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 October 29, 2022
or

☐ TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the transition period from _____ to _____

Commission File Number 001-08897

BIG LOTS, INC.

(Exact name of registrant as specified in its charter)

Ohio	06-1119097
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)

4900 E. Dublin-Granville Road, Columbus, Ohio	43081
(Address of Principal Executive Offices)	(Zip Code)

(614) 278-6800
(Registrant's telephone number, including area code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common shares	BIG	New York Stock Exchange

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 (§ 232.405 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, a 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 ☑

The number of the registrant's common shares, $0.01 par value, outstanding as of December 2, 2022, was 28,958,865.

BIG LOTS, INC.
FORM 10-Q
FOR THE FISCAL QUARTER ENDED OCTOBER 29, 2022

TABLE OF CONTENTS

Part I. Financial Information

Item 1. Financial Statements

BIG LOTS, INC. AND SUBSIDIARIES
Consolidated Statements of Operations and Comprehensive Income (Unaudited)
(In thousands, except per share amounts)

	Thirteen Weeks Ended		Thirty-nine Weeks Ended	
	October 29, 2022	October 30, 2021	October 29, 2022	October 30, 2021
Net sales	$ 1,204,281	$ 1,335,656	$ 3,925,216	$ 4,418,582
Cost of sales (exclusive of depreciation expense shown separately below)	794,821	816,475	2,572,614	2,667,657
Gross margin	409,460	519,181	1,352,602	1,750,925
Selling and administrative expenses	503,016	487,378	1,494,239	1,473,454
Depreciation expense	37,255	35,930	111,808	105,196
Operating (loss) profit	(130,811)	(4,127)	(253,445)	172,275
Interest expense	(6,256)	(2,284)	(12,910)	(7,148)
Other income (expense)	62	285	1,359	1,112
(Loss) income before income taxes	(137,005)	(6,126)	(264,996)	166,239
Income tax (benefit) expense	(33,992)	(1,796)	(66,751)	38,299
Net (loss) income and comprehensive (loss) income	$ (103,013)	$ (4,330)	$ (198,245)	$ 127,940
Earnings (loss) per common share				
Basic	$ (3.56)	$ (0.14)	$ (6.88)	$ 3.80
Diluted	$ (3.56)	$ (0.14)	$ (6.88)	$ 3.73
Weighted-average common shares outstanding				
Basic	28,943	31,679	28,828	33,677
Dilutive effect of share-based awards	—	—	—	617
Diluted	28,943	31,679	28,828	34,294
Cash dividends declared per common share	$ 0.30	$ 0.30	$ 0.90	$ 0.90

The accompanying notes are an integral part of these consolidated financial statements.

BIG LOTS, INC. AND SUBSIDIARIES
Consolidated Balance Sheets (Unaudited)
(In thousands, except par value)

	October 29, 2022	January 29, 2022
ASSETS		
Current assets:		
Cash and cash equivalents	$ 62,138	$ 53,722
Inventories	1,345,280	1,237,797
Other current assets	122,581	119,449
Total current assets	1,529,999	1,410,968
Operating lease right-of-use assets	1,693,138	1,731,995
Property and equipment - net	718,642	735,826
Deferred income taxes	53,962	10,973
Other assets	39,671	37,491
Total assets	$ 4,035,412	$ 3,927,253
LIABILITIES AND SHAREHOLDERS' EQUITY		
Current liabilities:		
Accounts payable	$ 481,779	$ 587,496
Current operating lease liabilities	245,768	242,275
Property, payroll, and other taxes	101,597	90,728
Accrued operating expenses	125,518	120,684
Insurance reserves	39,335	36,748
Accrued salaries and wages	27,700	45,762
Income taxes payable	1,225	894
Total current liabilities	1,022,922	1,124,587
Long-term debt	459,900	3,500
Noncurrent operating lease liabilities	1,575,678	1,569,713
Deferred income taxes	—	21,413
Insurance reserves	60,269	62,591
Unrecognized tax benefits	8,170	10,557
Other liabilities	126,243	127,529
Shareholders' equity:		
Preferred shares - authorized 2,000 shares; $0.01 par value; none issued	—	—
Common shares - authorized 298,000 shares; $0.01 par value; issued 117,495 shares; outstanding 28,949 shares and 28,476 shares, respectively	1,175	1,175
Treasury shares - 88,546 shares and 89,019 shares, respectively, at cost	(3,105,617)	(3,121,602)
Additional paid-in capital	624,894	640,522
Retained earnings	3,261,778	3,487,268
Total shareholders' equity	782,230	1,007,363
Total liabilities and shareholders' equity	$ 4,035,412	$ 3,927,253

The accompanying notes are an integral part of these consolidated financial statements.

BIG LOTS, INC. AND SUBSIDIARIES
Consolidated Statements of Shareholders' Equity (Unaudited)
(In thousands)

	Common		Treasury		Additional Paid-In Capital	Retained Earnings	Total
	Shares	Amount	Shares	Amount			
Thirteen Weeks Ended October 30, 2021							
Balance - July 31, 2021	32,550	$ 1,175	84,945	$ (2,934,912)	$ 625,651	$ 3,461,455	$ 1,153,369
Comprehensive loss	—	—	—	—	—	(4,330)	(4,330)
Dividends declared ($0.30 per share)	—	—	—	—	—	(10,209)	(10,209)
Purchases of common shares	(2,059)	—	2,059	(97,690)	—	—	(97,690)
Restricted shares vested	43	—	(43)	1,518	(1,518)	—	—
Performance shares vested	—	—	—	—	—	—	—
Other	1	—	(1)	—	(1)	—	(1)
Share-based employee compensation expense	—	—	—	—	8,701	—	8,701
Balance - October 30, 2021	30,535	$ 1,175	86,960	$ (3,031,084)	$ 632,833	$ 3,446,916	$ 1,049,840
Thirty-nine Weeks Ended October 30, 2021							
Balance - January 30, 2021	35,535	$ 1,175	81,960	$ (2,709,259)	$ 634,813	$ 3,351,002	$ 1,277,731
Comprehensive income	—	—	—	—	—	127,940	127,940
Dividends declared ($0.90 per share)	—	—	—	—	—	(32,026)	(32,026)
Purchases of common shares	(6,008)	—	6,008	(355,508)	—	—	(355,508)
Restricted shares vested	471	—	(471)	15,778	(15,778)	—	—
Performance shares vested	536	—	(536)	17,879	(17,879)	—	—
Other	1	—	(1)	26	32	—	58
Share-based employee compensation expense	—	—	—	—	31,645	—	31,645
Balance - October 30, 2021	30,535	$ 1,175	86,960	$ (3,031,084)	$ 632,833	$ 3,446,916	$ 1,049,840
Thirteen Weeks Ended October 29, 2022							
Balance - July 30, 2022	28,932	$ 1,175	88,563	$ (3,106,360)	$ 621,925	$ 3,373,987	$ 890,727
Comprehensive loss	—	—	—	—	—	(103,013)	(103,013)
Dividends declared ($0.30 per share)	—	—	—	—	—	(9,196)	(9,196)
Purchases of common shares	(9)	—	9	(190)	—	—	(190)
Restricted shares vested	20	—	(20)	718	(718)	—	—
Performance shares vested	6	—	(6)	215	(215)	—	—
Share-based employee compensation expense	—	—	—	—	3,902	—	3,902
Balance - October 29, 2022	28,949	$ 1,175	88,546	$ (3,105,617)	$ 624,894	$ 3,261,778	$ 782,230
Thirty-nine Weeks Ended October 29, 2022							
Balance - January 29, 2022	28,476	$ 1,175	89,019	$ (3,121,602)	$ 640,522	$ 3,487,268	$ 1,007,363
Comprehensive loss	—	—	—	—	—	(198,245)	(198,245)
Dividends declared ($0.90 per share)	—	—	—	—	—	(27,245)	(27,245)
Purchases of common shares	(298)	—	298	(11,070)	—	—	(11,070)
Restricted shares vested	424	—	(424)	14,888	(14,888)	—	—
Performance shares vested	347	—	(347)	12,167	(12,167)	—	—
Share-based employee compensation expense	—	—	—	—	11,427	—	11,427
Balance - October 29, 2022	28,949	$ 1,175	88,546	$ (3,105,617)	$ 624,894	$ 3,261,778	$ 782,230

The accompanying notes are an integral part of these consolidated financial statements.

BIG LOTS, INC. AND SUBSIDIARIES
Consolidated Statements of Cash Flows (Unaudited)
(In thousands)

	Thirty-nine Weeks Ended	
	October 29, 2022	October 30, 2021
Operating activities:		
Net (loss) income	$ (198,245)	$ 127,940
Adjustments to reconcile net (loss) income to net cash (used in) provided by operating activities:		
Depreciation and amortization expense	112,818	106,058
Non-cash lease amortization expense	205,481	196,826
Deferred income taxes	(64,402)	1,015
Non-cash impairment charge	46,051	1,015
(Gain) loss on disposition of property and equipment	(1,492)	1,104
Non-cash share-based compensation expense	11,427	31,645
Unrealized loss (gain) on fuel derivatives	285	(1,582)
Loss on extinguishment of debt	—	535
Change in assets and liabilities:		
Inventories	(107,483)	(336,931)
Accounts payable	(105,717)	206,903
Operating lease liabilities	(191,211)	(170,950)
Current income taxes	17,516	(72,497)
Other current assets	5,853	(2,867)
Other current liabilities	(5,530)	(14,812)
Other assets	857	1,545
Other liabilities	(5,247)	759
Net cash (used in) provided by operating activities	(279,039)	75,706
Investing activities:		
Capital expenditures	(127,355)	(122,696)
Cash proceeds from sale of property and equipment	2,521	185
Other	(17)	(34)
Net cash used in investing activities	(124,851)	(122,545)
Financing activities:		
Net proceeds from (repayments of) long-term debt	456,400	(50,264)
Payment of finance lease obligations	(1,383)	(2,268)
Dividends paid	(28,263)	(32,554)
Payment for treasury shares acquired	(11,070)	(355,508)
Payment for debt issuance cost	(3,378)	(1,147)
Payments to extinguish debt	—	(438)
Other	—	58
Net cash provided by (used in) financing activities	412,306	(442,121)
Increase (decrease) in cash and cash equivalents	8,416	(488,960)
Cash and cash equivalents:		
Beginning of period	53,722	559,556
End of period	$ 62,138	$ 70,596

The accompanying notes are an integral part of these consolidated financial statements.

BIG LOTS, INC. AND SUBSIDIARIES
Notes to Consolidated Financial Statements (Unaudited)

NOTE 1 – BASIS OF PRESENTATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

All references in this report to "we," "us," or "our" are to Big Lots, Inc. and its subsidiaries. We are a home discount retailer in the United States ("U.S."). At October 29, 2022, we operated 1,457 stores in 48 states and an e-commerce platform. We make available, free of charge, through the "Investor Relations" section of our website (www.biglots.com) under the "SEC Filings" caption, our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K, and amendments to those reports filed or furnished pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934, as amended ("Exchange Act"), as soon as reasonably practicable after we file such material with, or furnish it to, the Securities and Exchange Commission ("SEC"). The contents of our websites are not part of this report.

The accompanying consolidated financial statements and these notes have been prepared in accordance with the rules and regulations of the SEC for interim financial information. The consolidated financial statements reflect all normal recurring adjustments which management believes are necessary to present fairly our financial condition, results of operations, and cash flows for all periods presented. The consolidated financial statements, however, do not include all information necessary for a complete presentation of financial condition, results of operations, and cash flows in conformity with accounting principles generally accepted in the United States of America ("GAAP"). Interim results may not necessarily be indicative of results that may be expected for, or actually result during, any other interim period or for the year as a whole. We have historically experienced seasonal fluctuations, with a larger percentage of our net sales and operating profit realized in our fourth fiscal quarter. The accompanying consolidated financial statements and these notes should be read in conjunction with the audited consolidated financial statements and notes included in our Annual Report on Form 10-K for the fiscal year ended January 29, 2022 ("2021 Form 10-K").

Fiscal Periods
Our fiscal year ends on the Saturday nearest to January 31, which results in fiscal years consisting of 52 or 53 weeks. Unless otherwise stated, references to years in this report relate to fiscal years rather than calendar years. Fiscal year 2022 ("2022") is comprised of the 52 weeks that began on January 30, 2022 and will end on January 28, 2023. Fiscal year 2021 ("2021") was comprised of the 52 weeks that began on January 31, 2021 and ended on January 29, 2022. The fiscal quarters ended October 29, 2022 ("third quarter of 2022") and October 30, 2021 ("third quarter of 2021") were both comprised of 13 weeks. The year-to-date periods ended October 29, 2022 ("year-to-date 2022") and October 30, 2021 ("year-to-date 2021") were both comprised of 39 weeks.

Long-Lived Assets
As a result of the net loss and decline in net sales during year-to-date 2022, we performed impairment analyses at the store level. Our long-lived assets primarily consist of property and equipment - net and operating lease right-of-use assets. If the net book value of a store's long-lived assets is not recoverable by the expected undiscounted future cash flows of the store, we estimate the fair value of the store's assets and recognize an impairment charge for the excess net book value of the store's long-lived assets over its fair value (categorized as Level 3 under the fair value hierarchy). Fair value at the store level is typically based on projected discounted cash flows over the remaining lease term.

