3.0	—	—	—	3.0	—	3.0
Treasury stock issued pursuant to equity-based plans	—	—	0.1	—	(1.5)	—	—	3.1	1.6	—	1.6
Dividends (\$0.15 per share)	—	—	—	—	—	—	(5.1)	—	(5.1)	—	(5.1)
<b>Balance at November 30, 2020</b>	1.7	\$ 0.0	32.6	\$ 0.4	\$ 624.3	\$ (41.7)	\$ 933.1	\$ (329.7)	\$ 1,186.4	\$ 1.5	\$ 1,187.9

See accompanying notes

**SCHOLASTIC CORPORATION**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS – UNAUDITED**  
(Dollar amounts in millions)

	Six months ended	
	November 30, 2020	November 30, 2019
<b>Cash flows - operating activities:</b>		
<b>Net income (loss) attributable to Scholastic Corporation</b>	<b>\$ (4.7)</b>	<b>\$ 12.5</b>
Adjustments to reconcile Net income (loss) to net cash provided by (used in) operating activities:		
Provision for losses on accounts receivable	3.5	4.3
Provision for losses on inventory	6.4	7.9
Provision for losses on royalty advances	2.8	2.4
Amortization of prepublication costs	12.7	13.0
Depreciation and amortization	33.4	32.1
Amortization of pension and postretirement actuarial gains and losses	(0.1)	0.4
Deferred income taxes	(0.6)	(0.3)
Stock-based compensation	3.7	2.4
Income from equity-method investments	(5.4)	(3.0)
(Gain) loss on sale of assets	(6.6)	—
Changes in assets and liabilities, net of amounts acquired:		
Accounts receivable	(63.0)	(78.3)
Inventories	(36.6)	(41.5)
Prepaid expenses and other current assets	(7.9)	(11.1)
Income tax receivable	(1.8)	1.9
Royalty advances	(5.8)	(7.3)
Accounts payable	11.1	(4.6)
Accrued income taxes	1.5	(0.1)
Accrued royalties	21.4	12.7
Deferred revenue	33.0	59.6
Other assets and liabilities	23.1	11.3
<b>Net cash provided by (used in) operating activities</b>	<b>20.1</b>	<b>14.3</b>
<b>Cash flows - investing activities:</b>		
Prepublication expenditures	(10.2)	(14.4)
Additions to property, plant and equipment	(26.2)	(30.7)
Net proceeds from sale of assets	12.3	—
Acquisition of land	—	(3.3)
<b>Net cash provided by (used in) investing activities</b>	<b>(24.1)</b>	<b>(48.4)</b>
<b>Cash flows - financing activities:</b>		
Borrowings under lines of credit, credit agreement and revolving loan	2.1	22.8
Repayments of lines of credit, credit agreement and revolving loan	(26.9)	(14.2)
Repayment of capital lease obligations	(1.2)	(0.9)
Reacquisition of common stock	—	(19.6)
Proceeds pursuant to stock-based compensation plans	—	0.3
Payment of dividends	(10.3)	(10.5)
Other	0.1	—
<b>Net cash provided by (used in) financing activities</b>	<b>(36.2)</b>	<b>(22.1)</b>
Effect of exchange rate changes on cash and cash equivalents	3.0	(0.1)
<b>Net increase (decrease) in cash and cash equivalents</b>	<b>(37.2)</b>	<b>(56.3)</b>
Cash and cash equivalents at beginning of period	393.8	334.1
<b>Cash and cash equivalents at end of period</b>	<b>\$ 356.6</b>	<b>\$ 277.8</b>

See accompanying notes

## **1. BASIS OF PRESENTATION**

### **Principles of consolidation**

The accompanying condensed consolidated interim financial statements (referred to as the “Financial Statements” herein) include the accounts of Scholastic Corporation (the “Corporation”) and all wholly-owned and majority-owned subsidiaries (collectively, “Scholastic” or the “Company”). Intercompany transactions are eliminated in consolidation.

The Company’s fiscal year is not a calendar year. Accordingly, references in this document to fiscal 2021 relate to the twelve-month period ending May 31, 2021. Certain prior period amounts have been reclassified to conform with the current year presentation.

### **Interim Financial Statements**

The accompanying Financial Statements have been prepared in accordance with U.S. generally accepted accounting principles (“U.S. GAAP”) and Article 10 of Regulation S-X of the U.S. Securities and Exchange Commission (“SEC”) for interim financial information, and should be read in conjunction with the Company’s Annual Report on Form 10-K for the fiscal year ended May 31, 2020. The Financial Statements presented in this Quarterly Report on Form 10-Q are unaudited; however, in the opinion of management, the Financial Statements reflect all adjustments, consisting solely of normal, recurring adjustments, necessary for the fair presentation of the Financial Statements for the periods presented.

### **Seasonality**

The Company’s *Children’s Book Publishing and Distribution* school-based book club and book fair channels and most of its *Education* businesses operate on a school-year basis; therefore, the Company’s business is highly seasonal. As a result, the Company’s revenues in the first and third quarters of the fiscal year generally are lower than its revenues in the other two fiscal quarters. Typically, school-based channels and magazine revenues are minimal in the first quarter of the fiscal year as schools are not in session. Trade sales can vary throughout the year due to varying release dates of published titles. While the Company generally experiences a loss from operations in the first and third quarters of each fiscal year, the second quarter of fiscal 2021, ending November 30, 2020, which is traditionally an income quarter, was negatively impacted by the COVID-19 pandemic, particularly in the book fairs channel. Presently, there remain many uncertainties concerning the timing of and any patterns which may emerge from school instruction, whether in-school, remote or hybrid, for the remaining school year, and the nature and continuing magnitude of the negative impact of COVID-19 into and beyond the third quarter of fiscal 2021 will depend on the actual timing and emerging patterns of such school instruction throughout the United States.

### **Use of estimates**

The preparation of these Financial Statements involves the use of estimates and assumptions by management, which affects the amounts reported in the Financial Statements and accompanying notes. The Company bases its estimates on historical experience, current business factors, and various other assumptions believed to be reasonable under the circumstances, all of which are necessary, in order to form a basis for determining the carrying values of certain assets and liabilities. Actual results may differ from those estimates and assumptions. On an on-going basis, the Company evaluates the adequacy of its reserves and the estimates used in these calculations, including, but not limited to:

- Accounts receivable allowance for doubtful accounts
- Pension and postretirement benefit plans
- Uncertain tax positions
- The timing and amount of future income taxes and related deductions
- Inventory reserves
- Cost of goods sold from book fair operations during interim periods based on estimated gross profit rates
- Sales tax contingencies
- Royalty advance reserves and royalty expense accruals

- Impairment testing for goodwill, intangible and other long-lived assets and investments
- Assets and liabilities acquired in business combinations
- Variable consideration related to anticipated returns
- Allocation of transaction price to performance obligations

#### **Sale of Long-lived Assets**

During the second quarter of fiscal 2021, there were no sales of long-lived assets.

During the first quarter of fiscal 2021, the company-owned facility located in Danbury, Connecticut was sold and the Company relocated the book fairs warehousing and distribution operations conducted in Danbury to a warehouse in Allentown, Pennsylvania. The long-lived assets related to the Danbury facility, which consisted of land, building, and building improvements, were included in the *Overhead* segment. These assets had a carrying value of \$5.7 and were classified as held for sale for the fiscal year ended May 31, 2020. The net proceeds from the sale were \$12.3 and the Company recognized a gain on sale of \$6.6. This amount is included within Gain (loss) on sale of assets and other within the Company's Condensed Consolidated Statements of Operations.

#### **Assets Held For Sale**

The Company committed to a plan to sell the UK distribution centers located in Witney and Southam to consolidate the operations into a new facility in Warwickshire which is currently under construction. These assets are included in the *International* segment. The Company expects the sale of these facilities to be completed within one year and to recognize a gain on sale. The long-lived assets which consist of land, building, and building improvements are classified as held for sale. These assets are carried at the lower of carrying value or fair value less costs to sell and no additional depreciation is being recognized. As of November 30, 2020, the carrying amounts totaled \$3.3 which are included in Property, plant and equipment, net within the Company's Condensed Consolidated Balance Sheets.

The Company will continue to identify opportunities to reduce its real estate footprint related to owned and leased properties.

#### **New Accounting Pronouncements**

There were no new accounting pronouncements in the second fiscal quarter of 2021 which would impact the Company. Refer to the Company's Annual Report on Form 10-K for the fiscal year ended May 31, 2020 for more information on current applicable authoritative guidance and its impact on the Company's financial statements.

#### **Current Fiscal Year Adoptions:**

##### **ASU No. 2016-13**

In June 2016, the FASB issued ASU No. 2016-13, "Measurement of Credit Losses on Financial Instruments" (ASU 2016-13). ASU 2016-13, which was further updated and clarified by the FASB through the issuance of additional related ASUs, amends the guidance surrounding measurement and recognition of credit losses on financial assets measured at amortized cost, including trade receivables and debt securities, by requiring recognition of an allowance for credit losses expected to be incurred over an asset's lifetime based on relevant information about past events, current conditions, and supportable forecasts impacting its ultimate collectability. This "expected loss" model may result in earlier recognition of credit losses than the current "as incurred" model, under which losses were recognized only upon an occurrence of an event that gave rise to the incurrence of a probable loss. The Company adopted ASU 2016-13 as of the beginning of the first quarter of fiscal 2021 which did not have a material impact on the Company's Consolidated Financial Statements. Refer to Note 2, Revenues, for further discussion of the Company's accounting policy and disclosures related to the allowance for credit losses.

##### **ASU No. 2017-04**

In January 2017, the FASB issued ASU No. 2017-04, Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment, which removes step two from the goodwill impairment test (comparison of implied fair value of goodwill with the carrying amount of that goodwill for a reporting unit). Instead, an entity will measure its goodwill impairment by the amount the carrying value exceeds the fair value of a reporting unit.

The Company adopted ASU 2017-04 as of the beginning of the first quarter of fiscal 2021 which resulted in no impact to the Company's Consolidated Financial Statements.

## 2. REVENUES

### Disaggregated Revenue Data

The following table presents the Company's disaggregated revenues by region and domestic channel:

	Three months ended		Six months ended	
	November 30,	November 30,	November 30,	November 30,
	2020	2019	2020	2019
U.S. Book Clubs	\$ 66.9	\$ 85.9	\$ 72.7	\$ 93.9
U.S. Book Fairs	47.7	224.1	60.9	251.6
U.S. Trade	116.4	93.5	182.2	161.2
U.S. Education	67.3	69.8	120.8	118.2
Non-U.S. Major Markets <sup>(1)</sup>	83.1	94.6	139.7	150.9
Non-U.S. Other Markets <sup>(2)</sup>	24.8	29.3	45.1	54.0
<b>Total Revenues</b>	<b>\$ 406.2</b>	<b>\$ 597.2</b>	<b>\$ 621.4</b>	<b>\$ 829.8</b>

(1) - Includes Canada, UK, Australia and New Zealand.

(2) - Primarily includes markets in Asia.

### Estimated Returns

A liability for expected returns of \$54.5, \$43.5, and \$42.4 is recorded within Other accrued expenses as of November 30, 2020, May 31, 2020, and November 30, 2019, respectively. In addition, a return asset of \$3.3, \$2.7, and \$2.6 is recorded within Prepaid expenses and other current assets as of November 30, 2020, May 31, 2020, and November 30, 2019, respectively, for the recoverable cost of product estimated to be returned by customers.

### Deferred Revenue

The Company's contract liabilities consist of advance billings and payments received from customers in excess of revenue recognized and revenue allocated to outstanding book fairs incentive credits. These liabilities are recorded within Deferred revenue on the Company's Condensed Consolidated Balance Sheets and are classified as short term, as substantially all of the associated performance obligations are expected to be satisfied, and related revenue recognized, within one year. The Company recognized revenue which was included in the opening deferred revenue balance in the amount of \$24.2 and \$46.9 for the three months ended November 30, 2020 and November 30, 2019, respectively, and \$41.1 and \$74.0 for the six months ended November 30, 2020 and November 30, 2019, respectively.

### Allowance for Credit Losses

The Company recognizes an allowance for credit losses on trade receivables that are expected to be incurred over the lifetime of the receivable. Reserves for estimated credit losses are established at the time of sale and are based on relevant information about past events, current conditions, and supportable forecasts impacting its ultimate collectability, including specific reserves on a customer-by-customer basis, creditworthiness of the Company's customers and prior collection experience. At the time the Company determines that a receivable balance, or any portion thereof, is deemed to be permanently uncollectible, the balance is then written off.

The following table presents the change in the allowance for credit losses, which is included in Accounts Receivable, net on the Condensed Consolidated Balance Sheets:

	Allowance for Credit Losses
<b>Balance as of June 1, 2020</b>	<b>\$ 19.9</b>
Current period provision	1.4
Write-offs and other	(0.4)
<b>Balance as of August 31, 2020</b>	<b>\$ 20.9</b>
Current period provision	2.1
Write-offs and other	(1.8)
<b>Balance as of November 30, 2020</b>	<b>\$ 21.2</b>

### 3. SEGMENT INFORMATION

The Company categorizes its businesses into three reportable segments: *Children's Book Publishing and Distribution*, *Education* and *International*.

- **Children's Book Publishing and Distribution** operates as an integrated business which includes the publication and distribution of children's books, ebooks, media and interactive products in the United States through its book clubs and book fairs in its school channels and through the trade channel. This segment is comprised of three operating segments.
- **Education** includes the publication and distribution to schools and libraries of children's books, classroom magazines, print and digital supplemental and core classroom materials and related support services, and print and on-line reference and non-fiction products for grades pre-kindergarten to 12 in the United States. This segment is comprised of three operating segments.
- **International** includes the publication and distribution of products and services outside the United States by the Company's international operations, and its export and foreign rights businesses. This segment is comprised of three operating segments.

The following table sets forth information for the Company's segments for the fiscal quarters ended November 30, 2020 and November 30, 2019:

	Children's Book Publishing & Distribution	Education	Overhead <sup>(1)</sup>	Total Domestic	International	Total
<b>Three months ended November 30, 2020</b>						
Revenues	\$ 240.3	\$ 67.5	\$ —	\$ 307.8	\$ 98.4	\$ 406.2
Bad debt expense	(0.1)	1.3	—	1.2	0.9	2.1
Depreciation and amortization <sup>(2)</sup>	6.6	3.3	11.9	21.8	1.6	23.4
Segment operating income (loss)	37.7	11.9	(20.0)	29.6	19.2	48.8
Expenditures for other noncurrent assets <sup>(3)</sup>	9.6	3.2	8.1	20.9	3.1	24.0
<b>Three months ended November 30, 2019</b>						
Revenues	\$ 413.6	\$ 69.9	\$ —	\$ 483.5	\$ 113.7	\$ 597.2
Bad debt expense	1.1	0.8	—	1.9	0.8	2.7
Depreciation and amortization <sup>(2)</sup>	6.5	3.4	10.9	20.8	1.8	22.6
Segment operating income (loss)	109.6	6.2	(22.4)	93.4	11.7	105.1
Expenditures for other noncurrent assets <sup>(3)</sup>	14.7	5.0	10.6	30.3	5.8	36.1



**SCHOLASTIC CORPORATION**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – UNAUDITED**  
(Dollar amounts in millions, except per share data)

The following table sets forth information for the Company's segments for the fiscal periods ended November 30, 2020 and November 30, 2019:

	Children's Book Publishing & Distribution	Education	Overhead <sup>(1)</sup>	Total Domestic	International	Total
<b>Six months ended November 30, 2020</b>						
Revenues	\$ 331.2	\$ 121.1	\$ —	\$ 452.3	\$ 169.1	\$ 621.4
Bad debt expense	0.1	1.4	—	1.5	2.0	3.5
Depreciation and amortization <sup>(2)</sup>	13.2	6.4	23.4	43.0	3.1	46.1
Segment operating income (loss)	8.5	9.7	(50.8)	(32.6)	24.4	(8.2)
Segment assets at November 30, 2020	607.1	212.8	957.4	1,777.3	329.6	2,106.9
Goodwill at November 30, 2020	47.3	68.2	—	115.5	10.1	125.6
Expenditures for other noncurrent assets <sup>(3)</sup>						
	21.7	6.3	18.9	46.9	6.6	53.5
Other non-current assets at November 30, 2020 <sup>(3)</sup>	171.0	123.7	487.2	781.9	86.4	868.3
<b>Six months ended November 30, 2019</b>						
Revenues	\$ 523.2	\$ 118.3	\$ —	\$ 641.5	\$ 188.3	\$ 829.8
Bad debt expense	1.6	0.8	—	2.4	1.9	4.3
Depreciation and amortization <sup>(2)</sup>	13.2	6.5	21.9	41.6	3.5	45.1
Segment operating income (loss)	67.9	(7.2)	(51.0)	9.7	8.0	17.7
Segment assets at November 30, 2019	674.6	196.1	846.8	1,717.5	314.2	2,031.7
Goodwill at November 30, 2019	47.2	68.2	—	115.4	10.0	125.4
Expenditures for other noncurrent assets <sup>(3)</sup>	28.7	9.6	18.2	56.5	12.7	69.2
Other non-current assets at November 30, 2019 <sup>(3)</sup>	219.6	122.4	514.3	856.3	98.6	954.9

(1) Overhead includes all domestic corporate amounts not allocated to segments, including expenses and costs related to the management of corporate assets. Unallocated assets are principally comprised of deferred income taxes and property, plant and equipment related to the Company's headquarters in the metropolitan New York area, its fulfillment and distribution facilities located in Missouri, and certain technology assets.

(2) Includes depreciation of property, plant and equipment and amortization of intangible assets, prepublication costs and cloud computing costs.

(3) Other noncurrent assets include property, plant and equipment, prepublication assets, cloud computing costs, royalty advances, goodwill, intangible assets and investments. Expenditures for other noncurrent assets for the International segment include expenditures for long-lived assets of \$1.5 and \$4.2 for the three months ended November 30, 2020 and 2019, respectively, and \$3.5 and \$9.9 for the six months ended November 30, 2020 and 2019. Other noncurrent assets for the International segment include long-lived assets of \$46.6 and \$66.8 as of November 30, 2020 and 2019, respectively.

**4. DEBT**

The following table summarizes the carrying value of the Company's debt as of the dates indicated:

	November 30, 2020	May 31, 2020	November 30, 2019
US Revolving Loan	\$ 175.0	\$ 200.0	\$ —
Unsecured lines of credit (weighted average interest rates of 4.4%, 4.6% and 3.8%, respectively)	8.4	7.9	13.5
UK Loan	11.4	10.6	2.6
<b>Total debt</b>	<b>\$ 194.8</b>	<b>\$ 218.5</b>	<b>\$ 16.1</b>
Less lines of credit, short-term debt and current portion of long-term debt	(19.8)	(7.9)	(13.5)
<b>Total long-term debt</b>	<b>\$ 175.0</b>	<b>\$ 210.6</b>	<b>\$ 2.6</b>

The following table sets forth the maturities of the carrying values of the Company's debt obligations as of November 30, 2020 for the twelve-month periods ended November 30:

2021	\$ 19.8
2022	175.0
2023	—
2024	—
2025	—
Thereafter	—
<b>Total debt</b>	<b>\$ 194.8</b>

**US Loan Agreement**

On December 16, 2020, the Company entered into an amendment to its existing loan agreement, which includes adjustments to, and suspension of, certain covenant thresholds, as well as a reduction in maximum commitments to \$250.0. The amendment was executed in order to avoid noncompliance with certain covenants in the existing agreement at November 30, 2020 due to the temporary impacts of COVID-19. Refer to Note 17, Subsequent Events, for further discussion of Amendment No. 1 to the Loan Agreement which temporarily supersedes certain terms described below for the existing loan agreement.

On January 5, 2017, Scholastic Corporation and Scholastic Inc. (each, a "Borrower" and together, the "Borrowers") entered into a 5-year credit facility with certain banks (the "Loan Agreement"). The Loan Agreement replaced the Company's then existing loan agreement and has substantially similar terms, except that:

- the borrowing limit was reduced to \$375.0 from \$425.0;
- the "starter" basket for permitted payments of dividends and other payments in respect of capital stock was increased to \$275.0 from \$75.0; and
- the maturity date was extended to January 5, 2022.

The prior loan agreement, which was originally entered into in 2007 and had a maturity date of December 5, 2017, was terminated on January 5, 2017 in connection with the entry into the new Loan Agreement and was treated as a debt modification.

The Loan Agreement allows the Company to borrow, repay or prepay and reborrow at any time prior to the January 5, 2022 maturity date. Under the Loan Agreement, interest on amounts borrowed thereunder is due and payable in arrears on the last day of the interest period (defined as the period commencing on the date of the advance and ending on the last day of the period selected by the Borrower at the time each advance is made). The interest pricing under the Loan Agreement is dependent upon the Borrower's election of a rate that is either:

- A Base Rate equal to the higher of (i) the prime rate, (ii) the prevailing Federal Funds rate plus 0.50% or (iii) the Eurodollar Rate for a one month interest period plus 1.00% plus, in each case, an applicable spread ranging from 0.175% to 0.60%, as determined by the Company's prevailing consolidated debt to total capital ratio.

- or -

- A Eurodollar Rate equal to the London interbank offered rate (LIBOR) plus an applicable spread ranging from 1.175% to 1.60%, as determined by the Company's prevailing consolidated debt to total capital ratio.

As of November 30, 2020, the indicated spread on Base Rate Advances was 0.175% and the indicated spread on Eurodollar Advances was 1.175%, both based on the Company's prevailing consolidated debt to total capital ratio.

The Loan Agreement also provides for the payment of a facility fee in respect of the aggregate amount of revolving credit commitments ranging from 0.20% to 0.40% per annum based upon the Company's prevailing consolidated debt to total capital ratio. At November 30, 2020, the facility fee rate was 0.20%.

A portion of the revolving credit facility, up to a maximum of \$50.0, is available for the issuance of letters of credit. In addition, a portion of the revolving credit facility, up to a maximum of \$15.0, is available for swingline loans. The Loan Agreement has an accordion feature which permits the Company, provided certain conditions are satisfied, to increase the facility by up to an additional \$150.0.

As of November 30, 2020, the Company had outstanding borrowings of \$175.0 under the Loan Agreement. The Company incurred this obligation in the fourth quarter of fiscal 2020 as a precautionary measure due to the uncertainty resulting from the COVID-19 pandemic. While this obligation is not due until the January 5, 2022 maturity date, the Company may, from time to time, make payments to reduce this obligation when cash from operations becomes available for this purpose. No borrowings were outstanding under the Loan Agreement as of November 30, 2019.

At November 30, 2020, the Company had open standby letters of credit totaling \$4.3 issued under certain credit lines, including \$0.4 under the Loan Agreement and \$3.9 under the domestic credit lines discussed below.

#### ***UK Loan Agreement***

On September 23, 2019, Scholastic Limited UK entered into a term loan agreement to borrow £2.0 to fund a land purchase in connection with the construction of a new UK facility. The loan has a maturity date of July 31, 2021. Under the agreement, the principal balance is due in full in a single payment on the last day of the term and interest on the amount borrowed is due and payable quarterly. The interest is charged at 1.77% per annum over the Base Rate. The Base Rate is currently equal to 0.10% per annum and is subject to change. As of November 30, 2020, the Company had \$2.7 outstanding on the loan.

On January 24, 2020, Scholastic Limited UK entered into a term loan facility with a borrowing limit of £6.6 to fund the construction of the new UK facility. The loan has a maturity date of July 31, 2021. Under the agreement, the principal balance is due in full in a single payment on the last day of the term and interest on the amount borrowed is due and payable quarterly. The interest is charged at 1.77% per annum over the Base Rate. The Base Rate is currently equal to 0.10% per annum and is subject to change. As of November 30, 2020, the Company had \$8.7 outstanding on the loan and no remaining available credit under this facility.

#### ***Lines of Credit***

As of November 30, 2020, the Company's domestic credit lines available under unsecured money market bid rate credit lines totaled \$10.0. There were no outstanding borrowings under these credit lines as of November 30, 2020, May 31, 2020 and November 30, 2019. As of November 30, 2020, availability under these unsecured money market bid rate credit lines totaled \$6.1. All loans made under these credit lines are at the sole discretion of the lender and at an interest rate and term agreed to at the time each loan is made, but not to exceed 365 days. These credit lines may be renewed, if requested by the Company, at the option of the lender.

As of November 30, 2020, the Company had various local currency international credit lines totaling \$36.7 underwritten by banks primarily in the United States, Canada and the United Kingdom. Outstanding borrowings under these facilities were \$8.4 at November 30, 2020 at a weighted average interest rate of 4.4%, \$7.9 at May 31, 2020 at a weighted average interest rate of 4.6%, and \$13.5 at November 30, 2019 at a weighted average interest rate of 3.8%. As of November 30, 2020, the amounts available under these facilities totaled \$28.3. These

credit lines are typically available for overdraft borrowings or loans up to 364 days and may be renewed, if requested by the Company, at the sole option of the lender.

**5. COMMITMENTS AND CONTINGENCIES**

**COVID-19**

The COVID-19 pandemic and actions taken, or which may be taken in the future following any easing of current restrictions based on the future course of the pandemic, by governments, businesses and individuals to limit the spread of the virus may continue to have an adverse effect on the Company's results of operations and financial condition.

The Company is not currently aware of any loss contingencies related to the foregoing that would require recognition in the second quarter of fiscal 2021.

**Legal Matters**

Various claims and lawsuits arising in the normal course of business are pending against the Company. The Company accrues a liability for such matters when it is probable that a liability has occurred and the amount of such liability can be reasonably estimated. When only a range can be estimated, the most probable amount in the range is accrued unless no amount within the range is a better estimate than any other amount, in which case the minimum amount in the range is accrued. Legal costs associated with litigation are expensed in the period in which they are incurred. The Company does not expect, in the case of those various claims and lawsuits arising in the normal course of business where a loss is considered probable or reasonably possible, that the reasonably possible losses from such claims and lawsuits (either individually or in the aggregate) would have a material adverse effect on the Company's consolidated financial position or results of operations.

**6. EARNINGS (LOSS) PER SHARE**

The following table summarizes the reconciliation of the numerators and denominators for the basic and diluted earnings (loss) per share computation for the periods indicated:

	Three months ended November 30,		Six months ended November 30,	
	2020	2019	2020	2019
<b>Net income (loss) attributable to Class A and Common Stockholders</b>	\$ 35.1	\$ 70.9	\$ (4.7)	\$ 12.5
Weighted average Shares of Class A Stock and Common Stock outstanding for basic earnings (loss) per share (in millions)	34.3	34.8	34.3	34.8
Dilutive effect of Class A Stock and Common Stock potentially issuable pursuant to stock-based compensation plans (in millions) *	0.1	0.3	*	0.4
Adjusted weighted average Shares of Class A Stock and Common Stock outstanding for diluted earnings (loss) per share (in millions)	34.4	35.1	34.3	35.2
<b>Earnings (loss) per share of Class A Stock and Common Stock:</b>				
<b>Basic</b>	\$ 1.02	\$ 2.04	\$ (0.14)	\$ 0.36
<b>Diluted</b>	\$ 1.02	\$ 2.02	\$ (0.14)	\$ 0.35

\* The Company experienced a net loss for the six month period ended November 30, 2020 and therefore did not report any dilutive share impact.

Net income (loss) attributable to Class A and Common Stockholders excludes earnings of less than \$0.1 and \$0.1 for the three month periods ended November 30, 2020 and November 30, 2019, respectively, and less than \$0.1 for the six month period ended November 30, 2019, for earnings attributable to participating restricted stock units. The Company experienced a loss for the six month period ended November 30, 2020 and therefore did not allocate any loss to the participating restricted stock units.

The following table sets forth options outstanding pursuant to stock-based compensation plans as of the dates indicated:

	November 30, 2020	November 30, 2019
Options outstanding pursuant to stock-based compensation plans (in millions)	5.2	3.0

On October 1, 2020, the Company made an additional stock option grant to employees as a non-cash incentive.

There were 2.8 million of potentially anti-dilutive shares pursuant to stock-based compensation plans as of November 30, 2020.

A portion of the Company's Restricted Stock Units ("RSUs") which are granted to employees participate in earnings through cumulative dividends which are payable and non-forfeitable to the employees upon vesting of the RSUs. Accordingly, the Company measures earnings per share based upon the lower of the Two-class method or the Treasury Stock method.

As of November 30, 2020, \$67.3 remained available for future purchases of common shares under the repurchase authorization of the Board of Directors (the "Board") in effect on that date. See Note 11, Treasury Stock, for a more complete description of the Company's share buy-back program.

## 7. GOODWILL AND OTHER INTANGIBLES

The Company assesses goodwill and other intangible assets with indefinite lives for impairment annually or more frequently if indicators arise. The Company monitors impairment indicators in light of changes in market conditions, near and long-term demand for the Company's products and other relevant factors.

The following table summarizes the activity in Goodwill for the periods indicated:

	November 30, 2020	May 31, 2020	November 30, 2019
Gross beginning balance	\$ 164.5	\$ 164.8	\$ 164.8
Accumulated impairment	(39.6)	(39.6)	(39.6)
<b>Beginning balance</b>	<b>\$ 124.9</b>	<b>\$ 125.2</b>	<b>\$ 125.2</b>
Additions	—	—	—
Foreign currency translation	0.7	(0.3)	0.2
<b>Ending balance</b>	<b>\$ 125.6</b>	<b>\$ 124.9</b>	<b>\$ 125.4</b>

There were no impairment charges related to Goodwill in any of the periods presented.

The following table summarizes the activity in other intangibles included in Other assets and deferred charges on the Company's Financial Statements for the periods indicated:

	November 30, 2020	May 31, 2020	November 30, 2019
Beginning balance other intangibles subject to amortization	\$ 10.5	\$ 12.2	\$ 12.2
Additions	—	1.6	—
Amortization expense	(1.2)	(3.2)	(1.5)
Foreign currency translation	0.4	(0.1)	0.0
Total other intangibles subject to amortization, net of accumulated amortization of \$31.3, \$30.1 and \$28.4, respectively	\$ 9.7	\$ 10.5	\$ 10.7
<b>Total other intangibles not subject to amortization</b>	<b>\$ 2.1</b>	<b>\$ 2.1</b>	<b>\$ 2.1</b>
<b>Total other intangibles</b>	<b>\$ 11.8</b>	<b>\$ 12.6</b>	<b>\$ 12.8</b>

There were no additions to intangible assets within the six months ended November 30, 2020.

In fiscal 2020, the Company purchased a U.S.-based book fair business resulting in \$1.6 of amortizable intangible assets.

Intangible assets with indefinite lives consist principally of trademark and tradename rights. Intangible assets with definite lives consist principally of customer lists, intellectual property, tradenames and other agreements. Intangible assets with definite lives are amortized over their estimated useful lives. The weighted-average remaining useful lives of all amortizable intangible assets is approximately 5.6 years.

There were no impairment charges related to Intangible assets in any of the periods presented.

## 8. INVESTMENTS

Investments are included in Other assets and deferred charges on the Condensed Consolidated Balance Sheets. The following table summarizes the Company's investments as of the dates indicated:

	November 30, 2020	May 31, 2020	November 30, 2019	Segment
Equity method investments	\$ 32.5	\$ 25.0	\$ 26.0	International
Other equity investments	6.0	6.0	6.0	Children's Book Publishing & Distribution
<b>Total Investments</b>	<b>\$ 38.5</b>	<b>\$ 31.0</b>	<b>\$ 32.0</b>	

The Company's 26.2% equity interest in a children's book publishing business located in the UK is accounted for using the equity method of accounting. Equity method income from this investment is reported in the *International* segment.

The Company has a 4.6% ownership interest in a financing and production company that makes film, television, and digital programming designed for the youth market. This equity investment does not have a readily determinable fair value and the Company has elected to apply the measurement alternative and report this investment at cost, less impairment on the Company's Consolidated Balance Sheets. There have been no impairments or adjustments to the carrying value of this investment.

Income from equity investments is reported in Selling, general and administrative expenses in the Condensed Consolidated Statements of Operations and totaled \$4.6 and \$2.0 for the three months ended November 30, 2020 and November 30, 2019, respectively, and \$5.4 and \$3.0 for the six months ended November 30, 2020 and November 30, 2019, respectively.

## 9. EMPLOYEE BENEFIT PLANS

The following table sets forth the components of net periodic benefit cost for the periods indicated under the Company's defined benefit pension plan of Scholastic Ltd., an indirect subsidiary of Scholastic Corporation located in the United Kingdom (the "UK Pension Plan"), and the postretirement benefits plan, consisting of certain healthcare and life insurance benefits provided by the Company to its eligible retired United States-based employees (the "US Postretirement Benefits"), for the periods indicated:

	UK Pension Plan		US Postretirement Benefits	
	Three months ended		Three months ended	
	November 30, 2020	November 30, 2019	November 30, 2020	November 30, 2019
<b>Components of net periodic benefit cost:</b>				
Interest cost	\$ 0.1	\$ 0.2	\$ 0.1	\$ 0.1
Expected return on assets	(0.2)	(0.3)	—	—
Net amortization of prior service (credit) cost	0.0	0.0	(0.2)	(0.1)
Amortization of (gains) losses	0.2	0.3	0.0	0.0
<b>Total</b>	<b>\$ 0.1</b>	<b>\$ 0.2</b>	<b>\$ (0.1)</b>	<b>\$ 0.0</b>

**SCHOLASTIC CORPORATION**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – UNAUDITED**  
(Dollar amounts in millions, except per share data)

	UK Pension Plan Six months ended		US Postretirement Benefits Six months ended	
	November 30, 2020	November 30, 2019	November 30, 2020	November 30, 2019
<b>Components of net periodic benefit cost:</b>				
Interest cost	\$ 0.3	\$ 0.4	\$ 0.2	\$ 0.3
Expected return on assets	(0.4)	(0.5)	—	—
Net amortization of prior service (credit) cost	0.0	0.0	(0.2)	(0.1)
Amortization of (gains) losses	0.3	0.5	0.0	0.0
<b>Total</b>	<b>\$ 0.2</b>	<b>\$ 0.4</b>	<b>\$ 0.0</b>	<b>\$ 0.2</b>

The Company's funding practice with respect to the UK Pension Plan is to contribute on an annual basis at least the minimum amounts required by applicable law. For the six months ended November 30, 2020, the Company contributed \$0.6 to the UK Pension Plan. The Company expects, based on actuarial calculations, to contribute cash of approximately \$1.0 to the UK Pension Plan for the fiscal year ending May 31, 2021.

In the second quarter of fiscal 2021, the Company announced a change in benefits for certain US postretirement benefit plan participants. Beginning January 1, 2021, the plan will establish Health Reimbursement Accounts (HRAs) to provide these participants with additional flexibility to choose healthcare options based on individual needs. As a result of this change, the Company remeasured its Postretirement Benefit obligation as of November 30, 2020, and recognized a reduction of \$7.6 to its benefit obligation and a reduction to its accumulated comprehensive loss of \$7.6 in the second quarter of fiscal 2021. The related prior service credit will be amortized as a Component of net periodic benefit (cost) over the average remaining life expectancy of plan participants of approximately 12 years.

**10. STOCK-BASED COMPENSATION**

The following table summarizes stock-based compensation expense included in Selling, general and administrative expenses for the periods indicated:

	Three months ended		Six months ended	
	November 30, 2020	November 30, 2019	November 30, 2020	November 30, 2019
Stock option expense	\$ 2.5	\$ 0.4	\$ 2.8	\$ 1.0
Restricted stock unit expense	0.5	0.4	0.7	1.2
Management stock purchase plan	0.0	0.0	0.0	0.0
Employee stock purchase plan	0.0	0.1	0.1	0.2
<b>Total stock-based compensation expense</b>	<b>\$ 3.0</b>	<b>\$ 0.9</b>	<b>\$ 3.6</b>	<b>\$ 2.4</b>

On October 1, 2020, the Company made an additional stock option grant to employees as a non-cash incentive.

The following table sets forth Common Stock issued pursuant to stock-based compensation plans for the periods indicated:

	Three months ended		Six months ended	
	November 30, 2020	November 30, 2019	November 30, 2020	November 30, 2019
Common Stock issued pursuant to stock-based compensation plans (in millions)	0.1	0.1	0.1	0.1

**11. TREASURY STOCK**

The Board has authorized the Company to repurchase Common Stock, from time to time as conditions allow, on the open market or through negotiated private transactions.

The table below represents the Board authorizations at the dates indicated:

Authorizations	Amount
March 2018	\$ 50.0
March 2020	50.0
<b>Total current Board authorizations at June 1, 2020</b>	<b>\$ 100.0</b>
Less repurchases made under these authorizations	\$ (32.7)
<b>Remaining Board authorization at November 30, 2020</b>	<b>\$ 67.3</b>

Remaining Board authorization at November 30, 2020 represents the amount remaining under the Board authorization for Common share repurchases on March 21, 2018 and the current \$50.0 Board authorization for Common share repurchases announced on March 18, 2020, which is available for further repurchases, from time to time as conditions allow, on the open market or through negotiated private transactions.

There were no repurchases of the Company's Common Stock for the three and six months ended November 30, 2020. The Company's repurchase program is temporarily suspended at this time due to COVID-19 uncertainties.

**12. ACCUMULATED OTHER COMPREHENSIVE INCOME (LOSS)**

The following tables summarize the activity in Accumulated other comprehensive income (loss), net of tax, by component, for the periods indicated:

	Three months ended November 30, 2020		
	Foreign currency translation adjustments	Retirement benefit plans	Total
<b>Beginning balance at September 1, 2020</b>	<b>\$ (39.3)</b>	<b>\$ (8.2)</b>	<b>\$ (47.5)</b>
Other comprehensive income (loss) before reclassifications	0.4	5.3	5.7
Less amount reclassified from Accumulated other comprehensive income (loss):			
Amortization of gains and losses (net of tax of \$0.0)	—	0.2	0.2
Amortization of prior service credit (net of tax of \$0.1)	—	(0.1)	(0.1)
Other comprehensive income (loss)	0.4	5.4	5.8
<b>Ending balance at November 30, 2020</b>	<b>\$ (38.9)</b>	<b>\$ (2.8)</b>	<b>\$ (41.7)</b>

	Three months ended November 30, 2019		
	Foreign currency translation adjustments	Retirement benefit plans	Total
<b>Beginning balance at September 1, 2019</b>	<b>\$ (49.1)</b>	<b>\$ (12.4)</b>	<b>\$ (61.5)</b>
Other comprehensive income (loss) before reclassifications	3.9	—	3.9
Less amount reclassified from Accumulated other comprehensive income (loss):			
Amortization of gains and losses (net of tax of \$0.0)	—	0.3	0.3
Amortization of prior service credit (net of tax of \$0.0)	—	(0.1)	(0.1)
Other comprehensive income (loss)	3.9	0.2	4.1
<b>Ending balance at November 30, 2019</b>	<b>\$ (45.2)</b>	<b>\$ (12.2)</b>	<b>\$ (57.4)</b>



**SCHOLASTIC CORPORATION**  
**NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS – UNAUDITED**  
(Dollar amounts in millions, except per share data)

	Six months ended November 30, 2020		
	Foreign currency translation adjustments	Retirement benefit plans	Total
<b>Beginning balance at June 1, 2020</b>	\$ (50.0)	\$ (8.3)	\$ (58.3)
Other comprehensive income (loss) before reclassifications	11.1	5.3	16.4
Less amount reclassified from Accumulated other comprehensive income (loss):			
Amortization of gains and losses (net of tax of \$0.0)	—	0.3	0.3
Amortization of prior service credit (net of tax of \$0.1)	—	(0.1)	(0.1)
Other comprehensive income (loss)	11.1	5.5	16.6
<b>Ending balance at November 30, 2020</b>	<b>\$ (38.9)</b>	<b>\$ (2.8)</b>	<b>\$ (41.7)</b>

	Six months ended November 30, 2019		
	Foreign currency translation adjustments	Retirement benefit plans	Total
<b>Beginning balance at June 1, 2019</b>	\$ (47.1)	\$ (12.6)	\$ (59.7)
Other comprehensive income (loss) before reclassifications	1.9	—	1.9
Less amount reclassified from Accumulated other comprehensive income (loss):			
Amortization of gains and losses (net of tax of \$0.0)	—	0.5	0.5
Amortization of prior service credit (net of tax of \$0.0)	—	(0.1)	(0.1)
Other comprehensive income (loss)	1.9	0.4	2.3
<b>Ending balance at November 30, 2019</b>	<b>\$ (45.2)</b>	<b>\$ (12.2)</b>	<b>\$ (57.4)</b>

The following table presents the impact on earnings of reclassifications out of Accumulated other comprehensive income (loss) for the periods indicated:

	Three months ended		Six months ended		Condensed Consolidated Statements of Operations line item
	November 30, 2020	November 30, 2019	November 30, 2020	November 30, 2019	
<b>Employee benefit plans:</b>					
Amortization of unrecognized (gain) loss	\$ 0.2	\$ 0.3	\$ 0.3	\$ 0.5	Other components of net periodic benefit (cost)
Amortization of prior service credit	(0.2)	(0.1)	(0.2)	(0.1)	Other components of net periodic benefit (cost)
Less: Tax effect	0.1	0.0	0.1	0.0	Provision (benefit) for income taxes
<b>Total cost, net of tax</b>	<b>\$ 0.1</b>	<b>\$ 0.2</b>	<b>\$ 0.2</b>	<b>\$ 0.4</b>	

### 13. FAIR VALUE MEASUREMENTS

The Company determines the appropriate level in the fair value hierarchy for each fair value measurement of assets and liabilities carried at fair value on a recurring basis in the Company's financial statements. The fair value hierarchy prioritizes the inputs, which refer to assumptions that market participants would use in pricing an asset or liability, based upon the highest and best use, into three levels as follows:

- **Level 1** Unadjusted quoted prices in active markets for identical assets or liabilities at the measurement date.
- **Level 2** Observable inputs other than quoted prices included in Level 1, including quoted prices for similar assets or liabilities in active markets, quoted prices for identical assets or liabilities in inactive markets, inputs other than quoted prices that are observable for the asset or liability and inputs derived principally from or corroborated by observable market data.

- **Level 3** Unobservable inputs in which there is little or no market data available, which are significant to the fair value measurement and require the Company to develop its own assumptions.

The Company's financial assets and liabilities measured at fair value consisted of cash and cash equivalents, debt and foreign currency forward contracts. Cash and cash equivalents are comprised of bank deposits and short-term investments, such as money market funds, the fair value of which is based on quoted market prices, a Level 1 fair value measure. The Company employs Level 2 fair value measurements for the disclosure of the fair value of its various lines of credit and long term debt. The fair value of the Company's debt approximates the carrying value for all periods presented. The fair values of foreign currency forward contracts, used by the Company to manage the impact of foreign exchange rate changes, are based on quotations from financial institutions, a Level 2 fair value measure. See Note 15, Derivatives and Hedging, for a more complete description of the fair value measurements employed.

Non-financial assets for which the Company employs fair value measures on a non-recurring basis include:

- Long-lived assets
- Investments
- Assets acquired in a business combination
- Impairment assessment of Goodwill and intangible assets
- Long-lived assets held for sale

Level 2 and level 3 inputs are employed by the Company in the fair value measurement of these assets. For the fair value measurements employed by the Company for certain property, plant and equipment, investments and prepublication assets, the Company assessed future expected cash flows attributable to these assets. See Note 8, Investments, for a more complete description of the fair value measurements employed.

#### **14. INCOME TAXES AND OTHER TAXES**

##### **Tax Legislation Updates**

In response to the COVID-19 pandemic, many governments have enacted or are contemplating additional measures to provide aid and economic stimulus. These measures may include deferring the due dates of tax payments or other changes to their income and non-income-based tax laws as well as providing direct government assistance through grants and forgivable loans.

On March 27, 2020, the U.S. government enacted the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act"). The CARES Act, among other things, includes provisions relating to refundable payroll tax credits, deferment of employer-side social security payments, net operating loss carryback periods, alternative minimum tax credit refunds, modifications to the net interest deduction limitations and technical corrections to tax depreciation methods for qualified improvement property. The Company expects to benefit from certain provisions in the CARES Act, including the provision to carry back net operating losses generated in the U.S. to previous periods which were taxed at the higher 35% federal corporate tax rate and provisions related to the Employee Retention Credit, which was created by the CARES Act to encourage entities to keep employees on their payroll despite experiencing economic hardship due to the COVID-19 pandemic. The Company is deferring employer-side social security payments which have resulted in a long term liability of \$8.7 as of November 30, 2020. Internationally, the Company is applying for employee retention credits when applicable and appropriate.

On December 22, 2017, the Tax Cuts and Jobs Act was signed into law. The Tax Cuts and Jobs Act, among other things, reduced the U.S. federal corporate tax rate from 35% to 21% and imposed a new minimum tax on Global Intangible Low-Taxed Income ("GILTI") earned by foreign subsidiaries. On July 20, 2020, final regulations were issued for GILTI which include a high-tax exception for income earned by foreign subsidiaries if the foreign tax rate is in excess of 90% of the U.S. tax rate of 21%. While the Company does not anticipate a material impact on the overall income tax provision, the final regulations, specifically the high-tax exception, will reduce taxable income.

### **Income Taxes**

In calculating the provision for income taxes on an interim basis, the Company uses an estimate of the annual effective tax rate based upon currently known facts and circumstances and applies that rate to its year-to-date earnings or losses. The Company's effective tax rate is based on expected income and statutory tax rates and takes into consideration permanent differences between financial statement and tax return income applicable to the Company in the various jurisdictions in which the Company operates. The effect of discrete items, such as changes in estimates, changes in enacted tax laws or rates or tax status, and unusual or infrequently occurring events, is recognized in the interim period in which the discrete item occurs. The accounting estimates used to compute the provision for income taxes may change as new events occur, additional information is obtained or as the result of new judicial interpretations or regulatory or tax law changes.

The Company's interim effective tax rate, inclusive of discrete items, was 26.1% for the three month period ended November 30, 2020 and 9.5% for the six month period ended November 30, 2020. The effective tax rate for the six month period ended November 30, 2020 varies from the statutory tax rate primarily due to employee stock option cancellations and additional GILTI inclusions.

The Company, including its domestic subsidiaries, files a consolidated U.S. income tax return, and also files tax returns in various states and other local jurisdictions. Also, certain subsidiaries of the Company file income tax returns in foreign jurisdictions. The Company is routinely audited by various tax authorities and the fiscal 2015 through fiscal 2019 tax years remain open. The Company has been notified by the IRS that there will be an examination of the income tax return for fiscal 2015.

### **Non-income Taxes**

The Company is subject to tax examinations for sales-based taxes. A number of these examinations are ongoing and, in certain cases, have resulted in assessments from taxing authorities. The Company assesses sales tax contingencies for each jurisdiction in which it operates, considering all relevant facts including statutes, regulations, case law and experience. Where a sales tax liability with respect to a jurisdiction is probable and can be reliably estimated for such jurisdiction, the Company has made accruals for these matters which are reflected in the Company's Condensed Consolidated Financial Statements. These amounts are included in the Financial Statements in Selling, general and administrative expenses. Future developments relating to the foregoing could result in adjustments being made to these accruals.

### **15. DERIVATIVES AND HEDGING**

The Company enters into foreign currency derivative contracts to economically hedge the exposure to foreign currency fluctuations associated with the forecasted purchase of inventory, the foreign exchange risk associated with certain receivables denominated in foreign currencies and certain future commitments for foreign expenditures. These derivative contracts are economic hedges and are not designated as cash flow hedges.

The Company marks-to-market these instruments and records the changes in the fair value of these items in Selling, general and administrative expenses and it recognizes the unrealized gain or loss in Other current assets or Other current liabilities. The notional values of the contracts as of November 30, 2020 and November 30, 2019 were \$29.2 and \$26.0, respectively. A net unrealized loss of \$1.1 and a net unrealized gain \$0.3 were recognized for the six months ended November 30, 2020 and November 30, 2019, respectively.

**16. OTHER ACCRUED EXPENSES**

Other accrued expenses consisted of the following as of the dates indicated:

	November 30, 2020	May 31, 2020	November 30, 2019
Accrued payroll, payroll taxes and benefits	\$ 38.6	\$ 38.8	\$ 41.7
Accrued bonus and commissions	10.6	12.1	13.3
Returns liability	54.5	43.5	42.4
Accrued other taxes	24.5	22.9	30.2
Accrued advertising and promotions	12.7	9.9	12.3
Other accrued expenses	42.1	34.3	38.3
<b>Total accrued expenses</b>	<b>\$ 183.0</b>	<b>\$ 161.5</b>	<b>\$ 178.2</b>

**17. SUBSEQUENT EVENTS**

The Board declared a quarterly cash dividend of \$0.15 per share on the Company's Class A and Common Stock for the third quarter of fiscal 2021. The dividend is payable on March 15, 2021 to shareholders of record as of the close of business on January 29, 2021.

On December 16, 2020, the Company and its principal operating subsidiary, Scholastic Inc., entered into an amendment to its existing credit agreement with a syndicate of banks and Bank of America, N.A., as administrative agent, which includes adjustments to, and suspension of, certain covenant thresholds.

The principal revised terms of the credit agreement effected by the amendment include the following:

- The aggregate maximum commitments of the lenders have been reduced to \$250.0, of which a maximum of \$225.0 is available until the Company satisfies the pre-amendment covenants in the credit agreement and a new covenant requiring Consolidated Liquidity (as defined) of a minimum amount of \$200.0;
- The minimum interest coverage covenant is suspended until after the end of the Company's fourth fiscal quarter ending May 31, 2021;
- The securitization of the Company's inventory and accounts receivable;
- A modified limitation on asset sales (not to exceed 10% of Consolidated Total Assets, as defined, excluding sale of collateral);
- A facility fee rate of 0.40%;
- A limitation on Acquisitions (as defined) to an aggregate amount of \$25.0 per fiscal year;
- Modification of the interest rate and fees during the remaining period of the credit facility, pursuant to which the revised interest rate is equal to 2.25% for any Eurodollar Rate Advance and 1.25% with respect to any Base Rate Advance, until receipt of the Company's financial statements and related certificates for the fiscal year ending May 31, 2021, and 1.60% for any Eurodollar Rate Advance and 0.60% for any Base Rate Advance drawn after the delivery by the Company of its financial statements and related certificates for the fiscal year ending May 31, 2021.
- A limit on quarterly cash dividends of \$5.2 per fiscal quarter plus the dollar amount of all cash dividends payable (at the rate applicable as of the First Amendment Effective Date) in such fiscal quarter in respect of capital stock of the Company issued after the First Amendment Effective Date as a result of the regular vesting or exercise of issued and outstanding stock awards in the normal course of business. Other restricted payments (e.g., for share repurchases, etc.) are limited to the "builder basket" and leverage construct in the pre-amendment credit agreement together with an additional requirement that the Company have Consolidated Liquidity (as defined) that exceeds \$300.0. Prior to the Agent's receipt of the Company's financial statements for the fiscal year ending May 31, 2021, use of this restricted payment basket (apart from dividends) is capped at \$30.0.

## Overview and Outlook

Revenues for the second quarter ended November 30, 2020 were \$406.2 million, compared to \$597.2 million in the prior fiscal year quarter, a decrease of \$191.0 million. The Company reported net earnings per diluted share of Class A and Common Stock of \$1.02 in the second quarter of fiscal 2021, compared to \$2.02 in the prior fiscal year quarter.

During the second quarter ended November 30, 2020, the Company continued to reduce its operating costs, right-size its employee base, and match inventory purchases to customer demand to help mitigate the impact of lower fairs' revenues on its profitability and cash position. While the book fairs channel continued to have a significant decline in sales, as schools were generally not hosting in-person book fairs as a result of coronavirus concerns and restrictions and the resulting patterns of school instruction, operating income improved over the prior fiscal year quarter for a majority of the Company's other businesses in the U.S. and internationally. The trade channel continued to exceed prior fiscal year quarter results as new titles were released in the fiscal quarter ended November 30, 2020, including Dav Pilkey's *Dog Man: Grime and Punishment* and *The Ickabog*® by J.K. Rowling, in addition to increased sales of other best-selling trade titles. The Company also benefited from higher revenues within the *Education* segment, excluding the custom publishing magazine business which is winding down, from products including *Grab and Go* reading packs, teaching resources workbooks, and digital product subscriptions.

The Company has identified opportunities for additional savings in the second half of the fiscal year, which cost-cutting actions, along with the continued expectation of increased performance in the Company's trade and education businesses, are expected to help mitigate the impact of lower expected book fairs revenues in the third fiscal quarter. Scheduled new releases in the second half of fiscal 2021 are expected to continue to position the trade business for further growth, and the Company's growing media and entertainment business, through its production partnerships and the licensing of the Company's content and characters, is expected to continue to complement the Company's book sales.