During the third quarter of 2022, the Company recorded aggregate asset impairment charges of $21.7 million related to 86 underperforming store locations, which were comprised of $16.3 million of operating lease right-of-use assets and $5.4 million of property and equipment - net. In the year-to-date 2022, the Company recorded aggregate asset impairment charges of $45.8 million related to 104 underperforming store locations, which were comprised of $33.8 million of operating lease right-of-use assets and $12.0 million of property and equipment - net. The impairment charges were recorded in selling and administrative expenses in our accompanying consolidated statements of operations and comprehensive income.

In the third quarter of 2022, the Company entered into multiple purchase and sale agreements to sell land and building-related assets for 25 owned store locations and one unoccupied land parcel. The Company expects to complete the majority of these sales during the fiscal quarter ended January 28, 2023 ("fourth quarter of 2022") and the remainder in fiscal 2023, subject to customary closing conditions. Accordingly, at October 29, 2022, land and building-related assets for such 25 owned store locations and one unoccupied land parcel with an aggregate carrying value of $30.6 million were classified as held for sale on the consolidated balance sheets. We expect the proceeds from these asset sales to significantly exceed the carrying value. The assets held for sale were recorded within other current assets within our accompanying consolidated balance sheets.

Selling and Administrative Expenses

Selling and administrative expenses include store expenses (such as payroll and occupancy costs) and costs related to warehousing, distribution, outbound transportation to our stores, advertising, purchasing, insurance, non-income taxes, accepting credit/debit cards, impairment charges, and overhead. Our selling and administrative expense rates may not be comparable to those of other retailers that include warehousing, distribution, and outbound transportation costs to stores in cost of sales. Distribution and outbound transportation costs included in selling and administrative expenses were $81.8 million and $79.6 million for the third quarter of 2022 and the third quarter of 2021, respectively, and $245.8 million and $217.7 million for the year-to-date 2022 and the year-to-date 2021, respectively.

Advertising Expense

Advertising costs, which are expensed as incurred, consist primarily of television and print advertising, digital, social media, internet and e-mail marketing and advertising, payment card-linked marketing and in-store point-of-purchase signage and presentations. Advertising expenses are included in selling and administrative expenses. Advertising expenses were $20.9 million and $18.3 million for the third quarter of 2022 and the third quarter of 2021, respectively, and $64.3 million and $62.1 million for the year-to-date 2022 and the year-to-date 2021, respectively.

Supplemental Cash Flow Disclosures

The following table provides supplemental cash flow information for the year-to-date 2022 and the year-to-date 2021:

	Thirty-nine Weeks Ended	
(In thousands)	**October 29, 2022**	**October 30, 2021**
Supplemental disclosure of cash flow information:		
Cash paid for interest	$ 14,213	$ 5,167
Cash paid for income taxes, excluding impact of refunds	4,283	109,787
Gross proceeds from long-term debt	1,877,700	1,800
Gross payments of long-term debt	1,421,300	52,064
Cash paid for operating lease liabilities	276,919	251,671
Non-cash activity:		
Assets acquired under finance lease	3,859	260
Accrued property and equipment	26,210	22,491
Operating lease assets obtained in exchange for operating lease liabilities	200,669	294,327

Reclassifications

We periodically assess, and make minor adjustments to, our product hierarchy, which can impact the roll-up of our merchandise categories. Our financial reporting process utilizes the most current product hierarchy in reporting net sales by merchandise category for all periods presented. Therefore, there may be minor reclassifications of net sales by merchandise category compared to previously reported amounts.

Recent Accounting Pronouncements

In September 2022, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") 2022-04, Enhanced Disclosures about Supplier Finance Programs. ASU 2022-04 is effective for interim and annual reporting periods beginning after December 15, 2022, with early adoption permitted. The Company is currently evaluating the impact that this standard will have on our consolidated financial statements. We do not expect to early adopt this standard.

NOTE 2 – DEBT

Bank Credit Facility

On September 21, 2022, we entered into a five-year asset-based revolving credit facility ("2022 Credit Agreement") in an aggregate committed amount of up to $900 million (the "Commitments") that expires on September 21, 2027. In connection with our entry into the 2022 Credit Agreement, we paid bank fees and other expenses in the aggregate amount of $3.4 million, which are being amortized over the term of the 2022 Credit Agreement.

The 2022 Credit Agreement replaced the $600 million five-year unsecured credit facility we entered into on September 22, 2021 ("2021 Credit Agreement"). The 2021 Credit Agreement was scheduled to expire on September 22, 2026, but was terminated concurrent with our entry into the 2022 Credit Agreement. We did not incur any material early termination penalties in connection with the termination of the 2021 Credit Agreement.

Revolving loans under the 2022 Credit Agreement are available in an aggregate amount equal to the lesser of (1) the aggregate Commitments and (2) a borrowing base consisting of eligible credit card receivables and eligible inventory (including in-transit inventory), subject to customary exceptions and reserves and a reserve for the then outstanding balance owing under the Synthetic Lease (as defined below). Under the 2022 Credit Agreement, we may obtain additional Commitments on no more than five occasions in an aggregate amount of up to $300 million, subject to agreement by the lenders to increase their respective Commitments and certain other conditions. The 2022 Credit Agreement includes a swing loan sublimit of 10% of the then applicable aggregate Commitments and a $90 million letter of credit sublimit. Loans made under the 2022 Credit Agreement may be prepaid without penalty. Borrowings under the 2022 Credit Agreement are available for general corporate purposes, working capital and to repay certain of our indebtedness. Our obligations under the 2022 Credit Agreement are secured by our working capital assets (including inventory, credit card receivables and other accounts receivable, deposit accounts, and cash), subject to customary exceptions. The pricing and certain fees under the 2022 Credit Agreement fluctuate based on our availability under the 2022 Credit Agreement. The 2022 Credit Agreement allows us to select our interest rate for each borrowing from multiple interest rate options. The interest rate options are generally derived from the prime rate or one, three or six month adjusted Term SOFR. We will also pay an unused commitment fee of 0.20% per annum on the unused Commitments. The 2022 Credit Agreement contains an environmental, social and governance ("ESG") provision, which may provide favorable pricing and fee adjustments if we meet ESG performance criteria to be established by a future amendment to the 2022 Credit Agreement.

The 2022 Credit Agreement contains customary affirmative and negative covenants (including, where applicable, restrictions on our ability to, among other things, incur additional indebtedness, pay dividends, redeem or repurchase stock, prepay certain indebtedness, make certain loans and investments, dispose of assets, enter into restrictive agreements, engage in transactions with affiliates, modify organizational documents, incur liens and consummate mergers and other fundamental changes) and events of default. In addition, the 2022 Credit Agreement requires us to maintain a fixed charge coverage ratio of not less than 1.0 to 1.0 if (1) certain events of default occur and continue or (2) borrowing availability under the 2022 Credit Agreement is less than the greater of (a) 10% of the Maximum Credit Amount (as defined in the 2022 Credit Agreement) or (b) $67.5 million. A violation of these covenants could result in a default under the 2022 Credit Agreement which could permit the lenders to restrict our ability to further access the 2022 Credit Agreement for loans and letters of credit and require the immediate repayment of any outstanding loans under the 2022 Credit Agreement.

As of October 29, 2022, we had a Borrowing Base (as defined under the 2022 Credit Agreement) of $876.5 million under the 2022 Credit Agreement. At October 29, 2022, we had $459.9 million in borrowings outstanding under the 2022 Credit Agreement and $35.3 million committed to outstanding letters of credit, leaving $381.3 million available under the 2022 Credit Agreement, subject to certain borrowing base limitations as further discussed above.

Synthetic Lease

Simultaneous with our entry into the 2022 Credit Agreement, we entered into an amendment (the "Synthetic Lease Amendment") to the synthetic lease for our distribution center in Apple Valley, CA (the "Synthetic Lease"). The Synthetic Lease Amendment amended the Synthetic Lease to, among other things, (1) amend the lessor yield payable thereunder from a LIBOR-based rate to a SOFR-based rate, and to fix the SOFR margin paid on the lessor yield at 2.60%, (2) remove the financial covenants thereunder, (3) change the maturity date of the Synthetic Lease from May 30, 2024 to June 1, 2023, (4) permit the liens and indebtedness under the 2022 Credit Agreement, and (5) restrict our ability to amend the 2022 Credit Agreement, without the consent of all of the Synthetic Lease participants, to (a) increase the Commitments under the 2022 Credit Agreement to an amount in excess of $900 million, (b) remove or reduce the reserve for the then outstanding balance under the Synthetic Lease from the borrowing base under the 2022 Credit Agreement and (c) revise the maturity date under the 2022 Credit Agreement to an earlier date.

The fair value of our long-term debt is estimated based on the quoted market prices for same or similar issues and the current interest rates offered for similar instruments. These fair value measurements are classified as Level 2 within the fair value hierarchy. Given the variable rate features and relatively short maturity of the instruments underlying our long-term debt, the carrying value of these instruments approximates their fair value.

NOTE 3 – SHAREHOLDERS' EQUITY

Earnings per Share

There were no adjustments required to be made to the weighted-average common shares outstanding for purposes of computing basic and diluted earnings per share for all periods presented. At October 29, 2022, performance share units that vest based on relative total shareholder return ("TSR PSUs" - see Note 4 for a more detailed description of these awards), were excluded from our computation of earnings (loss) per share because the minimum applicable performance conditions had not been attained. Antidilutive restricted stock units ("RSUs"), performance share units ("PSUs"), and TSR PSUs are excluded from the calculation because they decrease the number of diluted shares outstanding under the treasury stock method. The RSUs, PSUs, and TSR PSUs that were antidilutive, as determined under the treasury stock method, were 0.6 million and 0.2 million for the third quarter of 2022 and the third quarter of 2021, respectively, and 0.4 million and 0.2 million for the year-to-date 2022 and the year-to-date 2021, respectively. Due to the net loss in the third quarter of 2022 and the year-to-date 2022, any potentially dilutive shares were excluded from the denominator in computing diluted earnings (loss) per common share for the third quarter of 2022 and the year-to-date 2022.

Share Repurchase Programs

On December 1, 2021, our Board of Directors authorized the repurchase of up to $250 million of our common shares ("2021 Repurchase Authorization"). Pursuant to the 2021 Repurchase Authorization, we may repurchase shares in the open market and/or in privately negotiated transactions at our discretion, subject to market conditions, our compliance with the terms of the 2022 Credit Agreement, and other factors. The 2021 Repurchase Authorization has no scheduled termination date. In the third quarter of 2022 and in the year-to-date 2022, no shares were repurchased under the 2021 Repurchase Authorization. As of October 29, 2022, we had $159.4 million available for future repurchases under the 2021 Repurchase Authorization.

Purchases of common shares reported in the consolidated statements of shareholders' equity include shares acquired to satisfy income tax withholdings associated with the vesting of share-based awards.

Dividends

The Company declared and paid cash dividends per common share during the quarterly periods presented as follows:

	Dividends Per Share	Amount Declared	Amount Paid
2022:		*(In thousands)*	*(In thousands)*
First quarter	$ 0.30	$ 8,981	$ 10,705
Second quarter	0.30	9,068	8,791
Third quarter	0.30	9,196	8,767
Total	**$ 0.90**	**$ 27,245**	**$ 28,263**

The amount of dividends declared may vary from the amount of dividends paid in a period due to the vesting of share-based awards. The payment of future dividends will be at the discretion of our Board of Directors and will depend on our financial condition, results of operations, capital requirements, compliance with applicable laws and agreements, including the 2022 Credit Agreement, and any other factors deemed relevant by our Board of Directors.

NOTE 4 – SHARE-BASED PLANS

We have issued RSUs, PSUs, and TSR PSUs under our shareholder-approved equity compensation plans. We recognized share-based compensation expense of $3.9 million and $8.7 million in the third quarter of 2022 and the third quarter of 2021, respectively, and $11.4 million and $31.6 million for the year-to-date 2022 and the year-to-date 2021, respectively.

Non-vested Restricted Stock Units
The following table summarizes the non-vested restricted stock units activity for the year-to-date 2022:

	Number of Shares	Weighted Average Grant-Date Fair Value Per Share
Outstanding non-vested RSUs at January 29, 2022	909,287	$ 33.87
Granted	418,247	$ 38.13
Vested	(355,911)	$ 29.29
Forfeited	(23,271)	$ 29.59
Outstanding non-vested RSUs at April 30, 2022	948,352	$ 37.52
Granted	83,912	$ 27.34
Vested	(48,096)	$ 43.03
Forfeited	(83,399)	$ 41.98
Outstanding non-vested RSUs at July 30, 2022	900,769	$ 35.87
Granted	46,307	$ 19.66
Vested	(20,489)	$ 30.40
Forfeited	(15,741)	$ 37.71
Outstanding non-vested RSUs at October 29, 2022	910,846	$ 35.13

The non-vested restricted stock units granted in the year-to-date 2022 generally vest and are expensed on a ratable basis over three years from the grant date of the award, as a threshold financial performance objective is expected to be achieved and the grantee remains employed by us through the vesting dates. In the year-to-date 2022, an immaterial amount of non-vested restricted stock units were granted with a minimum service requirement of one year and no required financial performance objectives.

Non-vested Restricted Stock Units Granted to Non-Employee Directors
In the second quarter of 2022, 14,770 common shares underlying the restricted stock units granted in 2021 to the non-employee directors vested on the trading day immediately preceding our 2022 Annual Meeting of Shareholders ("2022 Annual Meeting"). These units were part of the annual compensation of the non-employee directors of the Board. In the second quarter of 2022, the chairman of our Board received an annual restricted stock unit grant having a grant date fair value of approximately $245,000 and the remaining non-employees elected to our Board at our 2022 Annual Meeting each received an annual restricted stock unit grant having a grant date fair value of approximately $145,000. The 2022 restricted stock units will vest on the earlier of (1) the trading day immediately preceding our 2023 Annual Meeting of Shareholders, or (2) the non-employee director's death or disability. However, the non-employee directors will forfeit their restricted stock units if their service on the Board terminates before either vesting event occurs.