## Results of Operations

### Consolidated

Revenues for the quarter ended November 30, 2020 decreased to \$406.2 million, compared to \$597.2 million in the prior fiscal year. The *Children's Book Publishing and Distribution* segment revenues decreased by \$173.3 million, primarily driven by lower book fairs channel revenues due to lower in-person fair count as schools were not hosting fairs on-site due to COVID-19, partially offset by increased trade channel revenues driven by the release of a number of best-selling frontlist titles combined with higher backlist sales from best-selling series. In the *Education* segment, revenues decreased by \$2.4 million, primarily due to the wind down of the custom publishing magazine business, partially offset by increased sales of *Grab and Go* reading packs and digital product subscriptions as well as higher sales in the teaching resources business. In local currency, the *International* segment revenues decreased by \$17.8 million, primarily driven by lower revenues in the book fairs channels in Canada and the UK and lower direct-to-home sales in Asia, partially offset by increased revenues in the trade channel across all international markets. *International* segment revenues were impacted by favorable foreign exchange of \$2.5 million in the quarter ended November 30, 2020.

Revenues for the six months ended November 30, 2020 decreased to \$621.4 million, compared to \$829.8 million in the prior fiscal year period. The *Children's Book Publishing and Distribution* segment revenues decreased by \$192.0 million, primarily driven by lower book fairs channel revenues due to lower in-person fair count as schools were not hosting fairs on-site due to COVID-19, partially offset by increased trade channel revenues driven by the release of a number of best-selling frontlist titles combined with higher backlist sales from best-selling series. In the *Education* segment, revenues increased by \$2.8 million, primarily due to higher sales of digital products in literacy programs and take-home *Grab and Go* reading packs, as well as higher sales in the teaching resources business, partially offset by the wind down of the customer publishing magazine business. In local currency, the *International* segment revenues decreased by \$22.1 million, primarily driven by lower revenues in the school-based channels in Canada, lower book fairs channel revenues in the UK and lower direct-to-home sales in Asia, partially offset by increased revenues in the trade channel across all international markets. *International* segment revenues were impacted by favorable foreign exchange of \$2.9 million in the period.

Components of Cost of goods sold for the three and six months ended November 30, 2020 and November 30, 2019 are as follows:

(\$ amounts in millions)	Three months ended November 30,				Six months ended November 30,			
	2020		2019		2020		2019	
	\$	% of Revenue	\$	% of Revenue	\$	% of Revenue	\$	% of Revenue
Product, service and production costs	\$ 104.7	25.8 %	\$ 152.5	25.5 %	\$ 165.6	26.6 %	\$ 220.7	26.5 %
Royalty costs	40.3	9.9 %	40.5	6.8 %	63.7	10.3 %	62.8	7.6 %
Prepublication amortization	6.6	1.6 %	7.1	1.2 %	13.1	2.1 %	13.7	1.7 %
Postage, freight, shipping, fulfillment and other	47.7	11.8 %	64.2	10.8 %	80.1	12.9 %	104.2	12.6 %
<b>Total</b>	<b>\$ 199.3</b>	<b>49.1 %</b>	<b>\$ 264.3</b>	<b>44.3 %</b>	<b>\$ 322.5</b>	<b>51.9 %</b>	<b>\$ 401.4</b>	<b>48.4 %</b>

Cost of goods sold for the quarter ended November 30, 2020 was \$199.3 million, or 49.1% of revenues, compared to \$264.3 million, or 44.3% of revenues, in the prior fiscal year quarter. The increase in Cost of goods sold as a percentage of revenues was primarily driven by the sales decline in the book fairs channel, which traditionally has a higher mix of non-royalty bearing titles, coupled with higher trade sales which typically have a higher royalty rate. In addition, postage costs as a percentage of revenues increased in the school-based channels due to higher volumes of direct ship-to-home.

Cost of goods sold for the six months ended November 30, 2020 was \$322.5 million, or 51.9% of revenues, compared to \$401.4 million, or 48.4% of revenues, in the prior fiscal year period. The increase in Cost of goods sold as a percentage of revenues was primarily driven by the sales decline in the book fairs channel, which traditionally has a higher mix of non-royalty bearing titles, coupled with higher trade sales which typically have a higher royalty rate.

Selling, general and administrative expenses in the quarter ended November 30, 2020 decreased to \$137.0 million, compared to \$210.6 million in the prior fiscal year quarter. The \$73.6 million decrease was due to the Company's COVID-related cost-saving program, which included, but was not limited to, restructuring initiatives resulting in lower employee-related expenses, participation in government subsidy programs, when applicable, both domestically and internationally, lower spending on non-essential projects, and limitations on expenditures related to travel, events and conferences, in addition to lower contracted services within technology operations. A substantial portion of the cost-saving program is expected to bring permanent improvements to the Company's cost structure to meet the current economic environment and provide opportunities for profitability as normal sales levels return.

Selling, general and administrative expenses in the six months ended November 30, 2020 decreased to \$258.5 million, compared to \$373.7 million in the prior fiscal year period. The \$115.2 million decrease was due to the Company's COVID-related cost-saving program, which included employee furlough and reduced work week programs, participation in government subsidy programs and restructuring initiatives, resulting in lower employee-related expenses, reduced technology-related spending, improvements in operating and financial processes, and other efforts to lower the Company's overall cost base. A substantial portion of the cost-saving program is expected to bring permanent improvements to the Company's cost structure to meet the current economic environment and provide opportunities for profitability as normal sales levels return. The majority of the employee short-term furlough and reduced work week programs were discontinued at the end of the first quarter of fiscal 2021.

Depreciation and amortization expenses in the three and six months ended November 30, 2020 were \$15.8 million and \$31.3 million, respectively, which were comparable to \$15.4 million and \$30.8 million, respectively, in the prior fiscal year periods.

Severance expense in the quarter ended November 30, 2020 was \$5.3 million, compared to \$1.8 million in the prior fiscal year quarter, which included charges related to cost-reduction and restructuring programs of \$5.2 million and \$0.9 million for the three months ended November 30, 2020 and November 30, 2019, respectively.

Severance expense in the six months ended November 30, 2020 was \$17.3 million, compared to \$6.2 million in the prior fiscal year period, which included charges related to cost-reduction and restructuring programs of \$17.2 million and \$3.7 million for the six months ended November 30, 2020 and November 30, 2019, respectively.

Net interest expense in the quarter ended November 30, 2020 was \$1.2 million compared to Net interest income of less than \$0.1 million in the prior fiscal year quarter. Net interest expense in the six months ended November 30, 2020 was \$2.4 million compared to Net interest income of \$0.7 million in the prior fiscal year period. The increase in Net interest expense for the three and six months ended November 30, 2020 was primarily due to interest expense on long-term debt borrowings.

The Company's effective tax rate for the quarter ended November 30, 2020 was 26.1%, compared to 32.2% in the prior fiscal year quarter. The Company's effective tax rate for the six month period ended November 30, 2020 was 9.5%, compared to 29.2% in the prior fiscal year period.

Net income for the quarter ended November 30, 2020 decreased by \$35.9 million to \$35.2 million, compared to Net income of \$71.1 million in the prior fiscal year quarter. Earnings per basic and diluted share of Class A and Common Stock was \$1.02 and \$1.02, respectively, for the fiscal quarter ended November 30, 2020, compared to earnings per basic and diluted share of Class A and Common Stock of \$2.04 and \$2.02, respectively, in the prior fiscal year quarter.

Net loss for the six months ended November 30, 2020 was \$4.6 million, an increase of \$17.2 million compared to Net income of \$12.6 million in the prior fiscal year period. Net loss per basic and diluted share of Class A and Common Stock was \$0.14 and \$0.14, respectively, in the six month period ended November 30, 2020, compared to earnings per basic and diluted share of Class A and Common Stock of \$0.36 and \$0.35, respectively, in the prior fiscal year period.

Net income attributable to noncontrolling interest for the three and six months ended November 30, 2020 was \$0.1 million. Net income attributable to noncontrolling interest for the three and six months ended November 30, 2019 was \$0.1 million.

### Children's Book Publishing and Distribution

(\$ amounts in millions)	Three months ended November 30,				Six months ended November 30,			
	2020	2019	\$ change	% change	2020	2019	\$ change	% change
Revenues	\$ 240.3	\$ 413.6	\$ (173.3)	(41.9)%	\$ 331.2	\$ 523.2	\$ (192.0)	(36.7)%
Cost of goods sold	118.5	171.5	(53.0)	(30.9)%	173.1	237.0	(63.9)	(27.0)%
Other operating expenses <sup>(1)</sup>	84.1	132.5	(48.4)	(36.5)%	149.6	218.3	(68.7)	(31.5)%
Operating income (loss)	\$ 37.7	\$ 109.6	\$ (71.9)	(65.6)%	\$ 8.5	\$ 67.9	\$ (59.4)	(87.5)%
<b>Operating margin</b>	<b>15.7 %</b>	<b>26.5 %</b>			<b>2.6 %</b>	<b>13.0 %</b>		

(1) Other operating expenses include selling, general and administrative expenses, bad debt expenses and depreciation and amortization.

Revenues for the quarter ended November 30, 2020 decreased by \$173.3 million to \$240.3 million, compared to \$413.6 million in the prior fiscal year quarter. The decrease in segment revenues is primarily driven by lower book fairs channel revenues of \$176.4 million due to significantly lower in-person fair count as schools were not hosting fairs on-site due to COVID-19. Book clubs channel revenues decreased \$19.0 million due to a slow start in the early back-to-school period as a result of delays and disruptions in school openings, partially offset by increased direct ship-to-home order fulfillment. Trade channel revenues increased by \$22.1 million driven by the release of a number of best-selling frontlist titles, including *The Ickabog* by J.K. Rowling, *Dog Man: Grime and Punishment* by Dav Pilkey, *All Because You Matter* by Tami Charles and *Three Keys* by Kelly Yang, combined with increased backlist sales from best-selling series including Harry Potter, Dog Man, Hunger Games, Captain Underpants, The Bad Guys, and The Baby-Sitters Club® Graphix.

Revenues for the six months ended November 30, 2020 decreased by \$192.0 million to \$331.2 million, compared to \$523.2 million in the prior fiscal year period. The decrease in segment revenues is primarily driven by lower book fairs channel revenues of \$190.7 million, due to lower in-person fair count as schools were not able to host fairs on-site due to COVID-19, and lower book clubs channel revenues of \$21.2 million due to

declines in sponsor engagement and COVID-impacted delays in school reopenings. Trade channel revenues increased by \$19.9 million, primarily due to sales of top-selling titles including *The Ickabog*<sup>®</sup>, *Dog Man: Grime and Punishment*, *The Ballad of Songbirds and Snakes* (A Hunger Games Novel), *Logan Likes Mary Anne!* (The Baby-Sitters Club<sup>®</sup> Graphix #8), Harry Potter and the Sorcerer's Stone: MinaLima Edition, coupled with increased sales of workbooks within the Scholastic Early Learners<sup>™</sup> and BOB Books<sup>®</sup> lines and higher backlist and audio book sales.

Cost of goods sold for the quarter ended November 30, 2020 was \$118.5 million, or 49.3% of revenues, compared to \$171.5 million, or 41.5% of revenues, in the prior fiscal year quarter. The increase in Cost of goods sold as a percentage of revenues was primarily driven by the sales decline in the book fairs channel which traditionally has a higher mix of non-royalty bearing titles, coupled with higher trade sales which typically have a higher royalty rate. In addition, postage costs as a percentage of revenues increased in the school-based channels due to higher volumes of direct ship-to-home sales.

Cost of goods sold for the six months ended November 30, 2020 was \$173.1 million, or 52.3% of revenues, compared to \$237.0 million, or 45.3% of revenues, in the prior fiscal year period. The increase in Cost of goods sold as a percentage of revenues was primarily driven by the sales decline in the book fairs channel which traditionally has a higher mix of non-royalty bearing titles, coupled with higher trade sales which typically have a higher royalty rate.

Other operating expenses for the quarter ended November 30, 2020 decreased to \$84.1 million, compared to \$132.5 million in the prior fiscal year quarter. The \$48.4 million decrease was attributable to the cost-saving program, which resulted in a reduction in employee-related costs primarily within the book fairs channel and lower book clubs kit costs.

Other operating expenses for the six months ended November 30, 2020 decreased to \$149.6 million, compared to \$218.3 million in the prior fiscal year period. The \$68.7 million decrease was attributable to the cost-saving program, which included employee furlough and reduced work week programs in the first fiscal quarter, resulting in a reduction in employee-related costs across all channels in the segment, in addition to lower book clubs kit costs and temporary closure of book fair distribution facilities.

Segment operating income for the quarter ended November 30, 2020 was \$37.7 million, compared to \$109.6 million in the prior fiscal year quarter. The decrease was primarily driven by the significant decline in book fairs channel revenues, partially offset by increased sales in the trade channel, coupled with the cost-saving program implemented by the Company.

Segment operating income for the six months ended November 30, 2020 was \$8.5 million, compared to \$67.9 million in the prior fiscal year period. The decrease was primarily driven by the significant decline in book fairs channel revenues, partially offset by increased sales in the trade channel, coupled with the cost-saving program implemented by the Company. The Company expects continued impact from COVID-19 and continues to monitor costs in the school channels, while simultaneously preparing itself to be in a position to respond to varied customer requirements which may continue to emerge as a result of the COVID-19 pandemic.

## Education

(\$ amounts in millions)	Three months ended November 30,				Six months ended November 30,			
	2020	2019	\$ change	% change	2020	2019	\$ change	% change
Revenues	\$ 67.5	\$ 69.9	\$ (2.4)	(3.4)%	\$ 121.1	\$ 118.3	\$ 2.8	2.4%
Cost of goods sold	21.2	23.2	(2.0)	(8.6)%	43.8	44.1	(0.3)	(0.7)%
Other operating expenses <sup>(1)</sup>	34.4	40.5	(6.1)	(15.1)%	67.6	81.4	(13.8)	(17.0)%
Operating income (loss)	\$ 11.9	\$ 6.2	\$ 5.7	91.9%	\$ 9.7	\$ (7.2)	\$ 16.9	234.7%
<b>Operating margin</b>	<b>17.6%</b>	<b>8.9%</b>			<b>8.0%</b>	<b>—%</b>		

(1) Other operating expenses include selling, general and administrative expenses, bad debt expenses and depreciation and amortization.

Revenues for the quarter ended November 30, 2020 decreased to \$67.5 million, compared to \$69.9 million in the prior fiscal year quarter, resulting in a decrease of \$2.4 million. The Company is winding down the custom publishing magazine business, which resulted in a decrease of \$2.8 million in revenues compared to the prior



fiscal year quarter. Excluding custom publishing business revenues, segment revenues increased \$0.4 million driven by higher sales of the Company's line of *Grab and Go* reading packs to school districts and community-based organizations, as well as higher digital revenues for subscription products, which included *Scholastic Literacy Pro*<sup>®</sup>, *F.I.R.S.T.*<sup>®</sup> and *BookFlix*<sup>®</sup>. In addition, the Company's teaching resources business revenues increased from sales of products within its lines of jumbo workbooks and early readers. This increase was partially offset by lower sales of the Company's traditional classroom book collections and classroom magazines as many school districts chose to operate remotely.

Revenues for the six months ended November 30, 2020 increased to \$121.1 million, compared to \$118.3 million in the prior fiscal year period, resulting in an increase of \$2.8 million. The Company is winding down the custom publishing magazine business, which resulted in a decrease of \$4.8 million in revenues compared to the prior fiscal year period. Excluding custom publishing business revenues, segment revenues increased \$7.6 million driven by higher sales of the Company's *Grab and Go* reading packs to school districts and community-based organizations as well as higher sales of instructional programs. Digital revenues also increased in the six months ended November 30, 2020, which included a large school district sale of *Scholastic Literacy Pro*<sup>®</sup> and *F.I.R.S.T.*<sup>®</sup>, digital programs for independent reading and foundational reading skills, respectively, coupled with higher sales of digital subscription products which included *Scholastic Literacy Pro*<sup>®</sup> and *BookFlix*<sup>®</sup>. In addition, the Company's teaching resources business revenues increased from sales of products within its lines of jumbo workbooks and early readers. This increase was partially offset by lower sales of the Company's traditional classroom book collections and classroom magazines as many school districts chose to operate remotely.

Cost of goods sold for the quarter ended November 30, 2020 was \$21.2 million, or 31.4% of revenues, compared to \$23.2 million, or 33.2% of revenues, in the prior fiscal year quarter. Cost of goods sold for the six months ended November 30, 2020 was \$43.8 million, or 36.2% of revenues, compared to \$44.1 million, or 37.3% of revenues, in the prior fiscal year period. The decrease in Cost of goods sold as a percentage of revenues for the three and six months ended November 30, 2020 was primarily due to favorable product mix from higher digital sales and sales of take-home packs.

Other operating expenses for the quarter ended November 30, 2020 decreased to \$34.4 million, compared to \$40.5 million in the prior fiscal year quarter. Other operating expenses for the six months ended November 30, 2020 decreased to \$67.6 million, compared to \$81.4 million in the prior fiscal year period. The decrease in Other operating expenses for the three and six months ended November 30, 2020 was primarily related to a decrease in employee-related costs as a result of cost-saving measures implemented to mitigate the impact of COVID-19.

Segment operating income for the quarter ended November 30, 2020 was \$11.9 million, compared to \$6.2 million in the prior fiscal year quarter. The \$5.7 million increase was primarily driven by the cost-saving measures taken to mitigate the impact of COVID-19.

Segment operating income for the six months ended November 30, 2020 was \$9.7 million, compared to an operating loss of \$7.2 million in the prior fiscal year period. The \$16.9 million improvement was primarily driven by cost-saving measures taken to mitigate the impact of COVID-19, coupled with revenue increases in a number of the segment's business lines, including *Grab and Go* reading packs, digital product subscriptions, and teaching resources products.

**International**

(\$ amounts in millions)	Three months ended November 30,				Six months ended November 30,			
	2020	2019	\$ change	% change	2020	2019	\$ change	% change
Revenues	\$ 98.4	\$ 113.7	\$ (15.3)	(13.5)%	\$ 169.1	\$ 188.3	\$ (19.2)	(10.2)%
Cost of goods sold	50.5	59.3	(8.8)	(14.8)%	88.1	98.0	(9.9)	(10.1)%
Other operating expenses <sup>(1)</sup>	28.7	42.7	(14.0)	(32.8)%	56.6	82.3	(25.7)	(31.2)%
Operating income (loss)	\$ 19.2	\$ 11.7	\$ 7.5	64.1 %	\$ 24.4	\$ 8.0	\$ 16.4	205.0 %
<b>Operating margin</b>	<b>19.5 %</b>	<b>10.3 %</b>			<b>14.4 %</b>	<b>4.2 %</b>		

(1) Other operating expenses include selling, general and administrative expenses, bad debt expenses, severance and depreciation and amortization.

Revenues for the quarter ended November 30, 2020 decreased to \$98.4 million, compared to \$113.7 million in the prior fiscal year quarter. Local currency revenues across the Company's foreign operations decreased by \$17.8 million partially offset by favorable foreign exchange of \$2.5 million. In Canada and the UK, local currency revenues decreased \$11.4 million and \$3.9 million, respectively, primarily due to lower book fair events held as a result of COVID-19 restrictions, partially offset by higher sales in the trade channel due in part to the new title releases. In Asia, local currency revenues decreased \$5.2 million primarily driven by lower direct-to-home sales. Australia and New Zealand local currency revenues increased \$2.1 million, driven by increased sales across all channels, due in part to the COVID-19 response efforts of those countries as compared to other countries. In addition, revenues from the foreign rights channel increased \$1.7 million compared to the prior fiscal year quarter.

Revenues for the six months ended November 30, 2020 decreased to \$169.1 million, compared to \$188.3 million in the prior fiscal year period. Local currency revenues across the Company's foreign operations decreased by \$22.1 million partially offset by favorable foreign exchange of \$2.9 million. In Canada, local currency revenues decreased \$12.9 million, primarily driven by lower school-based channel sales as a result of COVID-19 restrictions, partially offset by increased sales of best-selling trade titles. In the UK, local currency revenues decreased \$4.1 million, primarily due to lower volumes in the book fairs channel, partially offset by increased book clubs sales from parent-to-home orders, as well as increased sales of trade titles. In Asia, local currency revenues decreased \$10.1 million primarily related to lower revenues from the direct sales channel due in part to the adverse impact of COVID-19. Australia and New Zealand local currency revenues increased \$3.6 million, primarily on higher revenue from the trade and book clubs channels, partially offset by lower volumes in the book fairs channel. In addition, revenues from the foreign rights channel increased \$2.1 million compared to the prior fiscal year period.

Cost of goods sold for the quarter ended November 30, 2020 was \$50.5 million, or 51.3% of revenues, compared to \$59.3 million, or 52.2% of revenues, in the prior fiscal year quarter. The lower cost of goods sold as a percentage of revenue was primarily driven by the book fairs channel which had lower fulfillment costs due to revenue declines.

Cost of goods sold for the six months ended November 30, 2020 was \$88.1 million, or 52.1% of revenues, as compared to \$98.0 million, or 52.0% of revenues, in the prior fiscal year period. Higher royalty costs due to a sales shift to trade titles with higher royalty rates were offset by lower fulfillment costs in the book fairs channel due to revenue declines.

Other operating expenses for the quarter ended November 30, 2020 were \$28.7 million, compared to \$42.7 million in the prior fiscal year quarter. Other operating expenses decreased \$14.0 million primarily driven by lower employee-related expenses as a result of the cost-saving program implemented by the Company and the benefit of COVID-related governmental employee retention programs in Australia, Canada, and the UK which resulted in a subsidy of \$2.8 million. The Company will continue to explore the applicability of employee retention programs country by country but expects such programs to wind down in the coming fiscal quarters. This decrease was partially offset by severance expense of \$1.3 million related to the cost-reduction measures and branch consolidation costs of \$0.3 million in the quarter ended November 30, 2020.

Other operating expenses for the six months ended November 30, 2020 were \$56.6 million, compared to \$82.3 million in the prior fiscal year period. Other operating expenses decreased \$25.7 million primarily driven by lower

employee-related expenses as a result of the cost-saving program implemented by the Company and COVID-related governmental employee retention programs in Australia, Canada, and the UK which resulted in a subsidy of \$8.2 million. This decrease was partially offset by severance expense of \$2.3 million related to the cost-reduction measures and branch consolidation costs of \$0.3 million in the six months ended November 30, 2020.

Segment operating income for the quarter ended November 30, 2020 was \$19.2 million, compared to \$11.7 million in the prior fiscal year quarter. Total local currency operating results across the Company's foreign operations increased \$6.8 million, primarily driven by COVID-related governmental employee retention programs and lower employee-related costs as a result of cost-saving measures, in addition to increased trade channel revenues, partially offset by lower revenues in the book fairs and direct sales channels as well as severance expense.

Segment operating income for the six months ended November 30, 2020 was \$24.4 million, compared to segment operating income of \$8.0 million in the prior fiscal year period. Total local currency operating results across the Company's foreign operations increased \$15.5 million, primarily driven by COVID-related governmental employee retention programs and lower employee-related costs as a result of cost-saving measures, in addition to increased trade channel revenues, partially offset by lower revenues in the book fairs and direct sales channels as well as severance expense.

#### Overhead

Unallocated overhead expense for the quarter ended November 30, 2020 decreased by \$2.4 million to \$20.0 million, from \$22.4 million in the prior fiscal year quarter. The decrease was primarily attributable to lower employee-related costs, which included a COVID-related governmental employee retention credit, and lower contracted services within technology operations in an effort to mitigate the impact on operating income of lower sales volumes due to COVID-19, as well as the absence of a \$1.0 million pretax charge in the prior fiscal year quarter relating to a settlement arising from an intellectual property producing agreement. This decrease was partially offset by severance expense related to the cost-saving program, which increased by \$3.0 million to \$3.9 million, compared to \$0.9 million in the prior fiscal year quarter.

Unallocated overhead expense for the six months ended November 30, 2020 decreased by \$0.2 million to \$50.8 million, from \$51.0 million in the prior fiscal year period. The decrease was primarily attributable to lower employee-related costs, which included a COVID-related governmental employee retention credit, and lower technology-related spending, including contracted services, in an effort to mitigate the impact on operating income of lower sales volumes due to COVID-19, as well as the absence of a \$1.5 million settlement, without admission of liability, for an alleged patent infringement and a \$1.0 million pretax charge related to a settlement arising from an intellectual property producing agreement in the prior fiscal year period. This decrease was partially offset by severance expense related to the cost-saving program, which increased by \$11.2 million to \$14.9 million, compared to \$3.7 million in the prior fiscal year period.

#### Seasonality

The Company's *Children's Book Publishing and Distribution* school-based book club and book fair channels and most of its *Education* businesses operate on a school-year basis; therefore, the Company's business is highly seasonal. As a result, the Company's revenues in the first and third quarters of the fiscal year generally are lower than its revenues in the other two fiscal quarters. Typically, school-based channels and magazine revenues are minimal in the first quarter of the fiscal year as schools are not in session. Trade sales can vary throughout the year due to varying release dates of published titles. While the Company generally experiences a loss from operations in the first and third quarters of each fiscal year, the second quarter of fiscal 2021, ending November 30, 2020, which is traditionally an income quarter, was negatively impacted by the COVID-19 pandemic, particularly in the book fairs channel. Presently, there remain many uncertainties concerning the timing of and any patterns which may emerge from school instruction, whether in-school, remote or hybrid, for the remaining school year, and the nature and continuing magnitude of the negative impact of COVID-19 into and beyond the third quarter of fiscal 2021 will depend on the actual timing and emerging patterns of such school instruction throughout the United States.

### Liquidity and Capital Resources

Cash provided by operating activities was \$20.1 million for the six months ended November 30, 2020, compared to cash provided by operating activities of \$14.3 million for the prior fiscal year period, representing an increase in cash provided by operating activities of \$5.8 million. While there were lower revenues in the six months ended November 30, 2020, the Company's cost-savings initiatives continued to drive overall lower net spending levels and lower inventory purchases as it re-aligned its operations and staffing levels to adapt to lower COVID-related customer demand, especially in the book fairs channel. There was an overall reduction in general spending as part of the cost-saving program, such as lower payroll spending due to employee furlough programs, lower spending on non-essential projects, and limitations on expenditures related to travel, events and conferences. The Company intends to continue to limit certain spending in view of the economic uncertainty brought on by the global pandemic.

Cash used in investing activities was \$24.1 million for the six months ended November 30, 2020, compared to cash used in investing activities of \$48.4 million in the prior fiscal year period, representing a decrease in cash used in investing activities of \$24.3 million. The decrease in cash used was primarily driven by the net proceeds from the sale of the Danbury facility of \$12.3 million, lower capital expenditures of \$4.5 million as the Company concentrated on targeted enhancements to its technology platforms and digital services, as well as the relocation and consolidation of certain distribution, warehousing and back-office operations, which are expected to lower the Company's fixed costs of operations in future periods, and lower prepublication spending of \$4.2 million. In addition, the absence of the UK land acquisition of \$3.3 million which occurred in the prior fiscal year quarter as part of a warehouse consolidation project contributed to the decrease of cash used.

Cash used in financing activities was \$36.2 million for the six months ended November 30, 2020, compared to cash used in financing activities of \$22.1 million for the prior fiscal year period, representing an increase in cash used in financing activities of \$14.1 million. The increase in cash used is primarily related to a repayment of borrowings under the US loan agreement of \$25.0 million, coupled with lower short-term credit facility net borrowings of \$5.8 million. This increase was partially offset by the temporary suspension of the Company's share buy back program pursuant to which \$19.6 million of common stock was reacquired in the prior fiscal year period.

### Cash Position

The Company's cash and cash equivalents totaled \$356.6 million at November 30, 2020, \$393.8 million at May 31, 2020 and \$277.8 million at November 30, 2019. Cash and cash equivalents held by the Company's U.S. operations totaled \$309.4 million at November 30, 2020, \$364.2 million at May 31, 2020 and \$254.3 million at November 30, 2019.

Due to the seasonal nature of its business as discussed under "Seasonality" above, the Company usually experiences negative cash flows in the June through October time period. As a result of the Company's business cycle, borrowings have historically increased during June, July and August, have generally peaked in September or October, and have been at their lowest point in May. The Company expects lower cash receipts from its school channel businesses in the third quarter of fiscal 2021 as a result of the continued effects of COVID-19 on the patterns of school instruction, primarily resulting in lower book fairs revenues. As a precautionary measure in the context of the COVID-19 pandemic, the Company accessed its committed bank credit facility in the fourth quarter of fiscal 2020 by taking a U.S. dollar LIBOR-based advance for \$200.0 million, although there continues to be no immediate working capital requirement. During the second quarter of fiscal 2021, the Company paid down \$25.0 million of the borrowings, resulting in \$175.0 million outstanding as of November 30, 2020. On December 16, 2020, the US loan agreement was amended, which, among other things, included adjustments to certain covenant thresholds and reduced the borrowing limit from \$375.0 million to \$250.0 million. See Note 17 of Notes to the Financial Statements - Unaudited, "Financial Statements" for more information concerning the amended US loan agreement.

The Company's operating philosophy is to use cash provided by operating activities to create value by paying down debt, reinvesting in existing businesses and, from time to time, making acquisitions that will complement its portfolio of businesses or acquiring other strategic assets, as well as engaging in shareholder enhancement

initiatives, such as share repurchases or dividend declarations. The Company's open-market buy-back program continues to be temporarily suspended in the face of COVID-19 uncertainties.

The Company has maintained, and expects to maintain for the foreseeable future, sufficient liquidity to fund ongoing operations, including working capital requirements, pension contributions, postretirement benefits, debt service, planned capital expenditures and other investments, as well as dividends and share repurchases as appropriate in the context of COVID-19 considerations. As of November 30, 2020, the Company's primary sources of liquidity consisted of cash and cash equivalents of \$356.6 million, cash from operations and the Company's loan agreements in the US and the UK. As indicated above, the US loan agreement was amended on December 16, 2020, which reduced the borrowing limit from \$375.0 million to \$250.0 million, of which a maximum of \$225.0 is available until the Company satisfies its original financial covenants and the minimum liquidity covenant that has been added by the amendment. The Company expects the amended US loan agreement to provide it with an appropriate level of flexibility to strategically manage the business through the global pandemic. The Company's amended US loan agreement and its loan agreements in the UK total \$236.4 million, less borrowings of \$186.4 million and commitments of \$0.4 million, resulting in \$49.6 million of availability. Additionally, the Company has short-term credit facilities of \$46.7 million, less current borrowings of \$8.4 million and commitments of \$3.9 million, resulting in \$34.4 million of current availability at November 30, 2020. Accordingly, the Company believes these sources of liquidity are sufficient to finance its currently anticipated ongoing operating needs, as well as its financing and investing activities, taking COVID-19 into consideration.

### Financing

The Company is party to the US loan agreement, the UK loan agreements and certain credit lines with various banks as described in Note 4 of Notes to Condensed Consolidated Financial Statements - unaudited in Item 1, "Financial Statements." The Company had \$175.0 million in outstanding borrowings under the US loan agreement as of November 30, 2020. As indicated above, on December 16, 2020, the Company entered into an amendment to the US loan agreement which included temporary covenant relief and a reduction in the maximum commitments. On September 23, 2019, Scholastic Limited UK entered into a term loan agreement to borrow £2.0 million to fund a land purchase in connection with the construction of the new UK facility. The loan has a maturity date of July 31, 2021. As of November 30, 2020, the Company had \$2.7 million outstanding on the loan. On January 24, 2020, Scholastic Limited UK entered into a term loan facility with a borrowing limit of £6.6 million to fund the construction of the new UK facility. The loan has a maturity date of July 31, 2021. As of November 30, 2020, the Company had \$8.7 million outstanding on the loan.

### New Accounting Pronouncements

Reference is made to Note 1 of Notes to Financial Statements - unaudited in Item 1, "Financial Statements," for information concerning recent accounting pronouncements since the filing of the Company's Annual Report on Form 10-K for the fiscal year ended May 31, 2020.

**Forward Looking Statements**

This Quarterly Report on Form 10-Q contains forward-looking statements. Additional written and oral forward-looking statements may be made by the Company from time to time in Securities and Exchange Commission ("SEC") filings and otherwise. The Company cautions readers that results or expectations expressed by forward-looking statements, including, without limitation, those relating to the Company's future business prospects and strategic plans, ecommerce and digital initiatives, new product introductions, strategies, new education standards, goals, revenues, improved efficiencies, general costs, manufacturing costs, medical costs, potential cost savings, merit pay, operating margins, working capital, liquidity, capital needs, the cost and timing of capital projects, interest costs, cash flows and income, are subject to risks and uncertainties, including, in particular, how the foregoing may be affected by developments in the context of the current COVID-19 pandemic and measures or responses of governmental authorities, school administrators, business suppliers or customers, which may have an impact on the Company's operations and could cause actual results to differ materially from those indicated in the forward-looking statements, due to factors including those noted in the Annual Report and this Quarterly Report and other risks and factors identified from time to time in the Company's filings with the SEC. The Company disclaims any intention or obligation to update or revise forward-looking statements, whether as a result of new information, future events or otherwise.

**SCHOLASTIC CORPORATION**  
**Item 3. Quantitative and Qualitative Disclosures about Market Risk**

The Company conducts its business in various foreign countries, and as such, its cash flows and earnings are subject to fluctuations from changes in foreign currency exchange rates. The Company sells products from its domestic operations to its foreign subsidiaries, creating additional currency risk. The Company manages its exposures to this market risk through internally established procedures and, when deemed appropriate, through the use of short-term forward exchange contracts, which were not significant as of November 30, 2020. The Company does not enter into derivative transactions or use other financial instruments for trading or speculative purposes.

Market risks relating to the Company's operations result primarily from changes in interest rates in its variable-rate borrowings. The Company is subject to the risk that market interest rates and its cost of borrowing will increase and thereby increase the interest charged under its variable-rate debt.

Additional information relating to the Company's outstanding financial instruments is included in Note 4 of Notes to Condensed Consolidated Financial Statements - unaudited in Item 1, "Financial Statements."

The following table sets forth information about the Company's debt instruments as of November 30, 2020:

(\$ amounts in millions)	Fiscal Year Maturity						Total	Fair Value @ 11/30/2020
	2021 <sup>(1)</sup>	2022	2023	2024	2025	Thereafter		
<b>Debt Obligations</b>								
Lines of credit and current portion of long-term debt	\$ 8.4	\$ 11.4	\$ —	\$ —	\$ —	\$ —	\$ 19.8	\$ 19.8
Average interest rate	4.4 %	1.8 %	—	—	—	—		
Long-term debt	\$ —	\$ 175.0	\$ —	\$ —	\$ —	\$ —	\$ 175.0	\$ 175.0
Average interest rate	—	1.4 %	—	—	—	—		

(1) Fiscal 2021 includes the remaining six months of the current fiscal year ending May 31, 2021.

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**SCHOLASTIC CORPORATION**  
**Item 4. Controls and Procedures**

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The Chief Executive Officer and the Chief Financial Officer of the Corporation, after conducting an evaluation, together with other members of the Company's management, of the effectiveness of the design and operation of the Corporation's disclosure controls and procedures as of November 30, 2020, have concluded that the Corporation's disclosure controls and procedures were effective to ensure that information required to be disclosed by the Corporation in its reports filed or submitted under the Securities Exchange Act of 1934 is recorded, processed, summarized, and reported within the time periods specified in the rules and forms of the SEC and accumulated and communicated to members of the Company's management, including the Chief Executive Officer and Chief Financial Officer, to allow timely decisions regarding required disclosure. There was no change in the Corporation's internal control over financial reporting that occurred during the quarter ended November 30, 2020 that has materially affected, or is reasonably likely to materially affect, the Corporation's internal control over financial reporting.



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**PART II – OTHER INFORMATION**

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**SCHOLASTIC CORPORATION****Item 5. Other Events**

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On December 16, 2020, the Company and its principal operating subsidiary, Scholastic, Inc., entered into an amendment to its existing US credit agreement. The description of the amendment and its terms contained in Note 17, Subsequent Events, in the Notes to Condensed Consolidated Financial Statements (Unaudited) in Item 1, "Financial Statements", is incorporated herein by reference.

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**SCHOLASTIC CORPORATION**  
**Item 6. Exhibits**

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**Exhibits:**

- 10.1 [Amendment No. 1, dated as of December 16, 2020, to the Credit Agreement, dated as of January 5, 2017, among the Corporation of Scholastic Inc., as borrowers, the Initial Lenders named therein, Bank of America, N.A., as administrative agent, Merrill Lynch, Pierce, Fenner and Smith Incorporated and Wells Fargo Securities, LLC as joint lead arrangers and joint bookrunners, Wells Fargo N.A., Capital One N.A., Fifth Third Bank and HSBC Bank USA, N.A., as syndicate agents, and Branch Banking and Trust Company.](#)
- 10.2 [Security Agreement dated as of December 16, 2020 among Scholastic Inc. and any such other parties that may become grantors as defined therein and Bank of America N.A., in its capacity as administrative agent for the secured parties.](#)
- \*10.3 [Agreement between Scholastic Inc. and Satbir Bedi dated September 23, 2020.](#)
- 31.1 [Certification of the Chief Executive Officer of Scholastic Corporation filed pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 31.2 [Certification of the Chief Financial Officer of Scholastic Corporation filed pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.](#)
- 32 [Certifications of the Chief Executive Officer and Chief Financial Officer of Scholastic Corporation furnished pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.](#)
- 101 Financial Statements from the Quarterly Report on Form 10-Q of the Company for the quarter ended November 30, 2020 formatted in Inline Extensible Business Reporting Language: (i) Condensed Consolidated Statements of Operations; (ii) Condensed Consolidated Statements of Comprehensive Income (Loss), (iii) Condensed Consolidated Balance Sheets; (iv) Condensed Consolidated Statements of Changes in Stockholders' Equity; (v) Condensed Consolidated Statements of Cash Flows; and (vi) Notes to Condensed Consolidated Financial Statements.
- 104 Cover Page, formatted Inline Extensible Business Reporting Language and contained in Exhibit 101.

\* The referenced exhibit is a management contract or compensation plan or arrangement described in Item 601(b) (10) (iii) of Regulation S-K.

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**SCHOLASTIC CORPORATION**  
**QUARTERLY REPORT ON FORM 10-Q, DATED November 30, 2020**  
**Exhibits Index**

<b>Exhibit Number</b>	<b>Description of Document</b>
10.1	Amendment No. 1, dated as of December 16, 2020, to the Credit Agreement, dated as of January 5, 2017, among the Corporation of Scholastic Inc., as borrowers, the Initial Lenders named therein, Bank of America, N.A., as administrative agent, Merrill Lynch, Pierce, Fenner and Smith Incorporated and Wells Fargo Securities, LLC as joint lead arrangers and joint bookrunners, Wells Fargo N.A., Capital One N.A., Fifth Third Bank and HSBC Bank USA, N.A., as syndicate agents, and Branch Banking and Trust Company.
10.2	Security Agreement dated as of December 16, 2020 among Scholastic Inc. and any such other parties that may become grantors as defined therein and Bank of America N.A., in its capacity as administrative agent for the secured parties.
*10.3	Agreement between Scholastic Inc. and Satbir Bedi dated September 23, 2020.
31.1	Certification of the Chief Executive Officer of Scholastic Corporation filed pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of the Chief Financial Officer of Scholastic Corporation filed pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32	Certifications of the Chief Executive Officer and Chief Financial Officer of Scholastic Corporation furnished pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101	Financial Statements from the Quarterly Report on Form 10-Q of the Company for the quarter ended November 30, 2020 formatted in Inline Extensible Business Reporting Language: (i) Condensed Consolidated Statements of Operations; (ii) Condensed Consolidated Statements of Comprehensive Income (Loss), (iii) Condensed Consolidated Balance Sheets; (iv) Condensed Consolidated Statements of Changes in Stockholders' Equity; (v) Condensed Consolidated Statements of Cash Flows; and (vi) Notes to Condensed Consolidated Financial Statements.
104	Cover Page, formatted Inline Extensible Business Reporting Language and contained in Exhibit 101.

\* The referenced exhibit is a management contract or compensation plan or arrangement described in Item 601(b) (10) (iii) of Regulation S-K.

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**SCHOLASTIC CORPORATION  
SIGNATURES**

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

Date: December 18, 2020

**SCHOLASTIC CORPORATION**  
(Registrant)

By: /s/ Richard Robinson

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Richard Robinson  
*Chairman of the Board,  
President and Chief  
Executive Officer*

Date: December 18, 2020

By: /s/ Kenneth J. Cleary

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Kenneth J. Cleary  
*Chief Financial Officer  
(Principal Financial Officer)*

## FIRST AMENDMENT TO CREDIT AGREEMENT

This **FIRST AMENDMENT TO CREDIT AGREEMENT**, dated as of December 16, 2020 (this "Amendment"), is by and among **SCHOLASTIC CORPORATION**, a Delaware corporation (the "Holding Company"), and **SCHOLASTIC INC.**, a New York corporation (the "Operating Company"; the Holding Company and the Operating Company are, collectively, the "Borrowers" and, individually, each a "Borrower"), the Lenders (as defined below) party hereto and **BANK OF AMERICA, N.A.**, as administrative agent (in such capacity, the "Agent"). Capitalized terms used herein and not otherwise defined herein shall have the meanings ascribed thereto in the Credit Agreement, as amended pursuant to Exhibit A.

### WITNESSETH

**WHEREAS**, the Borrowers, each lender from time to time party thereto (collectively, the "Lenders" and individually, a "Lender") and the Agent are parties to that certain Credit Agreement, dated as of January 5, 2017 (as amended, restated, amended and restated, supplemented, extended, or otherwise modified from time to time, the "Credit Agreement");

**WHEREAS**, the Borrower have requested that the Lenders amend certain provisions of the Credit Agreement; and

**WHEREAS**, the Lenders party hereto are willing to make such amendments to the Credit Agreement, in accordance with and subject to the terms and conditions set forth herein.

**NOW, THEREFORE**, in consideration of the agreements hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

#### Article 1

### AMENDMENTS TO CREDIT AGREEMENT

**1.1 Amendments to Credit Agreement.** Effective as of the First Amendment Effective Date, the Credit Agreement is hereby amended (a) to delete the stricken text (indicated textually in the same manner as the following examples: ~~stricken text~~ and ~~stricken text~~) and (b) to add the double-underlined text (indicated textually in the same manner as the following examples: double-underlined text and double-underlined text), in each case, as set forth in the marked pages of the Credit Agreement (and to the extent provided in Exhibit A hereto, the exhibits, schedules and appendices to the Credit Agreement) attached hereto as Exhibit A hereto and made a part hereof for all purposes.

**1.2 Credit Agreement Exhibits and Schedules.** Effective as of the First Amendment Effective Date, each of Exhibit I and Schedule 5.02(b), as attached hereto, is made a part of the Credit Agreement.

#### Article 2

### CONDITIONS TO EFFECTIVENESS

**2.1 Closing Conditions.** This Amendment shall be deemed effective as of December 16, 2020 (the "First Amendment Effective Date") upon satisfaction of the following conditions (in each case, in form and substance reasonably acceptable to the Agent):

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(a) Executed Loan Documents. The Agent shall have received a copy of each of the following Loan Documents, duly executed by each Borrower, the Required Lenders and the Agent, in each case, as applicable:

- (i) this Amendment; and
- (ii) the Security Agreement, together with:
  - a. proper financing statements in form appropriate for filing under the Uniform Commercial Code of all jurisdictions that the Agent may deem necessary or desirable in order to perfect the Liens created under the Security Agreement, covering the Collateral described in the Security Agreement, and
  - b. evidence that all other actions, recordings and filings that the Agent may deem necessary or desirable in order to perfect the Liens created under the Security Agreement have been taken (including receipt of duly executed payoff letters, UCC-3 termination statements and landlords' and bailees' waiver and consent agreements).

(b) Certificates and Opinions. The Agent shall have received the following, each of which shall be originals or telecopies (followed promptly by originals) unless otherwise specified, each properly executed by a Responsible Officer of the signing Borrower, each dated the First Amendment Effective Date (or, in the case of certificates of governmental officials, a recent date before the First Amendment Effective Date) and each in form and substance reasonably satisfactory to the Agent and each of the Lenders:

- (i) such certificates of resolutions or other action, incumbency certificates and/or other certificates of Responsible Officers of each Borrower as the Agent may reasonably require evidencing the identity, authority and capacity of each Responsible Officer thereof authorized to act as a Responsible Officer in connection with this Amendment and the other Loan Documents to which such Borrower is a party;
- (ii) such documents and certifications as the Agent may reasonably require to evidence that each Borrower is duly organized, incorporated, established or formed, and that each Borrower is validly existing, in good standing and, solely in the case of the Borrowers, qualified to engage in business in each jurisdiction where its ownership, lease or operation of properties or the conduct of its business requires such qualification, except to the extent that failure to do so could not reasonably be expected to have a Material Adverse Effect;
- (iii) a certificate, in form and substance satisfactory to the Agent, signed by a Responsible Officer of the Borrowers certifying that the Borrowers, individually and taken as a whole with their Consolidated Subsidiaries, are Solvent;

- (iv) a favorable opinion of Baker & McKenzie, LLP, counsel to the Borrowers, addressed to the Agent and each Lender as to those matters concerning the Borrowers and the Loan Documents as the Required Lenders may reasonably request;
  - (v) a certificate signed by a Responsible Officer of the Borrowers certifying (A) that the conditions specified in Section 3.02 of the Credit Agreement have been satisfied, (B) the conditions specified in this Section 2.1 have been satisfied and (C) that there has been no event or circumstance since the date of the financial statements most recently delivered pursuant to Section 5.01(a)(iv) of the Credit Agreement that has had or could be reasonably expected to have, either individually or in the aggregate, a Material Adverse Effect.
- (c) Default. After giving effect to this Amendment, no Default or Event of Default shall exist.
- (d) Fees, Costs and Expenses. The Agent shall have received from the Borrowers:
- (i) for the account of each Lender that executes and delivers to the Agent a signature page to this Amendment on or before the First Amendment Effective Date (each such Lender, a “Consenting Lender” and, collectively, the “Consenting Lenders”), an amendment fee in an amount equal to five (5) basis points on the aggregate Revolving Credit Commitments of such Consenting Lender (after giving effect to this Amendment);
  - (ii) such other fees, costs and expenses that are payable in connection with the consummation of the transactions contemplated hereby and Holland & Knight LLP shall have received from the Borrowers payment of all outstanding fees and expenses previously incurred and all fees and expenses incurred in connection with this Amendment.
- (e) Miscellaneous. All other documents and legal matters in connection with the transactions contemplated by this Amendment shall be reasonably satisfactory in form and substance to the Agent and its counsel.

### Article 3

#### MISCELLANEOUS

**3.1 Amended Terms**. On and after the First Amendment Effective Date, all references to the Credit Agreement in each of the Loan Documents shall hereafter mean the Credit Agreement as amended by this Amendment. Except as specifically amended hereby or otherwise agreed, the Credit Agreement is hereby ratified and confirmed and shall remain in full force and effect according to its terms.

**3.2 FATCA**. For purposes of determining withholding Taxes imposed under the Foreign Account Tax Compliance Act (FATCA), from and after the First Amendment Effective Date, the Borrowers and the Agent shall treat (and the Lenders hereby authorize the Agent to treat) the Credit Agreement as not qualifying as a “grandfathered obligation” within the meaning of Treasury Regulation Section 1.1471-2(b)(2)(i).

**3.3 Representations and Warranties of Borrowers**. Each Borrower represents and warrants as follows:

(a) It has taken all necessary action to authorize the execution, delivery and performance of this Amendment.

(b) This Amendment has been duly executed and delivered by such Borrower and constitutes such Borrower's legal, valid and binding obligation, enforceable in accordance with its terms, except as such enforceability may be subject to (i) bankruptcy, insolvency, reorganization, fraudulent conveyance or transfer, moratorium or similar laws affecting creditors' rights generally and (ii) general principles of equity (regardless of whether such enforceability is considered in a proceeding at law or in equity).

(c) No consent, approval, authorization or order of, or filing, registration or qualification with, any court or governmental authority or third party is required in connection with the execution, delivery or performance by such Person of this Amendment.

(d) The representations and warranties of such Borrower and each other Borrower contained in Article IV of the Credit Agreement or any other Loan Document, or which are contained in any document furnished at any time under or in connection therewith, are true and correct in all material respects on and as of the First Amendment Effective Date, except that (i) such representations and warranties that specifically refer to an earlier date shall be true and correct in all material respects as of such earlier date and (ii) such representations and warranties shall be true and correct in all respects to the extent they are qualified by a materiality standard.

(e) As of the First Amendment Effective Date, no event has occurred and is continuing which constitutes a Default or an Event of Default.

(f) The Obligations are not reduced or modified by this Amendment and are not subject to any offsets, defenses or counterclaims.

**3.4 Reaffirmation of Obligations.** Each Borrower hereby ratifies the Credit Agreement and each other Loan Document to which it is a party, and acknowledges and reaffirms (a) that it is bound by all terms of the Credit Agreement and each such Loan Document applicable to it and (b) that it is responsible for the observance and full performance of its respective Obligations.

**3.5 Loan Document.** This Amendment shall constitute a Loan Document under the terms of the Credit Agreement.

**3.6 Expenses.** The Borrowers agree to pay all reasonable costs and expenses of the Agent in connection with the preparation, execution and delivery of this Amendment, including without limitation the reasonable fees and expenses of the Agent's legal counsel.

**3.7 Further Assurances.** The Borrowers agree to promptly take such action, upon the request of the Agent, as is necessary to carry out the intent of this Amendment.

**3.8 Entirety.** This Amendment and the other Loan Documents embody the entire agreement among the parties hereto and supersede all prior agreements and understandings, oral or written, if any, relating to the subject matter hereof.

**3.9 Counterparts; Telecopy.** This Amendment may be in the form of an Electronic Record and may be executed using Electronic Signatures (including, without limitation, facsimile and .pdf) and shall be considered an original, and shall have the same legal effect, validity and enforceability as a paper record. This Amendment may be executed in as many counterparts as necessary or convenient, including



both paper and electronic counterparts, but all such counterparts are one and the same Amendment. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Agent of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention.

**3.10 No Actions, Claims, Etc.** As of the date hereof, each of the Borrowers hereby acknowledges and confirms that it has no knowledge of any actions, causes of action, claims, demands, damages and liabilities of whatever kind or nature, in law or in equity, against the Agent, the Lenders, or the Agent's or the Lenders' respective officers, employees, representatives, agents, counsel or directors arising from any action by such Persons, or failure of such Persons to act under the Credit Agreement on or prior to the date hereof.

**3.11 GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, INCLUDING FOR SUCH PURPOSES SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK.**

**3.12 Successors and Assigns.** This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

**3.13 Consent to Jurisdiction; Service of Process; Waiver of Jury Trial.** The jurisdiction, service of process and waiver of jury trial provisions set forth in Sections 8.10 and 8.12 of the Credit Agreement are hereby incorporated by reference, *mutatis mutandis*.

IN WITNESS WHEREOF the parties hereto have caused this Amendment to be duly executed on the date first above written.

**BORROWERS:**

**SCHOLASTIC CORPORATION**

By: /s/ Gil A. Dickoff \_\_\_\_\_  
Name: Gil A. Dickoff  
Title: Senior Vice President and Treasurer

**SCHOLASTIC INC.**

By: /s/ Gil A. Dickoff \_\_\_\_\_  
Name: Gil A. Dickoff  
Title: Senior Vice President and Treasurer



**LENDERS:**

**BANK OF AMERICA, N.A.,**  
as a Lender

By: \_\_\_\_\_ /s/ Jana L. Baker  
Name: Jana L. Baker  
Title: Senior Vice President

**WELLS FARGO BANK, NATIONAL ASSOCIATION,**  
as a Lender

By: /s/ William A. DeMilt, Jr.  
Name: William A. DeMilt, Jr.  
Title: Senior Vice President

*Scholastic Inc.*  
*First Amendment to Credit Agreement*

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**TRUIST BANK (formerly known as Branch Banking  
and Trust Company),**  
as a Lender

By: /s/ W. Scott Ficke  
Name: W. Scott Fricke  
Title: Senior Vice President

**FIFTH THIRD BANK,**  
as a Lender

By: /s/ Valerie Schanzer  
Name: Valerie Schanzer  
Title: Managing Director

**CAPITAL ONE NATIONAL ASSOCIATION,**  
as a Lender

By: /s/ Charlie Trisiripisal  
Name: Charlie Trisiripisal  
Title: Duly Authorized Signatory



**HSBC BANK USA, NATIONAL ASSOCIATION,**  
as a Lender

By: /s/ Jack Kelly  
Name: Jack Kelly  
Title: Vice President #23204

**THE GOVERNOR AND COMPANY OF THE BANK  
OF IRELAND**  
as a Lender

By: /s/ Rachel Kelly  
Name: Rachel Kelly  
Title: Manager, Corporate Banking

**CITIBANK, N.A.**  
as a Lender

By: /s/ Richard Harte Thompson  
Name: Richard Harte Thompson  
Title: Vice President

**HSBC UK BANK PLC,**  
as a Lender

By: /s/ Steve Sherrat  
Name: Steve Sherrat  
Title: Regional Director

*EXHIBIT A*

**AMENDED CREDIT AGREEMENT**

[See attached]

Exhibit A to the First Amendment to Credit Agreement, dated as of December 16, 2020

Published Deal CUSIP Number – 807068AF8  
Published Revolving Credit Facility CUSIP Number – 807068AG6

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**CREDIT AGREEMENT**

Dated as of January 5, 2017

among

**SCHOLASTIC CORPORATION**

and

**SCHOLASTIC INC.**

as Borrowers

and

**THE INITIAL LENDERS NAMED HEREIN**

as Initial Lenders

and

**BRANCH BANKING AND TRUST COMPANY**

as Documentation Agent,

**WELLS FARGO BANK, NATIONAL ASSOCIATION**

as Syndication Agent,

**CAPITAL ONE NATIONAL ASSOCIATION, FIFTH THIRD BANK and HSBC BANK USA,  
NATIONAL ASSOCIATION**

as Co-Agents

and

**BANK OF AMERICA, N.A.**

as Administrative Agent

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**MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED BOFA SECURITIES, INC.  
and WELLS FARGO SECURITIES, LLC as Joint Lead Arrangers and Joint Bookrunners**

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## TABLE OF CONTENTS

### Page

### TABLE OF CONTENTS

#### Page

ARTICLE I	DEFINITIONS AND ACCOUNTING TERMS	1
<u>SECTION</u>	<u>Section</u> 1.01.....	Certain Defined Terms ..... 1
<u>SECTION</u>	<u>Section</u> 1.02.....	Computation of Time Periods; Other Interpretive Provisions..... <u>4621</u>
<u>SECTION</u>	<u>Section</u> 1.03.....	Accounting Terms ..... <u>4722</u>
<u>SECTION</u>	<u>Section</u> 1.04.....	Letter of Credit Amounts ..... <u>4823</u>
ARTICLE II	AMOUNTS AND TERMS OF THE ADVANCES	<u>4823</u>
<u>SECTION</u>	<u>Section</u> 2.01.....	Commitments <u>4823</u>
<u>SECTION</u>	<u>Section</u> 2.02.....	Making the Revolving Credit Advances..... <u>4823</u>
<u>SECTION</u>	<u>Section</u> 2.03.....	[Reserved] <u>2025</u>
<u>SECTION</u>	<u>Section</u> 2.04.....	Swingline Advances..... <u>2025</u>
<u>SECTION</u>	<u>Section</u> 2.05.....	Termination or Reduction of the Commitments..... <u>2228</u>
<u>SECTION</u>	<u>Section</u> 2.06..	Repayment of Revolving Credit Advances, Swingline Advances and Letter of Credit Advances; Evidence of Debt..... <u>2328</u>
<u>SECTION</u>	<u>Section</u> 2.07.	Interest on Revolving Credit Advances, Swingline Advances and Letter of Credit Advances ..... <u>2329</u>
<u>SECTION</u>	<u>Section</u> 2.08.....	Interest Rate Determination ..... <u>2429</u>
<u>SECTION</u>	<u>Section</u> 2.09.....	Optional Conversion of Revolving Credit Advances..... <u>2530</u>
<u>SECTION</u>	<u>Section</u> 2.10.....	Prepayments of Revolving Credit Advances..... <u>2630</u>
<u>SECTION</u>	<u>Section</u> 2.11.....	Increased Costs; Reserves on Eurodollar Rate Advances..... <u>2731</u>

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
<a href="#">SECTION</a> <a href="#">Section</a> 2.12..... Illegality	2833
<a href="#">SECTION</a> <a href="#">Section</a> 2.13..... Payments and Computations	2933
<a href="#">SECTION</a> <a href="#">Section</a> 2.14..... Taxes	3035
<a href="#">SECTION</a> <a href="#">Section</a> 2.15..... Sharing of Payments, Etc	3539
<a href="#">SECTION</a> <a href="#">Section</a> 2.16..... Letters of Credit	3540
<a href="#">SECTION</a> <a href="#">Section</a> 2.17..... Use of Proceeds	4347
<a href="#">SECTION</a> 2.18 — <a href="#">Increase in the Aggregate Commitments</a>	43
<a href="#">SECTION</a>	
<a href="#">Section</a> 2.18 — <a href="#">Inability to Determine Rates</a> .....	<b>Error! Bookmark not defined.</b>
<a href="#">Section</a> 2.19 — <a href="#">Obligations and Communications of the Borrowers</a> .....	4550
<a href="#">SECTION</a> <a href="#">Section</a> 2.20..... Subrogation and Contribution	4551
<a href="#">SECTION</a> <a href="#">Section</a> 2.21..... Fees	4551
<a href="#">SECTION</a> <a href="#">Section</a> 2.22..... Defaulting Lenders.....	4651
<a href="#">SECTION</a> <a href="#">Section</a> 2.23..... Mitigation Obligations; Replacement of Lenders.....	4854
<a href="#">SECTION</a> <a href="#">Section</a> 2.24..... Cash Collateral.....	4854
ARTICLE III — <a href="#">CONDITIONS TO EFFECTIVENESS AND LENDING</a> .....	4955
<a href="#">SECTION</a> <a href="#">Section</a> 3.01..... Conditions Precedent to Effectiveness .....	4955
<a href="#">SECTION</a> <a href="#">Section</a> 3.02..... Conditions Precedent to each Borrowing, each Issuance and Renewal of Letters of Credit <a href="#">and each Increase Date</a> .....	51
	<b>Error! Bookmark not defined.</b>



**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
<a href="#">SECTION</a> <a href="#">Section</a> 3.03.....Determinations Under Section	
3.01.....	<a href="#">5457</a>
ARTICLE IV REPRESENTATIONS AND WARRANTIES.....	<a href="#">5457</a>
<a href="#">SECTION</a> <a href="#">Section</a> 4.01..... Representations and Warranties of the	
Borrowers.....	<a href="#">5457</a>
ARTICLE V COVENANTS OF THE BORROWERS.....	<a href="#">5360</a>
<a href="#">SECTION</a> <a href="#">Section</a> 5.01..... Affirmative	
Covenants.....	<a href="#">5360</a>
<a href="#">SECTION</a> <a href="#">Section</a> 5.02..... Negative	
Covenants.....	<a href="#">5664</a>
<a href="#">SECTION</a> <a href="#">Section</a> 5.03..... Financial	
Covenants.....	<a href="#">5968</a>
ARTICLE VI EVENTS OF DEFAULT.....	<a href="#">5968</a>
<a href="#">SECTION</a> <a href="#">Section</a> 6.01..... Events of	
Default.....	<a href="#">5968</a>
<a href="#">SECTION</a> <a href="#">Section</a> 6.02..... Application of	
Funds.....	<a href="#">6471</a>
ARTICLE VII THE AGENT.....	<a href="#">6272</a>
<a href="#">SECTION</a> <a href="#">Section</a> 7.01..... Appointment and	
Authority.....	<a href="#">6272</a>
<a href="#">SECTION</a> <a href="#">Section</a> 7.02..... Rights as a	
Lender.....	<a href="#">6373</a>
<a href="#">SECTION</a> <a href="#">Section</a> 7.03..... Exculpatory	
Provisions.....	<a href="#">6373</a>
<a href="#">SECTION</a> <a href="#">Section</a> 7.04..... Reliance by	
Agent.....	<a href="#">6474</a>
<a href="#">SECTION</a> <a href="#">Section</a> 7.05..... Delegation of	
Duties.....	<a href="#">6474</a>
<a href="#">SECTION</a> <a href="#">Section</a> 7.06..... Resignation of	
Agent.....	<a href="#">6475</a>
<a href="#">SECTION</a> <a href="#">Section</a> 7.07..... Non-Reliance on Agent and Other	
Lenders.....	<a href="#">6676</a>
<a href="#">SECTION</a> <a href="#">Section</a> 7.08..... No Other Duties,	
Etc.....	<a href="#">6677</a>

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
<a href="#">SECTION</a> <a href="#">Section</a> 7.09..... Agent May File Proofs of Claim..... <a href="#">66</a> ; <a href="#">Credit Bidding</a> ..... <b>Error! Bookmark not defined.</b>	<a href="#">66</a> ; <a href="#">Credit Bidding</a> ..... <b>Error! Bookmark not defined.</b>
<a href="#">Section 7.10</a> Collateral Matters..... <b>Error! Bookmark not defined.</b>	<b>Error! Bookmark not defined.</b>
<a href="#">Section 7.11</a> Secured Cash Management Agreements and Secured Hedge Agreements ..... <b>Error! Bookmark not defined.</b>	<b>Error! Bookmark not defined.</b>
<b>ARTICLE VIII MISCELLANEOUS</b> .....	<b><a href="#">6779</a></b>
<a href="#">SECTION</a> <a href="#">Section</a> 8.01..... Amendments, Etc .....	<a href="#">6779</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.02..... Notices, Etc .....	<a href="#">6880</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.03..... No Waiver; Remedies; Enforcement.....	<a href="#">6982</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.04..... Costs and Expenses; Indemnity .....	<a href="#">7083</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.05..... Right of Set-off.....	<a href="#">7285</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.06..... Binding Effect.....	<a href="#">7285</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.07..... Assignments and Participations.....	<a href="#">7285</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.08..... Treatment of Certain Information; Confidentiality .....	<a href="#">7790</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.09..... No Advisory or Fiduciary Responsibility .....	<a href="#">7891</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.10..... Governing Law; Jurisdiction, Etc .....	<a href="#">78</a> ; <b>Error! Bookmark not defined.</b>
<a href="#">SECTION</a> <a href="#">Section</a> 8.11..... Execution in Counterparts; Electronic Execution .....	<a href="#">7992</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.12..... Waiver of Jury Trial.....	<a href="#">8093</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.13..... USA Patriot Act.....	<a href="#">8093</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.14..... Replacement of Lenders.....	<a href="#">8093</a>

**TABLE OF CONTENTS**  
(continued)

**Page**

<a href="#">SECTION</a> <a href="#">Section</a> 8.15.....	Survival of Representations and Warranties .....	<a href="#">8194</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.16.....	Payments Set Aside .....	<a href="#">8194</a>
<a href="#">SECTION</a> <a href="#">Section</a> 8.17.....	Acknowledgement and Consent to Bail-In of EEA Financial Institutions.....	<a href="#">8195</a>
<a href="#">Section 8.18</a>	<a href="#">Acknowledgment Regarding Any Supported QFCs</a> <b>Error! Bookmark not defined.</b>	

Schedules

Commitment Schedule

Schedule 1.01(a)	–	Certain Addresses for Notices
Schedule 2.16(h)	–	Existing Letter of Credit
Schedule 4.01(i)	–	Subsidiaries
Schedule 5.02(a)	–	Existing Liens
<a href="#">Schedule 5.02(b)</a>	–	<a href="#">Existing Debt</a>

Exhibits

Exhibit A	–	Form of Revolving Credit Note
Exhibit B-1	–	Form of Notice of Revolving Credit Borrowing
Exhibit B-2	–	Form of Notice of Swingline Borrowing
Exhibit C	–	Form of Assignment and Assumption
Exhibit D	–	Form of Opinion of Counsel for the Borrowers
Exhibit E	–	Form of Financial Covenants Compliance Certificate
Exhibit F	–	List of Closing Documents
Exhibit G	–	Administrative Questionnaire
Exhibit H	–	Forms of U.S. Tax Compliance Certificates
<a href="#">Exhibit I</a>	–	<a href="#">Form of Secured Party Designation Notice</a>



## CREDIT AGREEMENT

Dated as of January 5, 2017

This **CREDIT AGREEMENT** is by and among **SCHOLASTIC CORPORATION**, a Delaware corporation (the "Holding Company"), and **SCHOLASTIC INC.**, a New York corporation (the "Operating Company"); the Holding Company and the Operating Company are, collectively, the "Borrowers" and, individually, each a "Borrower", the banks, financial institutions and other institutional lenders (the "Initial Lenders") listed on the signature pages hereof, **BRANCH BANKING AND TRUST COMPANY**, as documentation agent, **WELLS FARGO BANK, NATIONAL ASSOCIATION**, as syndication agent, **CAPITAL ONE NATIONAL ASSOCIATION, FIFTH THIRD BANK** and **HSBC BANK USA, NATIONAL ASSOCIATION**, each as co-agents, and **BANK OF AMERICA, N.A.** ("Bank of America"), as administrative agent (the "Agent") for the Lenders (as hereinafter defined). The parties hereto hereby agree as follows:

### ~~ARTICLE I~~Article I

#### DEFINITIONS AND ACCOUNTING TERMS

##### ~~ARTICLE II~~Section 1.01 Certain Defined Terms.

As used in this Agreement, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined):

"Acquisition" means, as to any Person, any direct or indirect acquisition by such Person, whether by means of (a) the purchase or other acquisition of the capital stock and other ownership interests of another Person resulting in the acquisition of controlling interest (including the purchase of an option, warrant or convertible or similar type security to acquire such a controlling interest at the time it becomes exercisable by the holder thereof), whether by purchase of such equity or other ownership interest or upon the exercise of an option or warrant for, or conversion of securities into, such equity or other ownership interest, or (b) the purchase or other acquisition (in one transaction or a series of transactions) of assets of another Person which constitute all or substantially all of the assets of such Person or of a division, line of business or other business unit of such Person.

"Additional Secured Obligations" means (a) all obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements and (b) all costs and expenses incurred in connection with enforcement and collection of the foregoing, including the fees, charges and disbursements of counsel, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, expenses and fees that accrue after the commencement by or against any Borrower or any Affiliate thereof of any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, expenses and fees are allowed claims in such proceeding; provided that the Additional Secured Obligations of a Borrower shall exclude any Excluded Swap Obligations with respect to such Borrower.

"Administrative Questionnaire" means an Administrative Questionnaire in substantially the form of Exhibit G or any other form approved by the Agent.

"Advance" means a Revolving Credit Advance, a Swingline Advance, or a Letter of Credit Advance.

"Affiliate" means, as to any Person, any other Person that, directly or indirectly, controls, is controlled by or is under common control with such Person or is a director or officer of such Person.

---

For purposes of this definition, the term “control” (including the terms “controlling”, “controlled by” and “under common control with”) of a Person means the possession, direct or indirect, of the power to vote 5% or more of the Voting Stock of such Person or to direct or cause the direction of the management and policies of such Person, whether through the ownership of Voting Stock, by contract or otherwise.

“Agent’s Account” means, at any time, the account of the Agent most recently designated by it for the applicable purpose by notice to the Lenders.

“Agreement” means this Credit Agreement, including all schedules, exhibits and annexes hereto.

“Applicable Lending Office” means, as to the Agent, the Issuing Bank or any Lender, the office or offices of such Person described as such in such Person’s Administrative Questionnaire, or such other office or offices as such Person may from time to time notify the Borrowers and the Agent; which office may include any Affiliate of such Person or any domestic or foreign branch of such Person or such Affiliate.

“Applicable Rate” means, ~~for any day,(a)~~ with respect to any Eurodollar Rate Advance or any Base Rate Advance ~~or with respect to the facility fees payable hereunder~~, as the case may be, ~~the applicable rate per annum set forth below under the caption “Eurodollar Spread”, “Base Rate Spread” or “Facility Fee Rate”, as the case may be, determined by reference to the Consolidated Debt Ratio as of the most recent determination date:~~

<u>Consolidated Debt Ratio</u>	<u>Eurodollar Spread</u>	<u>Base Rate Spread</u>	<u>Facility Fee Rate</u>
Level 1 Less than 0.20 to 1.0	1.175%	0.175%	0.20%
Level 2 Greater than or equal to 0.20 to 1.0 but less than 0.30 to 1.0	1.25%	0.25%	0.25%
Level 3 Greater than or equal to 0.30 to 1.0 but less than 0.40 to 1.0	1.325%	0.325%	0.30%
Level 4 Greater than or equal to 0.40 to 1.0 but less than 0.50 to 1.0	1.40%	0.40%	0.35%
Level 5 Greater than or equal to 0.50 to 1.0	1.60%	0.60%	0.40%



~~For purposes (i) for any day on or after the First Amendment Effective Date but prior to the delivery by the Borrowers of the foregoing, (a) the Applicable Rate shall be determined as of the end of each fiscal quarter of the Holding Company based upon the Holding Company's annual or quarterly Consolidated financial statements delivered and related certificates required pursuant to Section 5.01(a), and each change in the Applicable Rate resulting from a change in the Consolidated Debt Ratio shall be effective during the period commencing on and including the date that is five (5) Business Days after such date (iv) for the fiscal year of delivery to the Agent of such Consolidated financial statements indicating such change and ending on the date immediately preceding the effective date of the next such change, provided that the Consolidated Debt Ratio shall be deemed to be in Level 5 Borrowers ending May 31, 2021 the rate per annum equal to, (Ax) at with respect to any time that an Event of Default has occurred Eurodollar Rate Advance, 2.25% and is continuing or (By) at the option of the Agent or at the request of the Required Lenders if with respect to any Base Rate Advance, 1.25%, and (ii) after the delivery by the Borrowers fail to deliver the annual or quarterly Consolidated of the financial statements and related certificates required to be delivered pursuant to Section 5.01, during the period beginning five (5) Business Days following (a)(iv) for the expiration fiscal year of the time for delivery thereof until the date that is five (5) Business Days after such consolidated financial statements are delivered. Notwithstanding anything to the contrary contained in this definition Borrowers ending May 31, 2021, the rate per annum equal to, (ax) the determination of the Applicable Rate for any period shall be subject with respect to any Eurodollar Rate Advance, 1.60% and (y) with respect to any Base Rate Advance, 0.60%, and (b) with respect to the provisions of fee owing pursuant to Section 2.132.21 (fa), and (b) the initial Applicable Rate shall be set forth in Level 1 until the fifth Business Day immediately following the date of delivery to the Agent of the Consolidated financial statements described in the immediately preceding paragraph for the first fiscal quarter to occur following the Effective Date indicating such change in the Consolidated Debt Ratio. Any adjustment in the Applicable Rate shall be applicable to all Advances then existing or subsequently made or issued.~~  
~~the rate per annum equal to 0.40%:~~

“Approved Fund” means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

“Arranger” means MLPFSBofA Securities, Inc. and Wells Fargo Securities, LLC, each in its capacity as joint lead arranger and joint bookrunner.

“Assignment and Assumption” means an assignment and assumption entered into by a Lender and an Eligible Assignee (with the consent of any other party whose consent is required by Section 8.07), and accepted by the Agent, in substantially the form of Exhibit C hereto or any other form (including an electronic documentation form generated by use of an electronic platform) approved by the Agent.

~~“Assuming Lender” has the meaning specified in Section 2.18(d).~~

“Available Amount” of any Letter of Credit means, at any time, the maximum amount available to be drawn under such Letter of Credit at such time (assuming compliance at such time with all conditions to drawing). For purposes of computing the amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.04. For all purposes of this Agreement, if on any date of determination a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of



Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be “outstanding” in the amount so remaining available to be drawn.

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

“Bail-In Legislation” means, with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule.

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

“Bankruptcy Event” means, with respect to any Person, such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee, administrator, custodian, assignee for the benefit of creditors or similar Person charged with the reorganization or liquidation of its business appointed for it, or, in the good faith determination of the Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment.

“Base Rate” means, for any day a fluctuating rate of interest per annum equal to the highest of (a) the Federal Funds Rate plus 0.50%, (b) the rate of interest in effect for such day as publicly announced from time to time by Bank of America as its “prime rate,” and (c) the Eurodollar Rate plus 1.00%, subject to the interest rate floors set forth therein; provided that if the Base Rate shall be less than zero, such rate shall be deemed zero for purposes of this Agreement. The “prime rate” is a rate set by Bank of America based upon various factors including Bank of America’s costs and desired return, general economic conditions and other factors, and is used as a reference point for pricing some loans, which may be priced at, above, or below such announced rate. Any change in such prime rate announced by Bank of America shall take effect at the opening of business on the day specified in the public announcement of such change.

“Base Rate Advance” means a Revolving Credit Advance that bears interest as provided in Section 2.07(a)(i) or a Swingline Advance, each based on the Base Rate.

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

“BHC Act Affiliate” of a party means an “affiliate” (as such term is defined under, and interpreted in accordance with, 12 U.S.C. 1841(k)) of such party.

“BofA Securities, Inc.” means BofA Securities, Inc. (or any other registered broker-dealer wholly-owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement).

“Borrower Materials” has the meaning specified in Section 5.01.

“Borrowing” means a Revolving Credit Borrowing or a Swingline Advance.

“Business Day” means any day other than a Saturday, Sunday or other day of the year on which commercial banks are not required or authorized by law to close under the laws of, or are in fact are closed, in New York City and, if the applicable Business Day, the state where the Agent’s Applicable Lending Office is located; provided that if such day relates to any interest rate settings as to a Eurodollar Rate Advances, on which denominated in Dollars, any fundings, disbursements, settlements and payments in Dollars in respect of any such Eurodollar Rate Advances, or any other dealings are in Dollars to be carried on in the out pursuant to this Agreement in respect of any such Eurodollar Rate Advances, means any such day that is also a London interbank market Banking Day.

“Cash Collateralize” means, to pledge and deposit with or deliver to the Agent, for the benefit of one or more of the Issuing Bank, the Swingline Lender (as applicable) or the Lenders, as collateral for L/C Exposure, the obligations in respect of Swingline Advances, or obligations of the Lenders to fund participations in respect of either thereof (as the context may require), (a) cash or deposit account balances, (b) backstop letters of credit entered into on terms, from issuers and in amounts satisfactory to the Agent and the Issuing Bank, and/or (c) if the Agent and the Issuing Bank or Swingline Lender shall agree, in their sole discretion, other credit support, in each case, in Dollars and pursuant to documentation in form and substance satisfactory to the Agent and Issuing Bank or Swingline Lender (as applicable). “Cash Collateral” shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

“Cash Management Agreement” means any agreement that is not prohibited by the terms hereof to provide treasury or cash management services, including deposit accounts, overnight draft, credit cards, debit cards, p-cards (including purchasing cards and commercial cards), funds transfer, automated clearinghouse, zero balance accounts, returned check concentration, controlled disbursement, lockbox, account reconciliation and reporting and trade finance services and other cash management services.

“Cash Management Bank” means any Person in its capacity as a party to a Cash Management Agreement that, (a) at the time it enters into a Cash Management Agreement with a Borrower or any Subsidiary thereof, is a Lender or an Affiliate of a Lender, or (b) at the time it (or its Affiliate) becomes a Lender, is a party to a Cash Management Agreement with a Borrower or any Subsidiary thereof, in each case in its capacity as a party to such Cash Management Agreement (even if such Person ceases to be a Lender or such Person’s Affiliate ceased to be a Lender); provided, however, that for any of the foregoing to be included as a “Secured Cash Management Agreement” on any date of determination by the Agent, the applicable Cash Management Bank (other than the Agent or an Affiliate of the Agent) must have delivered a Secured Party Designation Notice to the Agent prior to such date of determination.

“Change in Law” means the occurrence, after the Effective Date, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III,



shall in each case be deemed to be a “Change in Law”, regardless of the date enacted, adopted or issued.

“Class”, when used in reference to any Advance or Borrowing, refers to whether such Advance, or the Advances comprising such Borrowing, are Revolving Credit Advances or Swingline Advances.

“Code” means the Internal Revenue Code of 1986.

“Collateral” means all of the “Collateral” referred to in the Collateral Documents and all of the other property that is or is intended under the terms of the Collateral Documents to be subject to Liens in favor of the Agent for the benefit of the Secured Parties.

“Collateral Documents” means, collectively, the Security Agreement and each of the collateral assignments, security agreements, pledge agreements, account control agreements or other similar agreements delivered to the Agent pursuant to the terms hereof or any other Collateral Document, and each of the other agreements, instruments or documents that creates or purports to create a Lien in favor of the Agent for the benefit of the Secured Parties.

“Collateral Release Date” means the first date after the First Amendment Effective Date on which Consolidated EBITDA for each of two consecutive fiscal quarters of the Borrowers then most recently ended exceeds \$125,000,000.

“Commitment” means a Revolving Credit Commitment.

~~“Commitment Date” has the meaning specified in Section 2.18(b).~~

“Commitment Schedule” means the Schedule attached hereto identified as such.

“Connection Income Taxes” means Other Connection Taxes that are imposed on or measured by net income (however denominated) or that are franchise Taxes or branch profits Taxes.

“Consolidated” refers to the consolidation of accounts in accordance with GAAP.

“Consolidated Debt Ratio” shall mean, as of any time, the ratio of (a) Total Consolidated Debt to (b) the sum of (i) Total Consolidated Debt, (ii) the aggregate value of stockholders’ equity (as set forth in the then most current consolidated balance sheet of the Holding Company) but excluding unrealized gains and losses reflected in other comprehensive income in respect of qualified and non-qualified defined benefit pension plans, as well as other post-retirements benefit plans of the Borrowers and their Consolidated Subsidiaries, and (iii) the aggregate value of all preferred stock (as set forth in the most current consolidated balance sheet of the Holding Company).

~~“Consolidated Interest Coverage Ratio” shall mean EBITDA” means, for any period of the most recent four consecutive fiscal quarters of the Borrowers and their Subsidiaries ending on or before any date of determination, the ratio of determined on a Consolidated basis, without duplication, for the Borrowers and their Consolidated Subsidiaries: (a) the sum of (i) net income (or net loss), (ii) any extraordinary, non-recurring or unusual non-cash losses, (iii) income tax expense, (iv) depreciation expense, (v) amortization expense (but excluding any amortization of prepublication costs and expenses) and, (vi) gross interest expense, less and (vii) from and after the First Amendment Effective Date, cash charges and cash expenses directly attributable to one-time severance costs and expenses incurred by the Borrowers in an amount not to exceed (A) \$12,000,000 in the fiscal quarter of the Borrowers ended August 30, 2020, (B) \$5,000,000 in the fiscal quarter of the Borrowers ended~~

November 30, 2020, (C) \$3,000,000 in the fiscal quarter of the Borrowers ending February 28, 2021, and (D) thereafter, \$0, minus (b) any extraordinary, non-recurring or unusual non-cash gains, all as recorded for such period.

“Consolidated Funded Debt” means, as of any date of determination, for the Borrowers and their Consolidated Subsidiaries, the sum of: (a) the outstanding principal amount of all obligations, whether current or long-term, for borrowed money (including Obligations hereunder) and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments; (b) all purchase money Debt; (c) the maximum amount available to be drawn under issued and outstanding letters of credit (including standby and commercial), bankers’ acceptances, bank guaranties, surety bonds and similar instruments; (d) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business); (e) all Debt in respect of capital leases and synthetic lease obligations; (f) all obligations to purchase, redeem, retire, defease or otherwise make any payment prior to the Termination Date in respect of any capital stock issued by any corporation, or any equivalent interests in any other Person, or any warrant, right or option to acquire such capital stock or equivalent interest, valued, in the case of a redeemable preferred interest, at the greater of its voluntary or involuntary liquidation preference plus accrued and unpaid dividends; (g) without duplication, all guarantees with respect to outstanding Debt of the types specified in clauses (a) through (f) above of Persons other than any Borrower or any Consolidated Subsidiary; and (h) all Debt of the types referred to in clauses (a) through (g) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which any Borrower or a Consolidated Subsidiary is a general partner or joint venturer, unless such Debt is expressly made non-recourse to such Borrower or such Subsidiary.

“Consolidated Funded Debt Ratio” shall mean, as of any date of determination, the ratio of (a) Consolidated Funded Debt as of such date to (b) Consolidated EBITDA for the four fiscal quarter period of the Borrower then most recently ended.

“Consolidated Interest Coverage Ratio” shall mean, for any period of the most recent four consecutive fiscal quarters of the Borrowers and their Consolidated Subsidiaries ending on or before any date of determination, the ratio of (a) Consolidated EBITDA, to (b) gross interest expense, all as recorded for such period.

“Consolidated Leverage Ratio” shall mean, for any period of the most recent four consecutive fiscal quarters of the Borrowers and their Consolidated Subsidiaries ending on or before any date of determination, the ratio of (a) Total Consolidated Debt to (b) Consolidated EBITDA for such period.

“Consolidated Liquidity” means, as of any date of determination, the sum of ~~(ia) net income (or net loss), (ii) any extraordinary, non-recurring or unusual non-cash losses, (iii) income tax expense, (iv) depreciation expense, (v) amortization expense (but excluding any amortization of prepublication costs and expenses) and (vi) gross interest expense~~ unrestricted cash of the Borrowers and their Consolidated Subsidiaries as of such date, ~~less plus (viib) any extraordinary, non-recurring or unusual non-cash gains,~~ the amount by which the Revolving Credit Availability as of such date exceeds the aggregate Revolving Credit Exposures of all Lenders as ~~recorded for of such period~~ date.

“Consolidated Total Assets” means, as of the date of any determination thereof, total assets of the Borrowers and their Consolidated Subsidiaries.

“Convert”, “Conversion” and “Converted” each refers to a conversion of Revolving Credit Advances of one Type into Revolving Credit Advances of the other Type pursuant to Section ~~2.08 or~~ 2.09 or 2.18.



“Covered Entity” means any of the following: (a) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (b) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (c) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

“Credit Exposure” means, as to any Lender at any time, such Lender’s Revolving Credit Exposure at such time.

“Credit Party” means the Agent, the Issuing Bank, the Swingline Lender or any other Lender.

“Debt” of any Person means, without duplication, (a) all indebtedness of such Person for borrowed money, (b) all obligations of such Person for the deferred purchase price of property or services (other than trade payables incurred in the ordinary course of such Person’s business), (c) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments, (d) all obligations of such Person as lessee under leases that have been or should be, in accordance with GAAP, recorded as capital leases, (e) all obligations, contingent or otherwise, of such Person in respect of acceptances, letters of credit or similar extensions of credit (other than obligations in respect of letters of credit issued to provide for the payment of goods or services, to backstop worker’s compensation obligations or as rental security deposits, in each case incurred in the ordinary course of business), (f) all Debt of others referred to in clauses (a) through (e) above or clause (g) below guaranteed directly or indirectly in any manner by such Person, or in effect guaranteed directly or indirectly by such Person through an agreement (1) to pay or purchase such Debt or to advance or supply funds for the payment or purchase of such Debt, (2) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Debt or to assure the holder of such Debt against loss, (3) to supply funds to or in any other manner invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered) or (4) otherwise to assure a creditor against loss, and (h) all Debt referred to in clauses (a) through (f) above secured by (or for which the holder of such Debt has an existing right, contingent or otherwise, to be secured by) any Lien on property (including, without limitation, accounts and contract rights) owned by such Person, even though such Person has not assumed or become liable for the payment of such Debt.

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

“Default” means any Event of Default or any event that would constitute an Event of Default but for the requirement that notice be given or time elapse or both.

“Default Right” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

“Defaulting Lender” means any Lender that (a) has failed, within two (2) Business Days of the date required to be funded or paid, to (i) fund any portion of its Advances, (ii) fund any portion of its participations in Letters of Credit or Swingline Advances or (iii) pay over to any Credit Party any other amount required to be paid by it hereunder, unless, in the case of clause (i) above, such Lender notifies the Agent in writing that such failure is the result of such Lender’s good faith determination that a condition precedent to funding (specifically identified and including the particular default, if any) has not been satisfied, (b) has notified the Borrowers or any Credit Party in writing, or has made a public statement to the effect, that it does not intend or expect to comply with any of its funding obligations under this Agreement (unless such writing or public statement indicates that such position

is based on such Lender's good faith determination that a condition precedent (specifically identified and including the particular default, if any) to funding a loan under this Agreement cannot be satisfied) or generally under other agreements in which it commits to extend credit, (c) has failed, within three (3) Business Days after request by a Credit Party, acting in good faith, to provide a certification in writing from an authorized officer of such Lender that it will comply with its obligations (and is financially able to meet such obligations) to fund prospective Advances and participations in then outstanding Letters of Credit and Swingline Advances under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon such Credit Party's receipt of such certification in form and substance satisfactory to it and the Agent, or (d) has or has a direct or indirect parent company that has, (i) become the subject of a Bankruptcy Event, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above, and the effective date of such status, shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.22) as of the date established therefor by the Agent in a written notice of such determination, which shall be delivered by the Agent to the Borrowers, the Issuing Bank, the Swingline Lender and each other Lender promptly following such determination.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory is the subject of any Sanction.

"Dollar" and "\$" mean lawful money of the United States.

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

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

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

"Effective Date" has the meaning specified in Section 3.01.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 8.07 (subject to such consents, if any, required under Section 8.07(b)(iii)).

“Environmental Claim” means (a) any unfulfilled responsibility or liability or unlawful act or omission under any Environmental Law; (b) any tortious act or omission or breach of contract pertaining to any Environmental Substance; or (c) any other violation or claim under any Environmental Law or in respect of any Environmental Substance.

“Environmental Law” and “Environmental Laws” respectively mean any one or more of the applicable laws pertaining to: (a) any emission, discharge, release, runoff, disposal or presence in the environment of any Environmental Substance; (b) any cleanup, containment, manufacturing, treatment, handling, transportation, storage or sale of or other activity pertaining to any Environmental Substance; or (c) any other peril to public or occupational health or safety or to the environment that may be posed by an Environmental Substance.

“Environmental Substance” means any toxic substance, hazardous material, contaminant, waste, pollutant or other similar product or substance that may pose a threat to public or occupational health or safety or to the environment.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended from time to time (and any successors thereto), and the regulations promulgated and rulings issued thereunder.

“ERISA Affiliate” means any Person that (i) for purposes of Title IV of ERISA is a member of any of the Borrowers’ controlled group, or (ii) is under common control with any of the Borrowers, within the meaning of Section 414 of the Internal Revenue Code.

“ERISA Event” means (a) (i) the occurrence of a reportable event, within the meaning of Section 4043 of ERISA, with respect to any Plan unless the 30-day notice requirement with respect to such event has been waived by the PBGC, or (ii) the requirements of subsection (1) of Section 4043(b) of ERISA (without regard to subsection (2) of such Section) are met with a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, of a Plan, and an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to such Plan within the following 30 days; (b) the application for a minimum funding waiver with respect to a Plan; (c) the provision by the administrator of any Plan of a notice of intent to terminate such Plan pursuant to Section 4041(a)(2) of ERISA (including any such notice with respect to a plan amendment referred to in Section 4041(e) of ERISA); (d) the cessation of operations at a facility of either Borrower or any ERISA Affiliate in the circumstances described in Section 4062(e) of ERISA; (e) the withdrawal by either or either Borrower or any ERISA Affiliate from a Multiple Employer Plan during a plan year for which it was a substantial employer, as defined in Section 4001(a)(2) of ERISA; (f) the conditions for the imposition of a lien under Section 303(k) of ERISA shall have been met with respect to any Plan; (g) the adoption of an amendment to a Plan requiring the provision of security to such Plan pursuant to Section 206(g) of ERISA; or (h) the institution by the PBGC of proceedings to terminate a Plan pursuant to Section 4042 of ERISA, or the occurrence of any event or condition described in Section 4042 of ERISA that constitutes grounds for the termination of, or the appointment of a trustee to administer, a Plan.

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

“Eurodollar Rate” means:

(a) for any Interest Period with respect to a Eurodollar Rate Advance, the rate per annum equal to the London Interbank Offered Rate (“LIBOR”), or a comparable or successor rate which rate is approved by the Agent, as published on the applicable Bloomberg screen



page (or such other commercially available source providing such quotations as may be designated by the Agent from time to time) (in such case, the “LIBOR Rate”) at or about 11:00 a.m., London time, two (2) Business Days prior to the commencement of such Interest Period, for Dollar deposits (for delivery on the first day of such Interest Period) with a term equivalent to such Interest Period; and

(b) for any interest calculation with respect to a Base Rate Advance on any date, the rate per annum equal to the LIBOR Rate, at or about 11:00 a.m., London time, two (2) Business Days prior to such date for Dollar deposits with a term of one (1) month commencing that day;

provided that: (i) to the extent a comparable or successor rate is approved by the Agent in connection herewith, the approved rate shall be applied in a manner consistent with market practice; provided, further that to the extent such market practice is not administratively feasible for the Agent, such approved rate shall be applied in a manner as otherwise reasonably determined by the Agent and (ii) if the Eurodollar Rate shall be less than ~~zero~~0.25%, such rate shall be deemed ~~zero~~0.25% for purposes of this Agreement.

“Eurodollar Rate Advance” means a Revolving Credit Advance that bears interest as provided in Section 2.07(a)(ii) and based on clause (a) of the definition of “Eurodollar Rate”.

“Events of Default” has the meaning specified in Section 6.01.

“Excluded Swap Obligation” means, with respect to any Borrower, any Swap Obligation if, and to the extent that, all or a portion of the grant by such Borrower of a Lien to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation thereof) by virtue of such Borrower’s failure for any reason to constitute an “eligible contract participant” as defined in the Commodity Exchange Act (determined after giving effect to Section 10.11 and any other “keepwell”, support or other agreement for the benefit of such Borrower and any and all guarantees of such Borrower’s Swap Obligations by other Borrowers) at the time the grant by such Borrower of a Lien, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a Master Agreement governing more than one Swap Contract, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swap Contracts for which such Lien is or becomes excluded in accordance with the first sentence of this definition.

“Excluded Taxes” means any of the following Taxes imposed on or with respect to any Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its Applicable Lending Office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in an Advance or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Advance or Commitment (other than pursuant to an assignment request by the Borrowers under Section 8.07) or (ii) such Lender changes its Applicable Lending Office, except in each case to the extent that, pursuant to Section 2.14(a)(ii), (a)(iii) or (c), amounts with respect to such Taxes were payable either to such Lender’s assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Applicable Lending Office, (c) Taxes attributable to such

Recipient's failure to comply with Section 2.14(e), and (d) any U.S. federal withholding Taxes imposed pursuant to FATCA.

"Existing Credit Agreement" means the Credit Agreement dated as of June 1, 2007 among the Borrowers, the lenders parties thereto and JPMorgan Chase Bank, National Association, as agent, as amended, supplemented or otherwise modified prior to the Effective Date.

"Existing Letter of Credit" has the meaning specified in Section 2.16(h).

"Facility" means the Revolving Credit Facility or the Letter of Credit Facility.

"FATCA" means Sections 1471 through 1474 of the Internal Revenue Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code and any intergovernmental agreement between a non-U.S. jurisdiction and the United States with respect to the foregoing.

"Federal Funds Rate" means, for any day, the rate per annum equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate (rounded upward, if necessary, to a whole multiple of 1/100 of 1%) charged to Bank of America on such day on such transactions as determined by the Agent.

"Fee Letter" means the letter agreement, dated November 22, 2016, among the Borrowers, the Agent and [MLPF SBofA Securities, Inc.](#)

"First Amendment Effective Date" means [December 16, 2020](#).

"Foreign Lender" means, with respect to any Borrower (a) if such Borrower is a U.S. Person, a Lender that is not a U.S. Person, and (b) if such Borrower is not a U.S. Person, a Lender that is resident or organized under the laws of a jurisdiction other than that in which such Borrower is resident for tax purposes. For purposes of this definition, the United States, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

"Fronting Exposure" means, at any time there is a Defaulting Lender, (a) with respect to the Issuing Bank, such Defaulting Lender's Pro Rata Share of the outstanding L/C Exposure other than L/C Exposure as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swingline Lender, such Defaulting Lender's Pro Rata Share of Swingline Advances other than Swingline Advances as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof.

"GAAP" has the meaning specified in Section 1.03.

"Governmental Authority" means the government of the United States of America, any other nation or 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 functions of or pertaining to government.

~~“Incremental Assumption Agreement” has the meaning specified in Section 2.18(d)(ii).~~

~~“Increase Date” has the meaning specified in Section 2.18(a).~~

~~“Increasing Lender” has the meaning specified in Section 2.18(b) Hedge Bank” means any Person in its capacity as a party to a Swap Contract that, (a) at the time it enters into a Swap Contract not prohibited by the terms of this Agreement, is a Lender or an Affiliate of a Lender, or (b) at the time it (or its Affiliate) becomes a Lender, is a party to a Swap Contract not prohibited by the terms of this Agreement, in each case, in its capacity as a party to such Swap Contract (even if such Person ceases to be a Lender or such Person’s Affiliate ceased to be a Lender); provided, in the case of a Secured Hedge Agreement with a Person who is no longer a Lender (or Affiliate of a Lender), such Person shall be considered a Hedge Bank only through the stated termination date (without extension or renewal) of such Secured Hedge Agreement and provided further that for any of the foregoing to be included as a “Secured Hedge Agreement” on any date of determination by the Agent, the applicable Hedge Bank (other than the Agent or an Affiliate of the Agent) must have delivered a Secured Party Designation Notice to the Agent prior to such date of determination.~~

“Indemnified Taxes” means (a) Taxes, other than Excluded Taxes, imposed on or with respect to any payment made by or on account of any obligation of any Borrower under any Loan Document and (b) to the extent not otherwise described in clause (a), Other Taxes

“Interest Period” means, for each Eurodollar Rate Advance comprising part of the same Revolving Credit Borrowing, the period commencing on the date such Eurodollar Rate Advance is disbursed or Converted to or continued as a Eurodollar Rate Advance and ending on the date one (1), two (2), three (3) or six (6) months thereafter (in each case, subject to availability), as selected by the Borrowers in their Loan Notice; provided that:

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

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

(c) no Interest Period shall extend beyond the Termination Date of the Facility under which such Advance was made.

“Internal Revenue Code” means the Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder.

“ISP” means, with respect to any Letter of Credit, the “International Standby Practices 1998” published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance).



“Issuing Bank” means Bank of America, in its capacity as issuer of Letters of Credit hereunder and as the “L/C Issuer” referred to in the Fee Letter, or any successor issuer of Letters of Credit hereunder.

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

“L/C Exposure” means, at any time, the sum of (a) the aggregate Available Amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all Letter of Credit Advances that have not yet been reimbursed by or on behalf of the Borrowers at such time. The L/C Exposure of any Lender at any time shall be its Pro Rata Share of the total L/C Exposure at such time.

“L/C Related Documents” has the meaning specified in Section 2.16(f).

“Lenders” means the Initial Lenders, ~~each Assuming Lender that shall become a party hereto pursuant to Section 2.18~~ and each Person that shall become a party hereto pursuant to Section 8.07. Unless the context otherwise requires, the term “Lenders” includes the Swingline Lender.

“Letter of Credit” ~~has the meaning specified in Section 2.16(a)~~ means any standby letter of credit issued hereunder and shall include the Existing Letters of Credit.

“Letter of Credit Advance” means an advance made by the Issuing Bank resulting from a drawing under any Letter of Credit which has not been reimbursed on the date when made or refinanced by a Revolving Credit Borrowing in the form of a Base Rate Advance.

“Letter of Credit Agreement” has the meaning specified in Section 2.16(b)(i).

“Letter of Credit Facility” means the lesser of (a) \$50,000,000, as such amount may be reduced at or prior to such time pursuant to Section 2.05 and (b) the Revolving Credit Facility. The Letter of Credit Facility is part of, and not in addition to, the Revolving Credit Facility.

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

“LIBOR Replacement Date” has the meaning specified in Section 2.18(c).

“LIBOR Screen Rate” means the LIBOR quote on the applicable screen page the Agent designates to determine LIBOR (or such other commercially available source providing such quotations as may be designated by the Agent from time to time).

“LIBOR Successor Rate” has the meaning specified in Section 2.18(c).

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

administration of such LIBOR Successor Rate exists, in such other manner of administration as the Agent determines is reasonably necessary in connection with the administration of this Agreement and any other Loan Document).

“Lien” means any lien, security interest or other charge or encumbrance of any kind, or any other type of preferential arrangement, including, without limitation, the lien or retained security title of a conditional vendor and any easement, right of way or other encumbrance on title to real property.

“Loan Documents” means this Agreement, any Notes, the Fee Letter, each Letter of Credit Agreement, each other L/C Related Document, the Collateral Documents, and any agreement creating or perfecting rights in Cash Collateral pursuant to the provisions of Section 2.24 of this Agreement, as each may be amended, supplemented or otherwise modified from time to time.

“Loan Notice” means a Notice of Revolving Credit Borrowing or a Notice of Swingline Borrowing, which shall be substantially in the respective form of Exhibit B-1 or B-2, as applicable, or such other form as may be approved by the Agent (including any form on an electronic platform or electronic transmission system as shall be approved by the Agent); each appropriately completed and signed by a Responsible Officer of a Borrower.

“London Banking Day” means any day on which dealings in Dollar deposits are conducted by and between banks in the London interbank market.

“Master Agreement” has the meaning set forth in the definition of “Swap Contract”.

“Material Adverse Change” means any material adverse change in the assets, business, operations, property or condition (financial or otherwise) of the Borrowers and their Subsidiaries taken as a whole.

“Material Adverse Effect” means a material adverse effect on (a) the assets, business, operations, property or condition (financial or otherwise) of the Borrowers and their Subsidiaries taken as a whole or (b) the ability of the Borrowers to perform their obligations under the Loan Documents.

“Minimum Collateral Amount” means, at any time, (a) with respect to Cash Collateral consisting of cash or deposit account balances provided to reduce or eliminate Fronting Exposure during any period when a Lender constitutes a Defaulting Lender, an amount equal to 100% of the Fronting Exposure of the Issuing Bank with respect to Letters of Credit issued and outstanding at such time, (b) with respect to Cash Collateral consisting of cash or deposit account balances provided in accordance with the provisions of Section 2.24(a)(i), (a)(ii) or (a)(iii), an amount equal to 100% of the outstanding amount of all L/C Exposure, and (c) otherwise, an amount determined by the Agent and the Issuing Bank in their sole discretion.

~~“MLFPS” means Merrill Lynch, Pierce, Fenner & Smith Incorporated (or any other registered broker-dealer wholly owned by Bank of America Corporation to which all or substantially all of Bank of America Corporation’s or any of its subsidiaries’ investment banking, commercial lending services or related businesses may be transferred following the date of this Agreement).~~

“Money Market Rate” means such rate of interest per annum (if any) as the Swingline Lender may quote from time to time on any single commercial borrowing for a period of up to 90 days.

“Multiemployer Plan” means a multiemployer plan, as defined in Section 4001(a)(3) of ERISA, to which a Borrower or any ERISA Affiliate is making or accruing an obligation to make



contributions, or has within any of the preceding five plan years made or accrued an obligation to make contributions.

“Multiple Employer Plan” means a single employer plan, as defined in Section 4001(a)(15) of ERISA, that (a) is maintained for employees of a Borrower or any ERISA Affiliate and at least one Person other than such Borrower and the ERISA Affiliates or (b) was so maintained and in respect of which such Borrower or any ERISA Affiliate could have liability under Section 4064 or 4069 of ERISA in the event such plan has been or were to be terminated.

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

“Note” means a Revolving Credit Note.

“Notice of Issuance” has the meaning specified in Section 2.16(b)(i).

“Notice of Revolving Credit Borrowing” has the meaning specified in Section 2.02(a).

“Notice of Swingline Borrowing” has the meaning specified in Section 2.04(b).

“Obligations” means (a) all advances to, and debts, liabilities, obligations, covenants and duties of, any Borrower arising under any Loan Document or otherwise with respect to any Advance or Letter of Credit and (b) all costs and expenses incurred in connection with enforcement and collection of the foregoing, including the fees, charges and disbursements of counsel, in each case whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising and including interest, expenses and fees that accrue after the commencement by or against any Borrower or any Affiliate thereof pursuant to any proceeding under any Debtor Relief Laws naming such Person as the debtor in such proceeding, regardless of whether such interest, expenses and fees are allowed claims in such proceeding; provided that, without limiting the foregoing, the Obligations of a Borrower shall exclude any Excluded Swap Obligations with respect to such Borrower.

“Other Connection Taxes” means, with respect to any Recipient, Taxes imposed as a result of a present or former connection between such Recipient and the jurisdiction imposing such Tax (other than connections arising from such Recipient having executed, delivered, become a party to, performed its obligations under, received payments under, received or perfected a security interest under, engaged in any other transaction pursuant to or enforced any Loan Document, or sold or assigned an interest in any Advance or Loan Document).

“Other Taxes” means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to Section 2.23).

“Participant” has the meaning specified in Section 8.07(d).

“Participant Register” has the meaning specified in Section 8.07(d).

“PBGC” means the Pension Benefit Guaranty Corporation (or any successor).

“Pension Plan” means any employee pension benefit plan (including a Multiple Employer Plan or a Multiemployer Plan) that is maintained or is contributed to by any Borrower and any ERISA Affiliate or with respect to which such Borrower or any ERISA Affiliate has any liability and is either covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code.

“Permitted Acquisition” means an Acquisition by a Borrower (the Person or division, line of business or other business unit of the Person to be acquired in such Acquisition shall be referred to herein as the “Target”), in each case that is a type of business (or assets used in a type of business) permitted to be engaged in by the Borrower and its Subsidiaries pursuant to the terms of this Agreement, in each case so long as:

(a) no Default shall then exist or would exist after giving effect thereto;

(b) the Borrowers shall demonstrate to the reasonable satisfaction of the Agent that, after giving effect to the Acquisition, the Borrowers are in compliance, on a pro forma basis, with each of the covenants set forth in Section 5.03;

(c) the Target shall have earnings before interest, taxes, depreciation and amortization for the four (4) fiscal quarter period prior to the acquisition date in an amount greater than \$0; and

(d) such Acquisition shall not be a “hostile” Acquisition and shall have been approved by the board of directors (or equivalent) and/or shareholders (or equivalent) of the applicable Borrower and the Target.

“Permitted Liens” means each of the following: (a) Liens for taxes, assessments and governmental charges or levies to the extent not required to be paid under Section 5.01(e) hereof; (b) Liens imposed by law, such as materialmen’s, mechanics’, carriers’, workmen’s and repairmen’s Liens and other similar Liens arising in the ordinary course of business securing obligations that are not overdue for a period of more than 30 days or are being contested by good faith by appropriate proceedings and as to which appropriate reserves are being maintained; (c) pledges or deposits to secure obligations under workers’ compensation laws or similar legislation or to secure public or statutory obligations; and (d) easements, rights of way and other encumbrances on title to real property that do not render title to the property encumbered thereby unmarketable or materially adversely affect the use of such property for its present purposes.

“Person” means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

“Plan” means a Single Employer Plan or a Multiple Employer Plan.

“Platform” has the meaning specified in Section 5.01.

“Pre-Adjustment Successor Rate” has the meaning specified in Section 2.18(c).

“Pro Rata Share” of any amount means, with respect to any Lender at any time, with respect to Revolving Credit Advances, Letter of Credit Advances or Swingline Advances, the product of such amount times a fraction the numerator of which is the amount of such Lender’s Revolving Credit



Commitment at such time and the denominator of which is the Revolving Credit Facility at such time; provided that in the case of Section 2.22 when a Defaulting Lender shall exist, any such Defaulting Lender's Revolving Credit Commitment shall be disregarded in the calculation. If the Commitments have terminated or expired, the Pro Rata Share shall be determined based upon the Commitments most recently in effect, giving effect to any assignments and to any Lender's status as a Defaulting Lender at the time of determination.

"Public Lender" has the meaning specified in Section 5.01.

"QFC" has the meaning assigned to the term "qualified financial contract" in, and shall be interpreted in accordance with, 12 U.S.C. 5390(c)(8)(D).

"QFC Credit Support" has the meaning specified in Section 8.18.

"Recipient" means the Agent, any Lender, the Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of any Borrower hereunder.

"Register" has the meaning specified in Section 8.07(c).

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

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

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

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors, consultants, service providers and representatives of such Person and of such Person's Affiliates.

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

"Removal Effective Date" has the meaning specified in Section 7.06(b).

"Required Lenders" means, at any time, Lenders having Credit Exposure and unused Commitments representing more than 50% of the sum of the total Credit Exposure and unused Commitments at such time. The Credit Exposure and unused Commitment of any Defaulting Lender shall be disregarded in determining Required Lenders at any time; provided that, the amount of any participation in any Swingline Advance and Unreimbursed Amounts that such Defaulting Lender has

failed to fund that have not been reallocated to and funded by another Lender shall be deemed to be held by the Lender that is the Swingline Lender or the Issuing Bank, as the case may be, in making such determination.

“Responsible Officer” means the chief executive officer, president, chief financial officer, treasurer, assistant treasurer or controller of a Borrower, solely for purposes of the delivery of incumbency certificates pursuant to Section 3.01, the secretary or any assistant secretary of a Borrower and, solely for purposes of notices given pursuant to Article II, any other officer or employee of the applicable Borrower so designated by any of the foregoing officers in a notice to the Agent or any other officer or employee of the applicable Borrower designated in or pursuant to an agreement between the applicable Borrower and the Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Borrower shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Borrower and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Borrower. To the extent requested by the Agent, each Responsible Officer will provide an incumbency certificate and to the extent requested by the Agent, appropriate authorization documentation, in form and substance satisfactory to the Agent.

“Revolving Credit Advance” means an advance by a Lender to a Borrower as part of a Revolving Credit Borrowing and refers to a Base Rate Advance or a Eurodollar Rate Advance.

“Revolving Credit Availability” means (a) from the First Amendment Effective Date through the first date on which the Borrowers shall have demonstrated to the reasonable satisfaction of the Agent that the Revolving Credit Availability Increase Conditions have been satisfied, \$225,000,000 and (b) thereafter, the aggregate Revolving Credit Commitments of all Lenders at such time.

“Revolving Credit Availability Increase Conditions” means, as of any date of determination, each of the following:

- (a) Consolidated Debt Ratio as of such date shall be not more than 0.60:1;
- (a) (b) Consolidated Interest Coverage Ratio, as at the last day of the fiscal quarter of the Borrowers most recently ended, shall be not less than 3.50:1;  
and
- (c) Consolidated Liquidity as of such date shall be at least \$200,000,000.