Performance Share Units
Prior to 2020, in 2021, and in the year-to-date 2022, we issued PSUs to certain members of management, which will vest if certain financial performance objectives are achieved over a three-year performance period and the grantee remains employed by us during the performance period. The financial performance objectives for each fiscal year within the three-year performance period are generally approved by the Compensation Committee of our Board of Directors during the first quarter of the respective fiscal year.

As a result of the process used to establish the financial performance objectives, we will only meet the requirements for establishing a grant date for PSUs when we communicate the financial performance objectives for the third fiscal year of the award to the award recipients, which will then trigger the service inception date, the fair value of the awards, and the associated expense recognition period. If we meet the applicable threshold financial performance objectives over the three-year performance period and the grantee remains employed by us through the end of the performance period, the PSUs will vest on the first trading day after we file our Annual Report on Form 10-K for the last fiscal year in the performance period.

The number of shares distributed upon vesting of the PSUs depends on the average performance attained during the three-year performance period compared to the performance targets established by the Compensation Committee, and may result in the distribution of an amount of shares that is greater or less than the number of PSUs granted, as defined in the award agreement.

In the year-to-date 2022, we also awarded TSR PSUs to certain members of management, which vest based on the achievement of total shareholder return ("TSR") targets relative to a peer group over a three-year performance period and require the grantee to remain employed by us through the end of the performance period. If we meet the applicable performance thresholds over the three-year performance period and the grantee remains employed by us through the end of the performance period, the TSR PSUs will vest on the first trading day after we file our Annual Report on Form 10-K for the last fiscal year in the performance period. We use a Monte Carlo simulation to estimate the fair value of the TSR PSUs on the grant date and recognize expense over the service period. The TSR PSUs have a contractual period of three years.

The number of shares distributed upon vesting of the TSR PSUs depends on the average performance attained during the three-year performance period compared to the performance targets established by the Compensation Committee, and may result in the distribution of an amount of shares that is greater or less than the number of TSR PSUs granted, as defined in the award agreement. As of October 29, 2022, we have granted 63,491 TSR PSU shares, which will be expensed through fiscal 2024.

We have begun or expect to begin recognizing expense related to PSUs as follows:

Issue Year	Outstanding PSUs at October 29, 2022	Expected Valuation (Grant) Date	Actual or Expected Expense Period
2021	143,062	March 2023	Fiscal 2023
2022	254,003	March 2024	Fiscal 2024
Total	397,065		

As of October 29, 2022, we had a total of 460,556 outstanding performance share units.

We recognized $0.3 million and $5.0 million of share-based compensation expense related to performance share units in the third quarter of 2022 and third quarter of 2021, respectively, and $0.7 million and $20.7 million of share-based compensation expense related to performance share units in the year-to-date 2022 and the year-to-date 2021, respectively.

The following table summarizes the activity related to PSUs and TSR PSUs for the year-to-date 2022:

	Number of Units	Weighted Average Grant-Date Fair Value Per Share
Outstanding PSUs and TSR PSUs at January 29, 2022	240,110	$ 70.24
Granted	68,231	$ 58.09
Vested	(234,001)	$ 70.24
Forfeited	—	$ —
Outstanding PSUs and TSR PSUs at April 30, 2022	74,340	$ 59.09
Granted	2,609	$ 30.33
Vested	—	$ —
Forfeited	(9,605)	$ 58.09
Outstanding PSUs and TSR PSUs at July 30, 2022	67,344	$ 58.12
Granted	2,494	$ 30.33
Vested	(6,109)	$ 70.24
Forfeited	(238)	$ 58.09
Outstanding PSUs and TSR PSUs at October 29, 2022	63,491	$ 55.86

The following activity occurred under our share-based plans during the respective periods shown:

	Third Quarter		Year-to-Date	
(In thousands)	2022	2021	2022	2021
Total fair value of restricted stock vested	$ 418	$ 2,141	$ 14,339	$ 31,459
Total fair value of performance shares vested	$ 125	$ —	$ 13,877	$ 37,387

The total unearned compensation cost related to all share-based awards outstanding, excluding PSUs issued in 2021 and 2022, at October 29, 2022 was approximately $23.8 million. We expect to recognize this compensation cost through October 2025 based on existing vesting terms with the weighted-average remaining expense recognition period being approximately 1.9 years from October 29, 2022.

NOTE 5 – INCOME TAXES

The provision for income taxes was based on a current estimate of the annual effective tax rate, adjusted to reflect the effect of discrete items.

For the year-to-date 2022, the Company determined it could estimate the effective income tax rate with sufficient precision. Therefore, the income tax benefit was based on the estimated annual effective tax rate, adjusted to reflect the effect of discrete items.

We have estimated the reasonably possible expected net change in unrecognized tax benefits through October 28, 2023, based on (1) expected cash and noncash settlements or payments of uncertain tax positions, and (2) lapses of the applicable statutes of limitations for unrecognized tax benefits. The estimated net decrease in unrecognized tax benefits for the next 12 months is approximately $1.0 million. Actual results may differ materially from this estimate.

As of October 29, 2022, the net deferred tax assets were $54.0 million compared to net deferred tax liabilities of $10.4 million as of January 29, 2022. The change was primarily driven by deferred tax assets recorded during year-to-date 2022 as a result of the net operating losses generated during fiscal 2022.

NOTE 6 – CONTINGENCIES

Legal Proceedings

We are involved in legal actions and claims arising in the ordinary course of business. We currently believe that each such action and claim will be resolved without a material effect on our financial condition, results of operations, or liquidity. However, litigation involves an element of uncertainty. Future developments could cause these actions or claims to have a material effect on our financial condition, results of operations, and liquidity.

NOTE 7 – BUSINESS SEGMENT DATA

We use the following seven merchandise categories, which are consistent with our internal management and reporting of merchandise net sales: Food; Consumables; Soft Home; Hard Home; Furniture; Seasonal; and Apparel, Electronics, & Other. The Food category includes our beverage & grocery; specialty foods; and pet departments. The Consumables category includes our health, beauty and cosmetics; plastics; paper; and chemical departments. The Soft Home category includes our home décor; frames; fashion bedding; utility bedding; bath; window; decorative textile; and area rugs departments. The Hard Home category includes our small appliances; table top; food preparation; stationery; home maintenance; home organization; and toys departments. The Furniture category includes our upholstery; mattress; ready-to-assemble; and case goods departments. The Seasonal category includes our lawn & garden; summer; Christmas; and other holiday departments. The Apparel, Electronics, & Other department includes our apparel; electronics; jewelry; hosiery; and candy & snacks departments, as well as the assortments for The Lot, our cross-category presentation solution, and the Queue Line, our streamlined checkout experience.

We periodically assess, and make minor adjustments to, our product hierarchy, which can impact the roll-up of our merchandise categories. Our financial reporting process utilizes the most current product hierarchy in reporting net sales by merchandise category for all periods presented. Therefore, there may be minor reclassifications of net sales by merchandise category compared to previously reported amounts.

The following table presents net sales data by merchandise category:

	Third Quarter		Year-to-Date	
(In thousands)	**2022**	**2021**	**2022**	**2021**
Furniture	$ 303,703	$ 401,256	$ 988,307	$ 1,291,765
Food	187,021	182,936	536,153	541,400
Soft Home	168,243	194,217	489,325	601,320
Consumables	156,224	163,350	462,066	485,039
Seasonal	136,970	125,147	702,440	688,747
Hard Home	126,622	141,905	383,325	439,805
Apparel, Electronics, & Other	125,498	126,845	363,600	370,506
Net sales	$ 1,204,281	$ 1,335,656	$ 3,925,216	$ 4,418,582

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations

CAUTIONARY STATEMENT CONCERNING FORWARD-LOOKING STATEMENTS FOR PURPOSES OF THE SAFE HARBOR PROVISIONS OF THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

The Private Securities Litigation Reform Act of 1995 ("Act") provides a safe harbor for forward-looking statements to encourage companies to provide prospective information, so long as those statements are identified as forward-looking and are accompanied by meaningful cautionary statements identifying important factors that could cause actual results to differ materially from those discussed in the statements. We wish to take advantage of the "safe harbor" provisions of the Act.

Certain statements in this report are forward-looking statements within the meaning of the Act, and such statements are intended to qualify for the protection of the safe harbor provided by the Act. The words "anticipate," "estimate," "approximate," "expect," "objective," "goal," "project," "intend," "plan," "believe," "will," "should," "may," "target," "forecast," "guidance," "outlook," and similar expressions generally identify forward-looking statements. Similarly, descriptions of our objectives, strategies, plans, goals or targets are also forward-looking statements. Forward-looking statements relate to the expectations of management as to future occurrences and trends, including statements expressing optimism or pessimism about future operating results or events and projected sales, earnings, capital expenditures and business strategy. Forward-looking statements are based upon a number of assumptions concerning future conditions that may ultimately prove to be inaccurate. Forward-looking statements are and will be based upon management's then-current views and assumptions regarding future events and operating performance, and are applicable only as of the dates of such statements. Although we believe the expectations expressed in forward-looking statements are based on reasonable assumptions within the bounds of our knowledge, forward-looking statements, by their nature, involve risks, uncertainties and other factors, any one or a combination of which could materially affect our business, financial condition, results of operations or liquidity.

Forward-looking statements that we make herein and in other reports and releases are not guarantees of future performance and actual results may differ materially from those discussed in such forward-looking statements as a result of various factors, including, but not limited to, developments related to the COVID-19 pandemic, the current economic and credit conditions, inflation, the cost of goods, our inability to successfully execute strategic initiatives, competitive pressures, economic pressures on our customers and us, the availability of brand name closeout merchandise, trade restrictions, freight costs, the risks discussed in the Risk Factors section of our most recent Annual Report on Form 10-K (as updated in this Quarterly Report on the 10-Q), and other factors discussed from time to time in our other filings with the SEC, including Quarterly Reports on Form 10-Q and Current Reports on Form 8-K. This report should be read in conjunction with such filings, and you should consider all of these risks, uncertainties and other factors carefully in evaluating forward-looking statements.

Readers are cautioned not to place undue reliance on forward-looking statements, which speak only as of the date they are made. We undertake no obligation to publicly update forward-looking statements whether as a result of new information, future events or otherwise. Readers are advised, however, to consult any further disclosures we make on related subjects in our public announcements and SEC filings.

OVERVIEW

The discussion and analysis presented below should be read in conjunction with the accompanying consolidated financial statements and related notes. Each term defined in the notes to the accompanying consolidated financial statements has the same meaning in this item and the balance of this report.

The following are the results from the third quarter of 2022 that we believe are key indicators of our operating performance when compared to our operating performance from the third quarter of 2021:

- Net sales decreased $131.4 million, or 9.8%.
- Comparable sales for stores open at least fifteen months, plus our e-commerce net sales, decreased $151.5 million, or 11.7%.
- Gross margin dollars decreased $109.7 million, while gross margin rate decreased 490 basis points to 34.0% of net sales.
- Selling and administrative expenses increased $15.6 million to $503.0 million. As a percentage of net sales, selling and administrative expenses increased 530 basis points to 41.8% of net sales.
- Included within our selling and administrative expenses were non-cash store asset impairment charges related to underperforming stores of $21.7 million, or approximately a loss of $0.56 per share.
- Operating loss increased to an operating loss of $130.8 million from an operating loss of $4.1 million.
- Diluted loss per share increased to $3.56 per share from $0.14 per share.
- Cash and cash equivalents decreased $8.5 million, from $70.6 million at the end of the third quarter of 2021 to $62.1 million at the end of the third quarter of 2022.
- Inventory increased by 5.3%, or $68.1 million, from $1,277.2 million at the end of the third quarter of 2021 to $1,345.3 million at the end of the third quarter of 2022. This increase is largely due to a 14% increase in average unit cost of on hand inventory and a 2% increase in units on hand, partially offset by a decrease in in-transit inventory due to earlier receipt of Christmas inventory compared to third quarter of 2021.
- We declared and paid a quarterly cash dividend in the amount of $0.30 per common share in the third quarter of 2022, which was consistent with the quarterly cash dividend of $0.30 per common share paid in the third quarter of 2021.

See the discussion and analysis below for additional details regarding our operating results.

STORES

The following table presents stores opened and closed during the year-to-date 2022 and the year-to-date 2021:

	2022	2021
Stores open at the beginning of the fiscal year	1,431	1,408
Stores opened during the period	38	34
Stores closed during the period	(12)	(18)
Stores open at the end of the period	1,457	1,424

We expect our store count at the end of 2022 to decrease slightly compared to our store count at the end of 2021.

RESULTS OF OPERATIONS

The following table compares components of our consolidated statements of operations and comprehensive income as a percentage of net sales at the end of each period:

	Third Quarter		Year-to-Date	
	2022	2021	2022	2021
Net sales	100.0 %	100.0 %	100.0 %	100.0 %
Cost of sales (exclusive of depreciation expense shown separately below)	66.0	61.1	65.5	60.4
Gross margin	34.0	38.9	34.5	39.6
Selling and administrative expenses	41.8	36.5	38.1	33.3
Depreciation expense	3.1	2.7	2.8	2.4
Operating (loss) profit	(10.9)	(0.3)	(6.5)	3.9
Interest expense	(0.5)	(0.2)	(0.3)	(0.2)
Other income (expense)	0.0	0.0	0.0	0.0
(Loss) income before income taxes	(11.4)	(0.5)	(6.8)	3.8
Income tax (benefit) expense	(2.8)	(0.1)	(1.7)	0.9
Net (loss) income and comprehensive (loss) income	(8.6)%	(0.3)%	(5.1)%	2.9 %

THIRD QUARTER OF 2022 COMPARED TO THIRD QUARTER OF 2021

Net Sales

Net sales by merchandise category (in dollars and as a percentage of total net sales), net sales change (in dollars and percentage), and comparable sales ("comp" or "comps") in the third quarter of 2022 compared to the third quarter of 2021 were as follows:

	Third Quarter						
($ in thousands)	2022		2021		Change		Comps
Furniture	$ 303,703	25.2 %	$ 401,256	30.1 %	$ (97,553)	(24.3)%	(26.4)%
Food	187,021	15.5	182,936	13.7	4,085	2.2	0.9
Soft Home	168,243	14.0	194,217	14.5	(25,974)	(13.4)	(15.1)
Consumables	156,224	13.0	163,350	12.2	(7,126)	(4.4)	(5.4)
Seasonal	136,970	11.4	125,147	9.4	11,823	9.4	7.2
Hard Home	126,622	10.5	141,905	10.6	(15,283)	(10.8)	(12.4)
Apparel, Electronics, & Other	125,498	10.4	126,845	9.5	(1,347)	(1.1)	(3.8)
Net sales	$ 1,204,281	100.0 %	$ 1,335,656	100.0 %	$ (131,375)	(9.8)%	(11.7)%

We periodically assess, and make minor adjustments to, our product hierarchy, which can impact the roll-up of our merchandise categories. Our financial reporting process utilizes the most current product hierarchy in reporting net sales by merchandise category for all periods presented. Therefore, there may be minor reclassifications of net sales by merchandise category compared to previously reported amounts.

Net sales decreased $131.4 million, or 9.8%, to $1,204.3 million in the third quarter of 2022, compared to $1,335.7 million in the third quarter of 2021. The decrease in net sales was primarily driven by an 11.7% decrease in our comps, which decreased net sales by $151.5 million. This decrease was partially offset by our non-comparable sales, which increased net sales by $20.1 million, driven by increased sales in our new and relocated stores compared to closed stores. Our comps are calculated based on the results of all stores that were open at least fifteen months plus our e-commerce net sales.

We believe that the decreases in net sales and comps in the third quarter of 2022 compared to the third quarter of 2021 were primarily attributable to a decrease in demand as a result of economic pressures on our customers caused by inflation and the absence of government disbursements and enhanced unemployment benefits compared to third quarter of 2021, which we believe negatively impacted the discretionary spending of our customers.

In the third quarter of 2022, we experienced decreased comps and net sales in our Furniture, Soft Home, and Hard Home merchandise categories. These categories, particularly the Furniture category, were most impacted by our customer's discretionary spending habits due to economic pressures, inflation and the absence of government disbursements, as discussed above, and as compared to the third quarter of 2021. To address this situation, we expect to introduce more closeout offerings in these categories as we implement our "Bargains, Treasures, and Essentials" merchandising strategy, which would change our merchandise mix to one-third Bargains (largely synonymous with closeouts), one-third Treasures (fun, unique, one-of-a-kind items), and one-third Essentials (staple product offerings that bring consistency to our mix of products). In order to expand our lower entry-level price points, we expect more price point mix adjustments within these categories throughout the fourth quarter of 2022 and beyond. We also continue to offer high value products with higher price points that we believe will attract customers from higher income households such as our Broyhill® branded home products.

The increased net sales and positive comps in our Seasonal category compared to the third quarter of 2021 was primarily driven by our Halloween, harvest, summer, and lawn & garden departments partially offset by decreases in sporting goods and other departments. The net sales and comps of the lawn & garden and summer departments were impacted by increased inventory levels and category-specific promotional activity in the third quarter of 2022 as we aggressively discounted these departments to reduce our inventory levels and create space for our Halloween, harvest, and Christmas inventory. Our Halloween department benefited from favorable weather conditions, promotional selling activity and an elevated inventory level entering the third quarter of 2022. The Christmas department experienced positive comps and net sales compared to the third quarter of 2021 when we experienced supply chain challenges that delayed the receipt of Christmas inventory in our stores.

Our Consumables and Apparel, Electronics, & Other categories experienced decreases in net sales and comps which were primarily driven by the decreased discretionary spending discussed above.

Our Food category experienced increases in comps and net sales in the third quarter of 2022. This category performed relatively better than our home products categories as it is less sensitive to changes in discretionary spending.

Gross Margin

Gross margin dollars decreased $109.7 million, or 21.1%, to $409.5 million for the third quarter of 2022, compared to $519.2 million for the third quarter of 2021. The decrease in gross margin dollars was primarily due to a decrease in gross margin rate, which decreased gross margin dollars by $58.6 million, and a decrease in net sales, which decreased gross margin dollars by $51.1 million. Gross margin as a percentage of net sales decreased 490 basis points to 34.0% in the third quarter of 2022 as compared to 38.9% in the third quarter of 2021. The gross margin rate decrease was primarily a result of higher markdowns and higher inbound freight costs. The higher markdowns were driven by increased promotions in the third quarter of 2022 compared to the third quarter of 2021. We aggressively discounted merchandise in the third quarter of 2022 to drive traffic to our stores, move through Seasonal product, and reduce our overall inventory levels to an appropriate position at the end of the quarter. The increase in inbound freight costs was due to higher ocean carriage rates, higher rail rates and higher fuel costs.

Selling and Administrative Expenses

Selling and administrative expenses were $503.0 million for the third quarter of 2022, compared to $487.4 million for the third quarter of 2021. The increase of $15.6 million in selling and administrative expenses was primarily driven by $21.7 million of store asset impairment charges (see Note 1 to the accompanying consolidated financial statements) resulting from a review of underperforming stores, and an increase in distribution and transportation costs of $2.2 million, partially offset by decreases in share-based compensation expense of $4.8 million and self-insurance expense of $3.9 million. The increase in distribution and transportation expenses was driven by increased fuel costs and outbound transportation rates as well as the costs associated with the forward distribution centers ("FDCs") opened in the past year, partially offset by lower inbound and outbound volumes. Our share-based compensation expense decreased due to the 2019 PSUs, for which the grant date was established in 2021, which carried a higher grant date fair value and for which substantially more awards were granted than the 2022 TSR PSUs, and forfeitures resulting from executive departures. The decrease in self-insurance expense was primarily driven by a net decrease in self-insurance claims, which led to lower incurred expense in the third quarter of 2022 compared to the third quarter of 2021.

As a percentage of net sales, selling and administrative expenses increased 530 basis points to 41.8% for the third quarter of 2022 compared to 36.5% for the third quarter of 2021.

Depreciation Expense
Depreciation expense increased $1.4 million to $37.3 million in the third quarter of 2022, compared to $35.9 million in the third quarter of 2021. The increase in depreciation expense was driven by increased investments in our strategic initiatives, new stores, and supply chain improvements in the last twelve months.

Depreciation expense as a percentage of sales increased 40 basis points compared to the third quarter of 2021.

Interest Expense
Interest expense was $6.3 million in the third quarter of 2022, compared to $2.3 million in the third quarter of 2021. The increase in interest expense was primarily driven by an increase in total average borrowings (including finance leases and the sale and leaseback financing liability) of $479.8 million in the third quarter of 2022 compared to total average borrowings of $132.2 million in the third quarter of 2021. The increase in total average borrowings was driven by borrowings under our credit facilities in the third quarter of 2022 compared to no borrowings under our credit facilities in the third quarter of 2021.

Other Income (Expense)
Other income (expense) was $0.1 million in the third quarter of 2022, compared to $0.3 million in the third quarter of 2021. The income in both years was driven by unrealized gains on our diesel fuel derivatives.

Income Taxes
The effective income tax rate for the third quarter of 2022 and the third quarter of 2021 was 24.8% and 29.3%, respectively. The decrease in the effective income tax rate was driven by lower nondeductible executive compensation, partially offset by the effect of employment related tax credits and audit settlements. The effective income tax rate comparison was also significantly impacted by the increased loss before income taxes in the third quarter of 2022 compared to the loss before income taxes in the third quarter of 2021.

YEAR-TO-DATE 2022 COMPARED TO YEAR-TO-DATE 2021

Net Sales

Net sales by merchandise category (in dollars and as a percentage of total net sales) in the year-to-date 2022 and the year-to-date 2021, and the change in net sales (in dollars and percentage) and the change in comps (in percentage) from the year-to-date 2022 compared to the year-to-date 2021 were as follows:

	Year-to-Date						
($ in thousands)	2022		2021		Change		Comps
Furniture	$ 988,307	25.2 %	$ 1,291,765	29.2 %	$ (303,458)	(23.5)%	(25.3)%
Seasonal	702,440	17.9	688,747	15.6	13,693	2.0	0.4
Food	536,153	13.7	541,400	12.3	(5,247)	(1.0)	(2.1)
Soft Home	489,325	12.5	601,320	13.6	(111,995)	(18.6)	(20.1)
Consumables	462,066	11.8	485,039	11.0	(22,973)	(4.7)	(5.7)
Hard Home	383,325	9.7	439,805	9.9	(56,480)	(12.8)	(14.4)
Apparel, Electronics, & Other	363,600	9.2	370,506	8.4	(6,906)	(1.9)	(4.6)
Net sales	$ 3,925,216	100.0 %	$ 4,418,582	100.0 %	$ (493,366)	(11.2)%	(12.8)%

Net sales decreased $493.4 million, or 11.2%, to $3,925.2 million in the year-to-date 2022, compared to $4,418.6 million in the year-to-date 2021. The decrease in net sales was driven by a comp decrease of 12.8%, which decreased net sales by $549.3 million, partially offset by our non-comparable sales which increased net sales by $55.9 million as a result of increased net sales in our new and relocated stores compared to closed stores, and an increase in net store count compared to the year-to-date 2021. Our decreased comps and net sales in the year-to-date 2022 is primarily due to the absence of government sponsored relief packages that were present in the year-to-date 2021, which included government stimulus payments and enhanced unemployment benefits. Additionally, we experienced decreased demand in the year-to-date 2022 as a result of general economic pressures on our customers caused by inflation, which we believe impacted the discretionary spending of our customers.

In the year-to-date 2022, we experienced decreased comps and net sales in all of our merchandise categories except our Seasonal category in which our net sales and comps modestly increased. Our home products categories - Furniture, Soft Home, and Hard Home - were most impacted, as purchases from these categories are generally more discretionary in nature. An inflationary environment and absence of government stimulus payments reduced our customer's discretionary spending. As discussed above, we expect price point mix adjustments within these categories throughout the fourth quarter of 2022 and beyond to expand our lower entry-level price points. Additionally, we expect to introduce more closeout offerings in these categories as we implement our “Bargains, Treasures, and Essentials” merchandising strategy, which would change our merchandise mix to one-third Bargains, one-third Treasures, and one-third Essentials.

Our Food category performed marginally better than our home products categories in the year-to-date 2022 as this category is less sensitive to changes in discretionary spending.

Our Consumables and Apparel, Electronics, & Other categories experienced decreases in net sales and comps which were driven by the decreased discretionary spending discussed above.

The increased net sales and comps within our Seasonal category in the year-to-date 2022 compared to the year-to-date 2021 was primarily driven by our Halloween and lawn & garden departments. Our Halloween department benefited from promotional selling activity and an increased inventory level entering the Halloween selling season. The lawn & garden department continued to benefit from increased inventory levels and category-specific promotional activity as we aggressively discounted our lawn & garden assortments to be competitive in the current market, reduce our inventory levels, and create space for Halloween, harvest, and Christmas inventory. Our Christmas department benefited from early holiday season net sales and ended the quarter with a more favorable inventory position compared to the prior year inventory levels which were impacted by supply chain challenges that delayed our receipt of Christmas inventory.

Gross Margin
Gross margin dollars decreased $398.3 million, or 22.7%, to $1,352.6 million for the year-to-date 2022, compared to $1,750.9 million for the year-to-date 2021. The decrease in gross margin dollars was due to a decrease in gross margin rate, which decreased gross margin by $202.8 million and a decrease in net sales, which decreased gross margin by $195.5 million. Gross margin as a percentage of net sales decreased 510 basis points to 34.5% in the year-to-date 2022, compared to 39.6% in the year-to-date 2021. The gross margin rate decrease was primarily a result of higher markdowns, higher inbound freight costs, and a higher shrink rate, partially offset by a higher initial markup. The higher markdowns were driven by increased promotions in the year-to-date 2022 compared to the year-to-date 2021, as we aggressively discounted Seasonal and other products to drive net sales in the second and third quarters of 2022. Inbound freight costs increased due to higher ocean carriage rates, higher rail rates, detention and demurrage charges related to supply chain delays, and higher fuel costs. The higher shrink rate was driven by a higher rate of theft and other loss in our stores during 2021, which has led to unfavorable physical inventory counts in the 2022 physical inventory cycle and a higher shrink accrual rate in the year-to-date 2022. The higher initial markup was driven by modest price increases in targeted merchandise categories and on specific items that have been most impacted by higher freight costs.