“Revolving Credit Borrowing” means a borrowing consisting of simultaneous Revolving Credit Advances of the same Type made by each of the Lenders pursuant to Section 2.01.

“Revolving Credit Commitment” means, with respect to any Lender at any time (a) the amount set forth opposite such Lender’s name on the Commitment Schedule under the caption “Revolving Credit Commitment” (b) if such Lender has become a Lender hereunder pursuant to an Incremental Assumption Agreement, the amount set forth in such Incremental Assumption Agreement or (c) if such Lender has entered into any Assignment and Assumption, the amount set forth for such Lender in the Register maintained by the Agent pursuant to Section 8.07(c), as such amount may be reduced pursuant to Section 2.05 ~~or increased pursuant to Section 2.18~~. On As of the First Amendment Effective Date, the aggregate Revolving Credit Commitments of the Lenders is \$375,000,000~~\$250,000,000~~.



“Revolving Credit Commitment Increase” has the meaning specified in Section 2.18(a).

“Revolving Credit Exposure” means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender’s Revolving Credit Advances and its L/C Exposure and Swingline Exposure at such time.

“Revolving Credit Facility” means, at any time, the aggregate amount of the Lenders’ Revolving Credit Commitments at such time.

“Revolving Credit Note” means a promissory note of a Borrower payable to the order of any Lender requesting the same, in substantially the form of Exhibit A hereto, evidencing the aggregate indebtedness of such Borrower to such Lender resulting from the Revolving Credit Advances made by such Lender.

“Robinson Family” means Richard Robinson, Barbara Robinson Buckland, Florence R. Ford, Mary Sue Robinson Morrill and William W. Robinson, the spouses and descendants of any of them, and any trust or estate whose legal representatives or beneficiaries (or in the case of a Person with more than one legal representative or beneficiary, at least half of whose legal representatives or beneficiaries) consist of one or more of the foregoing individuals, spouses and descendants; and the trusts respectively created under the will of Maurice R. Robinson and/or the will of Florence L. Robinson so long as at least half of their respective trustees or beneficiaries continue to consist of one or more of the foregoing individuals, spouses and/or descendants.

“S&P” means Standard & Poor’s Financial Services LLC, a subsidiary of S&P Global Inc., and any successor thereto.

“Sanction(s)” means any sanction administered or enforced by the United States Government (including, without limitation, OFAC), the United Nations Security Council, the European Union, Her Majesty’s Treasury (“HMT”) or other relevant sanctions authority.

“Secured Cash Management Agreement” means any Cash Management Agreement between the any Borrower and any Cash Management Bank.

“Secured Hedge Agreement” means any interest rate, currency, foreign exchange, or commodity Swap Contract not prohibited by the terms of this Agreement between any Borrower and any Hedge Bank.

“Secured Obligations” means all Obligations and all Additional Secured Obligations; provided that from and after the Collateral Release Date, Secured Obligations shall mean all Obligations.

“Secured Obligations Period” means the period beginning on the First Amendment Effective Date and ending on the Collateral Release Date.

“Secured Parties” means, collectively, the Agent, the Lenders, the Issuing Bank, the Hedge Banks, the Cash Management Banks, the Indemnitees and each co-agent or sub-agent appointed by the Agent from time to time pursuant to Section 7.05; provided that from and after the Collateral Release Date, Secured Parties shall mean the Agent, the Lenders, the

Issuing Bank, the Indemnitees and each co-agent or sub-agent appointed by the Agent from time to time pursuant to Section 7.05.

“Secured Party Designation Notice” means a notice from any Lender or an Affiliate of a Lender substantially in the form of Exhibit I.

“Security Agreement” means the Security Agreement, dated as of the First Amendment Effective Date, executed by the Operating Company in favor of the Agent.

“Significant Subsidiary” shall mean any Subsidiary that owns 10% or more of the total consolidated assets of the Holding Company and its subsidiaries and contributes 10% or more of their total consolidated revenue from operations. Each direct and indirect parent (other than the Holding Company or the Operating Company) of a Significant Subsidiary also shall be deemed a Significant Subsidiary.

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

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

“Solvent” and “Solvency” mean, with respect to any Person on any date of determination, that on such date (a) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (b) the present fair saleable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured, (c) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person’s ability to pay such debts and liabilities as they mature, (d) such Person is not engaged in business or a transaction, and is not about to engage in business or a transaction, for which such Person’s property would constitute an unreasonably small capital, and (e) such Person is able to pay its debts and liabilities, contingent obligations and other commitments as they mature in the ordinary course of business. The amount of contingent liabilities at any time shall be computed as the amount that, in the light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

“Subsidiary” of any Person means any corporation, partnership, joint venture, limited liability company, trust or estate of which (or in which) more than 50% of (a) the issued and outstanding capital stock having ordinary voting power to elect a majority of the Board of Directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency), (b) the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) the beneficial interest in such trust or estate is at the time directly or indirectly owned or controlled by



such Person, by such Person and one or more of its other Subsidiaries or by one or more of such Person's other Subsidiaries.

"Supported QFC" has the meaning specified in Section 8.18.

"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, which are subject to the terms and conditions of, or governed by, any form of master agreement published by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such master agreement, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Obligations" means with respect to any Borrower any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"Swingline Advance" means an Advance made pursuant to Section 2.04.

"Swingline Exposure" means, at any time, the aggregate principal amount of all Swingline Advances outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Pro Rata Share of the total Swingline Exposure at such time.

"Swingline Lender" means Bank of America, N.A., in its capacity as lender of Swingline Advances hereunder.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

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

"Termination Date" means the earlier of January 5, 2022 and the date of termination in whole of the Revolving Credit Commitments pursuant to Section 2.05 or 6.01.

"Total Consolidated Debt" shall mean the consolidated Debt of the Borrowers and their Subsidiaries.

"Type", when used in reference to any Advance or Borrowing, refers to whether the rate of interest on such Advance, or the Advances comprising such Borrowing, is determined by reference to the Eurodollar Rate or the Base Rate.

“UCC” means the Uniform Commercial Code as in effect in the State of New York; provided that, if perfection or the effect of perfection or non-perfection or the priority of any security interest in any collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of New York, “UCC” means the Uniform Commercial Code as in effect from time to time in such other jurisdiction for purposes of the provisions hereof relating to such perfection, effect of perfection or non-perfection or priority.

“UCP” means, with respect to any Letter of Credit, the Uniform Customs and Practice for Documentary Credits, International Chamber of Commerce (“ICC”) Publication No. 600 (or such later version thereof as may be in effect at the time of issuance).

“Unreimbursed Amount” has the meaning specified in Section 2.16(c)(i).

“Unused Revolving Credit Commitment” means, with respect to any Lender at any time, (a) such Lender’s Revolving Credit Commitment at such time minus (b) the sum of (i) the aggregate principal amount of all Revolving Credit Advances, Letter of Credit Advances and Swingline Advances made by such Lender, in each case in its capacity as a Lender, and outstanding at such time, and (ii) such Lender’s Pro Rata Share of (A) the aggregate Available Amount of all Letters of Credit outstanding at such time, (B) the aggregate amount of Swingline Advances outstanding at such time, and (C) to the extent not included in clause (b)(i) of this definition, the aggregate principal amount of all Letter of Credit Advances made by the Issuing Bank pursuant to Section 2.16(d) and outstanding at such time.

“U.S. Tax Compliance Certificate” has the meaning specified in Section 2.14(e)(ii)(B)(3).

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

“Voting Stock” means capital stock issued by a corporation, or equivalent interests in any other Person, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of a majority of the directors (or persons performing similar functions) of such Person, even if the right to vote has been suspended by the happening of such a contingency.

“Write-Down and Conversion Powers” means, with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule.

~~SECTION 2.02~~Section 1.02 Computation of Time Periods; Other Interpretive Provisions. (a) In this Agreement in the computation of periods of time from a specified date to a later specified date, the word “from” means “from and including” and the words “to” and “until” each mean “to but excluding”.

(b) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation.” The word “will” shall be construed to have the same meaning and effect as the word “shall.” Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document (including the Loan Documents and any organizational document) shall be construed as referring to such agreement, instrument or other document as from time to time amended, amended and restated, modified, extended, restated, replaced or supplemented from time to time (subject to any restrictions on such amendments, supplements or



modifications set forth herein or in any other Loan Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto," "herein," "hereof" and "hereunder," and words of similar import when used in any Loan Document, shall be construed to refer to such Loan Document in its entirety and not to any particular provision thereof, (iv) all references in a Loan Document to Articles, Sections, Preliminary Statements, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Preliminary Statements, Exhibits and Schedules to, the Loan Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory rules, regulations, orders and provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified, extended, restated, replaced or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights. Any and all references to "Borrower" regardless of whether preceded by the term a, any, each of, all, and/or, or any other similar term shall be deemed to refer, as the context requires, to each and every (and/or any one or all) parties constituting a Borrower, individually and/or in the aggregate.

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

**SECTION 2.03** Section 1.03 Accounting Terms. (a) All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles ("GAAP"). Notwithstanding any other provision contained herein, all terms of an accounting or financial nature used herein shall be construed, and all computations of amounts and ratios referred to herein shall be made, (i) without giving effect to any election under Accounting Standards Codification 825-10-25 (previously referred to as Statement of Financial Accounting Standards 159) (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any Indebtedness Debt or other liabilities of the Borrowers or any Subsidiary at "fair value", as defined therein and (ii) without giving effect to any treatment of Indebtedness Debt in respect of convertible debt instruments under Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness Debt in a reduced or bifurcated manner as described therein, and such Indebtedness Debt shall at all times be valued at the full stated principal amount thereof.

(b) If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and either the Borrowers or the Required Lenders shall so request, the Agent, the Lenders and the Borrowers shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of the Required Lenders); provided that, until so amended, (i) such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and (ii) the Borrowers shall provide to the Agent and the Lenders financial statements and other documents required under this Agreement or as reasonably requested hereunder setting forth a reconciliation between calculations of such ratio or requirement made before and after giving effect to such change in GAAP. Without limiting the foregoing, leases shall continue to be classified and accounted for on a basis consistent with that reflected in the audited financial statements referred to in Section 4.01(f) for all purposes of this



Agreement, notwithstanding any change in GAAP relating thereto, unless the parties hereto shall enter into a mutually acceptable amendment addressing such changes, as provided for above.

SECTION 2.04Section 1.04 Letter of Credit Amounts. Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time; provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any L/C Related Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

## SECTION 2.05Article II

### AMOUNTS AND TERMS OF THE ADVANCES

SECTION 2.06Section 2.01 Commitments. Subject to the terms and conditions hereinafter set forth, each Lender severally agrees to make Revolving Credit Advances to any Borrower from time to time on any Business Day during the period from the Effective Date until the Termination Date in an amount for each such Advance not to exceed such Lender's Unused Revolving Credit Commitment at such time. Each Revolving Credit Borrowing (other than a Swingline Advance) shall be in an aggregate amount of \$1,000,000 or an integral multiple of \$500,000 in excess thereof in the case of Base Rate Advances, or shall be in an aggregate amount of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof in the case of Eurodollar Rate Advances, and shall consist of Revolving Credit Advances of the same Type made on the same day by the Lenders ratably according to their respective Commitments. Each Swingline Advance shall be in an amount that is an integral multiple of \$250,000 and not less than \$250,000. Within the limits of each Lender's Revolving Credit Commitment, the Borrowers may borrow Revolving Credit Borrowings under this Section 2.01, prepay Revolving Credit Borrowings pursuant to Section 2.10 and reborrow Revolving Credit Borrowings under this Section 2.01; provided that in no event shall any Borrower be permitted to borrow a Revolving Credit Borrowing (and no Lender shall be required to fund a Revolving Credit Advance) if, after giving effect to the funding of such Revolving Credit Borrowing (or the funding of such Revolving Credit Advance), the aggregate amount of the Revolving Credit Exposures of all Lenders shall exceed the Revolving Credit Availability at such time.

### SECTION 2.07Section 2.02 Making the Revolving Credit Advances.

(a) (a) Each Revolving Credit Borrowing shall be made on irrevocable notice, given not later than (x) 11:00 A.M. (New York City time) on the third Business Day prior to the date of the proposed Revolving Credit Borrowing in the case of a Revolving Credit Borrowing consisting of Eurodollar Rate Advances or (y) 11:00 A.M. (New York City time) on the date of the proposed Revolving Credit Borrowing in the case of a Revolving Credit Borrowing consisting of Base Rate Advances, by the applicable Borrower to the Agent, which shall give to each Lender prompt notice thereof. Each such notice of a Revolving Credit Borrowing may be given by (A) telephone or (B) notice substantially in the form of Exhibit B-1 (a "Notice of Revolving Credit Borrowing"); provided that any telephonic notice must be confirmed immediately by delivery by the applicable Borrower to the Agent of a Notice of Revolving Credit Borrowing specifying therein the requested (i) date of such Revolving Credit Borrowing (which must be a Business Day), (ii) Type of Advances comprising such Revolving Credit Borrowing, (iii) aggregate amount of such Revolving Credit Borrowing, and (iv) in the case of a Revolving Credit Borrowing consisting of Eurodollar Rate Advances, the initial Interest Period for each such Revolving Credit Advance. If the applicable Borrower fails to specify a Type of Advance in a Notice of Revolving Credit Borrowing or if the applicable Borrower fails to give a timely notice requesting a Conversion or



continuation, then the applicable Advances shall be made as, or converted to, Base Rate Advances. Any such automatic conversion to Base Rate Advances shall be effective as of the last day of the Interest Period then in effect with respect to the applicable Eurodollar Rate Advances. If the applicable Borrower requests a Borrowing of, Conversion to, or continuation of Eurodollar Rate Advances in any such Notice of Revolving Credit Borrowing, but fails to specify an Interest Period, it will be deemed to have specified an Interest Period of one (1) month. Notwithstanding anything to the contrary herein, a Swingline Advance may not be converted to a Eurodollar Rate Advance. Each Lender shall, before 2:00 P.M. (New York City time) on the date of such Revolving Credit Borrowing make available for the account of its Applicable Lending Office to the Agent at the Agent's Account, in same day funds, such Lender's ratable portion of such Revolving Credit Borrowing. After the Agent's receipt of such funds and upon fulfillment of the applicable conditions set forth in Article III, the Agent will make such funds available to the applicable Borrower at the Agent's address referred to in Section 8.02; provided, however, that, in the case of any such Borrowing, the Agent shall first make a portion of such funds equal to the aggregate principal amount of any Letter of Credit Advances made by the Issuing Bank and by any other Lender and outstanding on the date of such Revolving Credit Borrowing, plus interest accrued and unpaid thereon to and as of such date, available to the Issuing Bank and such other Lenders for repayment of such Letter of Credit Advances.

(b) (b) Anything in subsection (a) above to the contrary notwithstanding, (i) the Borrowers may not select Eurodollar Rate Advances for any Revolving Credit Borrowing if the aggregate amount of such Revolving Credit Borrowing is less than \$5,000,000 or if the obligation of the Lenders to make Eurodollar Rate Advances shall then be suspended pursuant to Section ~~2.08~~ 2.12 or 2.18 and (ii) no more than twelve separate Eurodollar Rate Advances may be outstanding at any time.

(c) (c) Each Notice of Revolving Credit Borrowing shall be irrevocable and binding on the applicable Borrower. In the case of any Revolving Credit Borrowing that the related Notice of Revolving Credit Borrowing specifies is to be comprised of Eurodollar Rate Advances, the applicable Borrower shall indemnify each Lender against any loss, cost or expense incurred by such Lender as a result of any failure to fulfill on or before the date specified in such Notice of Revolving Credit Borrowing for such Revolving Credit Borrowing, the applicable conditions set forth in Article III, including, without limitation, any loss (including loss of anticipated profits), cost or expense incurred by reason of the liquidation or reemployment of deposits or other funds acquired by such Lender to fund the Revolving Credit Advance, to be made by such Lender as part of such Revolving Credit Borrowing, when such Revolving Credit Advance, as a result of such failure, is not made on such date. Except as otherwise provided herein, a Eurodollar Rate Advance may be continued or Converted only on the last day of an Interest Period for such Eurodollar Rate Advance. During the existence of a Default, no Advance may be requested as, Converted to or continued as Eurodollar Rate Advances without the consent of the Required Lenders, and the Required Lenders may demand that any or all of the outstanding Eurodollar Rate Advances be converted immediately to Base Rate Advances.

(d) (d) Unless the Agent shall have received notice from a Lender prior to the date of any Revolving Credit Borrowing of Eurodollar Rate Advances (or in the case of any Revolving Credit Borrowing of Base Rate Advances, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Agent such Lender's ratable portion of such Revolving Credit Borrowing, the Agent may assume that such Lender has made such portion available to the Agent on the date of such Revolving Credit Borrowing in accordance with subsection (a) of this Section 2.02 (or in the case of any Revolving Credit Borrowing of Base Rate Advances, that such Lender has made such share available in accordance with and at the time required by such Section) and the Agent may, in reliance upon such assumption, make available to the applicable Borrower on such date a corresponding amount. If and to the extent that such Lender shall not have so made such ratable portion available to the Agent, such Lender and the applicable Borrower severally agree to repay to the Agent forthwith on demand in



immediately available funds such corresponding amount together with interest thereon, for each day from the date such amount is made available to such Borrower until the date such amount is repaid to the Agent, at (i) in the case of such Borrower, the interest rate applicable at the time to Base Rate Advances, and (ii) in the case of such Lender, the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Agent in connection with the foregoing. If a Borrower and such Lender shall pay such interest to the Agent for the same or an overlapping period, the Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender shall repay to the Agent such corresponding amount, such amount so repaid shall constitute such Lender's Revolving Credit Advance as part of such Revolving Credit Borrowing for purposes of this Agreement. Any payment by a Borrower shall be without prejudice to any claim such Borrower may have against a Lender that shall have failed to make such payment to the Agent. A notice of the Agent to any Lender, the Issuing Bank or the Borrowers with respect to any amount owing under this subsection (d) shall be conclusive, absent manifest error

(e) (c) The failure of any Lender to make the Revolving Credit Advance to be made by it as part of any Revolving Credit Borrowing shall not relieve any other Lender of its obligation, if any, hereunder to make its Revolving Credit Advance on the date of such Revolving Credit Borrowing, but no Lender shall be responsible for the failure of any other Lender to make the Revolving Credit Advance to be made by such other Lender on the date of any Revolving Credit Borrowing.

(f) (f) Each determination of an interest rate by the Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Borrowers and the Lenders in the absence of manifest error.

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

(h) (h) Notwithstanding the foregoing, Swingline Advances shall be made as provided in Section 2.04.

(i) Section 2.03 [Reserved.]

(j) Section 2.04 Swingline Advances.

(k) (a) Swingline Facility. Subject to the terms and conditions set forth herein, the Swingline Lender, in reliance upon the agreements of the other Lenders set forth in this Section, may in its sole discretion, make Swingline Advances to the Borrowers from time to time on any Business Day during the period from the Effective Date until the Termination Date, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Advances exceeding \$15,000,000 (notwithstanding the fact that such Swingline Advances, when aggregated with the Pro Rata Share of the Revolving Credit Exposure of the Lender acting as Swingline Lender may exceed the amount of such Lender's Revolving Credit Commitment) or (ii) the total Revolving Credit Exposures of all Lenders exceeding the ~~total~~ Revolving Credit ~~Commitments~~ Availability at such time; provided that (A) the Swingline Lender shall not be required to make a Swingline Advance to refinance an outstanding Swingline Advance and (B) the Swingline Lender shall not be under any obligation to make any Swingline Advance if it shall determine (which determination shall be conclusive and binding absent manifest error) that it has, or by such Advance may have, Fronting Exposure. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow,

prepay and reborrow Swingline Advances. Immediately upon the making of a Swingline Advance, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Swingline Lender a risk participation in such Swingline Advance in an amount equal to the product of such Lender's Pro Rata Share times the amount of such Swingline Advance.

(+) (b) Borrowing Procedures. Each Swingline Advance shall be made upon the applicable Borrower's irrevocable notice to the Swingline Lender and the Agent, which may be given by: (A) telephone or (B) notice substantially in the form of Exhibit B-2 (a "Notice of Swingline Borrowing"); provided that any telephonic notice must be confirmed immediately by delivery to the Swingline Lender and the Agent of a Notice of Swingline Borrowing. Each such Notice of Swingline Borrowing must be received by the Swingline Lender and the Agent not later than 1:00 p.m. on the requested borrowing date, and shall specify (i) the amount to be borrowed, which shall be a minimum of \$250,000, and (ii) the requested date of the Borrowing (which shall be a Business Day). Promptly after receipt by the Swingline Lender of any Notice of Swingline Borrowing, the Swingline Lender will confirm with the Agent (by telephone or in writing) that the Agent has also received such Notice of Swingline Borrowing and, if not, the Swingline Lender will notify the Agent (by telephone or in writing) of the contents thereof. Unless the Swingline Lender has received notice (by telephone or in writing) from the Agent (including at the request of any Lender) prior to 2:00 p.m. on the date of the proposed Swingline Advance (A) directing the Swingline Lender not to make such Swingline Advance as a result of the limitations set forth in Section 2.04(a), or (B) that one or more of the applicable conditions specified in Article III is not then satisfied, then, subject to the terms and conditions hereof, the Swingline Lender may, make the amount of its Swingline Advance available to the applicable Borrower at its office by crediting the account of such Borrower on the books of the Swingline Lender in immediately available funds.

(+) (c) Refinancing of Swingline Advances.

(i) The Swingline Lender at any time in its sole discretion may request, on behalf of the applicable Borrower (which hereby irrevocably authorizes the Swingline Lender to so request on its behalf), that each Lender make a Base Rate Advance in an amount equal to such Lender's Pro Rata Share of the amount of Swingline Advances then outstanding. Such request shall be made in writing (which written request shall be deemed to be a Loan Notice for purposes hereof) and in accordance with the requirements of Sections 2.01 and 2.02, without regard to the minimum and multiples specified therein for the principal amount of Base Rate Advances, but subject to the unutilized portion of the Revolving Credit Facility and the conditions set forth in Section 3.02. The Swingline Lender shall furnish the Borrowers with a copy of the applicable Loan Notice promptly after delivering such notice to the Agent. Each Lender shall make an amount equal to its Pro Rata Share of the amount specified in such Loan Notice available to the Agent in immediately available funds (and the Agent may apply Cash Collateral available with respect to the applicable Swingline Advance) for the account of the Swingline Lender at the Agent's Applicable Lending Office not later than 1:00 p.m. on the day specified in such Loan Notice, whereupon, subject to Section 2.04(c)(ii), each Lender that so makes funds available shall be deemed to have made a Base Rate Advance to the applicable Borrower in such amount. The Agent shall remit the funds so received to the Swingline Lender.

(ii) If for any reason any Swingline Advance cannot be refinanced by such a Revolving Credit Borrowing in accordance with Section 2.04(c)(i), the request for a Base Rate Advance submitted by the Swingline Lender as set forth herein shall be deemed to be a request by the Swingline Lender that each of the Lenders fund its risk participation in the relevant Swingline Advance and each Lender's payment to the Agent for the account of the Swingline Lender pursuant to Section 2.04(c)(i) shall be deemed payment in respect of such participation.



(iii) If any Lender fails to make available to the Agent for the account of the Swingline Lender any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.04(c) by the time specified in Section 2.04(c)(i), the Swingline Lender shall be entitled to recover from such Lender (acting through the Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Swingline Lender at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Swingline Lender in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Swingline Lender in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Revolving Credit Advance included in the relevant Revolving Credit Borrowing or funded participation in the relevant Swingline Advance, as the case may be. A certificate of the Swingline Lender submitted to any Lender (through the Agent) with respect to any amounts owing under this clause (iii) shall be conclusive absent manifest error.

(iv) Each Lender's obligation to make Revolving Credit Advances or to purchase and fund risk participations in Swingline Advances pursuant to this Section 2.04(c) shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Swingline Lender, any Borrower or any other Person for any reason whatsoever, (B) the occurrence or continuance of a Default or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided however, that each Lender's obligation to make Revolving Credit Advances pursuant to this Section 2.04(c) is subject to the conditions set forth in Section 3.02 (other than delivery by the applicable Borrower of a Loan Notice). No such funding of risk participations shall relieve or otherwise impair the obligation of the Borrowers to repay Swingline Advances, together with interest as provided herein.

(+) (d) Repayment of Participations in Swingline Advances.

(i) At any time after any Lender has purchased and funded a risk participation in a Swingline Advance, if the Swingline Lender receives any payment on account of such Swingline Advance, the Swingline Lender will distribute to such Lender its Pro Rata Share thereof in the same funds as those received by the Swingline Lender.

(ii) If any payment received by the Swingline Lender in respect of principal or interest on any Swingline Advance is required to be returned by the Swingline Lender under any of the circumstances described in Section 8.16 (including pursuant to any settlement entered into by the Swingline Lender in its discretion), each Lender shall pay to the Swingline Lender its Pro Rata Share thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned, at a rate per annum equal to the Federal Funds Rate. The Agent will make such demand upon the request of the Swingline Lender. The obligations of the Lenders under this clause shall survive the payment in full of the debts, liabilities and other obligations under this Agreement and the other Loan Documents and the termination of this Agreement.

(e) Interest for Account of Swingline Lender. The Swingline Lender shall be responsible for invoicing the Borrowers for interest on the Swingline Advances. Until each Lender funds its Base Rate Advance or risk participation pursuant to this Section to refinance such Lender's Pro Rata Share of any Swingline Advance, interest in respect of such Pro Rata Share shall be solely for the account of the Swingline Lender.



(f) Payments Directly to Swingline Lender. The Borrowers shall make all payments of principal and interest in respect of the Swingline Advances directly to the Swingline Lender.

SECTION 2.08Section 2.05 Termination or Reduction of the Commitments. Unless previously terminated, the Revolving Credit Commitments shall terminate on the Termination Date. The Borrowers shall have the right, upon at least five Business Days' notice to the Agent, to terminate in whole or reduce ratably in part the unused portions of the Letter of Credit Facility and the Unused Revolving Credit Commitments, provided that each partial reduction shall be in the aggregate amount of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof. The Letter of Credit Facility shall be permanently reduced from time to time on the date of each reduction in the Revolving Credit Facility by the amount, if any, by which the Letter of Credit Facility exceeds the Revolving Credit Facility after giving effect to such reduction of the Revolving Credit Facility.

SECTION 2.09Section 2.06 Repayment of Revolving Credit Advances, Swingline Advances and Letter of Credit Advances; Evidence of Debt.

(a) (a) Revolving Credit Advances. The Borrowers shall repay to the Agent for the ratable account of the Lenders on the Termination Date the aggregate principal amount of the Revolving Credit Advances then outstanding.

(b) (b) [Reserved.]

(c) (c) Letter of Credit Advances. The Borrowers shall repay to the Agent for the account of the Issuing Bank and each other Lender that has made a Letter of Credit Advance the outstanding principal amount of each Letter of Credit Advance made by each of them on the earlier of the Termination Date or on demand.

(d) (d) Swingline Advances. The Borrowers shall repay the then unpaid principal amount of each Swingline Advance (and accrued interest thereon) on the earlier of (i) the Termination Date and (ii) the first date after such Swingline Advance is made that is the 15<sup>th</sup> or last day of a calendar month and is at least two Business Days after such Swingline Advance is made; provided that on each date that a Revolving Credit Borrowing is made, the Borrowers shall repay all Swingline Advances then outstanding.

(e) (e) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrowers to such Lender resulting from each Advance made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder. The Agent shall maintain accounts in which it shall record (i) the amount of each Advance made hereunder, the Class and Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from each Borrower to each Lender hereunder and (iii) the amount of any sum received by the Agent hereunder for the account of the Lenders and each Lender's share thereof. The entries made in the accounts maintained pursuant to this paragraph (e) shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of any Borrower to repay the Advances in accordance with the terms of this Agreement.

(f) (f) Any Lender may request that Advances made by it be evidenced by the applicable Notes. In such event, the Borrowers shall prepare, execute and deliver to such Lender the applicable Notes payable to the order of such Lender (or, if requested by such Lender, to such Lender and

its registered assigns). Thereafter, the Advances evidenced by such Notes and interest thereon shall at all times (including after assignment pursuant to Section 8.07) be represented by such Notes payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

(g) Section 2.07 Interest on Revolving Credit Advances, Swingline Advances and Letter of Credit Advances. (a) Scheduled Interest. The Borrowers shall pay interest on the unpaid principal amount of each Revolving Credit Advance, each Swingline Advance and each Letter of Credit Advance owing to each Lender from the date of such Advance until such principal amount shall be paid in full, at the following rates per annum:

(i) Base Rate Advances. During such periods as such Advance is a Base Rate Advance, a rate per annum equal at all times to the sum of (x) the Base Rate in effect from time to time plus (y) the Applicable Rate in effect from time to time, payable in arrears quarterly on the last day of each February, May, August and November during such periods and on the date all Base Rate Advances shall be Converted or paid in full. In addition, if such Advance is a Letter of Credit Advance, interest shall be at the rate per annum specified in Section 2.16(c)(iii) hereof, and shall be payable in accordance with such Section 2.16(c)(iii).

(ii) Eurodollar Rate Advances. During such periods as such Advance is a Eurodollar Rate Advance, a rate per annum equal at all times during each Interest Period for such Advance to the sum of (x) the Eurodollar Rate for such Interest Period for such Advance plus (y) the Applicable Rate in effect from time to time payable in arrears on the last day of such Interest Period and, if such Interest Period has a duration of more than three months, on each day that occurs during such Interest Period every three months from the first day of such Interest Period and on the date such Eurodollar Rate Advance shall be Converted or paid in full.

(iii) Swingline Advances. With respect to a Swingline Advance, a rate per annum equal at all times to either (x) the Base Rate in effect from time to time plus the Applicable Rate in effect from time to time or (y) the Money Market Rate in effect from time to time, payable in accordance with the terms of Section 2.06(d). Each Swingline Advance shall be a Base Rate Advance unless, prior to requesting a Swingline Advance, the applicable Borrower shall have requested that such Swingline Advance bear interest at the Money Market Rate and the Swingline Lender shall have quoted a Money Market Rate therefor which such Borrower shall select in its notice delivered pursuant to Section 2.04(b); provided that the Swingline Lender shall only be required to provide interest rate quotes for a Money Market Rate to the extent of availability of Money Market Rates by the Swingline Lender.

(b) Default Interest. Upon the occurrence and during the continuance of an Event of Default, the Agent may, and upon the request of the Required Lenders shall, give notice to the Borrowers to pay, and the Borrowers shall pay, interest (“Default Interest”) on the unpaid principal amount of each Advance owing to each Lender, payable in arrears on the dates referred to in clause (a)(i) or (a)(ii) above, at a rate per annum equal at all times to 2% per annum above the rate per annum required to be paid on such Advance pursuant to clause (a)(i) or (a)(ii) above; provided, however, that following acceleration of the Advances pursuant to Section 6.01, Default Interest shall accrue and be payable whether or not previously required by the Agent.

Section 2.08 Interest Rate Determination.

(a) The Agent shall give prompt notice to the Borrowers and the Lenders of the applicable interest rate determined by the Agent for purposes of Section 2.07(a)(i), (ii) or (iii).



~~(k) — (b) On the date on which the aggregate unpaid principal amount of Eurodollar Rate Advances comprising any Borrowing shall be reduced, by payment or prepayment or otherwise, to less than \$5,000,000, such Advances shall automatically Convert into Base Rate Advances.~~

~~(l) — Inability to Determine Rates.~~

~~(i) — If in connection with any request for a Eurodollar Rate Advance or a Conversion to or continuation thereof, (A) the Agent determines that (x) Dollar deposits are not being offered to banks in the London interbank eurodollar market for the applicable amount and Interest Period of such Eurodollar Rate Advance, or (y) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Advance or in connection with an existing or proposed Base Rate Advance (in each case with respect to clause (A), “Impacted Loans”), or (B) the Agent or the Required Lenders determine that for any reason Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Advance does not adequately and fairly reflect the cost to such Lenders of funding such Advance, the Agent will promptly so notify the Borrowers and each Lender. Thereafter, (I) the obligation of the Lenders to make or maintain Eurodollar Rate Advances shall be suspended (to the extent of the affected Eurodollar Rate Advances or Interest Periods), and (II) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Agent (upon the instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrowers may revoke any pending request for a Borrowing of, Conversion to or continuation of Eurodollar Rate Advances (to the extent of the affected Eurodollar Rate Advances or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Advances in the amount specified therein.~~

~~(ii) — Notwithstanding the foregoing, if the Agent has made the determination described in clause (c)(i)(A) of this Section, the Agent in consultation with the Borrowers and the Required Lenders may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (A) the Agent revokes the notice delivered with respect to the Impacted Loans under clause (c)(i) of this Section; (B) the Agent or the Required Lenders notify the Agent and the Borrowers that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (C) any Lender determines that any law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its Applicable Lending Office to make, maintain or fund Advances whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Agent and the Borrowers written notice thereof.~~

~~SECTION 2.10~~ Section 2.09 Optional Conversion of Revolving Credit Advances. Each Borrower may on any Business Day, upon notice given to the Agent not later than 11:00 A.M. (New York City time) on the third Business Day prior to the date of the proposed Conversion and subject to the provisions of Sections ~~2.08~~ 2.12 and ~~2.12~~ 18, Convert Revolving Credit Advances of one Type comprising the same Borrowing made to such Borrower into Revolving Credit Advances of the other Type; provided, however, that any Conversion of Eurodollar Rate Advances into Base Rate Advances



shall be made only on the last day of an Interest Period for such Eurodollar Rate Advances, any Conversion of Base Rate Advances into Eurodollar Rate Advances shall be in an amount not less than the minimum amount specified in Section 2.02(b) and no Conversion of any Revolving Credit Advances shall result in more separate Revolving Credit Borrowings than permitted under Section 2.02(b). Each such notice of a Conversion shall, within the restrictions specified above, specify (i) the date of such Conversion, (ii) the Revolving Credit Advances to be Converted, and (iii) if such Conversion is into Eurodollar Rate Advances, the duration of the initial Interest Period for each such Advance. Each notice of Conversion shall be irrevocable and binding on the applicable Borrower. This Section shall not apply to Swingline Advances, which may not be converted or continued.

~~SECTION 2.11~~ Section 2.10 Prepayments of Revolving Credit Advances.

(a) Optional.

(i) The Borrowers may, pursuant to delivery to the Agent of written notice, at any time or from time to time voluntarily prepay Revolving Credit Advances in whole or in part without premium or penalty subject to Section 8.04(e); provided that, unless otherwise agreed by the Agent, (A) such notice must be received by the Agent not later than 11:00 a.m. (New York City time) (1) three (3) Business Days prior to any date of prepayment of Eurodollar Rate Advances and (2) on the date of prepayment of Base Rate Advances; (B) any prepayment of Eurodollar Rate Advances shall be in a principal amount of \$5,000,000 or a whole multiple of \$1,000,000 in excess thereof; and (C) any prepayment of Base Rate Advances shall be in a principal amount of \$500,000 or a whole multiple of \$100,000 in excess thereof or, if less, the entire principal amount thereof then outstanding. Each such notice shall specify the date and amount of such prepayment and the Type(s) of Advance to be prepaid and, if Eurodollar Rate Advances are to be prepaid, the Interest Period(s) of such Advances. The Agent will promptly notify each Lender of its receipt of each such notice, and of the amount of such Lender's ratable portion of such prepayment (based on such Lender's Pro Rata Share in respect of the relevant Facility). If such notice is given by a Borrower, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of a Eurodollar Rate Advance shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 8.04(e). Subject to Section 2.22, such prepayments shall be paid to the Lenders in accordance with their respective Pro Rata Share in respect of each of the relevant Facilities.

(ii) The Borrowers may, upon notice to the Swingline Lender pursuant to delivery to the Swingline Lender of a written notice (with a copy to the Agent), at any time or from time to time, voluntarily prepay Swingline Advances in whole or in part without premium or penalty; provided that, unless otherwise agreed by the Swingline Lender, (A) such notice must be received by the Swingline Lender and the Agent not later than 1:00 p.m. on the date of the prepayment, and (B) any such prepayment shall be in a minimum principal amount of \$250,000 or a whole multiple of \$250,000 in excess hereof (or, if less, the entire principal thereof then outstanding). Each such notice shall specify the date and amount of such prepayment. If such notice is given by a Borrower, the Borrowers shall make such prepayment and the payment amount specified in such notice shall be due and payable on the date specified therein. Any prepayment of principal shall be accompanied by all accrued interest on the amount prepaid, together with any additional amounts required pursuant to Section 8.04(e).

~~(b)~~ (b) Mandatory. If for any reason on any Business Day (1) the sum of the aggregate principal amount of (x) the Revolving Credit Advances and (y) the Letter of Credit Advances then outstanding plus the aggregate Available Amount of all Letters of Credit then outstanding exceeds (2) the Revolving

Credit Facility Availability on such Business Day, then the Borrowers shall immediately prepay Revolving Credit Advances, Swingline Advances and Letter of Credit Advances (together with all accrued but unpaid interest thereon) and/or Cash Collateralize the L/C Exposure in an aggregate amount equal to such excess; provided, however, that the Borrowers shall not be required to Cash Collateralize the L/C Exposure pursuant to this Section 2.10(b) unless, after the prepayment of the Revolving Credit Advances and Swingline Advances, the sum of the items described in clause (1) above exceeds the Revolving Credit Facility Availability at such time. Such prepayments of the Revolving Credit Facility shall be first applied to prepay Letter of Credit Advances then outstanding until such Advances are paid in full, and second applied to prepay Revolving Credit Advances then outstanding comprising part of the same Borrowings until such Advances are paid in full.

(e)Section 2.11 Increased Costs; Reserves on Eurodollar Rate Advances.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender (except any reserve requirement contemplated by Section 2.11(d)) or the Issuing Bank;

(ii) subject any Recipient to any Taxes (other than Indemnified Taxes, Excluded Taxes and Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or the Issuing Bank or the London interbank market any other condition, cost or expense affecting this Agreement or Eurodollar Rate Advances made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making, converting to, continuing or maintaining any Advance (or of maintaining its obligation to make any such Advance), or to increase the cost to such Lender or the Issuing Bank of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender or the Issuing Bank hereunder (whether of principal, interest or any other amount) then, upon request of such Lender or the Issuing Bank, the Borrowers will jointly and severally pay to such Lender or the Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or the Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital Requirements. If any Lender or the Issuing Bank determines that any Change in Law affecting such Lender or the Issuing Bank or any Applicable Lending Office of such Lender or such Lender's or the Issuing Bank's holding company, if any, regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or the Issuing Bank's capital or on the capital of such Lender's or the Issuing Bank's holding company, if any, as a consequence of this Agreement, the Commitments of such Lender or the Advances made by, or participations in Letters of Credit or Swingline Advances held by, such Lender, or the Letters of Credit issued by the Issuing Bank, to a level below that which such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or the Issuing Bank's policies and the policies of such Lender's or the Issuing Bank's holding company with respect to capital adequacy), then from time to time the Borrowers will jointly and severally pay to such Lender or the Issuing Bank, as the case may be, such additional



amount or amounts as will compensate such Lender or the Issuing Bank or such Lender's or the Issuing Bank's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or the Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or the Issuing Bank or its holding company, as the case may be, as specified in subsection (a) or (b) of this Section and delivered to the Borrowers shall be conclusive absent manifest error. The Borrowers shall jointly and severally pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within ten (10) days after receipt thereof.

(d) Reserves on Eurodollar Rate Advances. The Borrowers shall jointly and severally pay to each Lender, (i) as long as such Lender shall be required to maintain reserves with respect to liabilities or assets consisting of or including eurocurrency funds or deposits (currently known as "Eurocurrency liabilities"), additional interest on the unpaid principal amount of each Eurodollar Rate Advance equal to the actual costs of such reserves allocated to such Advance by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement or analogous requirement of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of Advances, such additional costs (expressed as a percentage per annum and rounded upwards, if necessary, to the nearest five decimal places) equal to the actual costs allocated to such Commitment or Advance by such Lender (as determined by such Lender in good faith, which determination shall be conclusive), which in each case shall be due and payable on each date on which interest is payable on such Advance, provided the Borrowers shall have received at least ten (10) days' prior notice (with a copy to the Agent) of such additional interest or costs from such Lender. If a Lender fails to give notice ten (10) days prior to the relevant date on which interest is payable on such Advance, such additional interest shall be due and payable ten (10) days from receipt of such notice.

(e) Delay in Requests. Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to the foregoing provisions of this Section 2.11 shall not constitute a waiver of such Lender's or the Issuing Bank's right to demand such compensation, provided that the Borrowers shall not be required to compensate a Lender or the Issuing Bank pursuant to the foregoing provisions of this Section for any increased costs incurred or reductions suffered more than nine (9) months prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrowers of the Change in Law giving rise to such increased costs or reductions and of such Lender's or the Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the nine (9) month period referred to above shall be extended to include the period of retroactive effect thereof).

(f) Notwithstanding anything to the contrary contained in this Section 2.11, a Lender shall only be entitled to demand compensation for any increased costs pursuant to this Section 2.11 if additional amounts to compensate for such increased costs are generally being assessed by such Lender against similarly situated borrowers under other similar syndicated credit facilities.

SECTION 2.12 Section 2.12 Illegality. If any Lender determines that any law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for any Lender or its Applicable Lending Office to perform any of its obligations hereunder or to make, maintain or fund or charge interest with respect to any Advance or to determine or charge interest rates based upon the Eurodollar Rate, or any Governmental Authority has imposed material restrictions on the authority of such Lender to purchase or sell, or to take deposits of, Dollars in the London interbank market, then, on notice thereof by such Lender to the Borrowers through the Agent, (a) any obligation of such Lender to issue, make, maintain, fund or charge interest with respect to any such Advance or continue Eurodollar



Rate Advances or to Convert Base Rate Advances to Eurodollar Rate Advances shall be suspended, and (b) if such notice asserts the illegality of such Lender making or maintaining Base Rate Advances the interest rate on which is determined by reference to the Eurodollar Rate component of the Base Rate, the interest rate on which Base Rate Advances of such Lender shall, if necessary to avoid such illegality, be determined by the Agent without reference to the Eurodollar Rate component of the Base Rate, in each case until such Lender notifies the Agent and the Borrowers that the circumstances giving rise to such determination no longer exist. Upon receipt of such notice, (i) the Borrowers shall, upon demand from such Lender (with a copy to the Agent), prepay or, if applicable, Convert all Eurodollar Rate Advances of such Lender to Base Rate Advances (the interest rate on which Base Rate Advances of such Lender shall, if necessary to avoid such illegality, be determined by the Agent without reference to the Eurodollar Rate component of the Base Rate), either on the last day of the Interest Period therefor, if such Lender may lawfully continue to maintain such Eurodollar Rate Advances to such day, or immediately, if such Lender may not lawfully continue to maintain such Eurodollar Rate Advances and (ii) if such notice asserts the illegality of such Lender determining or charging interest rates based upon the Eurodollar Rate, the Agent shall during the period of such suspension compute the Base Rate applicable to such Lender without reference to the Eurodollar Rate component thereof until the Agent is advised in writing by such Lender that it is no longer illegal for such Lender to determine or charge interest rates based upon the Eurodollar Rate. Upon any such prepayment or conversion, the Borrowers shall also jointly and severally pay accrued interest on the amount so prepaid or converted.

~~SECTION 2.13~~ Section 2.13 Payments and Computations. (a) The Borrowers shall make each payment hereunder not later than 11:00 A.M. (New York City time) on the day when due to the Agent at the Agent's Account in same day funds and all payments to be made by the Borrowers or any of them hereunder shall be made free and clear of and without condition or deduction for any counterclaim, defense, recoupment or setoff. The Agent will promptly thereafter cause to be distributed like funds relating to the payment of principal or interest or facility fees ratably (other than amounts payable pursuant to Section 2.04, 2.11, 2.14 or 8.04(e)) to the Lenders for the account of their respective Applicable Lending Offices, and like funds relating to the payment of any other amount payable to any Lender to such Lender for the account of its Applicable Lending Office, in each case to be applied in accordance with the terms of this Agreement. ~~Upon any Assuming Lender becoming a Lender hereunder as a result of a Revolving Credit Commitment Increase pursuant to Section 2.18, and upon the Agent's receipt of such Lender's Incremental Assumption Agreement and recording of the information contained therein in the Register, from and after the applicable Increase Date, the Agent shall make all payments hereunder and under any Notes issued in connection therewith in respect of the interest assumed thereby to the Assuming Lender.~~ Upon its acceptance of an Assignment and Assumption and recording of the information contained therein in the Register pursuant to Section 8.07(c), from and after the effective date specified in such Assignment and Assumption, the Agent shall make all payments hereunder and under any Notes in respect of the interest assigned thereby to the Lender assignee thereunder, and the parties to such Assignment and Assumption shall make all appropriate adjustments in such payments for periods prior to such effective date directly between themselves.

(b) (b) Each Borrower hereby authorizes each Lender, if and to the extent payment owed to such Lender is not made when due hereunder or under any Note held by such Lender, to charge from time to time against any or all of such Borrower's accounts with such Lender any amount so due.

(c) (c) All computations of interest based on the Base Rate shall be made by the Agent on the basis of a year of 365 or 366 days, as the case may be, and all computations of interest based on the Eurodollar Rate, the Federal Funds Rate, or in respect of facility fees, Letter of Credit commissions, or any other fees shall be made by the Agent on the basis of a year of 360 days, in each case for the actual number of days (including the first day but excluding the last day) occurring in the period for which such



interest, fees or commissions are payable. Each determination by the Agent of an interest rate hereunder shall be conclusive and binding for all purposes, absent manifest error.

(d) Whenever any payment hereunder or under any Notes shall be stated to be due on a day other than a Business Day, such payment shall be made on the next succeeding Business Day, and such extension of time shall in such case be included in the computation of payment of interest or facility fee, as the case may be; provided, however, that, if such extension would cause payment of interest on or principal of Eurodollar Rate Advances to be made in the next following calendar month, such payment shall be made on the next preceding Business Day.

(e) Unless the Agent shall have received notice from the applicable Borrower prior to the date on which any payment is due to the Agent for the account of the Lenders or the Issuing Bank hereunder that such Borrower will not make such payment in full, the Agent may assume that such Borrower has made such payment in full to the Agent on such date and the Agent may, in reliance upon such assumption, cause to be distributed to each Lender or the Issuing Bank, as the case may be, on such due date an amount equal to the amount then due such Lender or the Issuing Bank. If and to the extent the applicable Borrower shall not have so made such payment in full to the Agent, each Lender or the Issuing Bank, as the case may be, severally shall repay to the Agent forthwith on demand such amount distributed to such Lender or the Issuing Bank, in immediately available funds, together with interest thereon, for each day from the date such amount is distributed to such Lender until the date such Lender repays such amount to the Agent, at the greater of the Federal Funds Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation. A notice of the Agent to any Lender, the Issuing Bank or the Borrowers with respect to any amount owing under this subsection (e) shall be conclusive, absent manifest error.

(f) If, as a result of any restatement of or other adjustment to the financial statements of the Holding Company and its Subsidiaries or for any other reason, the Borrowers, or the Lenders determine that (i) the Consolidated Debt Ratio as calculated by the Borrowers as of any applicable date was inaccurate and (ii) a proper calculation of the Consolidated Debt Ratio would have resulted in higher pricing for such period, the Borrowers shall immediately and retroactively be obligated to pay to the Agent for the account of the applicable Lenders or the Issuing Bank, as the case may be, promptly on demand by the Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Agent, any Lender or the Issuing Bank), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This paragraph shall not limit the rights of the Agent, any Lender or the Issuing Bank, as the case may be, under any provision of this Agreement to payment of any obligations hereunder at a rate equal to 2% per annum above the rate per annum required to be paid on such Advance or under Article VI. Each Borrower's obligations under this paragraph shall survive the termination of the aggregate Commitments and the repayment of all other debts, liabilities and obligations hereunder and under the other Loan Documents.

(g) If any Lender makes available to the Agent funds for any Advance to be made by such Lender as provided in this Article II, and such funds are not made available to the Borrowers by the Agent because the conditions to the applicable Borrowing or other extension of credit set forth in Article III are not satisfied or waived in accordance with the terms hereof, the Agent shall return such funds (in like funds as received from such Lender) to such Lender, without interest.

(h) The obligations of the Lenders hereunder to make Advances, to fund participations in Letters of Credit and Swingline Advances and to make payments pursuant to Section 8.04(c) are several and not joint. The failure of any Lender to make any Advance, to fund any such participation or to make



any payment under Section 8.04(c) on any date required hereunder shall not relieve any other Lender of its corresponding obligation to do so on such date, and no Lender shall be responsible for the failure of any other Lender to so make its Advance, to purchase its participation or to make its payment under Section 8.04(c).

(+)Section 2.14 Taxes.

(+) (a) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes.

(i) Any and all payments by or on account of any obligation of any Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable laws. If any applicable laws (as determined in the good faith discretion of the Agent) require the deduction or withholding of any Tax from any such payment by the Agent or a Borrower, then the Agent or such Borrower shall be entitled to make such deduction or withholding, upon the basis of the information and documentation to be delivered pursuant to subsection (e) below.

(ii) If any Borrower or the Agent shall be required by the Internal Revenue Code to withhold or deduct any Taxes, including both United States federal backup withholding and withholding taxes, from any payment, then (A) the Agent shall withhold or make such deductions as are determined by the Agent to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) the Agent shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the Internal Revenue Code, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 2.14) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(iii) If any Borrower or the Agent shall be required by any applicable laws other than the Internal Revenue Code to withhold or deduct any Taxes from any payment, then (A) such Borrower or the Agent, as required by such laws, shall withhold or make such deductions as are determined by it to be required based upon the information and documentation it has received pursuant to subsection (e) below, (B) such Borrower or the Agent, to the extent required by such laws, shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with such laws, and (C) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the applicable Borrower shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section 2.14) the applicable Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made.

(+) (b) Payment of Other Taxes by the Borrowers. Without limiting the provisions of subsection (a) above, the Borrowers shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Agent timely reimburse it for the payment of, any Other Taxes.

(+) (c) Tax Indemnifications.

(i) Each of the Borrowers shall, and does hereby, jointly and severally indemnify each Recipient, and shall make payment in respect thereof within ten (10) days after written

demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section 2.14) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrowers by a Lender or the Issuing Bank (with a copy to the Agent), or by the Agent on its own behalf or on behalf of a Lender or the Issuing Bank, shall be conclusive absent manifest error. Each of the Borrowers shall also, and does hereby, jointly and severally indemnify the Agent, and shall make payment in respect thereof within ten (10) days after demand therefor, for any amount which a Lender or the Issuing Bank for any reason fails to pay indefeasibly to the Agent as required pursuant to Section 2.14(c)(ii) below.

(ii) Each Lender and the Issuing Bank shall, and does hereby, severally indemnify and shall make payment in respect thereof within ten (10) days after demand therefor, (A) the Agent against any Indemnified Taxes attributable to such Lender or the Issuing Bank (but only to the extent that any Borrower has not already indemnified the Agent for such Indemnified Taxes and without limiting the obligation of the Borrowers to do so), (B) the Agent and the Borrowers, as applicable, against any Taxes attributable to such Lender's failure to comply with the provisions of Section 8.07(d) relating to the maintenance of a Participant Register and (C) the Agent and the Borrowers, as applicable, against any Excluded Taxes attributable to such Lender or the Issuing Bank, in each case, that are payable or paid by the Agent or a Borrower in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Agent shall be conclusive absent manifest error. Each Lender and the Issuing Bank hereby authorizes the Agent to set off and apply any and all amounts at any time owing to such Lender or the Issuing Bank, as the case may be, under this Agreement or any other Loan Document against any amount due to the Agent under this clause (ii).

(m) (d) Evidence of Payments. As soon as practicable after any payment of Taxes by any Borrower to a Governmental Authority, as provided in this Section 2.14, the Borrowers shall deliver to the Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of any return reporting such payment or other evidence of such payment reasonably satisfactory to the Agent.

(n) (e) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrowers and the Agent, at the time or times prescribed by applicable law and as reasonably requested by the Borrowers or the Agent, such properly completed and executed documentation prescribed by applicable law or reasonably requested by the Borrowers or the Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrowers or the Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrowers or the Agent as will enable the Borrowers or the Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in Section 2.14(e)(ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion,



execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that a Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrowers and the Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Agent), executed copies of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax;

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Agent), whichever of the following is applicable:

(1) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “interest” article of such tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN-E (or W-8BEN, as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the “business profits” or “other income” article of such tax treaty;

(2) executed originals of IRS Form W-8ECI;

(3) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate substantially in the form of Exhibit H-1 to the effect that such Foreign Lender is not a “bank” within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a “10 percent shareholder” of a Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a “controlled foreign corporation” described in Section 881(c)(3)(C) of the Internal Revenue Code (a “U.S. Tax Compliance Certificate”) and (y) executed copies of IRS Form W-8BEN-E (or W-8BEN, as applicable); or

(4) to the extent a Foreign Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN, as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-2 or Exhibit H-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that

if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit H-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Agent), executed copies (or originals, as required) of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrowers or the Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Internal Revenue Code, as applicable), such Lender shall deliver to the Borrowers and the Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrowers or the Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by the Borrowers or the Agent as may be necessary for the Borrowers and the Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(iii) Each Lender agrees that if any form or certification it previously delivered pursuant to this Section 2.14 expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrowers and the Agent in writing of its legal inability to do so.