Selling and Administrative Expenses
Selling and administrative expenses were $1,494.2 million for the year-to-date 2022, compared to $1,473.5 million for the year-to-date 2021. The increase of $20.7 million in selling and administrative expenses was attributable to increases in store asset impairment charges of $45.8 million and distribution and transportation costs of $28.1 million, partially offset by decreases in accrued bonus expense of $25.3 million, share-based compensation expense of $20.2 million, and self-insurance expense of $10.6 million. The non-cash store asset impairment charges (see Note 1) were recorded as a result of a review of underperforming store locations. The increase in distribution and transportation costs was driven by increased fuel costs and outbound transportation rates, as well as the costs associated with the FDCs opened since the second half of 2021, partially offset by lower outbound and inbound carton volumes. The decrease in accrued bonus expense was due to lower operating performance in the year-to-date 2022 relative to our annual operating plans as compared to the year-to-date 2021. Our share-based compensation expense decreased primarily due to the 2019 PSUs (for which the grant date was established in the first quarter of 2021), which carried a higher grant date fair value and for which substantially more awards were granted than the 2022 TSR PSUs. Our share-based compensation expense also decreased due to forfeitures resulting from executive departures in the year-to-date 2022. The decrease in self-insurance expense was primarily driven by a net decrease in self-insurance claims, the balance of which led to lower incurred expense in the year-to-date 2022 compared to the year-to-date 2021.

As a percentage of net sales, selling and administrative expenses increased 480 basis points to 38.1% for the year-to-date 2022 compared to 33.3% for the year-to-date 2021.

Depreciation Expense
Depreciation expense increased $6.6 million to $111.8 million in the year-to-date 2022, compared to $105.2 million for the year-to-date 2021. The increase was driven by increased investments in our strategic initiatives, new stores, and supply chain improvements in the last 12 months.

Depreciation expense as a percentage of sales increased by 40 basis points compared to the year-to-date 2021.

Interest Expense
Interest expense was $12.9 million in the year-to-date 2022, compared to $7.1 million in the year-to-date 2021. The increase in interest expense was driven by higher total average borrowings (including finance leases and the sale and leaseback financing liability). We had total average borrowings of $392.9 million in the year-to-date 2022 compared to $153.7 million in the year-to-date 2021. The increase in total average borrowings was driven by greater borrowings under our credit agreements throughout the year-to-date 2022 compared to the average balance on our term note agreement, which was fully repaid in the second quarter of 2021, and under the 2021 Credit Agreement in the year-to-date 2021 (when we had no borrowings under the 2021 Credit Agreement).

Other Income (Expense)
Other income (expense) was $1.4 million in the year-to-date 2022, compared to $1.1 million in the year-to-date 2021. The change was primarily driven by a $0.5 million loss on debt extinguishment recognized in the year-to-date 2021 related to the prepayment of the term note secured by equipment at our California distribution center.

Income Taxes
The effective income tax rate for the year-to-date 2022 and the year-to-date 2021 was 25.2% and 23.0%, respectively. The increase in the effective income tax rate was primarily attributable to a net deficiency associated with vesting of share-based payment awards in 2022 compared to a net benefit in the year-to-date 2021, increased audit settlements and the effect of employment related tax credits, partially offset by lower non-deductible executive compensation. Additionally, the increase in the effective income tax rate was impacted by the loss before income taxes in the year-to-date 2022 compared to the income before income taxes in the year-to-date 2021.

Known Trends and 2022 Guidance
In the year-to-date 2022, the U.S. economy experienced its highest inflationary period in decades, which has adversely impacted costs in our business, particularly freight and transportation-related expenses, and the buying power of our customers. We expect the inflationary environment will continue to negatively impact costs within our business and discretionary spending by our customers through the remainder of 2022.

Given the wide range of potential outcomes, we are not currently providing earnings per share guidance for the fourth quarter of 2022; however, excluding the impact of any potential real estate sales, we anticipate an operating loss in the fourth quarter of 2022. As of December 1, 2022, we expect the following in the fourth quarter of 2022:

- A comparable sales decrease in the low double digits compared to the fourth quarter of 2021;
- Gross margin rate improvement compared to the third quarter of 2022, but below the fourth quarter of 2021, with a rate in the mid 30s.
- Combined selling and administrative expenses and depreciation approximately in line with the fourth quarter of 2021.

For 2022, we expect capital expenditures of approximately $170 million.

Liquidity and Capital Resources
On September 21, 2022, we entered into a five-year asset-based revolving credit facility (“2022 Credit Agreement”) in an aggregate committed amount of $900 million (the “Commitments”) that expires on September 21, 2027. In connection with our entry into the 2022 Credit Agreement, we paid bank fees and other expenses in the aggregate amount of $3.4 million, which are being amortized over the term of the 2022 Credit Agreement.

The 2022 Credit Agreement replaced the $600 million five-year unsecured credit facility we entered into on September 22, 2021 (“2021 Credit Agreement”). The 2021 Credit Agreement was scheduled to expire on September 22, 2026, but was terminated concurrent with our entry into the 2022 Credit Agreement. We did not incur any material early termination penalties in connection with the termination of the 2021 Credit Agreement.

Revolving loans under the 2022 Credit Agreement are available in an aggregate amount equal to the lesser of (1) the aggregate Commitments and (2) a borrowing base consisting of eligible credit card receivables and eligible inventory (including in-transit inventory), subject to customary exceptions and reserves and a reserve for the then outstanding balance owing under the Synthetic Lease (as defined below). Under the 2022 Credit Agreement, we may obtain additional Commitments on no more than five occasions in an aggregate amount of up to $300 million, subject to agreement by the lenders to increase their respective Commitments and certain other conditions. The 2022 Credit Agreement includes a swing loan sublimit of 10% of the then applicable aggregate Commitments and a $90 million letter of credit sublimit. Loans made under the 2022 Credit Agreement may be prepaid without penalty. Borrowings under the 2022 Credit Agreement are available for general corporate purposes, working capital and to repay certain of our indebtedness. Our obligations under the 2022 Credit Agreement are secured by our working capital assets (including inventory, credit card receivables and other accounts receivable, deposit accounts, and cash), subject to customary exceptions. The pricing and certain fees under the 2022 Credit Agreement fluctuate based on our availability under the 2022 Credit Agreement. The 2022 Credit Agreement allows us to select our interest rate for each borrowing from multiple interest rate options. The interest rate options are generally derived from the prime rate or one, three or six month adjusted Term SOFR. We will also pay an unused commitment fee of 0.20% per annum on the unused Commitments. The 2022 Credit Agreement contains an environmental, social and governance (“ESG”) provision, which may provide favorable pricing and fee adjustments if we meet ESG performance criteria to be established by a future amendment to the 2022 Credit Agreement.

The 2022 Credit Agreement contains customary affirmative and negative covenants (including, where applicable, restrictions on our ability to, among other things, incur additional indebtedness, pay dividends, redeem or repurchase stock, prepay certain indebtedness, make certain loans and investments, dispose of assets, enter into restrictive agreements, engage in transactions with affiliates, modify organizational documents, incur liens and consummate mergers and other fundamental changes) and events of default. In addition, the 2022 Credit Agreement requires us to maintain a fixed charge coverage ratio of not less than 1.0 to 1.0 if (1) certain events of default occur and continue or (2) borrowing availability under the 2022 Credit Agreement is less than the greater of (a) 10% of the Maximum Credit Amount (as defined in the 2022 Credit Agreement) or (b) $67.5 million. A violation of these covenants could result in a default under the 2022 Credit Agreement which could permit the lenders to restrict our ability to further access the 2022 Credit Agreement for loans and letters of credit and require the immediate repayment of any outstanding loans under the 2022 Credit Agreement. At October 29, 2022, we were in compliance with the covenants of the 2022 Credit Agreement.

Simultaneous with our entry into the 2022 Credit Agreement, we entered into an amendment (the "Synthetic Lease Amendment") to the synthetic lease for our distribution center in Apple Valley, CA (the "Synthetic Lease"). The Synthetic Lease Amendment amended the Synthetic Lease to, among other things, (1) amend the lessor yield payable thereunder from a LIBOR-based rate to a SOFR-based rate, and to fix the SOFR margin paid on the lessor yield at 2.60%, (2) remove the financial covenants thereunder, (3) change the maturity date of the Synthetic Lease from May 30, 2024 to June 1, 2023, (4) permit the liens and indebtedness under the 2022 Credit Agreement, and (5) restrict our ability to amend the 2022 Credit Agreement, without the consent of all of the Synthetic Lease participants, to (a) increase the Commitments under the 2022 Credit Agreement to an amount in excess of $900 million, (b) remove or reduce the reserve for the then outstanding balance under the Synthetic Lease from the borrowing base under the 2022 Credit Agreement and (c) revise the maturity date under the 2022 Credit Agreement to an earlier date.

As of October 29, 2022, we had a Borrowing Base (as defined under the 2022 Credit Agreement) of $876.5 million under the 2022 Credit Agreement. At October 29, 2022, we had $459.9 million in borrowings outstanding under the 2022 Credit Agreement and $35.3 million committed to outstanding letters of credit, leaving $381.3 million available under the 2022 Credit Agreement, subject to certain borrowing base limitations as further discussed above.

The primary source of our liquidity is cash flows from operations and borrowings under our credit facility as necessary. Our net income (loss) and, consequently, our cash provided by (used in) operations are impacted by net sales volume, seasonal sales patterns, and operating profit (loss) margins. Our cash provided by operations typically peaks in the fourth quarter of each fiscal year due to net sales generated during the holiday selling season. Generally, our working capital requirements peak late in our third fiscal quarter or early in our fourth fiscal quarter as we build our inventory levels prior to the holiday selling season. We have historically funded those requirements with cash provided by operations and borrowings under our credit facility. We currently expect to decrease our borrowings under our credit facility at the end of fiscal 2022 compared to the third quarter of 2022. Cash requirements include among other things, capital expenditures, working capital needs, interest payments, and other contractual commitments.

In the third quarter of 2022, the Company entered into multiple purchase and sale agreements to sell land and building-related assets for 25 owned store locations and one unoccupied land parcel. The Company expects to complete the majority of these sales during the fourth quarter of 2022 and the remainder in fiscal 2023, subject to customary closing conditions. We expect these sales of property to generate significant liquidity. The Company is also exploring other asset monetization opportunities with its remaining owned properties to generate additional liquidity.

On December 1, 2021 our Board of Directors authorized the repurchase of up to $250 million of our common shares under the 2021 Repurchase Authorization. Pursuant to the 2021 Repurchase Authorization, we may repurchase shares in the open market and/or in privately negotiated transactions at our discretion, subject to market conditions, our compliance with the terms of the 2022 Credit Agreement, and other factors. The 2021 Repurchase Authorization has no scheduled termination date. In the third quarter of 2022, we did not purchase shares under the 2021 Repurchase Authorization. As of October 29, 2022, we had $159.4 million available for future repurchases under the 2021 Repurchase Authorization.

In August 2022, our Board of Directors declared a quarterly cash dividend of $0.30 per common share payable on September 23, 2022 to shareholders of record as of the close of business on September 9, 2022. The cash dividend of $0.30 per common share is consistent with our quarterly dividends declared in 2021. In the year-to-date of 2022, we paid approximately $28.3 million in dividends compared to $32.6 million in the year-to-date of 2021.

In November 2022, our Board of Directors declared a quarterly cash dividend of $0.30 per common share payable on December 28, 2022 to shareholders of record as of the close of business on December 14, 2022.

Based on historical and expected financial results, we believe that we have or, if necessary, have the ability to obtain, adequate resources to fund our cash requirements, including ongoing and seasonal working capital requirements, proposed capital expenditures, new projects, and currently maturing obligations.

The following table compares the primary components of our cash flows from the year-to-date 2022 compared to the year-to-date 2021:

(In thousands)	2022	2021	Change
Net cash (used in) provided by operating activities	$ (279,039)	$ 75,706	$ (354,745)
Net cash used in investing activities	(124,851)	(122,545)	(2,306)
Net cash provided by (used in) financing activities	$ 412,306	$ (442,121)	$ 854,427

Cash (used in) provided by operating activities decreased $354.7 million to cash used in operating activities of $279.0 million in the year-to-date 2022 compared to cash provided by operating activities of $75.7 million in the year-to-date 2021. The decrease was primarily due to a decrease in net (loss) income after adjusting for non-cash activities such as non-cash impairment charge, non-cash share-based compensation expense, and non-cash lease expense, and cash outflows related to a reduction of accounts payable on an increased inventory position. Partially offsetting this decrease was an increase in the change in current income taxes, which was driven by a change from generating income before income taxes in the year-to-date 2021 to a loss before income taxes in the year-to-date 2022.

Cash used in investing activities increased by $2.3 million to $124.9 million in the year-to-date 2022 compared to $122.5 million in the year-to-date 2021. The increase was driven by an increase in capital expenditures, which was primarily due to increased investments in new stores and other strategic initiatives.

Cash provided by (used in) financing activities increased by $854.4 million to cash provided by financing activities of $412.3 million in the year-to-date 2022 compared to cash used in financing activities of $442.1 million in the year-to-date 2021. The increase was driven by net proceeds from long-term debt due to borrowings under the 2022 Credit Agreement to fund working capital requirements, and a decrease in payment for treasury shares acquired. The decrease in payment for treasury shares acquired was due to shares repurchased under a share repurchase authorization in the year-to-date 2021, whereas there were no shares repurchased in the year-to-date 2022 under the 2021 Repurchase Authorization.

CRITICAL ACCOUNTING POLICIES AND ESTIMATES

The preparation of financial statements in conformity with GAAP requires management to make estimates, judgments, and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period, as well as the related disclosure of contingent assets and liabilities at the date of the financial statements. On an ongoing basis, management evaluates its estimates, judgments, and assumptions, and bases its estimates, judgments, and assumptions on historical experience, current trends, and various other factors that are believed to be reasonable under the circumstances. Actual results may differ from these estimates. See Note 1 to our consolidated financial statements included in our 2021 Form 10-K for additional information about our accounting policies. Except as set forth below, there have been no material changes to our accounting policies disclosed in Note 1 of our 2021 Form 10-K.