(f) Treatment of Certain Refunds. Unless required by applicable laws, at no time shall the Agent have any obligation to file for or otherwise pursue on behalf of a Lender or the Issuing Bank, or have any obligation to pay to any Lender or the Issuing Bank, any refund of Taxes withheld or deducted from funds paid for the account of such Lender or the Issuing Bank, as the case may be. If any Recipient determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified by any Borrower or with respect to which any Borrower has paid additional amounts pursuant to this Section 2.14, it shall pay to such Borrower an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid, by such Borrower under this Section 2.14 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) incurred by such Recipient, as the case may be, and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund), provided that each Borrower, upon the request of the Recipient, agrees to repay the amount paid over to such Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the



Recipient in the event the Recipient is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this subsection, in no event will the applicable Recipient be required to pay any amount to such Borrower pursuant to this subsection the payment of which would place the Recipient in a less favorable net after-Tax position than such Recipient would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This subsection shall not be construed to require any Recipient to make available its tax returns (or any other information relating to its taxes that it deems confidential) to any Borrower or any other Person.

(g) Survival. Each party's obligations under this Section 2.14 shall survive the resignation or replacement of the Agent or any assignment of rights by, or the replacement of, a Lender or the Issuing Bank, the termination of the Commitments and the repayment, satisfaction or discharge of all other obligations, debts and liabilities of the Borrowers under this Agreement and the other Loan Documents.

(e) Section 2.15 Sharing of Payments, Etc. If any Lender shall obtain any payment (whether voluntary, involuntary, through the exercise of any right of set-off, or otherwise) on account of the Advances owing to it (other than pursuant to Section 2.11, 2.14 or 8.04(e)) in excess of its ratable share of payments on account of the Advances obtained by all the Lenders, such Lender receiving such greater proportion shall (A) notify the Agent of such fact, and (B) purchase (for cash at face value) participations in the Advances and subparticipations in L/C Exposure and Swingline Advances of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of Advances obtained by all the Lenders in respect of the Facilities then owing to the Lenders; provided that:

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

(b) the provisions of this Section shall not be construed to apply to (x) any payment made by or on behalf of a Borrower pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (y) the application of Cash Collateral provided for in Section 2.24, or (z) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its ~~Loans~~ Advances or subparticipations in L/C Exposure or Swingline Advances to any assignee or participant.

The Borrowers agree that any Lender so purchasing a participation from another Lender pursuant to this Section 2.15 may, to the fullest extent permitted by law, exercise all its rights of payment (including the right of set-off) with respect to such participation as fully as if such Lender were the direct creditor of the respective Borrowers in the amount of such participation.

#### ~~SECTION 2.14~~ Section 2.16 Letters of Credit.

(a) The Letter of Credit Facility.

(i) Subject to the terms and conditions hereinafter set forth (A) Issuing Bank agrees, in reliance on the Agreements of the Lenders set forth in this Section (1) to issue ~~standby letters of credit (together with the Existing Letter of Credit, the "Letters of Credit")~~ for the account of any Borrower from time to time on any Business Day during the period from the Effective Date

hereof until 10 days before the Termination Date in an aggregate Available Amount for all Letters of Credit not to exceed at any time the lesser of (x) the Letter of Credit Facility at such time and (y) the Unused Revolving Credit Commitments of the Lenders at such time; (provided that in no event shall the Issuing Bank be required to issue a Letter of Credit if, after giving effect to such issuance, the aggregate amount of the Revolving Credit Exposures of all Lenders shall exceed the Revolving Credit Availability at such time) and to amend or extend Letters of Credit previously issued by it in accordance with the terms of this Section 2.16, and (2) to honor drawings under the Letters of Credit, and (B) the Lenders severally agree to participate in Letters of Credit issued for the account of any Borrower and any drawings thereunder. Each request by a Borrower for the issuance or amendment of a Letter of Credit shall be deemed to be a representation by the Borrowers that the issuance, extension or amendment of the Letter of Credit so requested complies with the conditions set forth in the preceding sentence. Within the foregoing limits, and subject to the terms and conditions hereof, each Borrower's ability to obtain Letters of Credit shall be fully revolving, and accordingly such Borrower may, during the foregoing period, obtain Letters of Credit to replace Letters of Credit that have expired or that have been drawn upon and reimbursed.

(ii) No Letter of Credit shall have an expiration date (including all rights of the applicable Borrower or the beneficiary to require renewal) later than the earlier of (A) 10 days before the Termination Date and (B) one year after the date of issuance thereof (but such Letter of Credit may by its terms be automatically renewable (each, an "Auto-Extension Letter of Credit"); provided that any such Auto-Extension Letter of Credit must permit the Issuing Bank to prevent any such extension at least once in each twelve (12) month period (commencing with the date of issuance of such Letter of Credit) by giving prior notice to the beneficiary thereof not later than a day (the "Non-Extension Notice Date") in each such twelve (12) month period to be agreed upon at the time such Letter of Credit is issued. Unless otherwise directed by the Issuing Bank, the applicable Borrower shall not be required to make a specific request to the Issuing Bank for any such extension. Once an Auto-Extension Letter of Credit has been issued, the Lenders shall be deemed to have authorized (but may not require) the Issuing Bank to permit the extension of such Letter of Credit at any time to an expiry date not later than the date 10 days before the Termination Date; provided, however, that the Issuing Bank shall not permit any such extension if (A) the Issuing Bank has determined that it would not be permitted, or would have no obligation at such time to issue such Letter of Credit in its revised form (as extended) under the terms hereof (by reason of the provisions of this Section 2.16 or otherwise), or (B) it has received notice (which may be by telephone or in writing) on or before the day that is seven (7) Business Days before the Non-Extension Notice Date (1) from the Agent that the Required Lenders have elected not to permit such extension or (2) from the Agent, any Lender or a Borrower that one or more of the applicable conditions specified in Section 3.02 is not then satisfied, and in each such case directing the Issuing Bank not to permit such extension.

(iii) The Issuing Bank shall not be under any obligation to issue any Letter of Credit if:

(A) any order, judgment or decree of any Governmental Authority or arbitrator shall by its terms purport to enjoin or restrain the Issuing Bank from issuing the Letter of Credit, or any law applicable to the Issuing Bank or any request or directive (whether or not having the force of law) from any Governmental Authority with jurisdiction over the Issuing Bank shall prohibit, or request that the Issuing Bank refrain from, the issuance of letters of credit generally or the Letter of Credit in particular or shall impose upon the Issuing Bank with respect to the Letter of Credit any restriction, reserve or capital



requirement (for which the Issuing Bank is not otherwise compensated hereunder) not in effect on the Effective Date, or shall impose upon the Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the Effective Date and which the Issuing Bank in good faith deems material to it;

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

(C) except as otherwise agreed by the Agent and the Issuing Bank, the Letter of Credit is in an initial stated amount of less than \$100,000;

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

(E) any Lender is at that time a Defaulting Lender, unless the Issuing Bank has entered into arrangements, including the delivery of Cash Collateral, satisfactory to the Issuing Bank (in its sole discretion) with the Borrowers or such Lender to eliminate the Issuing Bank's actual or potential Fronting Exposure (after giving effect to Section 2.22(a)(iv)) with respect to the Defaulting Lender arising from either the Letter of Credit then proposed to be issued or that Letter of Credit and all other L/C Exposure as to which the Issuing Bank has actual or potential Fronting Exposure, as it may elect in its sole discretion; or

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

(iv) The Issuing Bank shall not amend any Letter of Credit if the Issuing Bank would not be permitted at such time to issue the Letter of Credit in its amended form under the terms hereof.

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

(vi) The Issuing Bank shall act on behalf of the Lenders with respect to any Letters of Credit issued by it and the documents associated therewith, and the Issuing Bank shall have all of the benefits and immunities (A) provided to the Agent in Article VII with respect to any acts taken or omissions suffered by the Issuing Bank in connection with Letters of Credit issued by it or proposed to be issued by it and L/C Related Documents pertaining to such Letters of Credit as fully as if the term "Agent" as used in Article VII included the Issuing Bank with respect to such acts or omissions, and (B) as additionally provided herein with respect to the Issuing Bank.

(b) (b) Request for Issuance.

(i) Each Letter of Credit shall be issued or amended, as the case may be, upon request, given not later than 11:00 A.M. (New York City time) on the second Business Day prior to the date of the proposed issuance or amendment of such Letter of Credit (or such later date and time as the Agent and Issuing Bank may agree in a particular instance in their sole discretion), by any Borrower to the Issuing Bank, which shall give to the Agent and each Lender prompt notice thereof. Each such notice of issuance of a Letter of Credit (a "Notice of Issuance") shall be sent



by fax transmission, by United States mail, by overnight courier, by electronic transmission using the system provided by the Issuing Bank, by personal delivery or by any other means acceptable to the Issuing Bank, specifying therein (in form and detail satisfactory to the Issuing Bank), with respect to any initial issuance of a Letter of Credit, the requested (A) date of such issuance (which shall be a Business Day), (B) Available Amount of such Letter of Credit, (C) expiration date of such Letter of Credit, (D) name and address of the beneficiary of such Letter of Credit, (E) the documents to be presented by such beneficiary in case of any drawing thereunder; (F) the full text of any certificate to be presented by such beneficiary in case of any drawing thereunder; (G) the purpose and nature of the requested Letter of Credit; (H) such other matters as the Issuing Bank may require, and shall be accompanied by such completed and signed application and agreement for letter of credit as the Issuing Bank may specify to such Borrower for use in connection with such requested Letter of Credit (in each case, a "Letter of Credit Agreement"). In the case of a request for an amendment of any outstanding Letter of Credit, such Letter of Credit Agreement shall specify in form and detail satisfactory to the Issuing Bank (1) the Letter of Credit to be amended; (2) the proposed date of amendment thereof (which shall be a Business Day); (3) the nature of the proposed amendment; and (4) such other matters as the Issuing Bank may require. Additionally, the applicable Borrower shall furnish to the Issuing Bank and the Agent such other documents and information pertaining to such requested Letter of Credit issuance or amendment, including any L/C Related Documents, as the Issuing Bank or the Agent may require.

(ii) Promptly after receipt of any Letter of Credit Agreement, the Issuing Bank will confirm with the Agent (by telephone or in writing) that the Agent has received a copy of such Letter of Credit Agreement from the applicable Borrower and, if not, the Issuing Bank will provide the Agent with a copy thereof. Unless the Issuing Bank has received written notice from any Lender, the Agent or any Borrower, at least one (1) Business Day prior to the requested date of issuance or amendment of the applicable Letter of Credit, that one or more applicable conditions contained in Article III shall not then be satisfied, then, subject to the terms and conditions hereof, the Issuing Bank shall, on the requested date, issue a Letter of Credit for the account of the applicable Borrower or enter into the applicable amendment, as the case may be, in each case in accordance with the Issuing Bank's usual and customary business practices. Immediately upon the issuance of each Letter of Credit, each Lender shall be deemed to, and hereby irrevocably and unconditionally agrees to, purchase from the Issuing Bank a risk participation in such Letter of Credit in an amount equal to the product of such Lender's Pro Rata Share of the Available Amount of such Letter of Credit.

(iii) Promptly after its delivery of any Letter of Credit or any amendment to a Letter of Credit to an advising bank with respect thereto or to the beneficiary thereof, the Issuing Bank will also deliver to the Borrowers and the Agent a true and complete copy of such Letter of Credit or amendment.

(e) (c) Drawings and Reimbursements; Funding of Participations.

(i) Upon receipt from the beneficiary of any Letter of Credit of any notice of a drawing under such Letter of Credit, the Issuing Bank shall notify the Borrowers and the Agent thereof. Not later than 11:00 a.m. on the date of any payment by the Issuing Bank under a Letter of Credit (each such date, an "Honor Date"), the applicable Borrower shall reimburse the Issuing Bank through the Agent in an amount equal to the amount of such drawing. If the Borrowers fail to so jointly and severally reimburse the Issuing Bank by such time, the Agent shall promptly notify each Lender of the Honor Date, the amount of the unreimbursed drawing (the "Unreimbursed Amount"), and the amount of such Lender's Pro Rata Share thereof. In such event, the Borrowers shall be deemed to have requested a Revolving Credit Borrowing in the

form of a Base Rate Advance to be disbursed on the Honor Date in an amount equal to the Unreimbursed Amount without regard to the minimum and multiples specified in Section 2.01 for the principal amount of Base Rate Advances, but subject to the amount of the unutilized portion of the Revolving Credit Commitments and the conditions set forth in Section 3.02 (other than the delivery of a Loan Notice). Any notice given by the Issuing Bank or the Agent pursuant to this Section 2.16(c)(i) may be given by telephone if immediately confirmed in writing; provided that the lack of such an immediate confirmation shall not affect the conclusiveness or binding effect of such notice.

(ii) Each Lender shall upon any notice pursuant to Section 2.16(c)(i) make funds available (and the Agent may apply Cash Collateral provided for this purpose) for the account of the Issuing Bank at the Agent's Applicable Lending Office in an amount equal to its Pro Rata Share of the Unreimbursed Amount not later than 1:00 p.m. on the Business Day specified in such notice by the Agent, whereupon, subject to the provisions of Section 2.16(c)(iii), each Lender that so makes funds available shall be deemed to have made a Revolving Credit Borrowing in the form of a Base Rate Advance to the applicable Borrower in such amount. The Agent shall remit the funds so received to the Issuing Bank.

(iii) With respect to any Unreimbursed Amount that is not fully refinanced by a Revolving Credit Borrowing in the form of a Base Rate Advance because the conditions set forth in Section 3.02 cannot be satisfied or for any other reason, the Borrowers shall be deemed to have incurred from the Issuing Bank a Letter of Credit Advance in the amount of the Unreimbursed Amount that is not so refinanced, which Letter of Credit Advance shall be due and payable on demand (together with interest) and shall bear interest at the a rate equal 2% per annum above the rate per annum required to be paid on Base Rate Advances. In such event, each Lender's payment to the Agent for the account of the Issuing Bank pursuant to Section 2.16(c)(ii) shall be deemed payment in respect of its participation in such Letter of Credit Advance in satisfaction of its participation obligation under this Section.

(iv) Until each Lender funds its Base Rate Advance or Letter of Credit Advance pursuant to this Section 2.16(c) to reimburse the Issuing Bank for any amount drawn under any Letter of Credit, interest in respect of such Lender's Pro Rata Share of such amount shall be solely for the account of the Issuing Bank.

(v) Each Lender's obligation to make Base Rate Advances or Letter of Credit Advances to reimburse the Issuing Bank for amounts drawn under Letters of Credit, as contemplated by this Section 2.16(c), shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any setoff, counterclaim, recoupment, defense or other right which such Lender may have against the Issuing Bank, any Borrower, any Subsidiary or any other Person for any reason whatsoever; (B) the occurrence or continuance of a Default; or (C) any other occurrence, event or condition, whether or not similar to any of the foregoing; provided, however, that each Lender's obligation to make Letter of Credit Advances pursuant to this Section 2.16(c) is subject to the conditions set forth in Section 3.02 (other than delivery by the Borrowers of a Loan Notice). No such making of a Letter of Credit Advance shall relieve or otherwise impair the obligation of the Borrowers to reimburse the Issuing Bank for the amount of any payment made by the Issuing Bank under any Letter of Credit, together with interest as provided herein.

(vi) If any Lender fails to make available to the Agent for the account of the Issuing Bank any amount required to be paid by such Lender pursuant to the foregoing provisions of this Section 2.16(c) by the time specified in Section 2.16(c)(ii), then, without limiting the other provisions of this Agreement, the Issuing Bank shall be entitled to recover from such Lender



(acting through the Agent), on demand, such amount with interest thereon for the period from the date such payment is required to the date on which such payment is immediately available to the Issuing Bank at a rate per annum equal to the greater of the Federal Funds Rate and a rate determined by the Issuing Bank in accordance with banking industry rules on interbank compensation, plus any administrative, processing or similar fees customarily charged by the Issuing Bank in connection with the foregoing. If such Lender pays such amount (with interest and fees as aforesaid), the amount so paid shall constitute such Lender's Base Rate Advance included in the relevant Revolving Credit Borrowing or such Lender's funding of its participation in accordance with its Pro Rata Share in respect of the relevant Letter of Credit Advance, as the case may be. A certificate of the Issuing Bank submitted to any Lender (through the Agent) with respect to any amounts owing under this Section 2.16(c)(vi) shall be conclusive absent manifest error.

(4) (d) Repayment of Participations.

(i) At any time after the Issuing Bank has made a payment under any Letter of Credit and has received from any Lender in respect of such payment such Lender's Pro Rata Share of the relevant Letter of Credit Advance in accordance with Section 2.16(c), if the Agent receives for the account of the Issuing Bank any payment in respect of the related Unreimbursed Amount or interest thereon (whether directly from the Borrowers or otherwise, including proceeds of Cash Collateral applied thereto by the Agent), the Agent will distribute to such Lender its Pro Rata Share thereof in the same funds as those received by the Agent.

(ii) If any payment received by the Agent for the account of the Issuing Bank pursuant to Section 2.16(c)(i) is required to be returned under any of the circumstances described in Section 8.16 (including pursuant to any settlement entered into by the Issuing Bank in its discretion), each Lender shall pay to the Agent for the account of the Issuing Bank its Pro Rata Share thereof on demand of the Agent, plus interest thereon from the date of such demand to the date such amount is returned by such Lender, at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders under this clause shall survive the payment in full of the obligations, debts and liabilities under this Agreement and the other Loan Documents and the termination of this Agreement.

(e) (c) Failure to Make Letter of Credit Advances. The failure of any Lender to make the Letter of Credit Advance or Base Rate Advance to be made by it on the date specified in Section 2.16(c) shall not relieve any other Lender of its obligation hereunder to make its Letter of Credit Advance or Base Rate Advance on such date, but no Lender shall be responsible for the failure of any other Lender to make the Letter of Credit Advance or Base Rate Advance to be made by such other Lender on such date.

(f) (f) Obligations Absolute. The obligations of the Borrowers under this Agreement, any Letter of Credit Agreement, and any other agreement or instrument relating to any Letter of Credit shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement, such Letter of Credit Agreement and such other agreement or instrument under all circumstances, including, without limitation, the following circumstances:

(i) any lack of validity or enforceability of this Agreement, any Note, any Letter of Credit Agreement, any Letter of Credit, or any other agreement or instrument entered into by the Issuing Bank and the applicable Borrower or in favor of the Issuing Bank and relating to such Letter of Credit (all of the foregoing being, collectively, the "L/C Related Documents")

(ii) any change in the time, manner or place of payment of, or in any other term of, all or any of the obligations of any Borrower in respect of any L/C Related Document or any other amendment or waiver of or any consent to departure from all or any of the L/C Related Documents;

(iii) the existence of any claim, set-off, defense or other right that any Borrower may have at any time against any beneficiary or any transferee of a Letter of Credit (or any Persons for whom any such beneficiary or any such transferee may be acting), the Issuing Bank or any other Person, whether in connection with the transactions contemplated by this Agreement or by such Letter of Credit, the L/C Related Documents, the transactions contemplated hereby or thereby or any unrelated transaction;

(iv) any draft, demand, endorsement, certificate, statement or any other document presented under or in connection with a Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; or any loss or delay in the transmission or otherwise of any document required in order to make a drawing under such Letter of Credit;

(v) payment by the Issuing Bank under a Letter of Credit against presentation of a draft or certificate that does not strictly comply with the terms of such Letter of Credit, unless such draft or certificate is substantially different from the applicable form specified by such Letter of Credit; or any payment made by the Issuing Bank under such Letter of Credit to any Person purporting to be a trustee in bankruptcy, debtor-in-possession, assignee for the benefit of creditors, liquidator, receiver or other representative of or successor to any beneficiary or any transferee of such Letter of Credit, including any arising in connection with any proceeding under any Debtor Relief Law;

(vi) any exchange, release or non-perfection of any Cash Collateral or other collateral, or any release or amendment or waiver of or consent to departure from any guarantee, for all or any of the obligations of the applicable Borrower in respect of the L/C Related Documents;

(vii) waiver by the Issuing Bank of any requirement that exists for the Issuing Bank's protection and not the protection of the Borrowers or any waiver by the Issuing Bank which does not in fact materially prejudice the Borrowers;

(viii) honor of a demand for payment presented electronically even if such Letter of Credit requires that demand be in the form of a draft;

(ix) any payment made by the Issuing Bank in respect of an otherwise complying item presented after the date specified as the expiration date of, or the date by which documents must be received under, such Letter of Credit if presentation after such date is authorized by the UCC, the ISP or the UCP, as applicable; or

(x) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, including, without limitation, any other circumstance that might otherwise constitute a defense available to, or a discharge of, the applicable Borrower or a guarantor.

The applicable Borrower shall promptly examine a copy of each Letter of Credit and each amendment thereto that is delivered to it and, in the event of any claim of noncompliance with such Borrower's instructions or other irregularity, such Borrower will immediately notify the Issuing Bank. The Borrowers shall be conclusively deemed to have waived any such claim against the Issuing Bank and its correspondents unless such notice is given as aforesaid.

(g) Compensation.



(i) The Borrowers shall jointly and severally pay to the Agent for the account of each Lender, but subject to Section 2.22, a commission on such Lender's Pro Rata Share of the daily aggregate Available Amount of all Letters of Credit outstanding from time to time at a rate per annum equal to the Applicable Rate for Eurodollar Rate Advances in effect from time to time calculated in arrears and payable for the quarterly period ending on the last Business Day of each February, May, August and November, on the Termination Date, and thereafter on demand. If there is any change in the Applicable Rate during any quarter, the daily amount available to be drawn under each Letter of Credit shall be computed and multiplied by the Applicable Rate separately for each period during such quarter that such Applicable Rate was in effect.

(ii) The Borrowers shall jointly and severally pay to the Issuing Bank, for its own account, a fronting fee with respect to each Letter of Credit, at the rate per annum specified in the Fee Letter, computed on the daily Available Amount under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on or prior to the date that is ten (10) Business Days following the last Business Day of each February, May, August and November, commencing with the first such date to occur after the issuance of such Letter of Credit, on the Termination Date and thereafter on demand. For purposes of computing the daily Available Amount to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.06. In addition, the Borrowers shall jointly and severally pay directly to the Issuing Bank for its own account the customary issuance, presentation, transfer, amendment and other processing fees, and other standard costs and charges, of the Issuing Bank relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(h) Existing Letter of Credit. Effective as of the Effective Date (i) the letter of credit issued for the account of the Borrowers prior to such date under the Existing Credit Agreement and set forth on Schedule 2.16(h) hereto (such letter of credit being the "Existing Letter of Credit") in the aggregate face amount not exceeding the total amount set forth on such Schedule will be deemed to have been issued as, and be, a Letter of Credit hereunder and deemed L/C Exposure, and from and after the Effective Date shall be subject to and governed by the terms and conditions hereof, and (ii) the Existing Letter of Credit and the reimbursement obligations in respect thereof shall be obligations of the Borrowers hereunder.

(i) Role of Issuing Bank. Each Lender and the Borrowers agree that, in paying any drawing under a Letter of Credit, the Issuing Bank shall not have any responsibility to obtain any document (other than any sight or time draft, certificates and documents expressly required by the Letter of Credit) or to ascertain or inquire as to the validity or accuracy of any such document or the authority of the Person executing or delivering any such document. None of the Issuing Bank, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the Issuing Bank shall be liable to any Lender for (i) any action taken or omitted in connection herewith at the request or with the approval of the Lenders; (ii) any action taken or omitted in the absence of gross negligence or willful misconduct; or (iii) the due execution, effectiveness, validity or enforceability of any document or instrument related to any Letter of Credit or L/C Related Document. Each Borrower hereby assumes all risks of the acts or omissions of any beneficiary or transferee with respect to its use of any Letter of Credit; provided, however, that this assumption is not intended to, and shall not, preclude such Borrower's pursuing such rights and remedies as it may have against the beneficiary or transferee at law or under any other agreement. None of the Issuing Bank, the Agent, any of their respective Related Parties nor any correspondent, participant or assignee of the Issuing Bank shall be liable or responsible for any of the matters described in Section 2.16(f); provided, however, that anything in such clauses to the contrary notwithstanding, the Borrowers may have a claim against the Issuing Bank, and the Issuing Bank may be liable to the Borrowers, to the extent, but only to the extent, of any direct, as opposed to consequential or exemplary, damages suffered by the Borrowers which the Borrowers prove, as determined by a final nonappealable judgment of a court of competent jurisdiction, were caused by the Issuing Bank's willful



misconduct or gross negligence or the Issuing Bank's willful failure to pay under any Letter of Credit after the presentation to it by the beneficiary of a sight or time draft and certificate(s) strictly complying with the terms and conditions of a Letter of Credit. In furtherance and not in limitation of the foregoing, the Issuing Bank may accept documents that appear on their face to be in order, without responsibility for further investigation, regardless of any notice or information to the contrary, and the Issuing Bank shall not be responsible for the validity or sufficiency of any instrument transferring, endorsing or assigning or purporting to transfer, endorse or assign a Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason. The Issuing Bank may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(j) Applicability of ISP and UCP; Limitation of Liability. Unless otherwise expressly agreed by the Issuing Bank and the applicable Borrower when a Letter of Credit is issued (including any such agreement applicable to the Existing Letter of Credit), the rules of the ISP shall apply to each Letter of Credit. Notwithstanding the foregoing, the Issuing Bank shall not be responsible to the Borrowers for, and the Issuing Bank's rights and remedies against the Borrowers shall not be impaired by, any action or inaction of the Issuing Bank required or permitted under any law, order, or practice that is required or permitted to be applied to any Letter of Credit or this Agreement, including the law or any order of a jurisdiction where the Issuing Bank or the beneficiary is located, the practice stated in the ISP or, if applicable, the UCP, or in the decisions, opinions, practice statements, or official commentary of the ICC Banking Commission, the Bankers Association for Finance and Trade - International Financial Services Association (BAFT-IFSA), or the Institute of International Banking Law & Practice, whether or not any Letter of Credit chooses such law or practice.

(k) Conflict with L/C Related Documents. In the event of any conflict between the terms hereof and the terms of any L/C Related Document, the terms hereof shall control.

(l) Use of Proceeds. The proceeds of the Advances shall be available (and the Borrowers agree that they shall use such proceeds) for general corporate purposes of the Borrowers and their Subsidiaries (including share repurchases, refinancing existing indebtedness and consensual acquisitions).

~~SECTION 2.14 — Increase in the Aggregate Commitments. — The Borrowers may, at any time but in any event not more than once in any calendar year prior to the Termination Date, by notice to the Agent, request that the aggregate amount of the Revolving Credit Commitment be increased by an amount of \$10,000,000 or an integral multiple of \$10,000,000 in excess thereof (each a "Revolving Credit Commitment Increase") to be effective as of a date that is at least 90 days prior to the scheduled Termination Date then in effect (the "Increase Date") as specified in the related notice to the Agent; provided, however that (i) in no event shall the aggregate amount of the Revolving Credit Commitments at any time exceed \$525,000,000 and (ii) on the date of any request by the Borrowers for a Revolving Credit Commitment Increase and on the related Increase Date, no Default shall have occurred and be continuing.~~

~~(o) — The Agent shall promptly notify the Lenders of a request by the Borrowers for a Revolving Credit Commitment Increase, which notice shall include (i) the proposed amount of such requested Revolving Credit Commitment Increase, (ii) the proposed Increase Date and (iii) the date by which Lenders wishing to participate in the Revolving Credit Commitment Increase must commit to an increase in the amount of their respective Revolving Credit Commitments (the "Commitment Date"). Each Lender that is willing to participate in such requested Revolving Credit Commitment Increase (each an "Increasing Lender") shall, in its sole~~



discretion, give written notice to the Agent on or prior to the Commitment Date of the amount by which it is willing to increase its Revolving Credit Commitment. If the Lenders notify the Agent that they are willing to increase the amount of their respective Revolving Credit Commitments by an aggregate amount that exceeds the amount of the requested Revolving Credit Commitment Increase, the requested Revolving Credit Commitment Increase shall be allocated among the Lenders willing to participate therein in such amounts as are agreed between the Borrowers and the Agent.

(p) — Promptly following each Commitment Date, the Agent shall notify the Borrowers as to the amount, if any, by which the Lenders are willing to participate in the requested Revolving Credit Commitment Increase. If the aggregate amount by which the Lenders are willing to participate in any requested Revolving Credit Commitment Increase on any such Commitment Date is less than the requested Revolving Credit Commitment Increase, then the Borrowers may extend offers to one or more Eligible Assignees to participate in any portion of the requested Revolving Credit Commitment Increase that has not been committed to by the Lenders as of the applicable Commitment Date; provided, however, that the Revolving Credit Commitment of each such Eligible Assignee shall be in an amount of \$5,000,000 or an integral multiple of \$1,000,000 in excess thereof.

(q) — On each Increase Date, each Eligible Assignee that accepts an offer to participate in a requested Revolving Credit Commitment Increase in accordance with Section 2.18(c) (each such Eligible Assignee, an “Assuming Lender”) shall become a Lender party to this Agreement as of such Increase Date and the Commitment of each Increasing Lender for such requested Revolving Credit Commitment Increase shall be so increased by such amount (or by the amount allocated to such Lender pursuant to the last sentence of Section 2.18(b)) as of such Increase Date; provided, however, that the Agent shall have received on or before such Increase Date the following, each dated such date:

(-) — (A) certified copies of resolutions of the Board of Directors of each Borrower or an authorized committee of such Board approving the Revolving Credit Commitment Increase and the corresponding modifications to this Agreement (B) an opinion of counsel for the Borrowers in the form and substance satisfactory to the Agent;

(-) — an assumption agreement from each Assuming Lender, if any, in form and substance satisfactory to the Borrowers and the Agent (each an “Incremental Assumption Agreement”), duly executed by such Eligible Assignee, the Agent and the Borrowers;

(-) — confirmation from each Increasing Lender of the increase in the amount of its Revolving Credit Commitment in a writing satisfactory to the Borrowers and the Agent; and

(-) — an Administrative Questionnaire from each Assuming Lender, if any.

On each Increase Date, upon fulfillment of the conditions set forth in the immediately preceding sentence of this Section 2.18(d), the Agent shall notify the Lenders (including, without limitation, each Assuming Lender) and the Borrowers, on or before 1:00 P.M. (New York City time), of the occurrence of the Revolving Credit Commitment Increase to be effected on such Increase Date and shall record in the Register the relevant information with respect to each Increasing Lender and each Assuming Lender on such date. Upon request, each Borrower (at its expense) shall execute and deliver a Note to each Assuming Lender.



~~(w) — Conflicting Provisions. This Section shall supersede any provisions in Section 2.15 or 8.01 to the contrary.~~

~~Section 2.17 Incremental Facility. Except as otherwise specifically set forth herein, all of the other terms and conditions applicable to Revolving Credit Commitment Increase shall be identical to the terms and conditions applicable to the Revolving Credit Facility.~~

Section 2.18 Inability to Determine Rates

(a) (a) If in connection with any request for a Eurodollar Rate Advance or a conversion to or continuation thereof, (i) the Agent determines that (A) Dollar deposits are not being offered to banks in the London interbank market for the applicable amount and Interest Period of such Eurodollar Rate Advance, or (B) (1) adequate and reasonable means do not exist for determining the Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Advance or in connection with an existing or proposed Base Rate Advance and (2) the circumstances described in Section 2.18(c)(i) do not apply (in each case with respect to this clause (i), “Impacted Loans”), or (ii) the Agent or the Required Lenders determine that for any reason Eurodollar Rate for any requested Interest Period with respect to a proposed Eurodollar Rate Advance does not adequately and fairly reflect the cost to such Lenders of funding such Advance, the Agent will promptly so notify the Borrowers and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurodollar Rate Advances shall be suspended (to the extent of the affected Eurodollar Rate Advances or Interest Periods), and (y) in the event of a determination described in the preceding sentence with respect to the Eurodollar Rate component of the Base Rate, the utilization of the Eurodollar Rate component in determining the Base Rate shall be suspended, in each case until the Agent (or, in the case of a determination by the Required Lenders described in clause (ii) of this Section 2.18(a), until the Agent upon instruction of the Required Lenders) revokes such notice. Upon receipt of such notice, the Borrowers may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Advances (to the extent of the affected Eurodollar Rate Advances or Interest Periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Advances in the amount specified therein.

(b) Notwithstanding the foregoing, if the Agent has made the determination described in clause (a)(i) of this Section 2.18, the Agent in consultation with the Borrowers, may establish an alternative interest rate for the Impacted Loans, in which case, such alternative rate of interest shall apply with respect to the Impacted Loans until (i) the Agent revokes the notice delivered with respect to the Impacted Loans under clause (a)(i) of this Section 2.18, (ii) the Agent or the Required Lenders notify the Agent and the Borrowers that such alternative interest rate does not adequately and fairly reflect the cost to such Lenders of funding the Impacted Loans, or (iii) any Lender determines that any law has made it unlawful, or that any Governmental Authority has asserted that it is unlawful, for such Lender or its applicable lending office to make, maintain or fund Advances whose interest is determined by reference to such alternative rate of interest or to determine or charge interest rates based upon such rate or any Governmental Authority has imposed material restrictions on the authority of such Lender to do any of the foregoing and provides the Agent and the Borrower written notice thereof.



(c) Notwithstanding anything to the contrary in this Agreement or any other Loan Documents, if the Agent determines (which determination shall be conclusive absent manifest error), or the Borrowers or Required Lenders notify the Agent (with, in the case of the Required Lenders, a copy to the Borrowers) that the Borrowers or Required Lenders (as applicable) have determined, that:

(i) adequate and reasonable means do not exist for ascertaining LIBOR for any Interest Period hereunder or any other tenors of LIBOR, including, without limitation, because the LIBOR Screen Rate is not available or published on a current basis and such circumstances are unlikely to be temporary; or

(ii) the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over the Agent or such administrator has made a public statement identifying a specific date after which LIBOR or the LIBOR Screen Rate shall no longer be made available, or used for determining the interest rate of loans, provided that, at the time of such statement, there is no successor administrator that is satisfactory to the Agent, that will continue to provide LIBOR after such specific date (such specific date, the "Scheduled Unavailability Date"); or

(iii) the administrator of the LIBOR Screen Rate or a Governmental Authority having jurisdiction over such administrator has made a public statement announcing that all Interest Periods and other tenors of LIBOR are no longer representative; or

(iv) syndicated loans currently being executed, or that include language similar to that contained in this Section 2.18, are being executed or amended (as applicable) to incorporate or adopt a new benchmark interest rate to replace LIBOR;

then, in the case of clauses (i)-(iii) above, on a date and time determined by the Agent (any such date, the "LIBOR Replacement Date"), which date shall be at the end of an Interest Period or on the relevant interest payment date, as applicable, for interest calculated and shall occur reasonably promptly upon the occurrence of any of the events or circumstances under clauses (i), (ii) or (iii) above and, solely with respect to clause (ii) above, no later than the Scheduled Unavailability Date, LIBOR will be replaced hereunder and under any Loan Document with, subject to the proviso below, the first available alternative set forth in the order below for any payment period for interest calculated that can be determined by the Agent, in each case, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document (the "LIBOR Successor Rate"; and any such rate before giving effect to the Related Adjustment, the "Pre-Adjustment Successor Rate");

(x) Term SOFR plus the Related Adjustment; and

(y) SOFR plus the Related Adjustment;

and in the case of clause (iv) above, the Borrowers and the Agent may amend this Agreement solely for the purpose of replacing LIBOR under this Agreement and under any other Loan Document in accordance with the definition of "LIBOR Successor Rate" and such amendment will become effective at 5:00 p.m., on the fifth Business Day after the Agent shall have notified all Lenders and the Borrower of the occurrence of the circumstances described in clause (iv) above unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Agent written notice that such Required Lenders object to the implementation of a LIBOR Successor Rate pursuant to such clause;



provided that, if the Agent determines that Term SOFR has become available, is administratively feasible for the Agent and would have been identified as the Pre-Adjustment Successor Rate in accordance with the foregoing if it had been so available at the time that the LIBOR Successor Rate then in effect was so identified, and the Agent notifies the Borrowers and each Lender of such availability, then from and after the beginning of the Interest Period, relevant interest payment date or payment period for interest calculated, in each case, commencing no less than thirty (30) days after the date of such notice, the Pre-Adjustment Successor Rate shall be Term SOFR and the LIBOR Successor Rate shall be Term SOFR plus the relevant Related Adjustment.

The Agent will promptly (in one or more notices) notify the Borrowers and each Lender of (x) any occurrence of any of the events, periods or circumstances under clauses (i) through (iii) above, (y) a LIBOR Replacement Date and (z) the LIBOR Successor Rate.

Any LIBOR Successor Rate shall be applied in a manner consistent with market practice; provided that to the extent such market practice is not administratively feasible for the Agent, such LIBOR Successor Rate shall be applied in a manner as otherwise reasonably determined by the Agent.

Notwithstanding anything else herein, if at any time any LIBOR Successor Rate as so determined would otherwise be less than 0.25%, the LIBOR Successor Rate will be deemed to be 0.25% for the purposes of this Agreement and the other Loan Documents.

In connection with the implementation of a LIBOR Successor Rate, the Agent will have the right to make LIBOR Successor Rate Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such LIBOR Successor Rate Conforming Changes will become effective without any further action or consent of any other party to this Agreement; provided that, with respect to any such amendment effected, the Agent shall post each such amendment implementing such LIBOR Successor Rate Conforming Changes to the Borrowers and the Lenders reasonably promptly after such amendment becomes effective.

If the events or circumstances of the type described in 2.18(c)(i)-(iii) have occurred with respect to the LIBOR Successor Rate then in effect, then the successor rate thereto shall be determined in accordance with the definition of "LIBOR Successor Rate."

(d) Notwithstanding anything to the contrary herein, (i) after any such determination by the Agent or receipt by the Agent of any such notice described under Section 2.18(c)(i)-(iii), as applicable, if the Agent determines that none of the LIBOR Successor Rates is available on or prior to the LIBOR Replacement Date, (ii) if the events or circumstances described in Section 2.18(c)(iv) have occurred but none of the LIBOR Successor Rates is available, or (iii) if the events or circumstances of the type described in Section 2.18(c)(i)-(iii) have occurred with respect to the LIBOR Successor Rate then in effect and the Agent determines that none of the LIBOR Successor Rates is available, then in each case, the Agent and the Borrowers may amend this Agreement solely for the purpose of replacing LIBOR or any then current LIBOR Successor Rate in accordance with this Section 2.18 at the end of any Interest Period, relevant interest payment date or payment period for interest calculated, as applicable, with another alternate benchmark rate giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such alternative benchmarks and, in each case, including any Related Adjustments and any other mathematical or other adjustments to such benchmark giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such benchmarks, which adjustment or method for calculating such adjustment shall be published on an



information service as selected by the Agent from time to time in its reasonable discretion and may be periodically updated. For the avoidance of doubt, any such proposed rate and adjustments shall constitute a LIBOR Successor Rate. Any such amendment shall become effective at 5:00 p.m. on the fifth Business Day after the Agent shall have posted such proposed amendment to all Lenders and the Borrowers unless, prior to such time, Lenders comprising the Required Lenders have delivered to the Agent written notice that such Required Lenders object to such amendment.

(e) If, at the end of any Interest Period, relevant interest payment date or payment period for interest calculated, no LIBOR Successor Rate has been determined in accordance with clauses (c) or (d) of this Section 2.18 and the circumstances under clauses (c)(i) or (c)(iii) above exist or the Scheduled Unavailability Date has occurred (as applicable), the Agent will promptly so notify the Borrowers and each Lender. Thereafter, (x) the obligation of the Lenders to make or maintain Eurodollar Rate Advances shall be suspended, (to the extent of the affected Eurodollar Rate Advances, Interest Periods, interest payment dates or payment periods), and (y) the Eurodollar Rate component shall no longer be utilized in determining the Base Rate, until the LIBOR Successor Rate has been determined in accordance with clauses (c) or (d). Upon receipt of such notice, the Borrower may revoke any pending request for a Borrowing of, conversion to or continuation of Eurodollar Rate Advances (to the extent of the affected Eurodollar Rate Advances, Interest Periods, interest payment dates or payment periods) or, failing that, will be deemed to have converted such request into a request for a Borrowing of Base Rate Advances (subject to the foregoing clause (y)) in the amount specified therein.

SECTION 2.15 Section 2.19 Obligations and Communications of the Borrowers. All obligations, representations, warranties, covenants and other agreements of either or both of the Borrowers under this Agreement, the Notes and the other Loan Documents shall be joint and several liabilities of both of the Borrowers; provided, however, that anything herein or in the other Loan Documents to the contrary notwithstanding, the liability of the Operating Company with respect to the obligations of the Holding Company shall in no event exceed the maximum permissible amount for which the Operating Company may be obligated under § 548 of the United States Bankruptcy Code or applicable state fraudulent conveyance law. Any notice given to, any knowledge held by or any knowledge imputed to either Borrower shall be deemed to be within the knowledge of both of the Borrowers. Any certificate, notice, request, statement or other document or communication signed or made on behalf or in the name of either or both of the Borrowers shall be deemed to have been signed or made by both of the Borrowers unless expressly disclaimed in a particular document or communication. Reference to a single specific Borrower, whether by name, officer's title, letterhead or otherwise, shall not constitute an express disclaimer of any of the foregoing. Any telephone notice permitted to be given by the Borrowers under this Article II shall be sufficient if given by an appropriate officer of either Borrower, and shall be deemed to have been given by both Borrowers.

SECTION 2.16 Section 2.20 Subrogation and Contribution. Each Borrower covenants and agrees that, until the obligations of the Borrowers under this Agreement and the other Loan Documents have been fully paid and satisfied, any and all subrogation, contribution and other similar rights of such Borrower against or in respect of (A) the other Borrower, (B) any of the assets and properties of the other Borrower, or (C) any other co-obligor or indemnitor of any of the other Borrower's payments or obligations under any of the Loan Documents, whether now existing or hereafter acquired or created, and whether resulting from any payment made by such Borrower or otherwise, shall be subordinate and inferior in dignity and deferred as to payment to the full payment and satisfaction of all of such obligations. (However, such subordination of subrogation, contribution and similar rights is not intended



to include, and this Section is not intended to affect, the intercompany advances and dividends permitted under this Agreement.) Neither Borrower shall seek any payment or exercise or enforce any right, power, privilege, remedy or interest that it may have with respect to any such subrogation, contribution or other similar right except with the prior written consent of the Agent (with the consent of the Required Lenders, as and if required) and for the benefit of all of the Lenders. Any payment, asset or property delivered to or for the benefit of any Borrower in respect of any such subrogation, contribution or other similar right shall be accepted in trust for the benefit of all of the Lenders and shall be promptly paid or delivered to the Agent (for the benefit of all of the Lenders) to be credited and applied to the payment and satisfaction of the obligations of the Borrowers under this Agreement and the other Loan Documents, whether contingent, matured or unmatured, or to be held by the Agent (for the benefit of all of the Lenders) as additional collateral, as the Agent (with the consent of the Required Lenders, as and if required) may elect in its sole and absolute discretion.

#### SECTION 2.17 Section 2.21 Fees.

(a) (a) Facility Fee. The Borrowers, jointly and severally, agree to pay to the Agent for the account of each Lender a facility fee on the aggregate amount of such Lender's Revolving Credit Commitment from the date hereof in the case of each Initial Lender and from the effective date specified in the Incremental Assumption Agreement or in the Assignment and Assumption pursuant to which it became a Lender in the case of each other Lender until the Termination Date at a rate per annum equal to the Applicable Rate in effect from time to time, payable in arrears quarterly on the last day of each February, May, August and November, commencing February 28, 2017, and on the Termination Date.

(b) (b) Agent's Fees. The Borrowers, jointly and severally, shall pay to the Agent for its own account fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever.

#### (c) Section 2.22 Defaulting Lenders.

(a) Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as that Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of "Required Lenders" and Section 8.01.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VI or otherwise) or received by the Agent from a Defaulting Lender pursuant to Section 8.05 shall be applied at such time or times as may be determined by the Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Issuing Bank or Swingline Lender hereunder; third, to Cash Collateralize the Issuing Bank's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.24; fourth, as the Borrowers may request (so long as no Default or Event of Default exists), to the funding of any Advance in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Agent; fifth, if so determined by the Agent and the Borrowers, to be held in a deposit account and released pro rata in order to (A) satisfy such Defaulting Lender's potential future funding obligations with respect to Advances under this Agreement and (B) Cash



Collateralize the Issuing Bank's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.24; sixth, to the payment of any amounts owing to the Lenders, the Issuing Bank or Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Issuing Bank or the Swingline Lender against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to any Borrower as a result of any judgment of a court of competent jurisdiction obtained by such Borrower against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise as may be required under the Loan Documents in connection with any Lien conferred thereunder or directed by a court of competent jurisdiction; provided that if (1) such payment is a payment of the principal amount of any Revolving Credit Advance or Letter of Credit Advance in respect of which such Defaulting Lender has not fully funded its appropriate share, and (2) such Revolving Credit Advances were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 3.02 were satisfied or waived, such payment shall be applied solely to pay the Revolving Credit Advances of, and L/C Exposure owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Revolving Credit Advances of, or L/C Exposure owed to, such Defaulting Lender until such time as all Revolving Credit Advances and funded and unfunded participations in L/C Exposure and Swingline Advances are held by the Lenders pro rata in accordance with the Commitments hereunder without giving effect to Section 2.22(a)(v). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.22(a)(ii) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) Fees. Each Defaulting Lender shall be entitled to receive fees payable under Section 2.21(a) for any period during which that Lender is a Defaulting Lender only to the extent allocable to the sum of (1) the outstanding principal amount of the Revolving Credit Advances funded by it, and (2) its Pro Rata Share of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.24.

(B) Letter of Credit Fees. Each Defaulting Lender shall be entitled to receive letter of credit fees pursuant to Section 2.16(g)(i) for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Pro Rata Share of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.24.

(C) Defaulting Lender Fees. With respect to any fee payable under Section 2.21(a) or any letter of credit fees described in Section 2.16(g)(i) not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrowers shall jointly and severally (1) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in L/C Exposure or Swingline Advances that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (2) pay to the Issuing Bank and the Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing

Bank's or Swingline Lender's Fronting Exposure to such Defaulting Lender, and (3) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Applicable Revolving Percentages to Reduce Fronting Exposure.

All or any part of such Defaulting Lender's participation in L/C Exposure and Swingline Advances shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Pro Rata Shares (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that such reallocation does not cause the aggregate Revolving Credit Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Credit Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swingline Advances. If the reallocation described in clause (a)(iv) above cannot, or can only partially, be effected, the Borrowers shall, without prejudice to any right or remedy available to it hereunder or under applicable law, (A) first, prepay Swingline Advances in an amount equal to the Swingline Lender's Fronting Exposure and (B) second, Cash Collateralize the Issuing Bank's Fronting Exposure in accordance with the procedures set forth in Section 2.24.

(b) Defaulting Lender Cure. If the Borrowers, the Agent, Swingline Lender and the Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Revolving Credit Advances of the other Lenders or take such other actions as the Agent may determine to be necessary to cause the Revolving Credit Advances and funded and unfunded participations in Letters of Credit and Swingline Advances to be held on a pro rata basis by the Lenders in accordance with their Pro Rata Shares (without giving effect to Section 2.22(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of any Borrower while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Swingline Loans/Letters of Credit. So long as any Lender under the Revolving Credit Facility is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund any Swingline Advances unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Advance and (ii) the Issuing Bank shall not be required to issue, extend, increase, reinstate or renew any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

SECTION 2.18 Section 2.23 Mitigation Obligations; Replacement of Lenders.

(a) Designation of a Different Lending Office. If any Lender requests compensation under Section 2.11, or requires any Borrower to pay any Indemnified Taxes or additional amounts to any Lender, the Issuing Bank, or any Governmental Authority for the account of any Lender or the Issuing Bank pursuant to Section 2.14, or if any Lender gives a notice pursuant to Section 2.12, then at the request of the Borrowers, such Lender or the Issuing Bank shall, as applicable, use reasonable efforts to designate a different Applicable Lending Office for funding or booking its Advances hereunder



or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender or the Issuing Bank, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.11 or 2.14, as the case may be, in the future, or eliminate the need for the notice pursuant to Section 2.12, as applicable, and (ii) in each case, would not subject such Lender or the Issuing Bank, as the case may be, to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender or the Issuing Bank, as the case may be. The Borrowers hereby jointly and severally agree to pay all reasonable costs and expenses incurred by any Lender or the Issuing Bank in connection with any such designation or assignment.

(b) Replacement of Lenders. If any Lender requests compensation under Section 2.11, or if any Borrower is required to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.14 and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with Section 2.23(a), the Borrowers may replace such Lender in accordance with Section 8.14.

#### ~~SECTION 2.19~~Section 2.24 Cash Collateral.

(a) Certain Credit Support Events. If (i) the Issuing Bank has honored any full or partial drawing request under any Letter of Credit and such drawing has resulted in an Letter of Credit Advance, (ii) as of the date 10 days before the Termination Date, any L/C Exposure for any reason remains outstanding, (iii) any Borrower shall be required to provide Cash Collateral pursuant to 6.01, or (iv) there shall exist a Defaulting Lender, the Borrowers shall immediately (in the case of clause (iii) above) or within one (1) Business Day (in all other cases) following any request by the Agent or the Issuing Bank, provide Cash Collateral in an amount not less than the applicable Minimum Collateral Amount (determined in the case of Cash Collateral provided pursuant to clause (iv) above, after giving effect to Section 2.22(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(b) Grant of Security Interest. Each Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to (and subjects to the control of) the Agent, for the benefit of the Agent, the Issuing Bank and the Lenders, and agrees to maintain, a first priority security interest in all such cash, deposit accounts and all balances therein, and all other property so provided as collateral pursuant hereto, and in all proceeds of the foregoing, all as security for the obligations to which such Cash Collateral may be applied pursuant to Section 2.24(c). If at any time the Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Agent or the Issuing Bank as herein provided, or that the total amount of such Cash Collateral is less than the Minimum Collateral Amount, the Borrowers will, promptly upon demand by the Agent, jointly and severally pay or provide to the Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency. All Cash Collateral (other than credit support not constituting funds subject to deposit) shall be maintained in one or more blocked, non-interest bearing deposit accounts at Bank of America. The Borrowers shall jointly and severally pay on demand therefor from time to time all customary account opening, activity and other administrative fees and charges in connection with the maintenance and disbursement of Cash Collateral.

(c) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under any of this Section 2.24 or Sections 2.16, 2.22 or 6.01 in respect of Letters of Credit shall be held and applied to the satisfaction of the specific L/C Exposure, obligations to fund participations therein (including, as to Cash Collateral provided by a Lender that is a Defaulting Lender, any interest accrued on such obligation) and other obligations for which the Cash Collateral was so provided, prior to any other application of such property as may be provided for herein.



(d) Release. Cash Collateral (or the appropriate portion thereof) provided to reduce Fronting Exposure or to secure other obligations shall be released promptly following (i) the elimination of the applicable Fronting Exposure or other obligations giving rise thereto (including by the termination of Defaulting Lender status of the applicable Lender (or, as appropriate, its assignee following compliance with Section 8.07(b)(vi))) or (ii) the determination by the Agent and the Issuing Bank that there exists excess Cash Collateral; provided, however, (A) any such release shall be without prejudice to, and any disbursement or other transfer of Cash Collateral shall be and remain subject to, any other Lien conferred under the Loan Documents and the other applicable provisions of the Loan Documents, and (B) the Person providing Cash Collateral and the Issuing Bank may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

### ARTICLE III Article III

#### CONDITIONS TO EFFECTIVENESS AND LENDING

ARTICLE IV Section 3.01 Conditions Precedent to Effectiveness. This Agreement shall become effective on and as of the first date (the "Effective Date") on which the following conditions precedent have been satisfied:

- (a) (a) There shall have occurred no Material Adverse Change since May 31, 2016.
- (b) (b) There shall exist no action, suit, investigation, litigation or proceeding affecting the Holding Company or any of its Subsidiaries pending or threatened before any court, governmental agency or arbitrator that (i) would be reasonably likely to have a Material Adverse Effect or (ii) purports to affect the legality, validity or enforceability of this Agreement or any Note or the consummation of the transactions contemplated hereby.
- (c) (c) All governmental and third party consents and approvals necessary in connection with the transactions contemplated hereby shall have been obtained (without the imposition of any conditions that are not acceptable to the Lenders) and shall remain in effect, and no law or regulation shall be applicable in the reasonable judgment of the Lenders that restrains, prevents or imposes materially adverse conditions upon the transactions contemplated hereby.
- (d) (d) The Borrowers shall have paid all accrued fees and expenses of the Agent and the Lenders (including the accrued fees and expenses of counsel to the Agent).
- (e) (e) On the Effective Date, the following statements shall be true and the Agent shall have received for the account of each Lender a certificate signed by a duly authorized officer of the Holding Company, dated the Effective Date, stating that:
  - (i) (i) The representations and warranties contained in Section 4.01 are correct on and as of the Effective Date, and
  - (ii) (ii) No event has occurred and is continuing that constitutes a Default.
- (f) (f) The Agent shall have received on or before the Effective Date the following, each dated such day, in form and substance satisfactory to the Agent and (except for any Revolving Credit Notes) in sufficient copies for each Lender:
  - (i) (i) (A) Counterparts of this Agreement, executed by a Responsible Officer of each Borrower and a duly authorized officer of each Lender, (B) the Revolving Credit Notes executed by a Responsible

Officer of each Borrower to the order of any Lenders requesting the same, and (C) counterparts of any other Loan Documents executed by a Responsible Officer of the applicable Borrower and a duly authorized officer of each other Person party thereto.

(ii) Certified copies of the resolutions of the Board of Directors of each Borrower approving this Agreement and any Notes, and of all documents evidencing other necessary corporate action and governmental approvals, if any, with respect to this Agreement and any Notes.

(iii) A certificate of the Secretary or an Assistant Secretary of each Borrower certifying the names and true signatures of the officers of such Borrower authorized to sign this Agreement, the Notes and the other documents to be delivered hereunder.

(iv) A favorable opinion of Baker & McKenzie, LLP substantially in the form of Exhibit D hereto and as to such other matters as the Agent may reasonably request.

(v) Such documents and certificates as the Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Borrowers, and any other legal matters relating to the Borrowers or the Loan Documents, all in form and substance satisfactory to the Agent and its counsel and as further described in the list of closing documents attached as Exhibit F.

(g) The Borrowers shall have terminated the commitments, and, prior to or simultaneously with the initial Borrowing hereunder, paid in full all Debt, interest, fees and other amounts outstanding, under the Existing Credit Agreement, and each of the Lenders that is a party to such credit facility hereby waives, upon execution of this Agreement, the five Business Days' notice required by Section 2.05 of said Credit Agreement relating to the termination of commitments thereunder.

~~(h) Section 3.02~~ Section 3.02 ~~Conditions Precedent to each Borrowing, each Issuance and Renewal of Letters of Credit and each Increase Date.~~ The obligation of each Lender to make an Advance (other than a Letter of Credit Advance made by the Issuing Bank or a Lender pursuant to Section 2.16(d)) on the occasion of each Borrowing (including the initial Borrowing); ~~and~~ the obligation of the Issuing Bank to issue Letters of Credit (including the initial issuance) or renew a Letter of Credit from time to time, ~~and shall, in each Revolving Credit Commitment Increase shall case,~~ be subject to the conditions precedent that the Effective Date shall have occurred and on the date of such Borrowing, issuance or renewal ~~or the applicable Increase Date~~ the following statements shall be true (and each of the giving of the applicable Notice of Revolving Credit Borrowing; ~~or~~ Notice of Issuance; ~~or request for Revolving Credit Commitment Increase~~ and the acceptance by the Borrowers of the proceeds of such Borrowing or such Letter of Credit issuance or the renewal of such Letter of Credit shall constitute a representation and warranty by the Borrowers that on the date of such Borrowing, issuance; ~~or~~ renewal ~~or Increase Date~~ such statements are true):

(i) the representations and warranties contained in Section 4.01 (excluding the representation and warranty contained in Section 4.01(f)(ii)) are correct on and as of such date before and after giving effect to such Borrowing, issuance or renewal ~~or such Increase Date~~ and to the application of the proceeds therefrom, as though made on and as of such date; and

(ii) no event has occurred and is continuing, or would result from such Borrowing, issuance or renewal ~~or Increase Date~~ or from the application of the proceeds therefrom, that constitutes a Default.

~~(iii) Section 3.03~~ Section 3.03 ~~Determinations Under Section 3.01.~~ Without limiting the generality of the provisions of the last paragraph of Section 7.03, for purposes of determining compliance with the conditions specified in this Section, each Lender that has signed this Agreement shall be deemed to have



consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Agent shall have received notice from such Lender prior to the proposed Effective Date specifying its objection thereto. The Agent shall promptly notify the Lenders of the occurrence of the Effective Date.

~~(iv)~~ Article IV

REPRESENTATIONS AND WARRANTIES

~~(v)~~ Section 4.01 Representations and Warranties of the Borrowers. The Borrowers represent and warrant as follows:

| ~~(i)~~ (a) Each Borrower is a corporation duly organized, validly existing and in good standing under the laws of the State of its incorporation.

| ~~(j)~~ (b) The execution, delivery and performance by each Borrower of this Agreement and the other Loan Documents to be delivered by it, and the consummation of the transactions contemplated hereby, are within such Borrower's corporate powers, have been duly authorized by all necessary corporate action, and do not contravene (i) such Borrower's charter or by-laws or (ii) law or any contractual restriction binding on or affecting such Borrower.

| ~~(k)~~ (c) This Agreement has been, and each of the other Loan Documents to be delivered by it when delivered hereunder will have been, duly executed and delivered by each Borrower. This Agreement is, and each of the other Loan Documents when delivered hereunder will be, the legal, valid and binding obligation of each Borrower party thereto enforceable against such Borrower in accordance with their respective terms.

| ~~(l)~~ (d) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body or any other third party is required for the due execution, delivery and performance by any Borrower of this Agreement or the other Loan Documents to be delivered by it.

| ~~(m)~~ (e) There is no pending or threatened action, suit, investigation, litigation or proceeding, including, without limitation, any Environmental Claim, affecting the Holding Company or any of its Subsidiaries before any court, governmental agency or arbitrator that (i) would be reasonably likely to have a Material Adverse Effect or (ii) purports to affect the legality, validity or enforceability of this Agreement or any Note or the consummation of the transactions contemplated hereby.

| ~~(n)~~ (f) (i) The Consolidated balance sheet of the Holding Company and its Subsidiaries as at May 31, 2016, and the related Consolidated statements of income and cash flows of the Holding Company and its Subsidiaries for the fiscal year then ended, accompanied by an opinion of Ernst & Young LLP, independent public accountants, the consolidating balance sheet of the Holding Company and its Subsidiaries as at May 31, 2016, and the related consolidating statements of income and cash flows of the Holding Company and its Subsidiaries for the fiscal year then ended, duly certified by the chief financial officer of the Holding Company, and the Consolidated and consolidating balance sheet of the Holding Company and its Subsidiaries as at August 31, 2016, and the related Consolidated and consolidating statements of income and cash flows of the Holding Company and its Subsidiaries for the three months then ended, duly certified by the chief financial officer of the Holding Company, copies of which have been furnished to each Lender, fairly present, subject, in the case of said balance sheet as at August 31, 2016, and said statements of income and cash flows for the three months then ended, to year-end audit adjustments, the Consolidated financial condition of the Holding Company and its Subsidiaries



as at such dates and the Consolidated results of the operations of the Holding Company and its Subsidiaries for the periods ended on such dates, all in accordance with generally accepted accounting principles consistently applied.

(ii) Since May 31, 2016, there has been no Material Adverse Change.

(g) Each of the Borrowers and their Subsidiaries has good, marketable fee or leasehold title (as applicable) or ownership interest to all of the material assets and properties of the Borrowers and their Subsidiaries, free and clear of all Liens, other than Liens permitted by the Loan Documents.

(h) The operations and properties of each Borrower and each of its Subsidiaries comply in all material respects with all applicable Environmental Laws, all past non-compliance with such Environmental Laws has been resolved without material ongoing obligations or costs, and no circumstances exist that could reasonably be likely to (i) form the basis of an Environmental Claim against either Borrower or any of its Subsidiaries or any of their properties that could have a Material Adverse Effect or (ii) cause any such property to be subject to any restrictions on ownership, occupancy, use or transferability under any Environmental Law that could have a Material Adverse Effect.

(i) Set forth on Schedule 4.01(i) hereto is a complete and accurate list of all Subsidiaries of each of the Borrowers as of the date hereof, showing (as to each such Subsidiary) the jurisdiction of its incorporation. All of the outstanding capital stock and other ownership interests (other than directors qualifying shares) in each of the Borrower's Subsidiaries has been validly issued, are fully paid and non-assessable and are owned by such Borrower or one or more of its Subsidiaries free and clear of all Liens and, as of the date hereof, free of any outstanding options, warrants, rights of conversion or purchase or similar rights.

(j) Each of the outstanding securities issued by the Holding Company was duly authorized and validly issued, is fully paid and non-assessable, and is not and will not be subject to any preemptive or similar right or restriction. Each of those outstanding securities was acquired from the issuer in a transaction in compliance with the Securities Act of 1933, as amended, and other applicable laws.

(k) No Borrower is engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U issued by the Board of Governors of the Federal Reserve System), and no proceeds of any Advance will be used to purchase or carry any margin stock in violation of Regulation U issued by the Board of Governors of the Federal Reserve System or to extend credit to others for the purpose of purchasing or carrying any margin stock.

(l) No Borrower is an "investment company", or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940, as amended.

(m) No Borrower, nor any Subsidiary of any Borrower, nor, to the knowledge of the Borrowers and their Subsidiaries, any director, officer, employee, agent, affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity more individuals or entities that is/are (i) currently the subject or target of any Sanctions, (ii) included on OFAC's List of Specially Designated Nationals, or HMT's Consolidated List of Financial Sanctions Targets and the Investment Ban List, or any similar list enforced by any other relevant sanctions authority or (iii) located, organized or resident in a Designated Jurisdiction. The Borrowers and their Subsidiaries have conducted their businesses in compliance with all applicable Sanctions and have instituted and maintained policies and procedures designed to promote and achieve compliance with such Sanctions.



(n) The Borrowers and their Subsidiaries have conducted their business in compliance with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions, and have instituted and maintained policies and procedures designed to promote and achieve compliance with such laws.

(o) (i) Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other federal or state laws. Each Pension Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter or is subject to a favorable opinion letter from the IRS to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the IRS to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the IRS. To the best knowledge of the Borrowers, nothing has occurred that would prevent or cause the loss of such tax-qualified status; (ii) There are no pending or, to the best knowledge of the Borrowers, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to have a Material Adverse Effect. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in a Material Adverse Effect; (iii) (1) No ERISA Event has occurred, and no Borrower nor any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan or Multiemployer Plan; (2) as of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and no Borrower nor any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; (3) no Borrower nor any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid; (4) neither the Borrower nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA; and (5) no Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan; (iv) Neither the Borrowers nor any ERISA Affiliate maintains or contributes to, or has any unsatisfied obligation to contribute to, or liability under, any active or terminated Pension Plan other than (1) on the date of this Agreement, those listed on Schedule 4.01 hereto and (2) thereafter, Pension Plans not otherwise prohibited by this Agreement; and (v) the Borrowers represent and warrant as of the date of this Agreement that the Borrowers are not and will not be using “plan assets” (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to the each Borrower’s entrance into, participation in, administration of and performance of the Advances, the Letters of Credit, the Commitments or this Agreement.

(p) No Borrower is an EEA Financial Institution.

(q) The Borrowers are, individually and together with their Subsidiaries on a Consolidated basis, Solvent.

(r) The provisions of the Collateral Documents are effective to create in favor of the Agent for the benefit of the Secured Parties a legal, valid and enforceable first priority



Lien (subject to Permitted Liens) on all right, title and interest of the respective Borrower in the Collateral described therein. Except for filings completed prior to the First Amendment Effective Date and as contemplated hereby and by the Collateral Documents, no filing or other action will be necessary to perfect or protect such Liens.

## ~~ARTICLE V~~ Article V

### COVENANTS OF THE BORROWERS

~~ARTICLE VI~~ Section 5.01 Affirmative Covenants. So long as any Advance shall remain unpaid or any Lender shall have any Commitment hereunder, each of the Borrowers will:

~~(a)~~ (a) Reporting Requirements. Provide to the Lenders the following:

~~(i)~~ (i) promptly after the commencement thereof, notice of all actions and proceedings before any court, governmental agency or arbitrator affecting either Borrower or any of its Subsidiaries of the type described in Section 4.01(e);

~~(ii)~~ (ii) as soon as possible and in any event within five days after the occurrence of each Default continuing on the date of such statement, a statement of the chief financial officer of the Holding Company setting forth details of such Default and the action that the Borrowers have taken and proposes to take with respect thereto and any other event that would be reasonably likely to have or has had a Material Adverse Effect.

~~(iii)~~ (iii) as soon as available and in any event within 60 days after the end of each of the first three quarters of each fiscal year of the Holding Company, the Consolidated balance sheet of the Holding Company and its Subsidiaries as of the end of such quarter and Consolidated statements of income and cash flows of the Holding Company and its Subsidiaries for the period commencing at the end of the previous fiscal year and ending with the end of such quarter, duly certified (subject to year-end audit adjustments) by the chief executive officer, the chief financial officer, the chief accounting officer, the vice-president and treasurer or the vice-president and controller of the Holding Company as having been prepared in accordance with generally accepted accounting principles and certificates of the chief executive officer, the chief financial officer, the chief accounting officer, the vice-president and treasurer or the vice-president and controller of the Holding Company in substantially the form of Exhibit E as to compliance with the terms of this Agreement and setting forth in reasonable detail the calculations necessary to demonstrate compliance with Section 5.03;

~~(iv)~~ (iv) as soon as available and in any event within 90 days after the end of each fiscal year of the Holding Company, (A) a copy of the annual audit report for such year for the Holding Company and its Subsidiaries, containing the Consolidated balance sheet of the Holding Company and its Subsidiaries as of the end of such fiscal year and Consolidated statements of income and cash flows of the Holding Company and its Subsidiaries for such fiscal year, in each case accompanied by an opinion by Ernst & Young LLP or other independent public accountants of recognized standing regularly retained by the Borrowers to audit their books and reasonably acceptable to the Required Lenders, which opinion shall be prepared in accordance with generally accepted auditing standards and shall not be subject to any “going concern” or like qualification or exception or any qualification or exception as to the scope of such audit, (B) the consolidating balance sheet of the Holding Company and its Subsidiaries as of the end of such fiscal year and consolidating statements of income and cash flows of the Holding Company and its Subsidiaries for such fiscal year and (C) certificates of the chief executive officer, the chief financial



officer, the chief accounting officer, the vice-president and treasurer or the vice-president and controller of the Holding Company in substantially the form of Exhibit E as to compliance with the terms of this Agreement and setting forth in reasonable detail the calculations necessary to demonstrate compliance with Section 5.03;

(v) promptly after the sending or filing thereof, copies of all quarterly and annual reports and proxy solicitations that the Holding Company sends to its public securityholders generally, and copies of all reports on Form 8-K and registration statements for the public offering of securities that the Holding Company or any Subsidiary files with the Securities and Exchange Commission or any national securities exchange; and

(vi) such other information respecting the Borrowers or any of their Subsidiaries as any Lender through the Agent may from time to time reasonably request.

Documents required to be delivered pursuant to clauses (iii), (iv), (v) or (vi) of this Section 5.01(a) may be delivered electronically and if so delivered, shall be deemed to have been delivered on the date (i) on which the Holding Company posts such documents, or provides a link thereto on the Holding Company's website on the Internet at the website address <www.scholastic.com>; (ii) on which such documents are posted on the Holding Company's behalf on an Internet or intranet website, if any, to which each Lender and the Agent have access (whether a commercial, third-party website or whether sponsored by the Agent); or (iii) on which such documents are filed for public availability on the U.S. Securities and Exchange Commission's Electronic Data Gathering and Retrieval System; provided that: (A) the Borrowers shall deliver paper copies of such documents to the Agent or any Lender upon its request to the Borrowers to deliver such paper copies until a written request to cease delivering paper copies is given by the Agent or such Lender and (B) the Holding Company shall notify the Agent and each Lender (by fax transmission or e-mail transmission) of the posting of any such documents and provide to the Agent by e-mail electronic versions (i.e., soft copies) of such documents. The Agent shall have no obligation to request the delivery of or to maintain paper copies of the documents referred to above, and in any event shall have no responsibility to monitor compliance by the Borrowers with any such request by a Lender for delivery, and each Lender shall be solely responsible for requesting delivery to it or maintaining its copies of such documents.

Each Borrower hereby acknowledges that (A) the Agent and/or an Affiliate thereof may, but shall not be obligated to, make available to the Lenders and the Issuing Bank materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, "Borrower Materials") by posting the Borrower Materials on IntraLinks, Syndtrak, ClearPar or a substantially similar electronic transmission system (the "Platform") and (B) certain of the Lenders (each, a "Public Lender") may have personnel who do not wish to receive material non-public information with respect to any Borrower or its Affiliates, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. Each Borrower hereby agrees that it will use commercially reasonable efforts to identify that portion of the Borrower Materials that may be distributed to the Public Lenders and that (1) all such Borrower Materials (other than copies of any duly-filed Form 10-K, 10-Q or 8-K or other filing with the Securities and Exchange Commission after they become publically available (the "Deemed Public Materials")) shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (2) by marking Borrower Materials "PUBLIC," the Borrowers shall be deemed to have authorized the Agent, any Affiliate thereof, the ArrangerArrangers, the Issuing Bank and the Lenders to treat such Borrower Materials as not containing any material non-public information (although it may be sensitive and proprietary) with respect to any Borrower or its securities for purposes of United States federal and state securities laws (provided, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 8.08); (3) all Borrower Materials marked



“PUBLIC” are permitted to be made available through a portion of the Platform designated “Public Side Information;” and (4) the Agent and any Affiliate thereof and the ~~Arranger~~Arrangers shall be entitled to treat any Borrower Materials that are not marked “PUBLIC” as being suitable only for posting on a portion of the Platform not designated “Public Side Information.” With respect to Deemed Public Materials, the Agent, the Arrangers, and the Lenders shall have the rights (and the Borrowers shall have authorized treatment of such materials) in the manner contemplated for information marked “PUBLIC” pursuant to clauses (2) and (3) of the immediately preceding sentence.

(b) (b) Visitation Rights. At any reasonable time and from time to time, permit the Agent or any of the Lenders or any agents or representatives thereof, to examine and make copies of and abstracts from the records and books of account of, and visit the properties of, such Borrower and any of its Subsidiaries, and to discuss the affairs, finances and accounts of such Borrower and any of its Subsidiaries with any of their officers or directors and with their independent certified public accountants.

(c) (c) Preservation of Corporate Existence, Etc. Preserve and maintain, and cause each of its Significant Subsidiaries to preserve and maintain, its corporate existence, rights (charter and statutory) and franchises; provided, however, that such Borrower and its Subsidiaries may consummate any merger or consolidation permitted under Section 5.02(ed) and provided further that neither such Borrower nor any of its Significant Subsidiaries shall be required to preserve any right or franchise (x) if the Board of Directors of such Borrower or such Significant Subsidiary shall determine that the preservation thereof is no longer desirable in the conduct of the business of such Borrower or such Significant Subsidiary, as the case may be, and that the loss thereof is not disadvantageous in any material respect to such Borrower or the Lenders or (y) in any jurisdiction where the failure to do so would not be reasonably likely to have a Material Adverse Effect.

(d) (d) Compliance with Laws, Etc. Comply, and cause each of its Subsidiaries to comply, in all material respects, with all applicable laws, rules, regulations and orders, such compliance to include, without limitation, compliance with ERISA and Environmental Laws other than to the extent the noncompliance therewith or violation thereof would not be reasonably likely to have a Material Adverse Effect.

(e) (e) Payment of Taxes, Etc. Pay and discharge, and cause each of its Subsidiaries to pay and discharge, before the same shall become delinquent, (i) all taxes, assessments and governmental charges or levies imposed upon it or upon its property unless such failure to pay or discharge would not be reasonably likely to have a significant adverse effect on the business of the Borrowers and the Subsidiaries taken as a whole and (ii) all lawful claims that, if unpaid, might by law become a Lien upon its property unless such failure to pay or discharge would not be reasonably likely to have a Material Adverse Effect; provided, however, that neither such Borrowers nor any of its Subsidiaries shall be required to pay or discharge any such tax, assessment, charge or claim that is being contested in good faith and by proper proceedings and as to which appropriate reserves are being maintained, unless and until any Lien resulting therefrom attaches to its property and becomes enforceable against its other creditors.

(f) (f) Maintenance of Insurance. Maintain, and cause each of its Subsidiaries to maintain, insurance with responsible and reputable insurance companies or associations in such amounts and covering such risks (excluding publisher’s liability insurance) as is usually carried by companies engaged in similar businesses and owning similar properties in the same general areas in which such Borrower or such Subsidiary operates; provided, however, that each Borrower and its Subsidiaries may self-insure to the same extent as other companies engaged in similar businesses and owning similar properties in the same general areas in which such Borrower or such Subsidiary operates and to the extent consistent with prudent business practice; provided, further, that all such insurance maintained in accordance with

this Section 5.01(f) shall in any event (i) provide for not less than thirty (30) days' prior notice to the Agent of termination, lapse or cancellation of such insurance, (ii) name the Agent as mortgagee (in the case of property insurance) or additional insured on behalf of the Secured Parties (in the case of liability insurance) or loss payee (in the case of property insurance), as applicable, (iii) if reasonably requested by the Agent, include a breach of warranty clause and (iv) be reasonably satisfactory in all other respects to the Agent.

(g) Keeping of Books. Maintain, and cause each of its Subsidiaries to maintain, a standard system of accounting in accordance with generally accepted accounting principles consistently applied.

(h) Maintenance of Properties, Etc. Maintain and preserve, and cause each of its Subsidiaries to maintain and preserve, all of its properties that are used or useful in the conduct of its business in good working order and condition, ordinary wear and tear excepted, other than to the extent any such failure to maintain and preserve would not be reasonably likely to have a Material Adverse Effect.

(i) Anti-Corruption Laws; Sanctions. Conduct its business in compliance in all material respects with the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other ~~similar~~applicable anti-corruption legislation in other jurisdictions and with all applicable Sanctions, and maintain policies and procedures designed to promote and achieve compliance with such laws and Sanctions.

(j) Omitted.

(k) Security Covenants.

(i) Landlord Waivers. Subject to the time period set forth in Section 5.01(1), in the case of (A) each headquarter location of the Borrowers, each other location where any significant administrative or governmental functions are performed and each other location where the Borrowers maintain any books or records (electronic or otherwise) and (B) any personal property Collateral located at any other premises leased by a Borrower containing personal property Collateral with a value in excess at any time of \$10,000,000, the Borrowers will provide the Agent with such estoppel letters, consents and waivers from the landlords on such real property to the extent (x) requested by the Agent and (y) the Borrowers are able to secure such letters, consents and waivers after using commercially reasonable efforts (such letters, consents and waivers shall be in form and substance satisfactory to the Agent).

(ii) Further Assurances. At any time upon request of the Agent, promptly execute and deliver any and all further instruments and documents and take all such other action as the Agent may deem necessary or desirable to maintain in favor of the Agent, for the benefit of the Secured Parties, Liens and insurance rights on the Collateral that are duly perfected in accordance with the requirements of, or the obligations of the Borrower under, the Loan Documents and all applicable laws.

(l) Post-First Amendment Effective Date Obligations.

(i) Use commercially reasonable efforts to deliver, not later than sixty (60) days after the First Amendment Effective Date (or such later date as the Agent shall agree in its sole



discretion), estoppel letters, consents and/or waivers, in form and substance reasonably satisfactory to the Agent, duly executed by each of the Borrower's landlords with respect to any leased real property of the types described in clauses (A) and (B) of Section 5.01(k)(i).

~~SECTION 6.02~~ Section 5.02 Negative Covenants. So long as any Advance shall remain unpaid or any Lender shall have any Commitment hereunder, neither Borrower will:

(a) Liens, Etc. Create or suffer to exist, or permit any of its Subsidiaries to create or suffer to exist, any Lien on or with respect to any of ~~its~~ properties of the Borrowers or any Subsidiaries, whether now owned or hereafter acquired, or assign, or permit any of its Subsidiaries to assign, any right to receive income, other than:

(i) Liens pursuant to any Loan Document or otherwise securing any Obligation,

(i) Permitted Liens,

(ii) purchase money Liens (including leases treated as security interests) upon or in any real property or equipment acquired or held by any Borrower or any Subsidiary in the ordinary course of business to secure the purchase price of such property or equipment or to secure Debt incurred solely for the purpose of financing the acquisition of such property or equipment, or Liens existing on such property or equipment at the time of its acquisition (other than any such Liens created in contemplation of such acquisition that were not incurred to finance the acquisition of such property) or extensions, renewals or replacements of any of the foregoing for the same or a lesser amount, provided, however, that no such Lien shall extend to or cover any properties of any character other than the real property or equipment being acquired, and no such extension, renewal or replacement shall extend to or cover any properties not theretofore subject to the Lien being extended, renewed or replaced,

(iii) the Liens existing on the Effective Date and described on Schedule 5.02(a) hereto,

(iv) Liens on property of a Person existing at the time such Person is merged into or consolidated with any Borrower or any Subsidiary of such Borrower or becomes a Subsidiary of such Borrower; provided that such Liens were not created in contemplation of such merger, consolidation or acquisition and do not extend to any assets other than those of the Person so merged into or consolidated with such Borrower or such Subsidiary or acquired by such Borrower or such Subsidiary,

(v) ~~other~~ (vi) Liens securing Debt in an aggregate principal amount not to exceed \$50,000,000 at any time outstanding of the type permitted under Section 5.02(b)(vii);

(vi) (vii) Liens incurred in respect of judgments and awards discharged within 30 days from the making thereof or under review in an appropriate forum so long as enforcement thereof is effectively stayed;

(vii) (viii) Liens incurred in respect of rental or security deposits; and,

(ix) the replacement, extension or renewal of any Lien permitted by clause (iii) or (iv) above upon or in the same property theretofore subject thereto or the replacement, extension or renewal (without increase in the amount or change in any direct or contingent obligor) of the Debt secured thereby; and

(x) Liens not contemplated by the above provisions securing Debt in an aggregate principal amount not to exceed \$25,000,000 at any time outstanding.

(b) Debt. Create, incur, assume or suffer to exist (or permit any Subsidiary to create, incur, assume or suffer to exist) any Debt, except:

(i) Debt under the Loan Documents,

(ii) Debt outstanding on the First Amendment Effective Date and listed on Schedule 5.02(b) as of such date and any refinancings, refundings, renewals or extensions thereof; provided that the amount of such Debt is not increased at the time of such refinancing, refunding, renewal or extension except by an amount equal to a reasonable premium or other reasonable amount paid, and fees and expenses reasonably incurred, in connection with such refinancing and by an amount equal to any existing commitments unutilized thereunder and the direct or any contingent obligor with respect thereto is not changed, as a result of or in connection with such refinancing, refunding, renewal or extension,

(iii) Debt in respect of capital leases, synthetic debt obligations, and purchase money obligations for real property or equipment within the limitations set forth in Section 5.02(a)(iii),

(iv) Unsecured Debt of a Subsidiary of a Borrower owed to such Borrower or of one Borrower owed to the other Borrower, which Debt shall (i) to the extent required by the Agent, be evidenced by promissory notes and (ii) be on terms (including subordination terms) acceptable to the Agent,

(v) Guarantees of any Borrower in respect of Debt otherwise permitted hereunder (other than clause (vii) of this Section 5.02(b)) of any other Borrower,

(vi) obligations (contingent or otherwise) existing or arising under any Swap Contract, provided that (i) such obligations are (or were) entered into by such Person in the ordinary course of business for the purpose of directly mitigating risks associated with fluctuations in interest rates or foreign exchange rates and (ii) such Swap Contract does not contain any provision exonerating the non-defaulting party from its obligation to make payments on outstanding transactions to the defaulting party,

(vii) Debt secured by one or more Liens on any real property of any Borrower; provided that (i) such Debt is not guaranteed by, or otherwise recourse to, the Borrowers and (ii) the Liens securing such Debt shall attach to no property other than such real property; and

(viii) Debt not contemplated by the above provisions in an aggregate principal amount not to exceed \$50,000,000 at any time outstanding; provided that immediately before and after giving effect to the incurrence of such Debt, the Borrowers are in pro forma compliance with each of the financial covenants set forth in Section 5.03.



~~(b)~~ (c) Sales, Etc. of Assets. Sell, lease, transfer or otherwise dispose of, or permit any of its Subsidiaries to sell, lease, transfer or otherwise dispose of, any assets, or grant any option or other right to purchase, lease or otherwise acquire any assets, except (i) (A) sales of inventory and equipment in the ordinary course of its business and (B) sales, transfers and dispositions of assets by either Borrower or any Subsidiary to any other Borrower or Subsidiary, (ii) in a transaction authorized by subsection (c) of this Section, (iii) sales of assets for fair value in an aggregate amount not to exceed ~~10~~10% of Consolidated Total Assets as of the last day of the most recently ended fiscal quarter preceding the date of any such sale of assets and (iv) the sale of either (x) the real property located at 557 Broadway, New York, New York, 550 Broadway, New York, New York, or Maumelle, Arkansas ~~and Danbury, Connecticut~~ or (y) the real property comprising the distribution center located in Jefferson City, Missouri, ~~in each~~in the case of any of the real property described in the foregoing clauses (x) and (y), for fair value in connection with any sale-leaseback transaction. Notwithstanding anything herein to the contrary, in no event shall any Borrower sell, lease, transfer or otherwise dispose of any assets that are or purport to be Collateral to any Subsidiary.

~~(e)~~ (d) Mergers, Acquisitions, Etc. Merge or consolidate with or into any Person, ~~or otherwise consummate an Acquisition of any Person~~ or permit any of its Subsidiaries to do ~~either of the foregoing~~, except that (i) any Subsidiary of either Borrower may merge or consolidate with or into any other Subsidiary of such Borrower, (ii) any Subsidiary of either Borrower may merge into such Borrower ~~and~~, (iii) either Borrower may merge with any other Person so long as such Borrower is the surviving corporation ~~and~~ (iv) either Borrower or any wholly-owned Subsidiary thereof may consummate a Permitted Acquisition, provided, in each case, that ~~(x) no Default shall have occurred and be continuing at the time of such proposed transaction or would result therefrom,~~ (y) the aggregate consideration paid by all Borrowers and their Subsidiaries in connection with all Acquisitions in any fiscal year shall not exceed \$25,000,000 and (z) for the avoidance of doubt, the Borrower shall cause any assets acquired as part of or pursuant to a Permitted Acquisition and constituting Collateral to be subject to the Lien created by the Security Agreement.

~~(d)~~ (e) Change in Nature of Business. Make, or permit any of its Subsidiaries to make, any material change in the nature of the business of the Borrowers and their Subsidiaries, taken as a whole, as carried on at the date hereof.

~~(e)~~ (f) Dividends, Etc. Declare or make any dividend payment or other distribution of assets, properties, cash, rights, obligations or securities on account of any shares of any class of capital stock of the Holding Company, or purchase, redeem or otherwise acquire for value (other than any redemption or repurchase pursuant to the application of any change of control provision contained in any issuance of convertible Debt) (or permit any of its Subsidiaries to do so) any shares of any class of capital stock of the Holding Company or any warrants, rights or options to acquire any such shares, now or hereafter outstanding, or enter into any transaction that has a substantially similar effect as the previously described transactions, except that, so long as no Default shall have occurred and be continuing at the time of any action described below or would result therefrom, the Holding Company may (i) declare and make any dividend payment or other distribution payable in common stock of the Holding Company, (ii) [intentionally omitted], (iii) from and after the First Amendment Effective Date, declare or pay cash dividends to its stockholders ~~and~~in an aggregate amount not to exceed, in any fiscal quarter of the Borrowers, the sum of (x) \$5,200,000 plus (y) the dollar amount of all cash dividends payable (at the rate applicable as of the First Amendment Effective Date) in such fiscal quarter in respect of capital stock of the Holding Company issued after the First Amendment Effective Date as a result of the regular vesting or exercise of issued and outstanding stock awards in the normal course of business, (iv) from the First Amendment



Effective Date through but excluding the date on which the Agent shall have received the financial statements and related certificates required to be delivered pursuant to Section 5.01(a) for the fiscal year of the Borrowers ending May 31, 2021, purchase, redeem or otherwise acquire shares of its common stock or warrants, rights or options to acquire any such shares in an aggregate amount ~~equal to~~ not to exceed \$30,000,000 during such period, and (v) from and after the date on which the Agent shall have received the financial statements and related certificates required to be delivered pursuant to Section 5.01(a) for the fiscal year of the Borrowers ending May 31, 2021, declare or pay cash dividends to its stockholders and purchase, redeem or otherwise acquire shares of its common stock or warrants, rights or options to acquire any such shares (any, or any combination of the foregoing, a “Restricted Payment”) in an amount not to exceed the sum of ~~(Ax)~~ the cash proceeds received after May 31, 2021 from the substantially concurrent issue of new shares of its common stock, ~~(By)~~ the aggregate amount of cash received and net tax benefit received from the exercise by employees of the Borrowers and their Subsidiaries of stock options or the purchase of shares of stock under the employee stock purchase plan after May 31, ~~2006~~2021 and ~~(Cz)~~ the sum of ~~(xI)~~ \$275,000,000 and ~~(yII)~~ 50% of net income of the Holding Company and its Subsidiaries arising after May 31, 2006 and computed on a cumulative Consolidated basis ~~and (iv) in addition to, so long as, in the case of each of the foregoing, declare or pay cash dividends to its stockholders and purchase, redeem or otherwise acquire shares of its common stock or warrants, rights or options to acquire any such shares (any, or any combination of the foregoing, solely for purposes of this subclause (iv), a “Restricted Payment”), so long as clauses (iii), (iv) and (v), immediately after giving effect to such Restricted Payment the aggregate amount of all Restricted Payments made pursuant to this clause (iv) at such time will not exceed (x) \$200,000,000 if the Consolidated Leverage Ratio after giving effect (including pro forma effect) to such Restricted Payment is less than 2.00 to 1.00, (y) \$125,000,000 if the Consolidated Leverage Ratio after giving effect (including pro forma effect) to such Restricted Payment is greater than or equal to 2.00 to 1.00 but~~action, Consolidated Liquidity shall be not less than or equal to 2.50 to 1.00 or (z) \$0 if the Consolidated Leverage Ratio after giving effect (including pro forma effect) to such Restricted Payment is greater than 2.50 to 1.00\$300,000,000.

~~(f)~~ (g) Transactions with Affiliates. Conduct, and cause each of its Subsidiaries to conduct, any transactions otherwise permitted under this Agreement with any of their unconsolidated Affiliates other than (i) on terms that are fair and reasonable and no less favorable to such Borrower or such Subsidiary than it would obtain in a comparable arm’s-length transaction with a Person not an Affiliate and (ii) transactions between or among the Borrowers and their wholly-owned Subsidiaries not involving any other Affiliate.

~~(g)~~ (h) Accounting Changes. Make or permit, or permit any of its Subsidiaries to make or permit, any change in accounting policies or reporting practices, except as required or permitted by generally accepted accounting principles.

~~(h)~~ (i) Use of Proceeds. Use the proceeds of any Advance, whether directly or indirectly, and whether immediately, incidentally or ultimately, to purchase or carry margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System) or to extend credit to others for the purpose of purchasing or carrying margin stock or to refund indebtedness originally incurred for such purpose

~~(i)~~ (j) Sanctions. Directly or indirectly, use any Advance or the proceeds of any Advance, or lend, contribute or otherwise make available such Advance or the proceeds of any Advance to any Person, to fund any activities of or business with any Person, or in any Designated Jurisdiction, that, at the time of such funding, is the subject of Sanctions, or in any other manner that will



result in a violation by any Person (including any Person participating in the transaction, whether as Lender, Arranger, Agent, Issuing Bank, Swingline Lender, or otherwise) of Sanctions.

(k) Anti-Corruption Laws. Directly or indirectly, use any Advance or the proceeds of any Advance for any purpose which would breach the United States Foreign Corrupt Practices Act of 1977, the UK Bribery Act 2010 and other similar anti-corruption legislation in other jurisdictions.

(l) Collateral; Perfection. During the Secured Obligations Period, effect any change (i) in any Borrower's legal name, (ii) in the location of any Borrower's chief executive office, (iii) in any Borrower's identity or organizational structure, (iv) in any Borrower's Federal Taxpayer Identification Number or organizational identification number, if any, or (v) in any Borrower's jurisdiction of organization (in each case, including by merging with or into any other entity, reorganizing, dissolving, liquidating, reorganizing or organizing in any other jurisdiction), until (A) it shall have given the Agent not less than 10 days' prior written notice (in the form of certificate signed by a Responsible Officer), or such lesser notice period agreed to by the Agent, of its intention so to do, clearly describing such change and providing such other information in connection therewith as the Agent may reasonably request and (B) it shall have taken all action reasonably satisfactory to the Agent to maintain the perfection and priority of the security interest of the Agent for the benefit of the Secured Parties in the Collateral, if applicable. Each Borrower agrees to promptly provide the Agent with certified organization documents (including, without limitation, certificates of incorporation) reflecting any of the changes described in the preceding sentence.

(m) Passive Holding Company. In the case of the Holding Company, conduct, transact or otherwise engage in any business or operations other than the following: (i) its ownership of the capital stock of the Operating Company, (ii) the maintenance of its legal existence (including the ability to incur fees, costs and expenses relating to such maintenance), (iii) the performance of its obligations and payments with respect to the Loan Documents, (iv) any public offering of its common stock or any other issuance of its capital stock, including pursuant to private offerings of securities, (v) making payments or Restricted Payments to the extent otherwise permitted under this Section 5.02(f), (vi) making contributions to the capital of its Subsidiaries, (vii) guaranteeing the obligations of the Operating Company and its Subsidiaries in each case solely to the extent such obligations of the Operating Company and its Subsidiaries are not prohibited hereunder, (viii) participating in tax, accounting and other administrative matters as a member of the consolidated group of the Holding Company and its Consolidated Subsidiaries, (ix) holding any cash or property received in connection with Restricted Payments made by the Operating Company in accordance with Section 5.02(f), (x) providing indemnification to officers and directors and (xi) activities incidental to the businesses or activities described in clauses (i) to (x) of this Section 5.02(m).

~~SECTION 6.03~~ Section 5.03 Financial Covenants. So long as any Advance shall remain unpaid or any Lender shall have any Commitment hereunder, the Borrowers will:

~~(a)~~ (a) Consolidated Debt Ratio. Maintain at all times a Consolidated Debt Ratio of not more than 0.60:1.

(b) Consolidated Interest Coverage Ratio. Maintain as at the last day of each of their fiscal quarters, beginning with the fiscal quarter ending May 31, 2021, a Consolidated Interest Coverage Ratio of not less than 3.50:1.

(c) Consolidated Funded Debt Ratio. Maintain at all times after the Collateral Release Date, a Consolidated Funded Debt Ratio of not more than 2.50 to 1.

(d) Consolidated Liquidity. Maintain at all times after the First Amendment Effective Date, Consolidated Liquidity of at least \$200,000,000.

#### ARTICLE VI Article VI

#### EVENTS OF DEFAULT

ARTICLE VI Section 6.01 Events of Default. If any of the following events ("Events of Default") shall occur and be continuing:

(a) (a) any representation or warranty made in this Agreement or any other Loan Document shall prove to have been false or misleading in any material respect when made (or deemed made); or

(b) (b) any report, statement, certificate, schedule or other document or information furnished (whether prior to, on or after the Effective Date) in connection with this Agreement or any of the other Loan Documents shall prove to have been false or misleading in any material respect when furnished (or deemed furnished); or

(c) (c) any default, whether in whole or in part, shall occur in the payment of the principal of any Advance, or shall occur and continue for more than three Business Days in the payment of any interest on or any other amount respecting the Advances or any of the other obligations of the Borrowers under the Loan Documents; or

(d) (d) any default, whether in whole or in part, shall occur in the due observance or performance of any covenant, term or provision to be performed (i) under Sections 5.01(a)(ii), 5.02(e), 5.02(f), 5.02(j), 5.02(k) or 5.03 of this Agreement or (ii) under Sections 5.01(b) or 5.02 of this Agreement (other than under Section 5.02(e), 5.02(j) or 5.02(k) hereof) and such default described in this clause (ii) shall continue for a period of five Business Days after the earlier of notice thereof to or knowledge thereof by either Borrower; or

(e) (e) any default, whether in whole or in part, shall occur in the due observance or performance of any other covenant, term or provision to be performed under this Agreement and the other Loan Documents by either Borrower or any other party thereto (other than any Lender), which default is not described in any other subsection of this Section, and such default shall continue for a period of ten days after the earlier of notice thereof to or knowledge thereof by either Borrower; provided, however, that if such default is capable of being cured and if the Borrowers shall have commenced to cure such default within such period and shall proceed continuously in good faith and with due diligence to cure such default, then such period instead shall be thirty days; or

(f) (f) (i) any payment default of \$10,000,000 or more shall occur under any instrument or agreement (other than a Loan Document) respecting any Debt of either Borrower or any of their Subsidiaries, unless payment shall be made or action shall be taken within three Business Days after such default in an amount or manner sufficient to cure it, provided that such payment or action will not result



in a breach of any term or provision of this Agreement and the other Loan Documents, with the various financial measurements and covenants set forth in Section 5.03 of this Agreement being recalculated on a pro forma basis (from the then most recent quarterly or subsequent pro forma calculations) to include the effect of any such payment or (ii) any Debt of either Borrower or of any of their Subsidiaries of \$15,000,000 or more in principal or notional amount shall be accelerated or otherwise become due or be required to be prepaid, repurchased or redeemed (other than pursuant to a regularly scheduled mandatory prepayment, repurchase or redemption or the application of the change of control provision contained in any Debt instrument, as in effect on the date hereof, or any substantially identical provision contained in any subsequent issuance of debt) prior to its scheduled maturity; or

(g) either Borrower or any of their Significant Subsidiaries shall (i) fail or be unable to pay its debts generally as they become due, (ii) make a general assignment for the benefit of its creditors, (iii) apply for or consent to the appointment of a receiver, trustee, assignee, custodian, sequestrator, liquidator or similar official for itself or any of its assets and properties, (iv) commence a voluntary case for relief as a debtor under the United States Bankruptcy Code, (v) file with or otherwise submit to any governmental authority any petition, answer or other document seeking (A) reorganization, (B) an arrangement with creditors or (C) to take advantage of any other present or future applicable law respecting bankruptcy, reorganization, insolvency, readjustment of debts, relief of debtors, dissolution or liquidation, (vi) file or otherwise submit any answer or other document admitting or failing to contest the material allegations of a petition or other document filed or otherwise submitted against it in any proceeding under any such applicable law, (vii) be adjudicated a bankrupt or insolvent, or (viii) take any action for the purpose of effecting any of the foregoing; or

(h) any case, proceeding or other action shall be commenced against either Borrower or any of their Significant Subsidiaries for the purpose of effecting, or an order, judgment or decree shall be entered by any court of competent jurisdiction approving (in whole or in part), anything specified in subsection (g) of this Section, or any receiver, trustee, assignee, custodian, sequestrator, liquidator or other official shall be appointed with respect to either Borrower or any of their Significant Subsidiaries, or shall be appointed to take or shall otherwise acquire possession or control of all or a substantial part of the assets and properties of either Borrower or any of their Significant Subsidiaries, and any of the foregoing shall continue unstayed and in effect for any period of sixty days; or

(i) one or more final judgments for the payment of money in excess of an aggregate of \$10,000,000 shall be rendered against either Borrower or any of their Subsidiaries and the same shall remain undischarged for a period of thirty days during which levy and execution shall not be effectively stayed or contested in good faith; or

(j) either Borrower or any ERISA Affiliate shall, or shall be reasonably expected to, incur liability as a result of the occurrence of any ERISA Event provided that any such event (individually or in the aggregate with any other such event) would be reasonably likely to have or has had (in the reasonable judgment of the Required Lenders) a Material Adverse Effect; or

(k) the Holding Company shall own less than all of the outstanding securities issued by the Operating Company, or any other Person shall acquire any option, warrant or other right to acquire any of those securities; or

(l) the Robinson Family shall cease to own (in the aggregate) at least fifty-one percent (51.00%) of the issued and outstanding shares of Class A Stock of the Holding Company; or any other Person shall acquire any option, warrant or other right to acquire (from the Robinson Family, the Holding Company or otherwise) any securities issued by the Holding Company that, if exercised, would result in the Robinson Family holding less than 51% of such stock; or



(m) the Board of Directors of the Holding Company shall submit to its shareholders for adoption, or the shareholders of the Holding Company shall adopt, any supplement, modification or amendment to or restatement of the certificate of incorporation or the by-laws of the Holding Company that would in any way directly or indirectly (i) alter the relative voting rights or powers of the classes of the capital stock of the Holding Company, (ii) add any additional classes of capital stock with any voting rights, or (iii) adversely affect the rights, powers, privileges, remedies or interests of the Agent or the Lenders under this Agreement or any other Loan Document, in any such case without the prior written consent of the Required Lenders; or

(n) At any time during the Secured Obligations Period, any Collateral Document after delivery thereof pursuant to the terms of the Loan Documents shall for any reason cease to create a valid and perfected first priority Lien (subject to Liens permitted under Section 5.02(a)) on a material portion of the Collateral purported to be covered thereby, or any Borrower shall assert the invalidity of such Liens;

then, and in any such event, the Agent shall, at the request of, or may, with the consent of, the Required Lenders, take any or all of the following actions (i) declare the Commitment of each Lender to make Advances and any obligation of the Issuing Bank to issue, amend or extend Letters of Credit to be terminated, whereupon the same shall forthwith terminate, (ii) declare the unpaid principal amount of all outstanding Advances, all interest accrued and unpaid thereon, and all other amounts owing or payable hereunder or under any other Loan Document to be immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by the Borrowers, (iii) require that the Borrowers Cash Collateralize the L/C Exposure, and (in an amount equal to the Minimum Collateral Amount with respect thereto); and (iv) exercise on behalf of itself, the Lenders and the Issuing Bank all rights and remedies available to it, the Lenders and the Issuing Bank under the Loan Documents or applicable law or equity; provided, however, that in the event of an actual or deemed entry of an order for relief with respect to either Borrower under the United States Bankruptcy Code, (1) the obligation of each Lender to make Advances and of the Issuing Bank to issue, amend or extend Letters of Credit shall automatically be terminated, (2) the Advances, all such interest and all other amounts shall automatically become and be due and payable, without presentment, demand, protest or any notice of any kind, all of which are hereby expressly waived by each Borrower, and (3) the obligation of the Borrowers to Cash Collateralize the L/C Exposure as aforesaid shall automatically become effective, in each case without further act of the Agent or any Lender.

~~SECTION 8.02~~ Section 6.02 Application of Funds. After the exercise of remedies provided for in Section 6.01 (or after the Advances have automatically become immediately due and payable and the L/C Exposure has automatically been required to be Cash Collateralized as set forth in the proviso to Section 6.01) or if at any time insufficient funds are received by and available to the Agent to pay fully all debts, liabilities and obligations then due hereunder, any amounts received on account of the all debts, liabilities and obligations hereunder and under the other Loan Documents shall, subject to the provisions of Sections 2.22 and 2.24, be applied by the Agent in the following order:

First, to payment of that portion of the ~~debts, liabilities and obligations hereunder and under the other Loan Documents~~ Secured Obligations constituting fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Agent and amounts payable under Sections ~~2.08(e)~~, 2.11, 2.12, 2.14 and ~~2.142.18(c)~~) payable to the Agent in its capacity as such;

Second, to payment of that portion of the ~~debts, liabilities and obligations hereunder and under the other Loan Documents~~ Secured Obligations constituting fees, indemnities and other amounts (other than principal, interest, and letter of credit fees pursuant to Section 2.16(g)(i))

payable to the Lenders and the Issuing Bank (including fees, charges and disbursements of counsel to the respective Lenders and the Issuing Bank (including fees and time charges for attorneys who may be employees of any Lender or the Issuing Bank) arising under the Loan Documents and amounts payable under Sections ~~2.08(e)~~, 2.11, 2.12, 2.14 and ~~2.14~~2.18, ratably among them in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the ~~debts, liabilities and obligations hereunder and under the other Loan Documents~~Secured Obligations constituting accrued and unpaid letter of credit fees pursuant to Section 2.16(g)(i) and interest on the Advances, Letter of Credit Advances and other ~~debts, liabilities and obligations~~Secured Obligations arising under the Loan Documents, ratably among the Lenders and the Issuing Bank in proportion to the respective amounts described in this clause Third payable to them;

Fourth, to payment of that portion of the ~~debts, liabilities and obligations hereunder and under the other Loan Documents~~Secured Obligations constituting unpaid principal of the Advances and Letter of Credit Advances and Secured Obligations then owing under any Secured Hedge Agreements and Secured Cash Management Agreements and to the Agent for the account of Issuing Bank, to Cash Collateralize that portion of L/C Exposure comprised of the aggregate undrawn amount of Letters of Credit to the extent not otherwise Cash Collateralized by the Borrowers pursuant to Sections 2.16 and 2.24, in each case ratably among the Agent, the Lenders and, the Issuing Bank, the Hedge Banks and the Cash Management Banks in proportion to the respective amounts described in this clause Fourth held by them; and

Last, the balance, if any, after all of the debts, liabilities and obligations hereunder and under the other Loan Documents have been indefeasibly paid in full, to the Borrowers or as otherwise required by law.

Subject to Sections 2.16(c) and 2.24, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other debts, liabilities and obligations hereunder and under the other Loan Documents, if any, in the order set forth above.

Notwithstanding the foregoing, Secured Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements shall be excluded from the application described above if the Agent has not received a Secured Party Designation Notice, together with such supporting documentation as the Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. Each Cash Management Bank or Hedge Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Agent pursuant to the terms of Article VII for itself and its Affiliates as if a "Lender" party hereto.

## ARTICLE IXArticle VII

### THE AGENT

#### Section 7.01 Appointment and Authority.



(a) Each of the Lenders and the Issuing Bank hereby irrevocably appoints, designates and authorizes Bank of America to act on its behalf as the Agent hereunder and under the other Loan Documents and authorizes the Agent to take such actions on its behalf and to exercise such powers as are delegated to the Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Article are solely for the benefit of the Agent, the Lenders and the Issuing Bank, and neither Borrower nor any of their Subsidiaries shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term “agent” herein or in any other Loan Documents (or any other similar term) with reference to the Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any applicable law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) The Agent shall also act as the “collateral agent” under the Loan Documents, and each of the Lenders (including in its capacities as a potential Hedge Bank, and a potential Cash Management Bank) and the Issuing Bank hereby irrevocably appoints and authorizes the Agent to act as the agent of such Lender and the Issuing Bank for purposes of acquiring, holding and enforcing any and all Liens on Collateral granted by any of the Borrowers to secure any of the Secured Obligations, together with such powers and discretion as are reasonably incidental thereto. In this connection, the Agent, as “collateral agent” and any co-agents, sub-agents and attorneys-in-fact appointed by the Agent pursuant to Section 7.05 for purposes of holding or enforcing any Lien on the Collateral (or any portion thereof) granted under the Collateral Documents, or for exercising any rights and remedies thereunder at the direction of the Agent, shall be entitled to the benefits of all provisions of this Article VII and Article VIII (including Section 8.04(c), as though such co-agents, sub-agents and attorneys-in-fact were the “collateral agent” under the Loan Documents) as if set forth in full herein with respect thereto.

~~SECTION 9.01~~ Section 7.02 **Rights as a Lender.** The Person serving as the Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Agent and the term “Lender” or “Lenders” shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust, financial, advisory, underwriting or other business with any Borrower or any Subsidiary or other Affiliate thereof as if such Person were not the Agent hereunder and without any duty to account therefor to the Lenders or to provide notice to or consent of the Lenders with respect thereto.

~~SECTION 9.02~~ Section 7.03 **Exculpatory Provisions.**

(a) The Agent shall not have any duties or obligations except those expressly set forth herein and in the other Loan Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Agent and its Related Parties:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Loan Documents that the Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly



provided for herein or in the other Loan Documents), provided that the Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Agent to liability or that is contrary to any Loan Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly set forth herein and in the other Loan Documents, have any duty or responsibility to disclose, and shall not be liable for the failure to disclose, any information concerning the business, prospects, operations, property, financial and other condition or creditworthiness relating to any Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Agent or any of its Affiliates in any capacity.

(eb) Neither the Agent nor any of its Related Parties shall be liable for any action taken or not taken by the Agent under or in connection with this Agreement or any other Loan Document or the transactions contemplated hereby or thereby (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary), or as the Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 6.01 and 8.01) or (ii) in the absence of its own gross negligence or willful misconduct as determined by a court of competent jurisdiction by final and nonappealable judgment. The Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given in writing to the Agent by the Borrowers, a Lender or the Issuing Bank.

(fc) Neither the Agent nor any of its Related Parties have any duty or obligation to any Lender or participant or any other Person to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Loan Document or any other agreement, instrument or document, or ~~(v) the creation, perfection or priority of any Lien purported to be created by the Loan Documents,~~ (v) the value or the sufficiency of any Collateral, or (vi) the satisfaction of any condition set forth in Article III or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Agent.