The estimates, judgments, and assumptions that have a higher degree of inherent uncertainty and require the most significant judgments are outlined in Management's Discussion and Analysis of Financial Condition and Results of Operations contained in our 2021 Form 10-K. Had we used estimates, judgments, and assumptions different from any of those discussed in our 2021 Form 10-K, our financial condition, results of operations, and liquidity for the current period could have been materially different from those presented.

Long-lived assets

Our long-lived assets primarily consist of property and equipment - net and operating lease right-of-use assets. If the net book value of a store's long-lived assets is not recoverable by the expected undiscounted future cash flows of the store, we estimate the fair value of the store's assets and recognize an impairment charge for the excess net book value of the store's long-lived assets over its fair value (categorized as Level 3 under the fair value hierarchy). Fair value at the store level is typically based on projected discounted cash flows over the remaining lease term. The Company uses judgment in its determination of the existence of impairment indicators at a store level, which is primarily based on operating performance.

We assess the impairment of long-lived assets, primarily property and equipment and operating lease assets, annually or whenever events or changes in circumstances indicate that the carrying value may not be recoverable. Our assessment of changes in circumstances requires significant judgment. Factors we consider important which could trigger an impairment review include the following:

- Significant changes in the manner of our use of assets or the strategy for the overall business;
- Significant negative industry or economic trends; and
- An unusual current-period operating loss or cash flow loss in comparison to historical operating or cash flow losses

See Note 1 to the accompanying consolidated financial statements for additional information regarding this critical accounting policy.

Item 3. Quantitative and Qualitative Disclosures About Market Risk

We are subject to market risk from exposure to changes in interest rates on investments that we make from time to time and on borrowings under the 2022 Credit Agreement. We had $459.9 million of borrowings under the 2022 Credit Agreement at October 29, 2022. An increase of 1% in our variable interest rate on our expected future borrowings could affect our financial condition, results of operations, or liquidity through higher interest expense by approximately $4.6 million.

We are subject to market risk from exposure to changes in our derivative instruments associated with diesel fuel. At October 29, 2022, we had outstanding derivative instruments, in the form of collars, covering 0.3 million gallons of diesel fuel. The following table provides additional detail related to our current derivative instruments, associated with diesel fuel.

Calendar Year of Maturity	Diesel Fuel Derivatives		Fair Value
	Puts	Calls	Asset (Liability)
	(Gallons, in thousands)		*(In thousands)*
2022	300	300	571
Total	300	300	$ 571

At October 29, 2022, a 10% difference in the forward curve for diesel fuel prices could affect unrealized gains (losses) in other income (expense) by approximately $0.2 million.

Item 4. Controls and Procedures

Evaluation of Disclosure Controls and Procedures
Our management, with the participation of our Principal Executive Officer and Principal Financial Officer, has evaluated the effectiveness of our disclosure controls and procedures (as that term is defined in Rules 13a-15(e) and 15d-15(e) of the Exchange Act) as of the end of the period covered by this report. Based on that evaluation, our Principal Executive Officer and Principal Financial Officer have each concluded that such disclosure controls and procedures were effective as of the end of the period covered by this report.

Changes in Internal Control Over Financial Reporting
There were no changes in our internal control over financial reporting (as that term is defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act) that occurred during our most recent fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Part II. Other Information

Item 1. Legal Proceedings

For information regarding certain legal proceedings to which we have been named a party or are subject, see Note 6 to the accompanying consolidated financial statements.

Item 1A. Risk Factors

Risk factors that affect our business and financial results are discussed within Part 1, Item 1A. of our 2021 Form 10-K. Except as set forth below, during the third quarter of 2022, there have been no material changes to our risk factors as disclosed in the 2021 Form 10-K and in our subsequent filings with the SEC.

If we are unable to comply with the terms of the 2022 Credit Agreement, our capital resources, financial condition, results of operations, and liquidity may be materially adversely effected.

We borrow funds under the 2022 Credit Agreement, a $900 million five-year asset-based revolving credit facility, from time to time depending on operating or other cash flow requirements. The 2022 Credit Agreement contains customary affirmative and negative covenants (including, where applicable, restrictions on our ability to, among other things, incur additional indebtedness, pay dividends, redeem or repurchase stock, prepay certain indebtedness, make certain loans and investments, dispose of assets, enter into restrictive agreements, engage in transactions with affiliates, modify organizational documents, incur liens and consummate mergers and other fundamental changes) and events of default. In addition, the 2022 Credit Agreement requires us to maintain a fixed charge coverage ratio of not less than 1.0 to 1.0 if (1) certain events of default occur and continue or (2) borrowing availability under the 2022 Credit Agreement is less than the greater of (a) 10% of the Maximum Credit Amount (as defined in the 2022 Credit Agreement) or (b) $67.5 million. These covenants could impose significant operating and financial limitations and restrictions on us, including restrictions on our ability to enter into particular transactions that we believe are advisable or necessary for our business. Our ability to comply with these covenants and other provisions in the 2022 Credit Agreement may be affected by changes in our operating and financial performance, changes in general business and economic conditions, adverse regulatory developments, or other events beyond our control. We are also subject to cross default provisions under the Synthetic Lease applicable to our distribution center in California. A violation of these covenants could result in a default under the 2022 Credit Agreement which would permit the lenders to restrict our ability to further access the 2022 Credit Agreement for loans and letters of credit and require the immediate repayment of any outstanding loans under the 2022 Credit Agreement. Our failure to comply with these covenants may have a material adverse effect on our capital resources, financial condition, results of operations, and liquidity.

In addition, our ability to borrow under the 2022 Credit Agreement is limited by the amount of our borrowing base which consists of eligible credit card receivables and eligible inventory (including in-transit inventory), subject to customary exceptions and reserves and a reserve for the then outstanding balance owing under the Synthetic Lease. Any negative impact on the elements of our borrowing base, such as accounts receivable and inventory, could reduce our borrowing capacity under the 2022 Credit Agreement which could have a material adverse effect on our capital resources, financial condition, results of operations, and liquidity.

We may be unable to generate sufficient cash flow to satisfy our debt service obligations, which could have a material adverse effect on our business, financial condition and results of operations.

Our ability to make principal and interest payments on and to refinance our indebtedness will depend on our ability to generate cash in the future and is subject to general economic, financial, competitive, legislative, regulatory, tax and other factors that are beyond our control. If our business does not generate sufficient cash flow from operations, in the amounts projected or at all, or if future borrowings are not available to us in amounts sufficient to fund our other liquidity needs, our business, financial condition and results of operations could be materially adversely affected. If we cannot generate sufficient cash flow from operations to make scheduled principal and interest payments in the future, we may need to refinance all or a portion of our indebtedness on or before maturity, sell assets, delay capital expenditures or seek additional equity. The terms of the 2022 Credit Agreement or future debt agreements may also restrict us from effecting any of these alternatives. Further, changes in the credit and capital markets, including market disruptions and interest rate fluctuations, may increase the cost of financing, make it more difficult to obtain favorable terms, or restrict our access to these sources of future liquidity. If we are unable to refinance any of our indebtedness on commercially reasonable terms or at all or to effect any other action relating to our indebtedness on satisfactory terms or at all, it could have a material adverse effect on our business, financial condition and results of operations.

The recent cessation of operations by a key furniture supplier, United Furniture Industries, Inc., could materially adversely impact our results of operations.

United Furniture Industries, Inc. ("UFI") unexpectedly and without notice to us ceased operations and terminated its employees on November 21, 2022. Furniture products supplied by UFI to the Company represented approximately 7% of our merchandise purchases in the year-to-date 2022. We are closely monitoring this developing situation, evaluating its potential impact on our business and reviewing our rights and legal and strategic options with respect to UFI. As part of this process, we are investigating our ability to acquire from UFI finished goods and work in process inventory that relate to outstanding and unpaid purchase orders that we currently have with UFI. In addition, we are identifying and believe that we have identified merchandise sourcing alternatives to fill near term gaps in our product offerings that may result from UFI's cessation of operations, including, among other things, obtaining merchandise from other furniture vendors, pursuing closeout opportunities and acquiring additional non furniture merchandise. However, because our investigation is ongoing and given the inherent uncertainty in this fluid situation, we cannot determine at this time the ultimate impact of UFI's cessation of operations on our results of operations. Over time, if we are unable to secure alternative sources of merchandise on acceptable terms to replace merchandise previously sourced from UFI, our results of operations could be materially adversely impacted.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

(In thousands, except price per share data)

Period	(a) Total Number of Shares Purchased [1][2]	(b) Average Price Paid per Share [1][2]	(c) Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs [2]	(d) Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs [2]
July 31, 2022 - August 27, 2022	2	$ 21.07	—	159,425
August 28, 2022 - September 24, 2022	6	20.85	—	159,425
September 25, 2022 - October 29, 2022	1	16.33	—	159,425
Total	9	$ 20.37	—	159,425

(1) In August, September, and October 2022, in connection with the vesting of certain outstanding RSUs, we acquired 2,257, 6,003, and 1,113 of our common shares, respectively, which were withheld to satisfy minimum statutory income tax withholdings.

(2) The 2021 Repurchase Authorization is comprised of a December 1, 2021 authorization by our Board of Directors for the repurchase of up to $250.0 million of our common shares. During the third quarter of 2022, we had no repurchases under the 2021 Repurchase Authorization. At October 29, 2022, the 2021 Repurchase Authorization has $159.4 million of remaining authorization. The 2021 Repurchase Authorization has no scheduled termination date.

Item 3. Defaults Upon Senior Securities

None.

Item 4. Mine Safety Disclosures

None.

Item 5. Other Information

None.

Item 6. Exhibits

Exhibits marked with an asterisk (*) are filed herewith.

Exhibit No.	Document
10.1	Form of Big Lots 2020 Long-Term Incentive Plan Performance Share Units Award Agreement (incorporated herein by reference to Exhibit 10.14 to our Form 10-K dated March 29, 2022).
10.2	Big Lots, Inc. Executive Severance Agreement (incorporated herein by reference to Exhibit 10.2 to our Form 10-Q dated June 8, 2022).
10.3	Big Lots, Inc. Senior Executive Severance Agreement (incorporated herein by reference to Exhibit 10.3 to our Form 10-Q dated June 8, 2022).
10.4	Credit Facility Consent Letter (incorporated herein by reference to Exhibit 10.1 to our Form 8-K dated July 29, 2022).
10.5	Synthetic Lease Consent Letter (incorporated herein by reference to Exhibit 10.2 to our Form 8-K dated July 29, 2022).
10.6	Form of Big Lots 2020 Long-Term Incentive Plan Restricted Stock Units Award Agreement (incorporated herein by reference to Exhibit 10.6 to our Form 10-Q dated September 6, 2022).
10.7*	Credit Agreement, dated September 21, 2022, by and among Big Lots, Inc. and the other Borrowers named therein, the Guarantors named therein, and the Banks named therein.
10.8*	Fourth Amendment to Operative Documents, dated September 21, 2022, by and among AVDC, Inc., as lessee, the guarantors thereto, Wachovia Service Corporation, as lessor, Wells Fargo Bank, N.A., as agent, and the lease participants named therein.
31.1*	Certification of Principal Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2*	Certification of Principal Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32.1*	Certification of Principal Executive Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Certification of Principal Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.Def*	XBRL Taxonomy Definition Linkbase Document
101.Pre*	XBRL Taxonomy Presentation Linkbase Document
101.Lab*	XBRL Taxonomy Labels Linkbase Document
101.Cal*	XBRL Taxonomy Calculation Linkbase Document
101.Sch	XBRL Taxonomy Schema Linkbase Document
101.Ins	XBRL Taxonomy Instance Document - the instance document does not appear in the Interactive Data File because its XBRL tags are embedded within the Inline XBRL document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101).

Signature

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

Dated: December 7, 2022

BIG LOTS, INC.

By: /s/ Jonathan E. Ramsden

Jonathan E. Ramsden
Executive Vice President, Chief Financial and Administrative Officer
(Principal Financial Officer, Principal Accounting Officer and Duly Authorized Officer)

Exhibit 10.7

EXECUTION

Published CUSIP Number: 08930FAA2
Revolving Credit CUSIP Number: 08930FAC8

CREDIT AGREEMENT

dated as of September 21, 2022 among

BIG LOTS, INC.,
as the Company,

the Subsidiaries from time to time party hereto as Subsidiary Borrowers,

The other LOAN PARTIES from time to time party hereto,

The LENDERS from time to time party hereto,

and

PNC BANK, NATIONAL ASSOCIATION,
as Administrative Agent

PNC CAPITAL MARKETS, LLC, HUNTINGTON NATIONAL BANK, TRUIST SECURITIES, INC.,
U.S. BANK NATIONAL ASSOCIATION and WELLS FARGO BANK, NATIONAL ASSOCIATION,
as Joint Bookrunners and Joint Lead Arrangers

and

PNC BANK, NATIONAL ASSOCIATION, HUNTINGTON NATIONAL BANK, TRUIST BANK,
U.S. BANK NATIONAL ASSOCIATION and WELLS FARGO BANK, NATIONAL ASSOCIATION,
As Joint Syndication Agents and Co-Documentation Agents

TABLE OF CONTENTS

(continued)

TABLE OF CONTENTS

(continued)

TABLE OF CONTENTS

(continued)

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

SCHEDULES:

EXHIBITS:

CREDIT AGREEMENT dated as of September 21, 2022, among BIG LOTS, INC., an Ohio corporation (the "Company"), each of the Subsidiary Borrowers from time to time party hereto, the other Loan Parties from time to time party hereto, the Lenders from time to time party hereto, and PNC BANK, NATIONAL ASSOCIATION, as Administrative Agent.