~~SECTION 9.03~~ Section 7.04 Reliance by Agent. The Agent shall be entitled to rely upon, and shall be fully protected in relying and shall not incur any liability for relying upon, any notice, request, certificate, communication, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall be fully protected in relying and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of an Advance, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or the Issuing Bank, the Agent may presume that such condition is satisfactory to such Lender or the Issuing Bank unless the Agent shall have received notice to the contrary from such Lender or the Issuing Bank prior to the making of such Advance or the issuance of such Letter of Credit. The Agent may consult with legal counsel (who may be counsel for the Borrowers), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts. For purposes of determining compliance



with the conditions specified in Section 3.01 and in 3.02 on the Effective Date, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Agent shall have received notice from such Lender prior to the proposed Effective Date specifying its objections.

SECTION 9.04Section 7.05 Delegation of Duties. The Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Document by or through any one or more sub-agents appointed by the Agent. The Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Article shall apply to any such sub-agent (including any syndication agent, documentation agent and co-agent) and to the Related Parties of the Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the Facility as well as activities as Agent. The Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Agent acted with gross negligence or willful misconduct in the selection of such sub-agents. Each Lender hereby acknowledges that none of the syndication agent, the documentation agent, any co-agent or any other Lender designated as any “Agent” on the signature pages hereof has any responsibility or liability hereunder other than in its capacity as a Lender.

SECTION 9.05Section 7.06 Resignation of Agent.

(a) Notice. The Agent may at any time give notice of its resignation to the Lenders, the Issuing Bank and the Borrowers. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrowers, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the “Resignation Effective Date”), then the retiring Agent may (but shall not be obligated to) on behalf of the Lenders and the Issuing Bank, appoint a successor Agent meeting the qualifications set forth above; provided that in no event shall any successor Agent be a Defaulting Lender. Whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) Removal. If the Person serving as Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by applicable law, by notice in writing to the Borrowers and such Person remove such Person as Agent and, with the written consent of the Holding Company (not to be unreasonably withheld or delayed), appoint a successor; provided that no such consent of the Holding Company shall be required if an Event of Default shall have occurred and is continuing. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days (or such earlier day as shall be agreed by the Required Lenders) (the “Removal Effective Date”), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) Effect of Resignation or Removal. With effect from the Resignation Effective Date (i) the retiring (or removed) Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents (except that in the case of any collateral security held by the Agent on behalf of the Lenders or the Issuing Bank under any of the Loan Documents, the retiring (or removed) Agent shall continue to hold such collateral security until such time as a successor Agent is appointed) and (ii) except for any indemnity payments or other amounts then owed to the retiring (or removed) Agent, all payments, communications and determinations provided to be made by, to or through the



Agent shall instead be made by or to each Lender and the Issuing Bank directly, until such time, if any, as the Required Lenders appoint a successor Agent as provided for above. Upon the acceptance of a successor's appointment as Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring (or removed) Agent (other than as provided in Section 2.14(g) and other than any rights to indemnity payments or other amounts owed to the retiring (or removed) Agent as of the Resignation Effective Date or the Removal Effective Date, as applicable, and the retiring Agent shall be discharged from all of its duties and obligations hereunder or under the other Loan Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrowers to a successor Agent shall be the same as those payable to its predecessor unless otherwise agreed among the Borrowers and such successor. After the retiring (or removed) Agent's resignation (or removal) hereunder and under the other Loan Documents, the provisions of this Article and Section 8.04 shall continue in effect for the benefit of such retiring (or removed) Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them (i) while the retiring (or removed) Agent was acting as Agent and (ii) after such resignation or removal for as long as any of them continues to act in any capacity hereunder or under the other Loan Documents, including, without limitation, (A) acting as collateral agent or otherwise holding any collateral security on behalf of any of the Secured Parties and (B) in respect of any actions taken in connection with transferring the agency to any successor Agent.

(d) Issuing Bank and Swingline Lender. Any resignation by Bank of America as Agent pursuant to this Section shall also constitute its resignation as Issuing Bank and Swingline Lender. If Bank of America resigns as Issuing Bank, it shall retain all the rights, powers, privileges and duties of the Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as Issuing Bank and all L/C Exposure with respect thereto, including the right to require the Lenders to make Base Rate Advances or Letter of Credit Advances pursuant to Section 2.16(c). If Bank of America resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Advances made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to fund risk participations in outstanding Swingline Advances pursuant to Section 2.04(c). Upon the appointment by the Borrowers of a successor Issuing Bank or Swingline Lender hereunder (which successor shall in all cases be a Lender other than a Defaulting Lender), (i) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank or Swingline Lender, as applicable, (ii) the retiring Issuing Bank and Swingline Lender shall be discharged from all of their respective duties and obligations hereunder or under the other Loan Documents, and (iii) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

~~SECTION 9.06~~Section 7.07 Non-Reliance on Agent and Other Lenders. Each Lender and the Issuing Bank acknowledges that none of the Agent nor either of the Arrangers has made any representation or warranty to it, and that no act by the Agent or either of the Arrangers hereafter taken, including any consent to, and acceptance of any assignment or review of the affairs of any Borrower or any Affiliate thereof, shall be deemed to constitute any representation or warranty by the Agent or either of the Arrangers to any Lender or Issuing Bank as to any matter, including whether the Agent or either of the Arrangers has disclosed material information in their (or their Related Parties') possession. Each Lender and Issuing Bank represents to the Agent and each Arranger that it has, independently and without reliance upon the Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and of, appraisal of, and investigation into, the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrowers and their



Subsidiaries, and all applicable bank or other regulatory laws relating to the transactions contemplated hereby, and made its own decision to enter into this Agreement and to extend credit to the Borrowers hereunder. Each Lender and the Issuing Bank also acknowledges that it will, independently and without reliance upon the Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under or based upon this Agreement, any other Loan Document or any related agreement or any document furnished hereunder or thereunder, and to make such investigations as it deems necessary to inform itself as to the business, prospects, operations, property, financial and other condition and creditworthiness of the Borrowers. Each Lender and Issuing Bank represents and warrants that (i) the Loan Documents set forth the terms of a commercial lending facility and (ii) it is engaged in making, acquiring or holding commercial loans in the ordinary course and is entering into this Agreement as a Lender or Issuing Bank for the purpose of making, acquiring or holding commercial loans and providing other facilities set forth herein as may be applicable to such Lender or Issuing Bank, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument, and each Lender and the Issuing Bank agrees not to assert a claim in contravention of the foregoing. Each Lender and the Issuing Bank represents and warrants that it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Lender or such Issuing Bank, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities.

~~SECTION 9.07~~Section 7.08 No Other Duties, Etc. Anything herein to the contrary notwithstanding, none of the titles listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Agent, an Arranger, a Lender or the Issuing Bank hereunder.

Section 7.09 Agent May File Proofs of Claim; Credit Bidding

(a) In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Borrower, the Agent (irrespective of whether the principal of any Advance or any L/C Exposure shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Agent shall have made any demand on the Borrowers) shall be entitled and empowered, by intervention in such proceeding or otherwise:

(ai) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Advances, L/C Exposure and all other debts, liabilities and obligations that are owing and unpaid hereunder and under the other Loan Documents and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Bank and the Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Bank and the Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Bank and the Agent under Sections 2.13(f), 2.16(h) and (i), 2.21, and 8.04) allowed in such judicial proceeding; and

(bij) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;



and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and the Issuing Bank to make such payments to the Agent and, in the event that the Agent shall consent to the making of such payments directly to the Lenders and the Issuing Bank, to pay to the Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Agent and its agents and counsel, and any other amounts due the Agent under Sections 2.13(f), 2.21, and 8.04.

(b) Nothing contained herein shall be deemed to authorize the Agent to authorize or consent to or accept or adopt on behalf of any Lender or the Issuing Bank any plan of reorganization, arrangement, adjustment or composition affecting the Advances, L/C Exposure or any other debts, liabilities and obligations that are owing and unpaid hereunder and under the other Loan Documents or the rights of any Lender or the Issuing Bank to authorize the Agent to vote in respect of the claim of any Lender or the Issuing Bank or in any such proceeding.

(b) (c) The Secured Parties hereby irrevocably authorize the Agent, at the direction of the Required Lenders, to credit bid all or any portion of the Secured Obligations (including accepting some or all of the Collateral in satisfaction of some or all of the Secured Obligations pursuant to a deed in lieu of foreclosure or otherwise) and in such manner purchase (either directly or through one or more acquisition vehicles) all or any portion of the Collateral (i) at any sale thereof conducted under the provisions of the Bankruptcy Code of the United States, including under Sections 363, 1123 or 1129 of the Bankruptcy Code of the United States, or any similar laws in any other jurisdictions to which a Borrower is subject, (ii) at any other sale or foreclosure or acceptance of collateral in lieu of debt conducted by (or with the consent or at the direction of) the Agent (whether by judicial action or otherwise) in accordance with any applicable law. In connection with any such credit bid and purchase, the Secured Obligations owed to the Secured Parties shall be entitled to be, and shall be, credit bid on a ratable basis (with Secured Obligations with respect to contingent or unliquidated claims receiving contingent interests in the acquired assets on a ratable basis that would vest upon the liquidation of such claims in an amount proportional to the liquidated portion of the contingent claim amount used in allocating the contingent interests) in the asset or assets so purchased (or in the capital stock and other ownership interests or debt instruments of the acquisition vehicle or vehicles that are used to consummate such purchase). In connection with any such bid (A) the Agent shall be authorized to form one or more acquisition vehicles to make a bid, (B) to adopt documents providing for the governance of the acquisition vehicle or vehicles (provided that any actions by the Agent with respect to such acquisition vehicle or vehicles, including any disposition of the assets or capital stock and other ownership interests thereof shall be governed, directly or indirectly, by the vote of the Required Lenders, irrespective of the termination of this Agreement and without giving effect to the limitations on actions by the Required Lenders contained in Section 8.01 of this Agreement), (C) the Agent shall be authorized to assign the relevant Secured Obligations to any such acquisition vehicle pro rata by the Lenders, as a result of which each of the Lenders shall be deemed to have received a pro rata portion of any capital stock and other ownership interests and/or debt instruments issued by such an acquisition vehicle on account of the assignment of the Secured Obligations to be credit bid, all without the need for any Secured Party or acquisition vehicle to take any further action, and (D) to the extent that Secured Obligations that are assigned to an acquisition vehicle are not used to acquire Collateral for any reason (as a result of another bid being higher or better, because the amount of Secured Obligations assigned to the acquisition vehicle exceeds the amount of debt credit bid by the



acquisition vehicle or otherwise), such Secured Obligations shall automatically be reassigned to the Lenders *pro rata* and the capital stock and other ownership interests and/or debt instruments issued by any acquisition vehicle on account of the Secured Obligations that had been assigned to the acquisition vehicle shall automatically be cancelled, without the need for any Secured Party or any acquisition vehicle to take any further action.

Section 7.10 Collateral Matters

2

(c) (a) No amendment, waiver or consent to this Agreement shall, without the prior written consent of each Lender directly affected thereby, (i) modify Section 2.13(a), 2.15, 6.02 or any other provision hereof in a manner that would have the effect of altering the ratable reduction of Commitments or the *pro rata* sharing of payments otherwise required hereunder, (ii) subordinate, or have the effect of subordinating, the Obligations hereunder to any other Debt or other obligation, (iii) except as provided in Section 7.10(b)(i), subordinate, or have the effect of subordinating, the Liens securing the Obligations to Liens securing any other Debt or other obligation, or (iv) release, or have the effect of releasing, all or substantially all of the Collateral securing the Obligations.

(d) (b) Each of the Lenders (including in its capacities as a potential Cash Management Bank and a potential Hedge Bank) and the Issuing Bank irrevocably authorize the Agent, at its option and in its discretion,

(i) to release any Lien on any property granted to or held by the Agent under any Loan Document (i) upon payment in full of the Secured Obligations and termination of the Commitments of each Lender, (ii) upon the Collateral Release Date, (ii) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted hereunder or under any other Loan Document, or (iii) if approved, authorized or ratified in writing by the Required Lenders in accordance with Section 8.01;

(ii) to subordinate any Lien on any property granted to or held by the Agent under any Loan Document to the holder of any Lien on such property that is permitted by Section 5.02(a)(iii).

(c) Upon request by the Agent at any time, the Required Lenders will confirm in writing the Agent's authority to release or subordinate its interest in particular types or items of property pursuant to this Section 7.10. In each case as specified in this Section 7.10, the Agent will, at the Borrowers' expense, execute and deliver to the applicable Borrower such documents as such Borrower may reasonably request to evidence the release of such item of Collateral from the assignment and security interest granted under the Collateral Documents or to subordinate its interest in such item in accordance with the terms of the Loan Documents and this Section 7.10.

(d) The Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Agent's Lien thereon, or any certificate prepared by



any Borrower in connection therewith, nor shall the Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

Section 7.11 Secured Cash Management Agreements and Secured Hedge Agreements

.Except as otherwise expressly set forth herein or in any Collateral Document, no Cash Management Bank or Hedge Bank that obtains the benefit of the provisions of Section 6.03 or any Collateral by virtue of the provisions hereof or any Collateral Document shall have any right to notice of any action or to consent to, direct or object to any action hereunder or under any other Loan Document or otherwise in respect of the Collateral (including the release or impairment of any Collateral) (or to notice of or to consent to any amendment, waiver or modification of the provisions hereof or of any Collateral Document) other than in its capacity as a Lender and, in such case, only to the extent expressly provided in the Loan Documents. Notwithstanding any other provision of this Article VII to the contrary, the Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Secured Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements except to the extent expressly provided herein and unless the Agent has received a Secured Party Designation Notice of such Secured Obligations, together with such supporting documentation as the Agent may request, from the applicable Cash Management Bank or Hedge Bank, as the case may be. The Agent shall not be required to verify the payment of, or that other satisfactory arrangements have been made with respect to, Secured Obligations arising under Secured Cash Management Agreements and Secured Hedge Agreements in the case of the termination of this Agreement.

~~ARTICLE X~~Article VIII

MISCELLANEOUS

~~ARTICLE XI~~Section 8.01 Amendments, Etc. No amendment or waiver of any provision of this Agreement, nor consent to any departure by any Borrower therefrom, shall in any event be effective unless the same shall be in writing and signed by the Required Lenders, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given; provided, however, that no amendment, waiver or consent shall, unless in writing and signed by all the Lenders adversely affected thereby, do any of the following: (a) waive any of the conditions specified in Section 3.01, (b) increase the Commitments of the Lenders or subject the Lenders to any additional obligations, (c) reduce the principal of, or interest on, any Advance or any fees or other amounts payable hereunder, (d) postpone any date fixed for any payment of principal of, or interest on, any Advance or any fees or other amounts payable hereunder, (e) change the percentage of the Commitments, the aggregate unpaid principal amount of any Advance or the percentage or number of Lenders, that shall be required for the Lenders or any of them to take any action hereunder or (f) amend this Section 8.01; and provided further that (x) no amendment, waiver or consent shall, unless in writing and signed by the Agent in addition to the Lenders required above to take such action, affect the rights or duties of the Agent under this Agreement, any Note or any other Loan Document, (y) no amendment, waiver or consent shall, unless in writing and signed by the Issuing Bank and/or the Swingline Lender in addition to the Lenders required above to take such action, adversely affect the rights or obligations of the Issuing Bank and/or the Swingline Lender, as applicable, in their capacities as such under this Agreement, and (z) the Fee Letter may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties

thereto. Notwithstanding anything to the contrary herein, (A) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder (and any amendment, waiver or consent which by its terms requires the consent of all Lenders or each affected Lender, or all Lenders or each affected Lender under a Facility, may be effected with the consent of the applicable Lenders other than Defaulting Lenders), except that (1) the Commitment of any Defaulting Lender may not be increased or extended without the consent of such Lender and (2) any waiver, amendment or modification requiring the consent of all Lenders or each affected Lender, or all Lenders or each affected Lender under a Facility, that by its terms affects any Defaulting Lender disproportionately adversely relative to other affected Lenders shall require the consent of such Defaulting Lender; (B) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the ~~Loans~~ Advances, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and (C) the Required Lenders shall determine whether or not to allow a Borrower to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

Notwithstanding anything to the contrary herein, (a) this Agreement may be amended and restated without the consent of any Lender (but with the consent of the Borrowers and the Agent) if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated, such Lender shall have no other commitment or other obligation hereunder and shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement, and (b) the Agent may amend or modify this Agreement and any other Loan Document to cure any ambiguity, omission, mistake, defect or inconsistency therein.

~~SECTION 11.01~~ Section 8.02 Notices, Etc. (a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax transmission or e-mail transmission as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

- (i) if to any Borrower, the Agent, the Issuing Bank or the Swingline Lender, to the address, fax number, e-mail address or telephone number specified for such Person on Schedule 1.01(a); and
- (ii) if to any other Lender, to the address, fax number, e-mail address or telephone number specified in its Administrative Questionnaire (including, as appropriate, notices delivered solely to the Person designated by a Lender on its Administrative Questionnaire then in effect for the delivery of notices that may contain material non-public information relating to the Borrowers).

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

This Agreement was prepared by: Holland & Knight LLP



[101 S. Tryon Street, Suite 3600](#)  
[Charlotte, North Carolina 28280](#)  
[Attention: Tim Ryan](#)  
[Phone: 980.215.7777](#)  
[E-mail: Tim.Ryan@hkllaw.com](#)

(b) **Electronic Communications.** Notices and other communications to the Agent, the Lenders, the Swingline Lender and the Issuing Bank hereunder may be delivered or furnished by electronic communication (including e-mail, FPML messaging and Internet or intranet websites) pursuant to procedures approved by the Agent; provided that the foregoing shall not apply to notices to any Lender, the Swingline Lender or the Issuing Bank pursuant to Article II if such Lender, Swingline Lender or the Issuing Bank, as applicable, has notified the Agent that it is incapable of receiving notices under such Article by electronic communication. The Agent, the Swingline Lender, the Issuing Bank or the Borrowers may each, in its or their discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

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

(c) **The Platform.** THE PLATFORM IS PROVIDED "AS IS" AND "AS AVAILABLE." THE AGENT PARTIES (AS DEFINED BELOW) DO NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE BORROWER MATERIALS OR THE ADEQUACY OF THE PLATFORM, AND EXPRESSLY DISCLAIM LIABILITY FOR ERRORS IN OR OMISSIONS FROM THE BORROWER MATERIALS. NO WARRANTY OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR FREEDOM FROM VIRUSES OR OTHER CODE DEFECTS, IS MADE BY ANY AGENT PARTY IN CONNECTION WITH THE BORROWER MATERIALS OR THE PLATFORM. In no event shall the Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to any Borrower, any Lender, the Issuing Bank or any other Person for losses, claims, damages, liabilities or expenses of any kind (whether in tort, contract or otherwise) arising out of any Borrower's or the Agent's transmission of Borrower Materials or notices through the Platform, any other electronic platform or electronic messaging service, or through the Internet.

(d) **Change of Address, Etc.** Each of the Borrowers, the Agent, the Issuing Bank and the Swingline Lender may change its address, fax number or telephone number or e-mail address for notices and other communications hereunder by notice to the other parties hereto. Each other Lender may change its address, fax number or telephone number or e-mail address for notices and other communications hereunder by notice to the Borrowers, the Agent, the Issuing Bank and the Swingline Lender. In addition, each Lender agrees to notify the Agent from time to time to ensure that the Agent has on record (i) an effective address, contact name, telephone number, fax number and e-mail address to which notices and

other communications may be sent and (ii) accurate wire instructions for such Lender. Furthermore, each Public Lender agrees to cause at least one (1) individual at or on behalf of such Public Lender to at all times have selected the “Private Side Information” or similar designation on the content declaration screen of the Platform in order to enable such Public Lender or its delegate, in accordance with such Public Lender’s compliance procedures and applicable law, including United States federal and state securities laws, to make reference to Borrower Materials that are not made available through the “Public Side Information” portion of the Platform and that may contain material non-public information with respect to any Borrower or its securities for purposes of United States federal or state securities laws.

(e) Reliance by Agent, Issuing Bank and Lenders. The Agent, the Issuing Bank and the Lenders shall be entitled to rely and act upon any notices (including, without limitation, telephonic or electronic notices and Loan Notices) purportedly given by or on behalf of any Borrower even if (i) such notices were not made in a manner specified herein, were incomplete or were not preceded or followed by any other form of notice specified herein, or (ii) the terms thereof, as understood by the recipient, varied from any confirmation thereof. The Borrowers shall jointly and severally indemnify the Agent, the Issuing Bank, each Lender and the Related Parties of each of them from all losses, costs, expenses and liabilities resulting from the reliance by such Person on each notice purportedly given by or on behalf of a Borrower. All telephonic notices to and other telephonic communications with the Agent may be recorded by the Agent, and each of the parties hereto hereby consents to such recording.

~~SECTION 11.02~~Section 8.03 No Waiver; Remedies; Enforcement. No failure on the part of any Lender, the Issuing Bank or the Agent to exercise, and no delay in exercising, any right hereunder or under any Note shall operate as a waiver thereof; nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

Notwithstanding anything to the contrary contained herein or in any other Loan Document, the authority to enforce rights and remedies hereunder and under the other Loan Documents against the Borrowers or any of them shall be vested exclusively in, and all actions and proceedings at law in connection with such enforcement shall be instituted and maintained exclusively by, the Agent in accordance with Section 6.01 for the benefit of all the Lenders and the Issuing Bank; provided, however, that the foregoing shall not prohibit (a) the Agent from exercising on its own behalf the rights and remedies that inure to its benefit (solely in its capacity as Agent) hereunder and under the other Loan Documents, (b) the Issuing Bank or the Swingline Lender from exercising the rights and remedies that inure to its benefit (solely in its capacity as Issuing Bank or Swingline Lender, as the case may be) hereunder and under the other Loan Documents, (c) any Lender from exercising setoff rights in accordance with Section 8.05 (subject to the terms of Section 2.15), or (d) any Lender from filing proofs of claim or appearing and filing pleadings on its own behalf during the pendency of a proceeding relative to any Borrower under any Debtor Relief Law; and provided, further, that if at any time there is no Person acting as Agent hereunder and under the other Loan Documents, then (i) the Required Lenders shall have the rights otherwise ascribed to the Agent pursuant to Section 6.01 and (ii) in addition to the matters set forth in clauses (b), (c) and (d) of the preceding proviso and subject to Section 2.15, any Lender may, with the consent of the Required Lenders, enforce any rights and remedies available to it and as authorized by the Required Lenders.

~~SECTION 11.03~~Section 8.04 Costs and Expenses; Indemnity. (a) The Borrowers shall jointly and severally pay (i) all reasonable and documented out-of-pocket expenses incurred by the Agent and its Affiliates (including the reasonable fees, charges and disbursements of one counsel for the Agent), in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Loan Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions



contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by the Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket and documented expenses incurred by the Agent, any Lender or the Issuing Bank (including the fees, charges and disbursements of any counsel for the Agent, any Lender or the Issuing Bank), in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Loan Documents, including its rights under this Section, or (B) in connection with Advances made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Advances or Letters of Credit.

(b) The Borrowers shall jointly and severally indemnify the Agent (and any sub-agent thereof), each Lender and the Issuing Bank, and each Related Party of any of the foregoing Persons (each such Person being called an “Indemnatee”) against, and hold each Indemnatee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the fees, charges and disbursements of any counsel for any Indemnatee), incurred by any Indemnatee or asserted against any Indemnatee by any Person (including any Borrower) arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Loan Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, or, in the case of the Agent (and any sub-agent thereof) and its Related Parties only, the administration of this Agreement and the other Loan Documents (including in respect of any matters addressed in Section 2.14), (ii) any Advance or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by the Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Environmental Substances on or from any property owned or operated by a Borrower or any of its Subsidiaries, or any Environmental Claim related in any way to a Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Borrower or any of a Borrower’s directors, shareholders or creditors, and regardless of whether any Indemnatee is a party thereto; provided that such indemnity shall not, as to any Indemnatee, be available to the extent that such losses, claims, damages, liabilities or related expenses are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnatee. Without limiting the provisions of Section 2.14(c), this Section 8.04(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) To the extent that the Borrowers for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Agent (or any sub-agent thereof), the Issuing Bank, the Swingline Lender or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Agent (or any such sub-agent), the Issuing Bank, the Swingline Lender or such Related Party, as the case may be, such Lender’s pro rata share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought based on each Lender’s share of the total Credit Exposure at such time) of such unpaid amount (including any such unpaid amount in respect of a claim asserted by such Lender), such payment to be made severally among them based on such Lender’s Pro Rata Share (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought), provided, further that, the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Agent (or any such sub-agent), the Issuing Bank or the Swingline Lender in its capacity as such, or against any Related Party of any of the foregoing acting for the Agent (or any such sub-agent), the Issuing Bank or the Swingline Lender in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of Section 2.13(h).



(d) To the fullest extent permitted by applicable law, no Borrower shall assert, and each Borrower hereby waives, and acknowledges that no other Person shall have, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Advance or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed to such unintended recipients by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Loan Documents or the transactions contemplated hereby or thereby.

(e) Upon demand of any Lender (with a copy to the Agent) from time to time, the Borrowers shall promptly compensate such Lender for and hold such Lender harmless from any loss, cost or expense incurred by it as a result of):

(i) any continuation, conversion, payment or prepayment of any Advance other than a Base Rate Advance on a day other than the last day of the Interest Period for such Advance (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise);

(ii) any failure by a Borrower (for a reason other than the failure of such Lender to make an Advance) to prepay, borrow, continue or convert any Advance other than a Base Rate Advance on the date or in the amount notified by the applicable Borrower; or

(iii) any assignment of a Eurodollar Rate Advance on a day other than the last day of the Interest Period therefor as a result of a request by the Borrower pursuant to Section 8.07(a);

including any loss of anticipated profits and any loss or expense arising from the liquidation or reemployment of funds obtained by it to maintain such Advance or from fees payable to terminate the deposits from which such funds were obtained. The Borrowers shall also jointly and severally pay any customary administrative fees charged by such Lender in connection with the foregoing.

For purposes of calculating amounts payable by the Borrowers to the Lenders under this Section 8.04(e), each Lender shall be deemed to have funded each Eurodollar Rate Advance made by it at the Eurodollar Rate for such Advance by a matching deposit or other borrowing in the London interbank eurodollar market for a comparable amount and for a comparable period, whether or not such Eurodollar Rate Advance was in fact so funded.

(f) Without prejudice to the survival of any other agreement of the Borrowers hereunder, the agreements and obligations of the Borrowers contained in Sections ~~2.08(e)~~, 2.11, 2.12, 2.14, ~~2.18(c)~~ and 8.04 shall survive the payment in full of principal, interest and all other amounts payable hereunder and under the other Loan Documents, termination of the aggregate Commitments, resignation of the Agent and the Termination Date.

~~(g)~~ **Section 8.05 Right of Set-off.** Upon (i) the occurrence and during the continuance of any Event of Default and (ii) the making of the request or the granting of the consent specified by Section 6.01 to authorize the Agent to declare the Advances due and payable pursuant to the provisions of Section 6.01, each Lender, the Issuing Bank and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by such Lender, the Issuing Bank or such Affiliate to or for the credit or the account of any

Borrower against any and all of the obligations of such Borrower now or hereafter existing under this Agreement, any Note or any other Loan Document, whether or not such Lender or the Issuing Bank shall have made any demand under this Agreement or such Note or other Loan Document and although such obligations may be unmatured, continued, secured or unsecured, or are owed to a branch, office or Affiliate of such Lender or the Issuing Bank different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (a) all amounts so set off shall be paid over immediately to the Agent for further application in accordance with the provisions of Section 2.22 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Agent, the Issuing Bank and the Lenders, and (b) the Defaulting Lender shall provide promptly to the Agent a statement describing in reasonable detail the debts, liabilities and obligations owing to such Defaulting Lender as to which it exercised such right of setoff. Each Lender and the Issuing Bank agrees promptly to notify the Agent and the Borrowers after any such set-off and application, provided that the failure to give such notice shall not affect the validity of such set-off and application. The rights of each Lender, the Issuing Bank and its Affiliates under this Section are in addition to other rights and remedies (including, without limitation, other rights of set-off) that such Lender, the Issuing Bank and their respective Affiliates may have.

~~(H)~~Section 8.06 Binding Effect. This Agreement shall become effective (other than Sections 2.01 and 2.16, which shall only become effective upon satisfaction of the conditions precedent set forth in Section 3.01) when it shall have been executed by the Borrowers and the Agent and when the Agent shall have been notified by each Initial Lender that such Initial Lender has executed it and thereafter shall be binding upon and inure to the benefit of the Borrowers, the Agent and each Lender and their respective successors and assigns, except that no Borrower shall have the right to assign its rights hereunder or any interest herein without the prior written consent of the Lenders.

~~(H)~~Section 8.07 Assignments and Participations.

(a) Successors and Assigns Generally. The provisions of this Agreement and the other Loan Documents shall be binding upon and inure to the benefit of the parties hereto and thereto and their respective successors and assigns permitted hereby, except neither Borrower may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Agent and each Lender and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section, or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement and the other Loan Documents (including all or a portion of its Commitment(s) and the Advances (including for purposes of this subsection (b), participations in L/C Exposure and in Swingline Advances) at the time owing to it); provided that (in each case with respect to any Facility) any such assignment shall be subject to the following conditions:



(i) Minimum Amounts.

(A) in the case of (x) an assignment of the entire remaining amount of the assigning Lender's Commitment under any Facility and/or the Advances at the time owing to it (in each case with respect to any Facility) or contemporaneous assignments to related Approved Funds (determined after giving effect to such Assignmentsassignments) that equal at least the amount specified in paragraph (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, or (y) an assignment to an acquisition vehicle pursuant to Section 7.09, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the Commitment (which for this purpose includes Advances outstanding thereunder) or, if the Commitment is not then in effect, the principal outstanding balance of the Advances of the assigning Lender subject to each such assignment, determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Agent or, if "Trade Date" is specified in the Assignment and Assumption, as of the Trade Date, shall not be less than \$5,000,000, unless each of the Agent and, so long as no Event of Default has occurred and is continuing, the Borrowers otherwise consent (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement and the other Loan Documents with respect to the Advances and/or the Commitment assigned, except that this clause (ii) shall not apply to the Swingline Lender's rights and obligations in respect of Swingline Advances.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrowers (such consent not to be unreasonably withheld or delayed) shall be required unless (1) an Event of Default has occurred and is continuing at the time of such assignment or (2) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrowers shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Agent within ten (10) Business Days after having received notice thereof; and provided, further, that the Borrowers' consent shall not be required during the primary syndication of the Facilities;

(B) the consent of the Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments in respect of any Revolving Credit Commitment if such assignment is to a Person that is not a Lender with a Revolving Credit Commitment, an Affiliate of such Lender or an Approved Fund with respect to such Lender; and

(C) the consent of the Issuing Bank and the Swingline Lender shall be required for any assignment in respect of the Revolving Credit Facility.



(iv) Assignment and Assumption. The parties to each assignment shall execute and deliver to the Agent an Assignment and Assumption, together with, except in the case of an assignment pursuant to Section 7.09, a processing and recordation fee in the amount of \$3,500; provided, however, that the Agent may, in its sole discretion, elect to waive such processing and recordation fee in the case of any assignment. The assignee, if it is not a Lender, shall deliver to the Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made (A) to any Borrower or any of a Borrower's Affiliates or Subsidiaries, (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B), or (C) to a natural Person (or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person).

(vi) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrowers and the Agent, the applicable pro rata share of Advances previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (A) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Agent, the Issuing Bank or any Lender hereunder (and interest accrued thereon) and (B) acquire (and fund as appropriate) its full pro rata share of all Advances and participations in Letters of Credit and Swingline Advances in accordance with its Pro Rata Share. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under applicable law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.11, 2.14 and 8.04 with respect to facts and circumstances occurring prior to the effective date of such assignment); provided, that except to the extent otherwise expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Upon request, each Borrower (at its expense) shall execute and deliver a Note to the assignee Lender. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Agent, acting solely for this purpose as a non-fiduciary agent of the Borrowers, shall maintain at the Agent's Applicable Lending Office a copy of each Assignment and

Assumption delivered to it (or the equivalent thereof in electronic form) and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Advances and L/C Exposure owing to, each Lender pursuant to the terms hereof from time to time (the “Register”). The entries in the Register shall be conclusive, absent manifest error, and the Borrowers, the Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrowers or the Agent, sell participations to any Person (other than a natural Person, or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person, a Defaulting Lender or a Borrower or any of a Borrower’s Affiliates or Subsidiaries) (each, a “Participant”) in all or a portion of such Lender’s rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Advances (including such Lender’s participations in L/C Exposure and/or Swingline Advances) owing to it); provided that (i) such Lender’s obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) the Borrowers, the Agent, the Lenders and the Issuing Bank shall continue to deal solely and directly with such Lender in connection with such Lender’s rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 8.04(c) without regard to the existence of any participations.

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, waiver or other modification described in the first proviso to Section 8.01 that affects such Participant. Each Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.11, 2.14, and 8.04(e) (subject to the requirements and limitations therein, including the requirements under Section 2.14(e) (it being understood that the documentation required under Section 2.14(e) shall be delivered to the Lender who sells the participation)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.23 and 8.14 as if it were an assignee under paragraph (b) of this Section and (B) shall not be entitled to receive any greater payment under Sections 2.11 or 2.14, with respect to any participation, than the Lender from whom it acquired the applicable participation would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrowers’ request and expense, to use reasonable efforts to cooperate with the Borrowers to effectuate the provisions of Section 2.23 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 8.05 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.15 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant’s interest in the Advances or other obligations under the Loan Documents (the “Participant Register”); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant’s interest in any commitments, loans, letters of credit or its other obligations under any Loan Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the



Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Agent (in its capacity as Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement (including under its Note or Notes, if any) to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledge or assignee for such Lender as a party hereto.

(f) Resignation as Issuing Bank or Swingline Lender after Assignment. Notwithstanding anything to the contrary contained herein, if at any time Bank of America assigns all of its Revolving Credit Commitment and Revolving Credit Advances pursuant to subsection (b) above, Bank of America may, (i) upon thirty (30) days' notice to the Borrowers and the Lenders, resign as Issuing Bank and/or (ii) upon thirty (30) days' notice to the Borrowers, resign as Swingline Lender. In the event of any such resignation as Issuing Bank or Swingline Lender, the Borrowers shall be entitled to appoint from among the Lenders a successor Issuing Bank or Swingline Lender hereunder; provided, however, that no failure by the Borrowers to appoint any such successor shall affect the resignation of Bank of America as Issuing Bank or Swingline Lender, as the case may be. If Bank of America resigns as Issuing Bank, it shall retain all the rights, powers, privileges and duties of the Issuing Bank hereunder with respect to all Letters of Credit outstanding as of the effective date of its resignation as Issuing Bank and all L/C Exposure with respect thereto (including the right to require the Lenders to make Base Rate Advances or fund risk participations in Unreimbursed Amounts pursuant to Section 2.16(c)). If Bank of America resigns as Swingline Lender, it shall retain all the rights of the Swingline Lender provided for hereunder with respect to Swingline Advances made by it and outstanding as of the effective date of such resignation, including the right to require the Lenders to make Base Rate Advances or fund risk participations in outstanding Swingline Advances pursuant to Section 2.04(c). Upon the appointment of a successor Issuing Bank and/or Swingline Lender, (A) such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring Issuing Bank or Swingline Lender, as the case may be, and (B) the successor Issuing Bank shall issue letters of credit in substitution for the Letters of Credit, if any, outstanding at the time of such succession or make other arrangements satisfactory to Bank of America to effectively assume the obligations of Bank of America with respect to such Letters of Credit.

#### SECTION 11.04 Section 8.08 Treatment of Certain Information; Confidentiality.

(a) Treatment of Certain Information. Each of the Agent, the Lenders and the Issuing Bank agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its Affiliates, its auditors and its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (iii) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (iv) to any other party hereto, (v) in connection with the exercise of any remedies hereunder or under any other Loan Document or any action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights and obligations under this Agreement ~~or any Eligible Assignee invited to be a Lender pursuant to Section 2.18(e)~~ or (B) any actual or prospective party (or its



Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to the Borrowers and its obligations, this Agreement or payments hereunder, (vii) on a confidential basis to (A) any rating agency in connection with rating a Borrower or its Subsidiaries or the credit facilities provided hereunder or (B) the provider of any Platform or other electronic delivery service used by the Agent, the Issuing Bank and/or the Swingline Lender to deliver Borrower Materials or notices to the Lenders or (C) the CUSIP Service Bureau or any similar agency in connection with the application, issuance, publishing and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided hereunder, or (viii) with the consent of the Borrowers or to the extent such Information (1) becomes publicly available other than as a result of a breach of this Section ~~or~~, (2) becomes available to the Agent, any Lender, the Issuing Bank or any of their respective Affiliates on a nonconfidential basis from a source other than a Borrower or (3) is independently discovered or developed by a party hereto without utilizing any Information received from any Borrower or violating the terms of this Section 8.08. For purposes of this Section, “Information” means all information received from any Borrower or any Subsidiary relating to the Borrowers or any Subsidiary or any of their respective businesses, other than any such information that is available to the Agent, any Lender or the Issuing Bank on a nonconfidential basis prior to disclosure by a Borrower or any Subsidiary, provided that, in the case of information received from a Borrower or any Subsidiary after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information. In addition, the Agent and the Lenders may disclose the existence of this Agreement and information about this Agreement to market data collectors, similar service providers to the lending industry and service providers to the Agent and the Lenders in connection with the administration of this Agreement, the other Loan Documents and the Commitments.

(b) Non-Public Information. Each of the Agent, the Lenders and the Issuing Bank acknowledges that (i) the Information may include material non-public information concerning a Borrower or a Subsidiary, as the case may be, (ii) it has developed compliance procedures regarding the use of material non-public information and (iii) it will handle such material non-public information in accordance with applicable law, including United States federal and state securities laws.

(c) Press Releases. The Borrowers and their Affiliates agree that they will not in the future issue any press releases or other public disclosure using the name of the Agent or any Lender or their respective Affiliates or referring to this Agreement or any of the Loan Documents without the prior written consent of the Agent, unless (and only to the extent that) a Borrower or such Affiliate is required to do so under law and then, in any event the Borrowers or such Affiliate will consult with such Person before issuing such press release or other public disclosure; provided, however, that the prohibitions and requirements of this Section 8.08(c) shall not apply with respect to any public disclosure contained in a report, statements or other instrument filed with or furnished to the Securities and Exchange Commission, Nasdaq Stock Market or the Financial Industry Regulatory Authority by either of the Borrowers.

(d) Customary Advertising Material. The Borrowers consent to the publication by the Agent or any Lender of customary advertising material relating to the transactions contemplated hereby using the name, product photographs, logo or trademark of the Borrowers.

~~SECTION 11.05~~Section 8.09 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Borrower acknowledges and agrees, and acknowledges its Affiliates’ understanding, that: (a) (i) the arranging and other services regarding this Agreement provided by the Agent and any Affiliate thereof, the ~~Arranger~~Arrangers and the Lenders are



arm's-length commercial transactions between each Borrower and their respective Affiliates, on the one hand, and the Agent and, as applicable, its Affiliates (including the ~~Arranger~~Arrangers) and the Lenders and their Affiliates (collectively, solely for purposes of this Section, the "Lenders"), on the other hand, (ii) each Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (b) (i) the Agent and its Affiliates (including the ~~Arranger~~Arrangers) and each Lender each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for any Borrower or any of their respective Affiliates, or any other Person and (ii) neither the Agent, any of its Affiliates (including the ~~Arranger~~Arrangers) nor any Lender has any obligation to any Borrower or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (c) the Agent and its Affiliates (including the ~~Arranger~~Arrangers) and the Lenders may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and their respective Affiliates, and neither the Agent, any of its Affiliates (including the ~~Arranger~~Arrangers) nor any Lender has any obligation to disclose any of such interests to any Borrower or any of their respective Affiliates. To the fullest extent permitted by law, each Borrower hereby waives and releases any claims that it may have against the Agent, any of its Affiliates (including the ~~Arranger~~Arrangers) or any Lender with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated hereby.

~~SECTION 11.06~~Section 8.10 Governing Law; Jurisdiction, Etc.

(a) GOVERNING LAW. THIS AGREEMENT, ANY NOTES AND EACH OF THE OTHER LOAN DOCUMENTS AND ANY CLAIMS, CONTROVERSY, DISPUTE OR CAUSE OF ACTION (WHETHER IN CONTRACT OR TORT OR OTHERWISE) BASED UPON, ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT (EXCEPT, AS TO ANY OTHER LOAN DOCUMENT, AS EXPRESSLY SET FORTH THEREIN) AND THE TRANSACTIONS CONTEMPLATED HEREBY AND THEREBY SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

(b) SUBMISSION TO JURISDICTION. EACH BORROWER IRREVOCABLY AND UNCONDITIONALLY AGREES THAT IT WILL NOT COMMENCE ANY ACTION, LITIGATION OR PROCEEDING OF ANY KIND OR DESCRIPTION, WHETHER IN LAW OR EQUITY, WHETHER IN CONTRACT OR IN TORT OR OTHERWISE, AGAINST THE AGENT, ANY LENDER, THE ISSUING BANK, OR ANY RELATED PARTY OF THE FOREGOING IN ANY WAY RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS RELATING HERETO OR THERETO, IN ANY FORUM OTHER THAN THE COURTS OF THE STATE OF NEW YORK SITTING IN NEW YORK COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE SOUTHERN DISTRICT OF NEW YORK, AND ANY APPELLATE COURT FROM ANY THEREOF, AND EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE JURISDICTION OF SUCH COURTS AND AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH ACTION, LITIGATION OR PROCEEDING MAY BE HEARD AND DETERMINED IN SUCH NEW YORK STATE COURT OR, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN SUCH FEDERAL COURT. EACH OF THE PARTIES HERETO AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION, LITIGATION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW. NOTHING IN THIS AGREEMENT OR IN ANY OTHER LOAN DOCUMENT SHALL AFFECT ANY RIGHT THAT THE AGENT, ANY LENDER OR THE ISSUING BANK MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO



THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT AGAINST ANY BORROWER OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION.

(c) **SERVICE OF PROCESS.** EACH PARTY HERETO IRREVOCABLY CONSENTS TO SERVICE OF PROCESS IN THE MANNER PROVIDED FOR NOTICES IN SECTION 8.02. NOTHING IN THIS AGREEMENT WILL AFFECT THE RIGHT OF ANY PARTY HERETO TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY APPLICABLE LAW.

~~SECTION 11.07~~ Section 8.11 Execution in Counterparts; Electronic Execution.—This Agreement and each of the other Loan Documents may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. This Agreement, the other Loan Documents, and any separate letter agreements with respect to fees payable to the Agent or the Issuing Bank, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Delivery of an executed counterpart of a signature page of this Agreement or any other Loan Document, or any certificate delivered thereunder, by fax transmission or e-mail transmission (e.g. “pdf” or “tif”) shall be effective as delivery of a manually executed counterpart of this Agreement or such other Loan Document or certificate. Without limiting the foregoing, to the extent a manually executed counterpart is not specifically required to be delivered under the terms of any Loan Document, upon the request of any party, such fax transmission or e-mail transmission shall be promptly followed by such manually executed counterpart.

The words “delivery,” “execute,” “execution,” “signed,” “signature,” and words of like import in any Loan Document or any other document executed in connection herewith shall be deemed to include electronic signatures, the electronic matching of assignment terms and contract formations on (a) This Agreement and any document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to this Agreement (each a “Communication”), including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Borrowers agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on each of the Borrowers to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of Each of the Borrowers enforceable against such in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic platforms approved counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Agent, or and each of the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical Secured Parties of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery thereof and/or the use of a paper-based recordkeeping system, as retention. The Agent and each of the ease Secured Parties may be, to the extent and as provided for in any applicable law, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record (“Electronic Copy”), which shall be deemed created in the ordinary course of the such Person’s business, and destroy the original paper document. All Communications in the form of an Electronic Record, including the Federal an Electronic Signatures in Global and National Commerce Act, the New



~~York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act; provided that notwithstanding~~Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, the Agent is under no obligation to ~~agree to accept electronic signatures~~an Electronic Signature in any form or in any format unless expressly agreed to by the Agent pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Agent has agreed to accept such Electronic Signature, the Agent and each of the Secured Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Borrower without further verification and (b) upon the request of the Agent or any Lender, any electronic signature~~Electronic Signature~~ shall be promptly followed by such manually executed counterpart. For purposes hereof, "Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

(b) Each Borrower hereby acknowledges the receipt of a copy of this Agreement and all other Loan Documents. The Agent and each Lender may, on behalf of the Borrowers, create a microfilm or optical disk or other electronic image of this Agreement and any or all of the other Loan Documents. The Agent and each Lender may store the electronic image of this Agreement and the other Loan Documents in its electronic form and then destroy the paper original as part of the Agent's and each Lender's normal business practices, with the electronic image deemed to be an original and of the same legal effect, validity and enforceability as the paper originals.

~~SECTION 11.08~~Section 8.12 Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (a) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (b) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

~~SECTION 11.09~~Section 8.13 USA Patriot Act. Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Act") and the Agent (for itself and not on behalf of any Lender) hereby notifies the Borrowers that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of each Borrower and other information that will allow such Lender to identify each Borrower in accordance with the Act. Each Borrower agrees to, promptly following a request by the Agent or any Lender, provide all such other documentation and information that the Agent or such Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Act.

~~SECTION 11.10~~Section 8.14 Replacement of Lenders. If the Borrowers are entitled to replace a Lender pursuant to the provisions of Section 2.23(b), or if any Lender is a Defaulting Lender, then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Agent, require such



Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 8.07), all of its interests, rights (other than its existing rights to payments pursuant to Sections 2.11 and 2.14) and obligations under this Agreement and the related Loan Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(a) the Borrowers shall have paid to the Agent the assignment fee (if any) specified in Section 8.07(b);

(b) such Lender shall have received payment of an amount equal to 100% of the outstanding principal of its Advances and its participations in Letter of Credit Advances, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Loan Documents (including any amounts under Section 8.04(e)) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 2.11 or payments required to be made pursuant to Section 2.14, such assignment will result in a reduction in such compensation or payments thereafter; and

(d) such assignment does not conflict with applicable laws.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

~~SECTION 11.11~~ Section 8.15 Survival of Representations and Warranties. All representations and warranties made hereunder and in any other Loan Document or other document delivered pursuant hereto or thereto or in connection herewith or therewith shall survive the execution and delivery hereof and thereof. Such representations and warranties have been or will be relied upon by the Agent and each Lender, regardless of any investigation made by the Agent or any Lender or on their behalf and notwithstanding that the Agent or any Lender may have had notice or knowledge of any Default at the time of any Advance or other credit extension, and shall continue in full force and effect as long as any Advance or any other obligation, debt or liability hereunder shall remain unpaid or unsatisfied or any Letter of Credit shall remain outstanding

~~SECTION 11.12~~ Section 8.16 Payments Set Aside. To the extent that any payment by or on behalf of any Borrower is made to the Agent, the Issuing Bank or any Lender, or the Agent, the Issuing Bank or any Lender exercises its right of setoff, and such payment or the proceeds of such setoff or any part thereof is subsequently invalidated, declared to be fraudulent or preferential, set aside or required (including pursuant to any settlement entered into by the Agent, the Issuing Bank or such Lender in its discretion) to be repaid to a trustee, receiver or any other party, in connection with any proceeding under any Debtor Relief Law or otherwise, then (a) to the extent of such recovery, the obligation or part thereof originally intended to be satisfied shall be revived and continued in full force and effect as if such payment had not been made or such setoff had not occurred, and (b) each Lender and the Issuing Bank severally agrees to pay to the Agent upon demand its applicable share (without duplication) of any amount so recovered from or repaid by the Agent, plus interest thereon from the date of such demand to the date such payment is made at a rate per annum equal to the Federal Funds Rate from time to time in effect. The obligations of the Lenders and the Issuing Bank under clause (b) of the preceding sentence shall survive the payment in full of the obligations, debts and liabilities under this Agreement and the other Loan Documents and the termination of this Agreement.

SECTION 11.13 Section 8.17 Acknowledgement and Consent to Bail-In of EEA Financial Institutions. Solely to the extent any Lender or Issuing Bank that is an EEA Financial Institution is a party to this Agreement and notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender or Issuing Bank that is an EEA Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an EEA Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by an EEA Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender or Issuing Bank that is an EEA Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(i) a reduction in full or in part or cancellation of any such liability;

(ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such EEA Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any EEA Resolution Authority.

Section 8.18 Acknowledgment Regarding Any Supported QFCs.

To the extent that the Loan Documents provide support, through a guarantee or otherwise, for any Swap Contract or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States): In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is



understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as an instrument under seal of the day and year first above written.

**SCHOLASTIC CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

**SCHOLASTIC INC.**

By: \_\_\_\_\_  
Name:  
Title:

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

By: \_\_\_\_\_  
Name:  
Title:

*[Signature Page to Credit Agreement]*

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**BANK OF AMERICA, N.A.,**  
as a Lender, as the Swingline Lender, and as Issuing  
Bank

By: \_\_\_\_\_  
Name:  
Title:

*[Signature Page to Credit Agreement]*

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[ ],  
as a Lender, [and as  
a [ ] Agent]

By: \_\_\_\_\_  
Name:  
Title:

[Signature Page to Credit Agreement]

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Annex A

COMMITMENTS

COMMITMENT SCHEDULE

<u>Name of Initial Lender</u>	<u>Revolving Credit Commitment</u>
Bank of America, N.A.	<u>\$71,000,000.00</u> <u>\$47,333,333.33</u>
Wells Fargo Bank, National Association	<u>\$65,000,000.00</u> <u>\$43,333,333.33</u>
<del>Branch Banking and Trust Company</del> <u>Truist Bank</u>	<u>\$60,000,000.00</u> <u>\$40,000,000.00</u>
Fifth Third Bank, <u>National Association</u>	<u>\$43,000,000.00</u> <u>\$28,666,666.67</u>
Capital One National Association	<u>\$43,000,000.00</u> <u>\$28,666,666.67</u>
HSBC Bank USA, National Association	<u>\$33,000,000.00</u> <u>\$22,000,000.00</u>
The Governor and Company of the Bank of Ireland	<u>\$25,000,000.00</u> <u>\$16,666,666.67</u>
Citibank, N.A.	<u>\$25,000,000.00</u> <u>\$16,666,666.67</u>
HSBC Bank plc	<u>\$10,000,000.00</u> <u>\$6,666,666.67</u>
<b>Total</b>	<b><u>\$375,000,000.00</u></b> <b><u>\$250,000,000.00</u></b>





Schedule 5.02(b)  
Existing Debt

Borrower	Guarantor	Type	Facility Amount
Scholastic Canada	Scholastic Inc.	HSBC Canada Credit Agreement	CAD 15,000,000
Scholastic Limited et al	Scholastic Inc.	HSBC UK Credit Agreement	GBP 7,000,000
Scholastic Limited	Scholastic Inc.	HSBC UK Mortgage	GBP 2,000,000
Scholastic Limited	Scholastic Inc.	HSBC UK Mortgage	GBP 6,560,000
Scholastic Australia	Scholastic Inc.	HSBC Credit Agreement	AUD 5,000,000
Scholastic India	Scholastic Inc.	Bank of America 365-Day Credit Line	USD 5,100,000
Grolier India	Scholastic Inc.	Bank of America 365-Day Credit Line	USD 800,000
PT Widyadara/Grolier Indonesia	Scholastic Inc.	Bank of America 365-Day Credit Line	USD 2,000,000
Scholastic Education International (Singapore)	Scholastic Inc.	Bank of America 365-Day Credit Line	SGD 5,600,000
Grolier Malaysia	Scholastic Inc.	Bank of America 365-Day Credit Line	USD 200,000
Scholastic Asia	Scholastic Inc.	Bank of America 365-Day Credit Line	USD 500,000
Grolier International Philippines	Scholastic Inc.	Bank of America 365-Day Credit Line	USD 400,000

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## SECURITY AGREEMENT

This SECURITY AGREEMENT (this "Agreement") is entered into as of December 16, 2020 among SCHOLASTIC INC., a New York corporation (the "Operating Company"), such other parties that may become Grantors hereunder after the date hereof (together with the Operating Company, each individually a "Grantor", and collectively, the "Grantors") and BANK OF AMERICA, N.A., in its capacity as administrative agent (in such capacity, the "Administrative Agent") for the Secured Parties.

### RECITALS

WHEREAS, pursuant to that certain Credit Agreement, dated as of January 5, 2017 (as amended by that certain First Amendment to Credit Agreement, dated as of the date hereof (the "First Amendment"), and as may be further amended, modified, extended, restated, renewed, replaced, or supplemented from time to time, the "Credit Agreement") among the Operating Company, Scholastic Corporation, a Delaware corporation (the "Holding Company"); the Holding Company and the Operating Company are, collectively, the "Borrowers" and, individually, each a "Borrower"), the Lenders and the Administrative Agent, the Lenders have agreed to make Advances to and for the benefit of the Grantors upon the terms and subject to the conditions set forth therein; and

WHEREAS, this Agreement is required by the terms of the First Amendment.

NOW, THEREFORE, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

#### 1. Definitions.

(a) Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Credit Agreement. With reference to this Agreement, unless otherwise specified herein: (i) the definitions of terms herein shall apply equally to the singular and plural forms of the terms defined, (ii) whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms, (iii) the words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation", (iv) the word "will" shall be construed to have the same meaning and effect as the word "shall", (v) any definition of, or reference to, any agreement, instrument or other document herein shall be construed as referring to such agreement, instrument or other document, as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein), (vi) any reference herein to any Person shall be construed to include such Person's permitted successors and assigns, (vii) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (viii) all references herein to Sections, Exhibits and Schedules shall be construed to refer to Sections of, and Exhibits and Schedules to, this Agreement, (ix) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights, (x) the term "documents" includes any and all instruments, documents, agreements, certificates, notices, reports, financial statements and other writings, however evidenced, whether in physical or electronic form, (xi) in the computation of periods of time from a specified date to a later specified date, the word "from"



means “from and including,” the words “to” and “until” each mean “to but excluding,” and the word “through” means “to and including”, (xii) Section headings herein are included for convenience of reference only and shall not affect the interpretation of this Agreement and (xiii) where the context requires, terms relating to the Collateral or any part thereof, when used in relation to a Grantor, shall refer to such Grantor’s Collateral or the relevant part thereof.

(b) The following terms shall have the meanings set forth in the UCC (defined below): Accession, Account, Account Debtor, Adverse Claim, As-Extracted Collateral, Certificated Security, Chattel Paper, Commercial Tort Claim, Consumer Goods, Deposit Account, Document, Electronic Chattel Paper, Equipment, Farm Products, Financial Asset, Fixtures, General Intangible, Goods, Instrument, Inventory, Investment Company Security, Investment Property, Letter-of-Credit Right, Manufactured Home, Payment Intangible, Proceeds, Securities Account, Securities Intermediary, Security, Software, Supporting Obligation and Tangible Chattel Paper.

(c) In addition, the following terms shall have the meanings set forth below:

“Assignment of Claims Act” means the Assignment of Claims Act of 1940 (41 U.S.C. Section 15, 31 U.S.C. Section 3737, and 31 U.S.C. Section 3727), including all amendments thereto and regulations promulgated thereunder.

“Collateral” has the meaning provided in Section 2 hereof.

“Control” means the manner in which “control” is achieved under the UCC with respect to any Collateral for which the UCC specifies a method of achieving “control”.

“Copyrights” means, collectively, all of the following of any Grantor: (i) all copyrights, works protectable by copyright, copyright registrations and copyright applications anywhere in the world, (ii) all derivative works, counterparts, extensions and renewals of any of the foregoing, (iii) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or payments for past, present and future infringements, violations or misappropriations of any of the foregoing, (iv) the right to sue for past, present and future infringements, violations or misappropriations of any of the foregoing and (v) all rights corresponding to any of the foregoing throughout the world.

“Excluded Property” means, with respect to any Grantor, any property which is subject to a Lien of the type described in Section 5.02(a)(iii) of the Credit Agreement pursuant to documents that prohibit such Grantor from granting any other Liens in such property.

“Facility Termination Date” means the date as of which all of the following shall have occurred: (a) the Commitments of all Lenders have terminated, (b) all Obligations have been paid in full (other than contingent indemnification obligations), and (c) all Letters of Credit have terminated or expired (other than Letters of Credit as to which other arrangements with respect thereto satisfactory to the Administrative Agent and the Issuing Bank shall have been made).

“Government Contract” means a contract between any Grantor and an agency, department or instrumentality of the United States or any state, municipal or local Governmental Authority located in the United States or all obligations of any such Governmental Authority

arising under any Account now or hereafter owing by any such Governmental Authority, as Account Debtor, to any Grantor.

“Patents” means collectively, all of the following of any Grantor: (i) all patents, all inventions and patent applications anywhere in the world, (ii) all improvements, counterparts, reissues, divisional, re-examinations, extensions, continuations (in whole or in part) and renewals of any of the foregoing and improvements thereon, (iii) all income, royalties, damages or payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or payments for past, present or future infringements, violations or misappropriations of any of the foregoing, (iv) the right to sue for past, present and future infringements, violations or misappropriations of any of the foregoing and (v) all rights corresponding to any of the foregoing throughout the world.

“Permitted Encumbrances” means the Liens permitted in respect of the Borrowers’ assets pursuant to Section 5.02(a) of the Credit Agreement.

“Trademarks” means, collectively, all of the following of any Grantor: (i) all trademarks, trade names, corporate names, company names, business names, fictitious business names, internet domain names, trade styles, service marks, logos, other business identifiers, whether registered or unregistered, all registrations and recordings thereof, and all applications in connection therewith (other than each United States application to register any trademark or service mark prior to the filing under Applicable Law of a verified statement of use for such trademark or service mark) anywhere in the world, (ii) all counterparts, extensions and renewals of any of the foregoing, (iii) all income, royalties, damages and payments now or hereafter due and/or payable under any of the foregoing or with respect to any of the foregoing, including, without limitation, damages or payments for past, present or future infringements, violations, dilutions or misappropriations of any of the foregoing, (iv) the right to sue for past, present or future infringements, violations, dilutions or misappropriations of any of the foregoing and (v) all rights corresponding to any of the foregoing (including the goodwill) throughout the world.

“Vehicles” means all cars, trucks, trailers, construction and earth moving equipment and other vehicles covered by a certificate of title under the laws of any state, all tires and all other appurtenances to any of the foregoing.

“Vessel” means any watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water (including, without limitation, those whose primary purpose is the maritime transportation of cargo or which are otherwise engaged, used or useful in any business activities of the Grantors) which are owned by and registered (or to be owned and registered) in the name of any of the Grantors, including, without limitation, any Vessel leased or otherwise registered in the foregoing parties’ names, pursuant to a lease or other operating agreement constituting a capital lease obligation, in each case together with all related spares, equipment and any additional improvements, vessel owned, bareboat chartered or operated by a Grantor other than Vessels owned by an entity other than a Grantor and which are managed under Vessel management agreements.

“UCC” means the Uniform Commercial Code as in effect from time to time in the state of New York except as such term may be used in connection with the perfection of the Collateral and then the applicable jurisdiction with respect to such affected Collateral shall apply.

2. Grant of Security Interest in the Collateral. To secure the prompt payment and performance in full when due, whether by lapse of time, acceleration, mandatory prepayment or otherwise, of the Secured Obligations, each Grantor hereby grants to the Administrative Agent, for the benefit of the Secured Parties, a continuing security interest in, and a right to set off against, any and all right, title and interest of such Grantor in and to all of the following, whether now owned or existing or owned, acquired, or arising hereafter (collectively, the "Collateral"): (a) all Accounts (including, for the avoidance of doubt, Accounts evidenced by any Instrument or Chattel Paper); (b) all Inventory; (c) all books and records pertaining to the foregoing; and (d) all Accessions and all Proceeds and products of any and all of the foregoing.

Notwithstanding anything to the contrary contained herein, the security interests granted under this Agreement shall not extend to any property of any Grantor that constitutes Excluded Property for so long as such property constitutes Excluded Property.

The Grantors and the Administrative Agent, on behalf of the Secured Parties, hereby acknowledge and agree that the security interest created hereby in the Collateral constitutes continuing collateral security for all of the Secured Obligations, whether now existing or hereafter arising.

3. Representations and Warranties. Each Grantor hereby represents and warrants to the Administrative Agent, for the benefit of the Secured Parties, that until the Facility Termination Date, that:

(a) Grantor Information. Set forth on Schedule I is a complete and accurate list of each Grantor, showing as of the First Amendment Effective Date, or as of the last date such Schedule was required to be updated in accordance with Section 20, (i) the exact legal name, (ii) any former legal names of such Grantor in the four (4) months prior to the such date, (iii) the jurisdiction of its incorporation or organization, as applicable, (iv) the type of organization, (v) the jurisdictions in which such Grantor is qualified to do business, (vi) the address of its chief executive office, (vii) the address of its principal place of business, (viii) its U.S. federal taxpayer identification number or, in the case of any non-U.S. Loan Party that does not have a U.S. taxpayer identification number, its unique identification number issued to it by the jurisdiction of its incorporation or organization, and (ix) the organization identification number.

(b) Ownership. Each Grantor is the legal and beneficial owner of its Collateral and has the right to pledge, sell, assign or transfer the same.

(c) Security Interest/Priority. This Agreement creates a valid security interest in favor of the Administrative Agent, for the benefit of the Secured Parties, in the Collateral of such Grantor and, when properly perfected by filing, shall constitute a valid and perfected, first priority security interest in such Collateral, to the extent such security interest can be perfected by filing under the UCC, free and clear of all Liens except for Permitted Encumbrances. No Grantor has authenticated any agreement authorizing any secured party thereunder to file a financing statement, except to perfect Permitted Encumbrances.

(d) Types of Collateral. None of the Collateral consists of, or is the Proceeds of, (i) As-Extracted Collateral, (ii) Consumer Goods, (iii) Farm Products, (iv) Manufactured Homes, (v) standing timber, (vi) an aircraft, airframe, aircraft engine or related property, (vii) an aircraft leasehold interest, (viii) a Vessel or (ix) any other interest in or to any of the foregoing.

(e) Accounts. (i) Each Account of the Grantors and the papers and documents relating thereto are genuine and in all material respects what they purport to be, (ii) each Account



arises out of (A) a bona fide sale of goods sold and delivered by such Grantor (or is in the process of being delivered) or (B) services theretofore actually rendered by such Grantor to, the account debtor named therein, (iii) no Account of a Grantor is evidenced by any Instrument or Chattel Paper unless such Instrument or Chattel Paper, to the extent requested by the Administrative Agent, has been endorsed over and delivered to, or submitted to the control of, the Administrative Agent, (iv) no surety bond was required or given in connection with any Account of a Grantor or the contracts or purchase orders out of which they arose, (v) the right to receive payment under each Account is assignable and (vi) no Account Debtor has any defense, set-off, claim or counterclaim against any Grantor that can be asserted against the Administrative Agent, whether in any proceeding to enforce the Administrative Agent's rights in the Collateral otherwise, except defenses, setoffs, claims or counterclaims that are not, in the aggregate, material to the value of the Accounts.

(f) Inventory. With respect to any Inventory of a Grantor, each such Grantor has exclusive possession and control of such Inventory of such Grantor except for (i) Inventory in transit with common carriers or (iii) Inventory in the possession or control of a warehouseman, bailee or any agent or processor of such Grantor to the extent such Grantor has complied with Section 4(e). With the exception of Inventory consisting of printing paper in transit from a mill to a printing location of a Grantor, no Inventory of a Grantor is held by a Person other than a Grantor pursuant to consignment, sale or return, sale on approval or similar arrangement. Collateral consisting of Inventory is of good and merchantable quality, free from defects. None of such Inventory is subject to any licensing, Patent, Trademark, trade name or Copyright with any Person that restricts any Grantor's ability to use, manufacture, lease, sell or otherwise dispose of such Inventory. The completion of the manufacturing process of such Inventory by a Person other than the applicable Grantor would be permitted under any contract to which such Grantor is a party or to which the Inventory is subject.

(g) Locations. Set forth on Schedule II, the First Amendment Effective Date, or as of the last date such Schedule was required to be updated in accordance with Section 20, is a list of (i) each headquarter location of the Grantors, (ii) each other location where any significant administrative or governmental functions are performed, (iii) each other location where the Grantors maintain any books or records (electronic or otherwise) and (iv) each location where any Collateral is located at any premises owned or leased by a Grantor with a Collateral value in excess of \$10,000,000 (in each case, including (A) an indication if such location is leased or owned, (B), if leased, the name of the lessor, and if owned, the name of the Grantor owning such property, (C) the address of such property (including, the city, county, state and zip code) and (D) to the extent owned, the approximate fair market value of such property).

(h) Consents; Etc. No approval, consent, exemption, authorization or other action by, notice to, or filing with, any Governmental Authority or any other Person (including, without limitation, any stockholder, member or creditor of such Grantor), is necessary or required for (i) the grant by such Grantor of the security interest in the Collateral granted hereby or for the execution, delivery or performance of this Agreement by such Grantor, (ii) the perfection of such security interest (to the extent such security interest can be perfected by filing under the UCC, the granting of control (to the extent required under Section 4(c)) or (iii) the exercise by the Administrative Agent or the Secured Parties of the rights and remedies provided for in this Agreement (including, without limitation, as against any Issuer), except for (A) the filing or recording of UCC financing statements or other filings under the Assignment of Claims Act, (B) obtaining control to perfect the Liens created by this Agreement (to the extent required under

Section 4(c)), (C) such actions as may be required by applicable laws affecting the offering and sale of securities, and (D) consents, authorizations, filings or other actions which have been obtained or made.

4. Covenants. Each Grantor covenants that until the Facility Termination Date, such Grantor shall:

(a) Maintenance of Perfected Security Interest; Further Information.

(i) Maintain the security interest created by this Agreement as a first priority perfected security interest (subject only to Permitted Encumbrances) and shall defend such security interest against the claims and demands of all Persons whomsoever (other than the holders of Permitted Encumbrances).

(ii) From time to time furnish to the Administrative Agent upon the Administrative Agent's or any Lender's reasonable request, statements and schedules further identifying and describing the assets and property of such Grantor and such other reports in connection therewith as the Administrative Agent or such Lender may reasonably request, all in reasonable detail.

(b) Required Notifications. Each Grantor shall promptly notify the Administrative Agent, in writing, of: (i) any Lien (other than Permitted Encumbrances) on any of the Collateral which would adversely affect the ability of the Administrative Agent to exercise any of its remedies hereunder and (ii) the occurrence of any other event which could reasonably be expected to have a material impairment on the aggregate value of the Collateral or on the security interests created hereby.

(c) Perfection through Possession and Control.

(i) If any amount in excess of \$8,500,000 payable under or in connection with any Account shall be or become evidenced by any Instrument or Tangible Chattel Paper, or if any property constituting Collateral shall be stored or shipped subject to a Document, ensure that such Instrument, Tangible Chattel Paper or Document is either in the possession of such Grantor at all times or, if requested by the Administrative Agent to perfect its security interest in such Collateral, is delivered to the Administrative Agent duly endorsed in a manner satisfactory to the Administrative Agent. Such Grantor shall ensure that any Collateral evidenced by Tangible Chattel Paper is marked with a legend acceptable to the Administrative Agent indicating the Administrative Agent's security interest in such Tangible Chattel Paper.

(iii) If any Collateral shall consist of Electronic Chattel Paper, execute and deliver (and, with respect to any Collateral consisting of a Securities Account or uncertificated Investment Property, cause the Securities Intermediary or the Issuer, as applicable, with respect to such Investment Property to execute and deliver) to the Administrative Agent all assignments, instruments or other documents as reasonably requested by the Administrative Agent for the purposes of obtaining and maintaining Control of such Collateral.

(d) Filing of Financing Statements, Notices, Etc. Each Grantor shall execute and deliver to the Administrative Agent and/or file such agreements, assignments or instruments

(including affidavits, notices, reaffirmations and amendments and restatements of existing documents, as the Administrative Agent may reasonably request) and do all such other things as the Administrative Agent may reasonably deem necessary or appropriate (i) to assure to the Administrative Agent its security interests hereunder, including such instruments as the Administrative Agent may from time to time reasonably request in order to perfect and maintain the security interests granted hereunder in accordance with the UCC, including, without limitation, financing statements (including continuation statements), (ii) to consummate the transactions contemplated hereby and (iii) to otherwise protect and assure the Administrative Agent of its rights and interests hereunder. Furthermore, each Grantor also hereby irrevocably makes, constitutes and appoints the Administrative Agent, its nominee or any other person whom the Administrative Agent may designate, as such Grantor's attorney in fact with full power and for the limited purpose to prepare and file (and, to the extent applicable, sign) in the name of such Grantor any financing statements, or amendments and supplements to financing statements, renewal financing statements, notices or any similar documents which in the Administrative Agent's reasonable discretion would be necessary or appropriate in order to perfect and maintain perfection of the security interests granted hereunder, such power, being coupled with an interest, being and remaining irrevocable until the Facility Termination Date. Each Grantor hereby agrees that a carbon, photographic or other reproduction of this Agreement or any such financing statement is sufficient for filing as a financing statement by the Administrative Agent without notice thereof to such Grantor wherever the Administrative Agent may in its sole discretion desire to file the same.

(e) Collateral Held by Landlord, Warehouseman, Bailee, Etc.

(i) If any Collateral is at any time in the possession or control of a warehouseman, bailee or any agent or processor of such Grantor (A) notify the Administrative Agent of such possession, (B) notify such Person in writing of the Administrative Agent's security interest for the benefit of the Secured Parties in such Collateral, (C) instruct such Person to hold all such Collateral for the Administrative Agent's account and subject to the Administrative Agent's instructions and (D) unless otherwise consented to in writing by the Administrative Agent, obtain (1) a written acknowledgment from such Person that it is holding such Collateral for the benefit of the Administrative Agent and (2) such other documentation required by the Administrative Agent (including, without limitation, subordination and access agreements).

(ii) In the case of (A) each headquarter location of such Grantor, each other location where any significant administrative or governmental functions are performed and each other location where such Grantor maintains any books or records (electronic or otherwise) and (B) any personal property Collateral located at any other premises leased by a Grantor containing personal property Collateral with a value in excess of \$10,000,000, such will provide the Administrative Agent with such estoppel letters, consents and waivers from the landlords on such real property to the extent the Grantors are able to secure such letters, consents and waivers after using commercially reasonable efforts (such letters, consents and waivers shall be in form and substance satisfactory to the Administrative Agent).

(iii) Perfect and protect such Grantor's ownership interests in all Inventory stored with a consignee against creditors of the consignee by filing and maintaining financing statements against the consignee reflecting the consignment arrangement filed



in all appropriate filing offices, providing any written notices required by the UCC to notify any prior creditors of the consignee of the consignment arrangement, and taking such other actions as may be appropriate to perfect and protect such Grantor's interests in such inventory under Section 2-326, Section 9-103, Section 9-324 and Section 9-505 of the UCC or otherwise, which such financing statements filed pursuant to this Section shall be assigned to the Administrative Agent, for the benefit of the Secured Parties.

(f) Treatment of Accounts. Not grant or extend the time for payment of any Account, or compromise or settle any Account for less than the full amount thereof, or release any person or property, in whole or in part, from payment thereof, or amend, supplement or modify any Account in any manner that would reasonably be likely to adversely affect the value thereof, or allow any credit or discount thereon, other than as normal and customary in the ordinary course of a Grantor's business. Each Grantor will deliver to the Administrative Agent a copy of each material demand, notice or document received by it that questions or calls into doubt the validity or enforceability of any Account.

(g) Inventory. With respect to the Inventory of each Grantor:

(i) At all times maintain inventory records reasonably satisfactory to the Administrative Agent, keeping correct and accurate records itemizing and describing the kind, type, quality and quantity of Inventory and such Grantor's cost therefore and daily withdrawals therefrom and additions thereto.

(ii) Produce, use, store and maintain the Inventory with all reasonable care and caution and in accordance with applicable standards of any insurance and in conformity with Applicable Laws (including the requirements of the Federal Fair Labor Standards Act of 1938, as amended and all rules, regulations and orders related thereto).

(h) Books and Records. Mark its books and records to reflect the security interest granted pursuant to this Agreement.

(i) Nature of Collateral. At all times maintain the Collateral as personal property and not affix any of the Collateral to any real property in a manner which would change its nature from personal property to real property or a Fixture to real property, unless the Administrative Agent shall have a perfected Lien on such Fixture or real property.

(j) Government Contracts. Upon the occurrence of an Event of Default and during continuation thereof, promptly notify the Administrative Agent, in writing, if it enters into any contract with a Governmental Authority under which such Governmental Authority, as account debtor, owes a monetary obligation to any Grantor under any Account.

(k) Further Assurances.

(i) Promptly upon the request of the Administrative Agent (but, with respect to clause (B) below, solely during the continuation of an Event of Default) and at the sole expense of the Grantors, duly execute and deliver, and have recorded, such further instruments and documents and take such further actions as the Administrative Agent may reasonably request for the purpose of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (A) the assignment of any Material Contract, (B) with respect to Government Contracts,

assignment agreements and notices of assignment, in form and substance satisfactory to the Administrative Agent, duly executed by any Grantors party to such Government Contract in compliance with the Assignment of Claims Act (or analogous state Applicable Law), and (C) all applications, certificates, instruments, registration statements, and all other documents and papers the Administrative Agent may reasonably request and as may be required by law in connection with the obtaining of any consent, approval, registration, qualification, or authorization of any Person deemed necessary or appropriate for the effective exercise of any rights under this Agreement; provided that no Grantor shall be required to take any action to perfect a security interest in any Collateral that the Administrative Agent reasonably determines in its sole discretion that the costs and burdens to the Grantors of perfecting a security interest in such Collateral (including any applicable stamp, intangibles or other taxes) are excessive in relation to value to the Lenders afforded thereby.

(ii) From time to time upon the Administrative Agent's reasonable request, promptly furnish such updates to the information disclosed pursuant to this Agreement and the Credit Agreement, including any Schedules hereto or thereto, such that such updated information is true and correct as of the date so furnished.

5. Authorization to File Financing Statements. Each Grantor hereby authorizes the Administrative Agent to prepare and file such financing statements (including continuation statements) or amendments thereof or supplements thereto or other instruments as the Administrative Agent may from time to time deem necessary or appropriate in order to perfect and maintain the security interests granted hereunder in accordance with the UCC, which such financing statements may describe the Collateral in the same manner as described herein or may contain an indication or description of Collateral that describes such property in any other manner as the Administrative Agent may determine, in its sole discretion, is necessary, advisable or prudent to ensure the perfection of the security interest in the Collateral granted herein, including, without limitation, describing such property as "all assets, whether now owned or hereafter acquired" or "all personal property, whether now owned or hereafter acquired."

6. Advances. On failure of any Grantor to perform any of the covenants and agreements contained herein or in any other Loan Document, the Administrative Agent may, at its sole option and in its sole discretion, perform the same and in so doing may expend such sums as the Administrative Agent may reasonably deem advisable in the performance thereof, including, without limitation, the payment of any insurance premiums, the payment of any taxes, a payment to obtain a release of a Lien or potential Lien, expenditures made in defending against any adverse claim and all other expenditures which the Administrative Agent may make for the protection of the security hereof or which may be compelled to make by operation of Law. All such sums and amounts so expended shall be repayable by the Grantors on a joint and several basis promptly upon timely notice thereof and demand therefor, shall constitute additional Secured Obligations and shall bear interest from the date said amounts are expended at the rate per annum equal to the interest rate then applicable to Base Rate Advances plus Default Interest. No such performance of any covenant or agreement by the Administrative Agent on behalf of any Grantor, and no such advance or expenditure therefor, shall relieve the Grantors of any Default or Event of Default. The Administrative Agent may make any payment hereby authorized in accordance with any bill, statement or estimate procured from the appropriate public office or holder of the claim to be discharged without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien, title or claim except to the extent such payment is being contested in good faith by a Grantor in appropriate proceedings and against which adequate reserves are being maintained in accordance with GAAP.

## 7. Remedies.

(a) General Remedies. Upon the occurrence of an Event of Default and during continuation thereof, the Administrative Agent on behalf of the Secured Parties shall have, in addition to the rights and remedies provided herein, in the Loan Documents, in any other documents relating to the Secured Obligations, or by any applicable law (including, but not limited to, levy of attachment, garnishment and the rights and remedies set forth in the UCC of the jurisdiction applicable to the affected Collateral), the rights and remedies of a secured party under the UCC (regardless of whether the UCC is the law of the jurisdiction where the rights and remedies are asserted and regardless of whether the UCC applies to the affected Collateral), and further, the Administrative Agent may, with or without judicial process or the aid and assistance of others, (i) enter on any premises on which any of the Collateral may be located and, without resistance or interference by the Grantors, take possession of the Collateral, (ii) dispose of any Collateral on any such premises, (iii) require the Grantors to assemble and make available to the Administrative Agent at the expense of the Grantors any Collateral at any place and time designated by the Administrative Agent which is reasonably convenient to both parties, (iv) remove any Collateral from any such premises for the purpose of effecting sale or other disposition thereof, and/or (v) without demand and without advertisement, notice, hearing or process of law, all of which each of the Grantors hereby waives to the fullest extent permitted by applicable law, at any place and time or times, sell, lease, assign, give option or options to purchase, or otherwise dispose of and deliver the Collateral or any part thereof (or contract to do any of the foregoing), in one or more parcels any or all Collateral held by or for it at public or private sale, by one or more contracts, in one or more parcels, for money, upon credit or otherwise, at such prices and upon such terms as the Administrative Agent deems advisable, in its sole discretion (subject to any and all mandatory legal requirements). Each Grantor acknowledges that any such private sale may be at prices and on terms less favorable to the seller than the prices and other terms which might have been obtained at a public sale and, notwithstanding the foregoing, agrees that such private sale shall be deemed to have been made in a commercially reasonable manner. The Administrative Agent or any other Secured Party shall have the right upon any such public sale or sales, and, to the extent permitted by applicable law, upon any such private sale or sales, to purchase the whole or any part of the Collateral so sold. Neither the Administrative Agent's compliance with applicable law nor its disclaimer of warranties relating to the Collateral shall be considered to adversely affect the commercial reasonableness of any sale. To the extent the rights of notice cannot be legally waived hereunder, each Grantor agrees that any requirement of reasonable notice shall be met if such notice, specifying the place of any public sale or the time after which any private sale is to be made, is personally served on or mailed, postage prepaid, to the Borrowers in accordance with the notice provisions of Section 8.02 of the Credit Agreement at least ten (10) days before the time of sale or other event giving rise to the requirement of such notice. The Administrative Agent shall not be obligated to make any sale or other disposition of the Collateral regardless of notice having been given. To the extent permitted by applicable law, any Secured Party may be a purchaser at any such sale. To the extent permitted by applicable law, each of the Grantors hereby waives all of its rights of redemption with respect to any such sale. Subject to the provisions of applicable law, the Administrative Agent may postpone or cause the postponement of the sale of all or any portion of the Collateral by announcement at the time and place of such sale, and such sale may, without further notice, to the extent permitted by law, be made at the time and place to which the



sale was postponed, or the Administrative Agent may further postpone such sale by announcement made at such time and place. To the extent permitted by applicable law, each Grantor waives all claims, damages and demands it may acquire against the Administrative Agent or any Secured Party arising out of the exercise by them of any rights hereunder except to the extent any such claims, damages or demands result solely from the gross negligence or willful misconduct of the Administrative Agent or any other Secured Party as determined by a final non-appealable judgment of a court of competent jurisdiction, in each case against whom such claim is asserted. Each Grantor agrees that the internet shall constitute a "place" for purposes of Section 9-610(b) of the UCC and that any sale of Collateral to a licensor pursuant to the terms of a license agreement between such licensor and a Grantor is sufficient to constitute a commercially reasonable sale (including as to method, terms, manner, and time) within the meaning of Section 9-610 of the UCC.

(b) Remedies Relating to Accounts.

(i) During the continuation of an Event of Default, whether or not the Administrative Agent has exercised any or all of its rights and remedies hereunder, (A) each Grantor shall notify (such notice to be in form and substance satisfactory to the Administrative Agent) its Account Debtors that such Accounts have been assigned to the Administrative Agent, for the benefit of the Secured Parties and promptly upon request of the Administrative Agent, instruct all account debtors to remit all payments in respect of Accounts to a mailing location selected by the Administrative Agent and (B) the Administrative Agent shall have the right to enforce any Grantor's rights against its account debtors, and the Administrative Agent or its designee may notify any Grantor's account debtors that the Accounts of such Grantor have been assigned to the Administrative Agent or of the Administrative Agent's security interest therein, and may (either in its own name or in the name of a Grantor or both) demand, collect (including without limitation by way of a lockbox arrangement), receive, take receipt for, sell, sue for, compound, settle, compromise and give acquittance for any and all amounts due or to become due on any Account, and, in the Administrative Agent's discretion, file any claim or take any other action or proceeding to protect and realize upon the security interest of the Secured Parties in the Accounts.

(ii) Each Grantor acknowledges and agrees that the Proceeds of its Accounts remitted to or on behalf of the Administrative Agent in accordance with the provisions hereof shall be solely for the Administrative Agent's own convenience and that such Grantor shall not have any right, title or interest in such Accounts or in any such other amounts except as expressly provided herein. Neither the Administrative Agent nor the Secured Parties shall have any liability or responsibility to any Grantor for acceptance of a check, draft or other order for payment of money bearing the legend "payment in full" or words of similar import or any other restrictive legend or endorsement or be responsible for determining the correctness of any remittance.

(iii) During the continuation of an Event of Default, (A) the Administrative Agent shall have the right, but not the obligation, to make test verifications of the Accounts in any manner and through any medium that it reasonably considers advisable, and the Grantors shall furnish all such assistance and information as the Administrative Agent may require in connection with such test verifications, (B) upon the Administrative Agent's request and at the expense of the Grantors, the Grantors shall cause independent

public accountants or others satisfactory to the Administrative Agent to furnish to the Administrative Agent reports showing reconciliations, aging and test verifications of, and trial balances for, the Accounts and (C) the Administrative Agent in its own name or in the name of others may communicate with account debtors on the Accounts to verify with them to the Administrative Agent's satisfaction the existence, amount and terms of any Accounts.

(iv) During the continuation of an Event of Default and upon the request of the Administrative Agent, each Grantor shall forward to the Administrative Agent, on the last Business Day of each week, deposit slips related to all cash, money, checks or any other similar items of payment received by the Grantor during such week, and, if requested by the Administrative Agent, copies of such checks or any other similar items of payment, together with a statement showing the application of all payments on the Collateral during such week and a collection report with regard thereto, in form and substance satisfactory to the Administrative Agent.

(c) Access. In addition to the rights and remedies hereunder, upon the occurrence of an Event of Default and during the continuance thereof, the Administrative Agent shall have the right to enter and remain upon the various premises of the Grantors without cost or charge to the Administrative Agent, and use the same, together with materials, supplies, books and records of the Grantors for the purpose of collecting and liquidating the Collateral, or for preparing for sale and conducting the sale of the Collateral, whether by foreclosure, auction or otherwise. In addition, the Administrative Agent may remove Collateral, or any part thereof, from such premises and/or any records with respect thereto, in order to effectively collect or liquidate such Collateral. If the Administrative Agent exercises its right to take possession of the Collateral, each Grantor shall also at its expense perform any and all other steps reasonably requested by the Administrative Agent to preserve and protect the security interest hereby granted in the Collateral, such as placing and maintaining signs indicating the security interest of the Administrative Agent, appointing overseers for the Collateral and maintaining inventory records.

(d) Nonexclusive Nature of Remedies. Failure by the Administrative Agent or the Secured Parties to exercise any right, remedy or option under this Agreement, any other Loan Document, any other document relating to the Secured Obligations, or as provided by Law, or any delay by the Administrative Agent or the Secured Parties in exercising the same, shall not operate as a waiver of any such right, remedy or option. No waiver hereunder shall be effective unless it is in writing, signed by the party against whom such waiver is sought to be enforced and then only to the extent specifically stated, which in the case of the Administrative Agent or the Secured Parties shall only be granted as provided herein. To the extent permitted by Law, neither the Administrative Agent, the Secured Parties, nor any party acting as attorney for the Administrative Agent or the Secured Parties, shall be liable hereunder for any acts or omissions or for any error of judgment or mistake of fact or law other than their gross negligence or willful misconduct hereunder as determined by a final non-appealable judgment of a court of competent jurisdiction. The rights and remedies of the Administrative Agent and the Secured Parties under this Agreement shall be cumulative and not exclusive of any other right or remedy which the Administrative Agent or the Secured Parties may have.

(e) Retention of Collateral. In addition to the rights and remedies hereunder, the Administrative Agent may, in compliance with Sections 9-620 and 9-621 of the UCC or otherwise complying with the requirements of applicable law of the relevant jurisdiction, accept

or retain the Collateral in satisfaction of the Secured Obligations. Unless and until the Administrative Agent shall have provided such notices, however, the Administrative Agent shall not be deemed to have retained any Collateral in satisfaction of any Secured Obligations for any reason.

(f) Waiver; Deficiency. Each Grantor hereby waives, to the extent permitted by Applicable Laws, all rights of redemption, appraisal, valuation, stay, extension or moratorium now or hereafter in force under any applicable laws in order to prevent or delay the enforcement of this Agreement or the absolute sale of the Collateral or any portion thereof. In the event that the proceeds of any sale, collection or realization are insufficient to pay all amounts to which the Administrative Agent or the Secured Parties are legally entitled, the Grantors shall be jointly and severally liable for the deficiency, together with interest thereon at the Default Rate, together with the costs of collection and the fees, charges and disbursements of counsel. Any surplus remaining after the full payment and satisfaction of the Secured Obligations shall be returned to the Grantors or to whomsoever a court of competent jurisdiction shall determine to be entitled thereto.

8. Rights of the Administrative Agent.

(a) Power of Attorney. In addition to other powers of attorney contained herein, each Grantor hereby designates and appoints the Administrative Agent, on behalf of the Secured Parties, and each of its designees or agents, as attorney-in-fact of such Grantor, irrevocably and with power of substitution, with authority to take any or all of the following actions upon the occurrence and during the continuance of an Event of Default:

- (i) to demand, collect, settle, compromise, adjust, give discharges and releases, all as the Administrative Agent may reasonably determine;
- (ii) to commence and prosecute any actions at any court for the purposes of collecting any Collateral and enforcing any other right in respect thereof;
- (iii) to defend, settle or compromise any action brought and, in connection therewith, give such discharge or release as the Administrative Agent may deem reasonably appropriate;
- (iv) to receive, open and dispose of mail addressed to a Grantor and endorse checks, notes, drafts, acceptances, money orders, bills of lading, warehouse receipts or other instruments or documents evidencing payment, shipment or storage of the goods giving rise to the Collateral of such Grantor on behalf of and in the name of such Grantor, or securing, or relating to such Collateral;
- (v) to sell, assign, transfer, make any agreement in respect of, or otherwise deal with or exercise rights in respect of, any Collateral or the goods or services which have given rise thereto, as fully and completely as though the Administrative Agent were the absolute owner thereof for all purposes;
- (vi) to adjust and settle claims under any insurance policy relating thereto;
- (vii) to execute and deliver all assignments, conveyances, statements, financing statements, continuation financing statements, security agreements, affidavits,



notices and other agreements, instruments and documents that the Administrative Agent may determine necessary in order to perfect and maintain the security interests and liens granted in this Agreement and in order to fully consummate all of the transactions contemplated herein;

- (viii) to institute any foreclosure proceedings that the Administrative Agent may deem appropriate;
- (ix) to sign and endorse any drafts, assignments, verifications, notices and other documents relating to the Collateral;
- (x) to pay or discharge taxes, liens, security interests or other encumbrances levied or placed on or threatened against the Collateral;
- (xi) to direct any parties liable for any payment in connection with any of the Collateral to make payment of any and all monies due and to become due thereunder directly to the Administrative Agent or as the Administrative Agent shall direct;
- (xii) to receive payment of and receipt for any and all monies, claims, and other amounts due and to become due at any time in respect of or arising out of any Collateral; and
- (xiii) do and perform all such other acts and things as the Administrative Agent may reasonably deem to be necessary, proper or convenient in connection with the Collateral.

This power of attorney is a power coupled with an interest and shall be irrevocable until the Facility Termination Date. The Administrative Agent shall be under no duty to exercise or withhold the exercise of any of the rights, powers, privileges and options expressly or implicitly granted to the Administrative Agent in this Agreement, and shall not be liable for any failure to do so or any delay in doing so. The Administrative Agent shall not be liable for any act or omission or for any error of judgment or any mistake of fact or law in its individual capacity or its capacity as attorney-in-fact except acts or omissions resulting from its gross negligence or willful misconduct as determined by a final non-appealable judgment of a court of competent jurisdiction. This power of attorney is conferred on the Administrative Agent solely to protect, preserve and realize upon its security interest in the Collateral and shall not impose any duty upon the Administrative Agent or any other Secured Party to exercise any such powers.

(b) Assignment by the Administrative Agent. The Administrative Agent may from time to time assign the Secured Obligations to a successor Administrative Agent appointed in accordance with the Credit Agreement, and such successor shall be entitled to all of the rights and remedies of the Administrative Agent under this Agreement in relation thereto.

(c) The Administrative Agent's Duty of Care. Other than the exercise of reasonable care to assure the safe custody of the Collateral while being held by the Administrative Agent hereunder, the Administrative Agent shall have no duty or liability to preserve rights pertaining thereto, it being understood and agreed that the Grantors shall be responsible for preservation of all rights in the Collateral, and the Administrative Agent shall be relieved of all responsibility for the Collateral upon surrendering it or tendering the surrender of it to the Grantors. The Administrative Agent shall be deemed to have exercised reasonable care in the custody and

preservation of the Collateral in its possession if the Collateral is accorded treatment substantially equal to that which the Administrative Agent accords its own property, which shall be no less than the treatment employed by a reasonable and prudent agent in the industry, it being understood that the Administrative Agent shall not have responsibility for taking any necessary steps to preserve rights against any parties with respect to any of the Collateral. In the event of a public or private sale of Collateral pursuant to Section 7 hereof, the Administrative Agent shall have no responsibility for (i) ascertaining or taking action with respect to calls, conversions, exchanges, maturities, tenders or other matters relating to any Collateral, whether or not the Administrative Agent has or is deemed to have knowledge of such matters, or (ii) taking any steps to clean, repair or otherwise prepare the Collateral for sale.

(d) Liability with Respect to Accounts. Anything herein to the contrary notwithstanding, each of the Grantors shall remain liable under each of the Accounts to observe and perform all the conditions and obligations to be observed and performed by it thereunder, all in accordance with the terms of any agreement giving rise to each such Account. Neither the Administrative Agent nor any Secured Party shall have any obligation or liability under any Account (or any agreement giving rise thereto) by reason of or arising out of this Agreement or the receipt by the Administrative Agent or any Secured Party of any payment relating to such Account pursuant hereto, nor shall the Administrative Agent or any Secured Party be obligated in any manner to perform any of the obligations of a Grantor under or pursuant to any Account (or any agreement giving rise thereto), to make any payment, to make any inquiry as to the nature or the sufficiency of any payment received by it or as to the sufficiency of any performance by any party under any Account (or any agreement giving rise thereto), to present or file any claim, to take any action to enforce any performance or to collect the payment of any amounts which may have been assigned to it or to which it may be entitled at any time or times.

(e) Releases of Collateral. If any Collateral shall be sold, transferred or otherwise disposed of by any Grantor in a transaction permitted by the Credit Agreement, then the Administrative Agent, at the request and sole expense of such Grantor, shall promptly execute and deliver to such Grantor all releases and other documents, and take such other action, reasonably necessary for the release of the Liens created hereby or by any other Collateral Document on such Collateral.

9. Application of Proceeds. After the exercise of remedies provided for in Section 6.01 of the Credit Agreement (or after the Advances have automatically become immediately due and payable and the L/C Exposure have automatically been required to be Cash Collateralized as set forth in Section 6.01 of the Credit Agreement) any payments in respect of the Secured Obligations and any proceeds of the Collateral, when received by the Administrative Agent or any Secured Party in cash or cash equivalents will be applied in reduction of the Secured Obligations in the order set forth in the Credit Agreement.

10. Continuing Agreement.

(a) This Agreement shall remain in full force and effect until the Facility Termination Date, at which time this Agreement shall be automatically terminated (other than obligations under this Agreement which expressly survive such termination) and the Administrative Agent shall, upon the request and at the expense of the Grantors, forthwith release all of its liens and security interests hereunder and shall execute and deliver all UCC termination

statements and/or other documents reasonably requested by the Grantors evidencing such termination.

(b) This Agreement shall continue to be effective or be automatically reinstated, as the case may be, if at any time payment, in whole or in part, of any of the Secured Obligations is rescinded or must otherwise be restored or returned by the Administrative Agent or any Secured Party as a preference, fraudulent conveyance or otherwise under any Debtor Relief Law, all as though such payment had not been made; provided that in the event payment of all or any part of the Secured Obligations is rescinded or must be restored or returned, all reasonable costs and expenses (including without limitation any reasonable legal fees and disbursements) incurred by the Administrative Agent or any Secured Party in defending and enforcing such reinstatement shall be deemed to be included as a part of the Secured Obligations.

11. Amendments; Waivers; Modifications, Etc. This Agreement and the provisions hereof may not be amended, waived, modified, changed, discharged or terminated except as set forth in Section 8.01 of the Credit Agreement.

12. Successors in Interest. This Agreement shall be binding upon each Grantor, its successors and assigns and shall inure, together with the rights and remedies of the Administrative Agent and the Secured Parties hereunder, to the benefit of the Administrative Agent and the Secured Parties and their successors and permitted assigns.

13. Notices. All notices required or permitted to be given under this Agreement shall be in conformance with Section 8.02 of the Credit Agreement.

14. Counterparts. This Agreement may be in the form of an Electronic Record and may be executed using Electronic Signatures (including, without limitation, facsimile and .pdf) and shall be considered an original, and shall have the same legal effect, validity and enforceability as a paper record. This Agreement may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Agreement. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the Administrative Agent of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention.

15. Headings. The headings of the sections hereof are provided for convenience only and shall not in any way affect the meaning or construction of any provision of this Agreement.

16. Governing Law; Submission to Jurisdiction; Venue; WAIVER OF JURY TRIAL; Acknowledgment Regarding Any Supported QFCs. The terms of Sections 8.10, 8.12 and 8.18 of the Credit Agreement with respect to governing law, submission to jurisdiction, venue, waiver of jury trial and acknowledgment regarding any supported QFCs are incorporated herein by reference, *mutatis mutandis*, and the parties hereto agree to such terms.

17. Severability. If any provision of this Agreement is determined to be illegal, invalid or unenforceable, such provision shall be fully severable and the remaining provisions shall remain in full force and effect and shall be construed without giving effect to the illegal, invalid or unenforceable provisions.



18. Entirety. This Agreement, the other Loan Documents and the other documents relating to the Secured Obligations represent the entire agreement of the parties hereto and thereto, and supersede all prior agreements and understandings, oral or written, if any, including any commitment letters or correspondence relating to the Loan Documents, any other documents relating to the Secured Obligations, or the transactions contemplated herein and therein.

19. Other Security. To the extent that any of the Secured Obligations are now or hereafter secured by property other than the Collateral (including, without limitation, real property and securities owned by a Grantor), or by a guarantee, endorsement or property of any other Person, then the Administrative Agent shall have the right to proceed against such other property, guarantee or endorsement upon the occurrence of any Event of Default, and the Administrative Agent shall have the right, in its sole discretion, to determine which rights, security, liens, security interests or remedies the Administrative Agent shall at any time pursue, relinquish, subordinate, modify or take with respect thereto, without in any way modifying or affecting any of them or the Secured Obligations or any of the rights of the Administrative Agent or the Secured Parties under this Agreement, under any other of the Loan Documents or under any other document relating to the Secured Obligations.

20. Joinder. At any time after the date of this Agreement, one or more additional Persons may become party hereto by executing and delivering to the Administrative Agent a Joinder Agreement in the form of Exhibit A attached hereto or such other form acceptable to the Administrative Agent. Immediately upon such execution and delivery of such Joinder Agreement (and without any further action), each such additional Person will become a party to this Agreement as a "Grantor" and have all of the rights and obligations of a Grantor hereunder and this Agreement and the schedules hereto shall be deemed amended by such Joinder Agreement.

21. [Reserved].

22. Joint and Several Obligations of Grantors.

(a) Each of the Grantors is accepting joint and several liability hereunder in consideration of the financial accommodations to be provided by the Lenders under the Credit Agreement, for the mutual benefit, directly and indirectly, of each of the Grantors and in consideration of the undertakings of each of the Grantors to accept joint and several liability for the obligations of each of them.

(b) Each of the Grantors jointly and severally hereby irrevocably and unconditionally accepts, not merely as a surety but also as a primary obligor, joint and several liability with the other Grantors with respect to the payment and performance of all of the Secured Obligations, it being the intention of the parties hereto that (i) all the Secured Obligations shall be the joint and several obligations of each of the Grantors without preferences or distinction among them and (ii) a separate action may be brought against each Grantor to enforce this Agreement whether or not any other Grantor or any other person or entity is joined as a party.

(c) Notwithstanding any provision to the contrary contained herein, in any other of the Loan Documents, to the extent the obligations of a Grantor shall be adjudicated to be invalid or unenforceable for any reason (including, without limitation, because of any applicable state or federal law relating to fraudulent conveyances or transfers) then the obligations of such Grantor hereunder shall be limited to the maximum amount that is permissible under Applicable Law (whether federal or state and including, without limitation, Debtor Relief Laws).

23. Marshaling. The Administrative Agent shall not be required to marshal any present or future collateral security (including but not limited to the Collateral) for, or other assurances of payment of, the Secured Obligations or any of them or to resort to such collateral security or other assurances of payment in any particular order, and all of its rights and remedies hereunder and in respect of such collateral security and other assurances of payment shall be cumulative and in addition to all other rights and remedies, however existing or arising. To the extent that it lawfully may, each Grantor hereby agrees that it will not invoke any law relating to the marshaling of collateral which might cause delay in or impede the enforcement of the Administrative Agent's rights and remedies under this Agreement or under any other instrument creating or evidencing any of the Secured Obligations or under which any of the Secured Obligations is outstanding or by which any of the Secured Obligations is secured or payment thereof is otherwise assured, and, to the extent that it lawfully may, each Grantor hereby irrevocably waives the benefits of all such laws.

24. Injunctive Relief.

(a) Each Grantor recognizes that, in the event such Grantor fails to perform, observe or discharge any of its obligations or liabilities under this Agreement or any other Loan Document, any remedy of law may prove to be inadequate relief to the Administrative Agent and the other Secured Parties. Therefore, each Grantor agrees that the Administrative Agent and the other Secured Parties, at the option of the Administrative Agent and the other Secured Parties, shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.

(b) The Administrative Agent, the other Secured Parties and each Grantor hereby agree that no such Person shall have a remedy of punitive or exemplary damages against any other party to a Loan Document and each such Person hereby waives any right or claim to punitive or exemplary damages that they may now have or may arise in the future in connection with any dispute under this Agreement or any other Loan Document, whether such dispute is resolved through arbitration or judicially.

25. Secured Parties. Each Secured Party that is not a party to the Credit Agreement who obtains the benefit of this Agreement shall be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of the Credit Agreement, and with respect to the actions and omissions of the Administrative Agent hereunder or otherwise relating hereto that do or may affect such Secured Party, the Administrative Agent and each of its Affiliates shall be entitled to all of the rights, benefits and immunities conferred under Article VII of the Credit Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

Each of the parties hereto has caused a counterpart of this Agreement to be duly executed and delivered as of the date first above written.

**GRANTORS: SCHOLASTIC INC.**

By: /s/ Gil A. Dickoff

Name: Gil A. Dickoff  
Title: Senior Vice President and Treasurer

Signature Page to  
Security Agreement



Accepted and agreed to as of the date first above written.

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

By: /s/ Linda Z. Mackey

Name: Linda Z. Mackey

Title: Vice President

Signature Page to  
Security Agreement

**Schedule I**

**Grantor Information**

<b>Legal Name</b>	<b>Former legal names in the four (4) months prior to the date of the First Amendment Effective Date</b>	<b>Jurisdiction of incorporation</b>	<b>Type of organization</b>	<b>Jurisdictions qualified to do business</b>	<b>Chief Executive Office address</b>	<b>US federal taxpayer identification number</b>	<b>Organization identification number</b>
Scholastic Inc.	None.	New York	Corporation	See attached Annex A	557 Broadway, New York, NY 10012	13-1824190	105083

**Schedule II**

**Locations**

**1. Headquarter**

Scholastic Inc. - 557 Broadway, New York, NY 10012

**2. Other location where any significant administrative or governmental functions are performed**

None.

**3. Other location where any books or records are maintained (electronic or otherwise)**

None.

**4. Locations where any Collateral is located at any premises owned or leased by a Grantor with a Collateral value in excess of \$10,000,000.**

<b>Location address</b>	<b>Leased/Owned</b>	<b>Name of Lessor (if leased)</b>	<b>Approximate fair market value of such property (if owned)</b>
2931 E. McCarty Street Jefferson City, MO 65101	Owned		\$83,876,280
6336 Algoa Road Jefferson City, MO 65101	Owned		\$293,035,299
3030 Robinson Road Jefferson City, MO 65101	Owned		\$59,663,754



**SCHOLASTIC INC.  
LIST OF QUALIFICATIONS**

**Jurisdiction**

Alaska	Michigan
Arizona	Missouri
Arkansas	Nevada
California	New Hampshire
Colorado	New Jersey
Connecticut	New York
Delaware	North Carolina
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Rhode Island
Illinois	South Carolina
Indiana	Texas
Iowa	Utah
Kentucky	Virginia
Louisiana	Washington
Maine	West Virginia
Maryland	Wisconsin
Massachusetts	

557 Broadway, New York, NY 10012  
Entrance at 130 Mercer

Date: September 23, 2020

Mr. Satbir Bedi

Dear Satbir:

Pursuant to our recent discussions, this letter will evidence the agreement we have reached in respect to the terms of your departure from Scholastic Inc. (the "Company") in order to enable you to pursue your personal interests.

1. You will resign from the Company, including all positions with the Company and its subsidiaries, on December 31, 2020 (the "Separation Date"), after which date you will no longer be an employee of the Company for any purpose.
2. During the period from the date hereof through December 31, 2020, you will continue in your current position as Executive Vice President and Chief Technology Officer with your current responsibilities for STS and Operations, with a primary focus dedicated to transitioning your successor as head of STS, in the case of STS, and your current direct reports within Operations, in the case of Operations, in order to provide for a smooth transition for these respective groups upon your departure, including advising with respect to any restructuring activities associated with the organizational transitions involved.
3. You will be paid for all unused vacation days accrued as of December 31, 2020.
4. At your election, Scholastic will continue to pay the employer portion of medical benefit coverage through the end of the last month of the twelve month period ending December 31, 2021, to the same extent as prior to the Separation Date, with you to pay an amount equal to the employee share of the cost of such coverage under the Company's group medical plan. Premiums for this benefit coverage will be deducted from the severance payment referred to in paragraph 5 below. The required COBRA period is generally 18 months and will run concurrently with the benefits coverage through the severance period. If there is additional time following the severance period for which COBRA would be available, a COBRA package will be sent for you to elect COBRA at 102% of the full rate for coverage for a maximum of 18 months of coverage from your Separation Date.
5. You will receive a one-time severance payment in the amount of \$1,206,313.00 (subject to applicable tax withholding), which amount will be paid to you in one lump sum after January 1, 2021, but, in any event, on or before February 28, 2021.
6. During this period you may also consult with and advise other persons, as long as such consulting and advisory activities do not interfere with the performance of your duties in accordance with your past practice, are technology-related and are to persons not engaged in a business which is the same as or substantially similar to the business of the Company

557 Broadway, New York, NY 10012  
Entrance at 130 Mercer

and its subsidiaries, which includes publishing (including Education Publishing and Trade Publishing) and selling books, magazines, educational software, media productions and other education materials for schools, teachers, parents, children and other consumers, whether in print or digital form, and distributing such materials through schools or school related organizations, book clubs and book fairs, and through retail stores, online sales, direct sales and other methods of dissemination in the United States and globally. For the avoidance of doubt, the provision of such consultation or advice relating to the development of new technologies, such as streaming, data mining, computer hardware and software management, business intelligence or other similar forms of new technologies, which technologies may be suitable for general adoption by a broad range of businesses which may include businesses in competition with the Company shall not be a violation of the foregoing.

7. As a condition to the foregoing, you will be required to execute the Company's customary form of Agreement and General Release.

If you are in agreement with the foregoing, kindly sign both copies of this letter in the space provided below and return one copy to the undersigned.

We thank you for the role you have played as the head of STS and Operations and your accomplishments in respect to the Company's technological transformation initiatives in this leadership role.

Sincerely yours,

/s/Richard Robinson  
Richard Robinson  
Chairman, President and Chief Executive Officer  
Scholastic Corporation

Accepted and Agreed:

/s/Satbir Bedi  
Satbir Bedi



I, Richard Robinson, the principal executive officer of Scholastic Corporation, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Scholastic Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: December 18, 2020

/s/ Richard Robinson

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Richard Robinson  
Chairman of the Board,  
President and Chief Executive Officer

I, Kenneth J. Cleary, the principal financial officer of Scholastic Corporation, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Scholastic Corporation;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
  - a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: December 18, 2020

/s/ Kenneth J. Cleary

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Kenneth J. Cleary

Chief Financial Officer

**Certification**  
**Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002**  
**with Respect to the Quarterly Report on Form 10-Q**  
**for the Quarter ended November 30, 2020**  
**of Scholastic Corporation**

Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (subsections (a) and (b) of section 1350, chapter 63 of title 18, United States Code), each of the undersigned officers of Scholastic Corporation, a Delaware corporation (the "Company"), does hereby certify, to the best of such officer's knowledge, that:

1. The Company's Quarterly Report on Form 10-Q for the quarter ended November 30, 2020 (the "Form 10-Q") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; and
2. Information contained in the Form 10-Q fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: December 18, 2020

/s/ Richard Robinson

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Richard Robinson  
Chief Executive Officer

Date: December 18, 2020

/s/ Kenneth J. Cleary

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Kenneth J. Cleary  
Chief Financial Officer

The certification set forth above is being furnished solely pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and is not being filed as part of the Form 10-Q or as a separate disclosure document of the Company or the certifying officers.