WITNESSETH:

The Company has requested that the Lenders provide an asset-based revolving credit facility in an initial aggregate maximum principal amount not to exceed $900,000,000, and the Lenders have indicated their willingness to lend, and the Issuing Banks hereunder have indicated their willingness to issue Letters of Credit, in each case on the terms and conditions set forth herein.

In consideration of the mutual covenants and agreements herein contained, the parties hereto covenant and agree as follows:

ARTICLE I. DEFINITIONS

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

"ABL Intercreditor Agreement" means an Intercreditor Agreement, in form and substance reasonably satisfactory to the Company and satisfactory to the Administrative Agent in its Permitted Discretion, entered into after the date hereof among the Administrative Agent and an Other Secured Debt Agent, and acknowledged by the Loan Parties, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"ABL Priority Collateral" has the meaning specified in any ABL Intercreditor Agreement; provided, that, if, as of any date, no ABL Intercreditor Agreement exists, "ABL Priority Collateral" shall mean "Collateral" as defined herein.

"ABR", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, bear interest at a rate determined by reference to the Alternate Base Rate.

"Account" means an "Account" as defined in Article 9 of the UCC.

"Account Debtor" means any Person that is or may become obligated to any Loan Party under, with respect to or on account of an Account or Credit Card Account.

"Acquired Indebtedness" means, with respect to any specified Person: (1) Indebtedness of any other Person existing at the time such other Person is merged, consolidated or amalgamated with or into or became a Restricted Subsidiary of such specified Person, and (2) Indebtedness secured by a Lien encumbering any asset acquired by such specified Person. Acquired Indebtedness will be deemed to have been Incurred, with respect to clause (1) of the preceding sentence, on the date such Person becomes a Restricted Subsidiary and, with respect to clause (2) of the preceding sentence, on the date of consummation of such acquisition of such assets.

"Acquisition" means any transaction, or any series of related transactions, consummated on or after the date hereof, by which any Loan Party or Restricted Subsidiary (a) acquires any business or division of

a business or all or substantially all of the assets of any Person, whether through the purchase of assets, merger or otherwise or (b) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the Equity Interests of a Person which has ordinary voting power for the election of directors or other similar management personnel of a Person (other than Equity Interests having such power only by reason of the happening of a contingency) or a majority of the outstanding Equity Interests of a Person.

"Additional Refinancing Amount" means, in connection with the Incurrence of any Refinancing Indebtedness, the aggregate principal amount of additional Indebtedness, Disqualified Stock or Preferred Stock Incurred to pay accrued and unpaid interest, premiums (including tender premiums), expenses, defeasance costs and fees in respect thereof.

"Administrative Agent" means PNC Bank, National Association, in its capacity as administrative agent hereunder and under the other Loan Documents, and including any of its Affiliates performing any of the functions of the Administrative Agent at any time, and their successors in such capacity as provided in Article VIII.

"Administrative Questionnaire" means an Administrative Questionnaire in a form supplied by the Administrative Agent.

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

"Affiliate" means, with respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the specified Person.

"Affiliate Transaction" has the meaning specified in Section 6.05.

"Agreement" means this Credit Agreement, as amended, restated, supplemented or otherwise modified from time to time.

"Aggregate Commitments" means, at any time, the aggregate Commitments of all Lenders.

"Aggregate Credit Exposure" means, at any time, the aggregate Revolving Exposure of all the Lenders at such time.

"Alternate Base Rate" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Overnight Bank Funding Rate in effect on such day plus ½ of 1% and
(c) Daily Simple SOFR plus 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Overnight Bank Funding Rate or Daily Simple SOFR shall be effective from and including the effective date of such change in the Prime Rate, the Overnight Bank Funding Rate or Daily Simple SOFR, respectively. Any change in the Alternate Base Rate (or any component thereof) shall take effect at the opening of business on the day such change occurs. Notwithstanding anything to the contrary contained herein, in the case of any event specified in Section 2.14, to the extent any such determination affects the calculation of Alternate Base Rate, the definition hereof shall be calculated without reference to clause (c) until the circumstances giving rise to such event no longer exist. If the Alternate Base Rate determined as above would be less than 0.00%, then such rate shall be deemed to be 0.00%.

"Alternative Currency" means Canadian Dollars, Euro and any other currency approved by the Administrative Agent and all of the Lenders, in each case, as long as there is a published RFR, Eurocurrency Rate, or a Benchmark Replacement effected pursuant to Section 2.14 with respect thereto.

"Alternative Currency Borrowing" means a Borrowing comprising of Alternative Currency Loans.

"Alternative Currency Equivalent" means, at any time, with respect to any amount denominated in U.S. Dollars, the equivalent amount thereof in the applicable Alternative Currency as determined by the Administrative Agent or the Issuing Bank, as the case may be, by reference to the applicable Bloomberg page (or such other publicly available service for displaying exchange rates as determined by the Administrative Agent from time to time), to be the exchange rate for the purchase of such Alternative Currency with U.S. Dollars on the date that is (i) with respect to RFR Loans, the applicable Daily Simple RFR Lookback Day, (ii) with respect to any Alternative Currency Loans denominated in Canadian Dollars, the Eurocurrency Rate Lookback Period and (iii) otherwise, on the date which is two (2) Business Days immediately preceding the date of determination, or otherwise with respect to Loans to which any other Interest Period option applies, the lookback date applicable thereto, in each case, prior to the date as of which the foreign exchange computation is made; provided, however, that if no such rate is available, the "Alternative Currency Equivalent" shall be determined by the Administrative Agent or the Issuing Bank, as the case may be, using any reasonable method of determination it deems appropriate in its sole discretion (and such determination shall be conclusive absent manifest error).

"Alternative Currency Loan" means any Loans denominated in an Alternative Currency.

"Anti-Money Laundering Laws" means applicable laws or regulations in any jurisdiction in which any Loan Party or any of its Subsidiaries or its Controlled Affiliates is located or is doing material business that relates to money laundering, any predicate crime to money laundering, or any financial record keeping and reporting requirements related thereto.

"Anti-Terrorism Laws" means any laws relating to terrorism, trade sanctions programs and embargoes, import/export licensing, money laundering or bribery, and any regulation, order, or directive promulgated, issued or enforced pursuant to such laws, all as amended, supplemented or replaced from time to time (including, without limitation, any Anti-Money Laundering Laws), in each case in any jurisdiction in which any Loan Party or any of its Subsidiaries is located or is doing material business.

"Applicable Percentage" means, with respect to any Lender, a percentage equal to a fraction the numerator of which is such Lender's Commitment and the denominator of which is the Aggregate Commitments; provided that, if the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon such Lender's share of the Aggregate Credit Exposure at that time; provided further that, in accordance with Section 2.20, so long as any Lender shall be a Defaulting Lender, such Defaulting Lender's Commitment shall be disregarded in the calculations in this definition.

"Applicable Rate" means, for any day, with respect to any Loan, the applicable rate per annum set forth below, as the case may be, based upon the daily average Availability (the "Average Availability") for the fiscal quarter of the Company ending on the most recent Determination Date (as defined below), provided that for the period from the Closing Date through and including January 28, 2023, the "Applicable Rate" shall be the applicable rate per annum set forth below in Level II:

Level	Average Availability	Term SOFR Rate Loans, Daily Simple SOFR Loans and Alternative Currency Loans	ABR Loans
I	≥ 66% of the Aggregate Commitments	1.250%	0.250%
II	< 66% of the Aggregate Commitments, but ≥ 33% of the Aggregate Commitments	1.375%	0.375%
III	< 33% of the Aggregate Commitments	1.500%	0.500%

For purposes of the foregoing, (a) the Applicable Rate shall be determined as of the end of each fiscal quarter of the Company (each a "Determination Date") based upon the Borrowing Base Certificate(s) delivered with respect to such Determination Date and (b) each change in the Applicable Rate resulting from a change in the Average Availability shall be effective during the period commencing on and including the due date of the consolidated financial statements for the most recent Determination Date and ending on the date immediately preceding the effective date of the next such change; provided that if the Borrowers shall fail to deliver any Borrowing Base Certificate with respect to any Determination Date as and when due, at the option of the Administrative Agent or at the request of the Required Lenders, Average Availability shall be deemed to be in Level III during the period from the expiration of the time for delivery thereof until the date five (5) days after such Borrowing Base Certificate is delivered.

If any Borrowing Base Certificate shall prove to have been inaccurate (regardless of whether any Revolving Commitments are in effect or any amounts are outstanding hereunder when such inaccuracy is discovered), and such inaccuracy shall have resulted in the payment or accrual of any interest at rates lower than those that would have been paid or accrued for any period, then the applicable Borrowers shall pay to the Administrative Agent, for distribution to the Lenders or Issuing Banks (or former Lenders or Issuing Banks) as their interests may appear, the interest that would have accrued and would have been required to be paid but were not accrued or paid as a result of such inaccuracy.

"Approved Fund" has the meaning assigned to such term in Section 9.04.

"Assignment and Assumption" means an assignment and assumption entered into by a Lender and an assignee (other than an Ineligible Institution) (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

"Availability" means, at any time, an amount equal to the lesser of (a) the Aggregate Commitments minus the Aggregate Credit Exposure, and (b) the Borrowing Base minus the Aggregate Credit Exposure.

"Availability Period" means the period from and including the Closing Date through but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

"Available Commitment" means, at any time, the Aggregate Commitments minus the Aggregate Credit Exposure (calculated, with respect to any Defaulting Lender, as if such Defaulting Lender had funded its Applicable Percentage of all outstanding Borrowings).

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

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

"Banking Services" means all cash management and bank services provided to any Loan Party or its Restricted Subsidiaries by any Lender or any of its Affiliates, including, without limitation, the following: (i) credit cards for commercial customers (including, without limitation, "commercial credit cards" and purchasing cards), (ii) stored value cards, (iii) merchant processing services, (iv) treasury management services (including, without limitation, controlled disbursement, automated clearinghouse transactions, return items, overdrafts and interstate depository network services), and (v) foreign exchange and currency management services.

"Banking Services Obligations" means any and all obligations of the Loan Parties and their Restricted Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor) in connection with Banking Services.

"Banking Services/Swap Reserves" means, in respect of a specified Banking Services Obligation or Swap Agreement Obligation, all reserves, if any, that the Borrower Representative and the applicable provider of such Banking Services Obligation or Swap Agreement Obligation agree shall be established with respect thereto, to the extent the Administrative Agent receives a written notice of such Banking Services Obligations or Swap Agreement Obligations in accordance with Section 2.22 specifying the amount of such agreed reserves.

"Bankruptcy Code" means title 11 of the United States Code, as amended.

"Bankruptcy Event" means, with respect to any Person, when such Person becomes the subject of a bankruptcy or insolvency proceeding, or has had a receiver, interim receiver, monitor, 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 Administrative Agent, has taken any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any such proceeding or appointment, provided that a Bankruptcy Event shall not result solely by virtue of any ownership interest, or the acquisition of any ownership interest, in such Person by a Governmental Authority or instrumentality thereof, unless such ownership interest results in or provides such Person 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 permits such Person (or such Governmental Authority

or instrumentality), to reject, repudiate, disavow or disaffirm any contracts or agreements made by such Person.

"Beneficial Owner" means, with respect to any U.S. Federal withholding Tax, the beneficial owner, for U.S. Federal income tax purposes, to whom such Tax relates.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"BHC Act Affiliate" has the meaning set forth in Section 9.29.

"Billing Statement" has the meaning assigned to such term in Section 2.18(g).

"Bloomberg" means Bloomberg Index Services Limited (or a successor administrator).

"Board" means the Board of Governors of the Federal Reserve System of the U.S.

"Borrower" or "Borrowers" means, individually and collectively as the context may require, the Company and each Subsidiary Borrower.

"Borrower Representative" has the meaning assigned to such term in Section 12.01.

"Borrowing" means (a) Revolving Loans of the same Type or Currency, made, converted or continued on the same date and, in the case of in the case of Term SOFR Rate Loans or Alternative Currency Loans (other than an RFR Loan), as to which a single Interest Period is in effect, (b) a Swingline Loan, (c) a Protective Advance and (d) an Overadvance.

"Borrowing Base" means:

(a) the product of (i) 90% multiplied by (ii) the Eligible Credit Card Accounts of the Loan Parties at such time, plus

(b) the product of (i) the Inventory Advance Rate multiplied by (ii) the Net Orderly Liquidation Value percentage identified in the most recent inventory appraisal ordered and received by the Administrative Agent multiplied by (iii) the Loan Parties' Eligible Inventory (other than Eligible In-Transit Inventory) at such time, valued at the lower of average cost or market, determined utilizing the retail method, as appropriate, or such other method approved in writing by the Administrative Agent at the request of the Borrower Representative (the amount resulting from the foregoing calculation, the "Inventory Availability"), plus

(c) the lesser of (i) 15% of the Inventory Availability or (ii) the product of (x) the Inventory Advance Rate multiplied by (y) the Net Orderly Liquidation Value percentage identified in the most recent inventory appraisal ordered and received by the Administrative Agent multiplied by (z) the Loan Parties' Eligible In-Transit Inventory at such time, valued at the lower of average cost or market, determined utilizing the retail method, as appropriate, or such other method approved in writing by the Administrative Agent at the request of the Borrower Representative, minus

(d) applicable Reserves.

Subject to the provisions hereof expressly permitting the Administrative Agent to adjust Reserves, the Borrowing Base at any time shall be determined by reference to the most recent Borrowing Base Certificate delivered to the Administrative Agent pursuant to Section 5.01(e) (or, prior to the first such delivery, delivered to the Administrative Agent pursuant to Section 4.01(r)).

"Borrowing Base Certificate" means a certificate, signed and certified as accurate and complete by a Financial Officer of the Borrower Representative, in substantially the form of Exhibit B (with such changes thereto as may be required by the Administrative Agent in its Permitted Discretion from time to time to reflect the components of and reserves against the Borrowing Base as provided for hereunder) or another form that is acceptable to the Administrative Agent in its Permitted Discretion.

"Borrowing Base Reporting Date" means twenty-five (25) days after the end of each fiscal quarter of the Company (or, if such day is not a Business Day, on the next succeeding Business Day); provided, however, during any Monthly BBC Reporting Period, the Borrowing Base Reporting Date shall mean twenty-five (25) days after the end of each fiscal month of the Company (or, if such day is not a Business Day, on the next succeeding Business Day; provided, further, during any Weekly BBC Reporting Period, the Borrowing Base Reporting Date shall mean Wednesday of each week (or, if such day is not a Business Day, on the next succeeding Business Day).

"Borrowing Request" means a request by the Borrower Representative for a Borrowing in accordance with Section 2.03, which shall be, in the case of any such written request, in the form of Exhibit C or any other form approved by the Administrative Agent.

"Business Day" means any day other than Saturday or Sunday or a legal holiday on which commercial banks are authorized or required by Law to be closed for business in Pittsburgh, Pennsylvania provided that for purposes of any direct or indirect calculation or determination of, or when used in connection with any interest rate settings, fundings, disbursements, settlements, payments, or other dealings with respect to any (i) Term SOFR Rate Loan or Daily Simple SOFR Loan, the term "Business Day" means any such day that is also a U.S. Government Securities Business Day; (ii) Eurocurrency Rate Loan, the term "Business Day" means any such date that is also a Eurocurrency Banking Day, and (iii) RFR Loan, the term "Business Day" means any such day that is also an RFR Business Day.

"Canadian Dollar" means the single currency of Canada.

"Capital Expenditures" means expenditures made or liabilities incurred for the acquisition of any fixed assets or improvements (or of any replacements or substitutions thereof or additions thereto) which have a useful life of more than one year and which, in accordance with GAAP, would be classified as capital expenditures.

"Cash Collateralize" has the meaning assigned to such term in Section 2.06(j). Derivatives of such term have corresponding meanings.

"Cash Equivalents" means: (a) direct obligations of the United States of America or any agency or instrumentality thereof or obligations backed by the full faith and credit of the United States of America maturing in twelve (12) months or less from the date of acquisition; (b) commercial paper maturing in one (1) year or less rated not lower than A-1, by S&P or P-1 by Moody's on the date of acquisition; (c) demand deposits, time deposits or certificates of deposit maturing within one year in commercial banks whose obligations are rated A-1, A or the equivalent or better by S&P on the date of acquisition; (d) money market or mutual funds whose investments are limited to those types of investments described in clauses (a)-(c) above; and (e) fully collateralized repurchase agreements with a term of not more than one hundred eighty

(180) days for securities described in clause (a) above and entered into with commercial banks whose obligations are rated A-1, A or the equivalent or better by S&P on the date of acquisition.

"Casualty" has the meaning assigned to such term in Section 5.12.

"CFC" means each Person that is a "controlled foreign corporation" within the meaning of Section 957(a) of the Code.

"CFC Holdco" means a Domestic Subsidiary owning, directly or indirectly, no material assets other than equity interests of one or more CFCs.

"Change in Control" means (i) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act")) shall have acquired beneficial ownership of (within the meaning of Rule 13d-3 promulgated by the SEC under the Exchange Act), directly or indirectly, of more than thirty-three percent (33%) of the voting Equity Interests of the Company, (ii) the Company ceases to own, directly or indirectly, one hundred percent (100%) of the fully diluted Equity Interests of any other Loan Party except with respect to this clause (ii), in any transaction permitted hereunder, or (iii) a "Change in Control" (or words of similar import) shall have occurred under an Other Secured Debt Loan Agreement (if any).

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following:
(i) the adoption or taking effect of any law, rule, regulation or treaty, (ii) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (iii) 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, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines, interpretations or directives thereunder or issued in connection therewith (whether or not having the force of law) and (y) all requests, rules, regulations, guidelines, interpretations 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 (whether or not having the force of law), 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, issued, promulgated or implemented.

"Charges" has the meaning assigned to such term in Section 9.18.

"CIP Regulations" shall have the meaning set forth in Section 8.11 hereof.

"Closing Date" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" means any and all property owned, leased or operated by a Person covered by the Collateral Documents and any and all other property of any Loan Party, now existing or hereafter acquired, that may at any time be, become or be intended to be, subject to a security interest or Lien in favor of the Administrative Agent, on behalf of itself and the Lenders and other Secured Parties, to secure the Secured Obligations.

"Collateral Access Agreement" means any landlord waiver or other agreement, in form and substance satisfactory to the Administrative Agent in its Permitted Discretion, between the Administrative Agent and any third party (including any bailee, consignee, customs broker, or other similar Person) in

possession of any Collateral or any landlord of any real property where any Collateral is or may be located, as such landlord waiver or other agreement may be amended, restated, supplemented or otherwise modified from time to time.

"Collateral and Guaranty Requirement" means, at any time, the requirement that:

(a) the Administrative Agent shall have received from the Company and each other Loan Party either (i) (A) a counterpart of this Agreement and the Security Agreement, duly executed and delivered on behalf of such Person, or (ii) in the case of any Person that becomes a Subsidiary (other than Excluded Subsidiary) after the date hereof, (A) a Joinder Agreement, duly executed and delivered on behalf of such Person, and (B) instruments in the form or forms specified in the Security Agreement, duly executed and delivered on behalf of such Person, together with such certificates, documents and opinions with respect to such Subsidiary as may reasonably be requested by the Administrative Agent;

(b) The Administrative Agent shall have received all deposit account control agreements, securities account control agreements and other Collateral Documents required to be provided to it hereunder or under the Security Agreement;

(c) all documents and instruments, including UCC financing statements required by the Collateral Documents or this Agreement with the priority required by the Collateral Documents shall have been filed, registered or recorded or delivered to the Administrative Agent for filing, registration or recording; and

(d) each Loan Party shall have obtained all material consents and approvals required in connection with the execution and delivery of all Collateral Documents to which it is a party and the performance of its obligations thereunder.

Notwithstanding the foregoing, any Subsidiary formed or acquired after the date hereof and required to become a Loan Party shall not be required to comply with the foregoing requirements prior to the time specified in Section 5.14. The foregoing definition shall not require the creation or perfection of pledges of or security interests in, or legal opinions or other deliverables with respect to, particular assets of the Loan Parties, or the provision of Guarantees by any Subsidiary, if and for so long as the Administrative Agent, in consultation with the Company, determines that the cost of creating or perfecting such pledges or security interests in such assets, or obtaining legal opinions or other deliverables in respect of such assets, or providing such Guarantees, shall be excessive in view of the benefits to be obtained by the Lenders therefrom. The Administrative Agent may in its Permitted Discretion grant extensions of time for the creation and perfection of security interests in, or the delivery of legal opinions or other deliverables with respect to, particular assets or the provision of any Guarantee by any Subsidiary (including extensions beyond the Closing Date or in connection with assets acquired, or Subsidiaries formed or acquired, after the date hereof) where it determines that such action cannot be accomplished without unreasonable effort or expense by the time or times at which it would otherwise be required to be accomplished by this Agreement or the Collateral Documents. Notwithstanding the foregoing, no action required to be taken by any Person to effect compliance by the Administrative Agent and the Lenders with any applicable Requirement of Law shall be deemed to cause unreasonable effort or expense hereunder.

"Collateral Documents" means, collectively, the Security Agreement, any ABL Intercreditor Agreement (if any), any deposit account control agreement, any securities account control agreement, and any other agreements, instruments and documents executed in connection with this Agreement that are intended to create, perfect or evidence Liens to secure the Obligations, including, without limitation, all other security agreements, pledge agreements, mortgages, deeds of trust, the Loan Guaranty or any joinder or supplement hereto or any other Guarantee of all or any portion of the Obligations, subordination

agreements, pledges, and collateral assignments, whether theretofore, now or hereafter executed by any Borrower or any other Loan Party and delivered to the Administrative Agent.

"Commercial LC Exposure" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding commercial Letters of Credit *plus* (b) the aggregate amount of all LC Disbursements relating to commercial Letters of Credit that have not yet been reimbursed by or on behalf of the Borrowers. The Commercial LC Exposure of an Issuing Bank (in its capacity as such) shall be the Commercial LC Exposure in respect of commercial Letters of Credit issued by such Issuing Bank. The Commercial LC Exposure of any Lender at any time shall be its Applicable Percentage of the aggregate Commercial LC Exposure at such time.

"Commitment" means, with respect to each Lender, the commitment, if any, of such Lender to make Revolving Loans and to acquire participations in Letters of Credit, Overadvances, Protective Advances and Swingline Loans hereunder, expressed as an amount representing the maximum aggregate permitted amount of such Lender's Revolving Exposure hereunder, as such commitment may be reduced or increased from time to time pursuant to (a) Section 2.09 and (b) assignments by or to such Lender pursuant to Section 9.04. The initial amount of each Lender's Commitment is set forth on the Commitment Schedule, or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment, as applicable. The initial aggregate amount of all of the Lenders' Commitments is
$900,000,000.

"Commitment Fee" has the meaning assigned to such term in Section 2.12(a).

"Commitment Schedule" means the Schedule attached hereto as Schedule 1.01(a).

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

"Communications" has the meaning assigned to such term in Section 9.01(d).

"Company" has the meaning assigned to such term in the introductory paragraph hereof.

"Company on a Consolidated Basis" means the consolidation of the Company and its Restricted Subsidiaries in accordance with GAAP.

"Competitor" means any Person that is an operating company and is engaged primarily in the same or similar business as the Company.

"Compliance Certificate" means a certificate executed by a Financial Officer of the Borrower Representative in substantially the form of Exhibit D.

"Concentration Account" has the meaning given to such term in the Security Agreement.

"Conforming Changes" means, with respect to the Term SOFR Rate or Daily Simple SOFR, Daily Simple RFR or Term RFR, Eurocurrency Rate, or any Benchmark Replacement in relation thereto, any technical, administrative or operational changes (including changes to the definition of "Alternate Base Rate," the definition of "Business Day," the definition of "Interest Period," the definition of "U.S. Government Securities Business Day," timing and frequency of determining rates and making payments of interest, timing of borrowing requests or prepayment, conversion or continuation notices, the applicability and length of lookback periods, the applicability of breakage provisions, and other technical, administrative or operational matters) that the Administrative Agent reasonably decides may be appropriate to reflect the

adoption and implementation of the Term SOFR Rate or Daily Simple SOFR, Daily Simple RFR, Term RFR, Eurocurrency Rate or such Benchmark Replacement and to permit the administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Administrative Agent determines that no market practice for the administration of the Term SOFR Rate or Daily Simple SOFR, Daily Simple RFR, Term RFR, Eurocurrency Rate or the Benchmark Replacement exists, in such other manner of administration as the Administrative Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

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

"Consideration" means with respect to any Permitted Acquisition, the aggregate of (without duplication) (i) the cash paid by any of the Loan Parties, directly or indirectly, to the seller in connection therewith, (ii) the Indebtedness incurred or assumed by any of the Loan Parties, whether in favor of the seller or otherwise and whether fixed or contingent, in connection therewith, (iii) any Guarantee given or incurred by any Loan Party in connection therewith, and (iv) any other cash or equity consideration given or obligation incurred by any of the Loan Parties in connection therewith, as each of the foregoing is recorded by the Loan Parties in accordance with GAAP.

"Consolidated EBITDA" means, for any period of determination, without duplication, consolidated net income of the Company on a Consolidated Basis, *plus* (i) the following (to the extent deducted from such calculation of consolidated net income): (a) depreciation, (b) amortization, (c) non-cash expenses related to stock based compensation, (d) other non-cash charges, non-cash expenses, or non-cash losses to net income (provided, however that cash payments made in such period or in any future period in respect of such non-cash charges, expenses or losses shall be subtracted from consolidated net income in calculating Consolidated EBITDA), (e) interest expense, (f) income tax expense, and (g) restructuring charges or expenses (including integration costs, restructuring costs and severance costs related to acquisitions and to closure or consolidation of plants, facilities or locations and any expense related to any reconstruction, recommissioning or reconfiguration of fixed assets for alternate use) incurred prior to the date hereof not to exceed $50,000,000.00 in the aggregate, *minus* (ii) non-cash credits or non-cash gains (to the extent included in such calculation of consolidated net income), in each case determined and consolidated for the Company and its Restricted Subsidiaries in accordance with GAAP; provided that the foregoing shall exclude the income (or deficit) of any Person (other than a Restricted Subsidiary) in which the Company or any of its Restricted Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Company or such Restricted Subsidiary in the form of dividends or similar distributions.

"Contingent Obligations" means, with respect to any Person, any obligation of such Person guaranteeing any leases, dividends or other obligations that do not constitute Indebtedness ("primary obligations") of any other Person (the "primary obligor") in any manner, whether directly or indirectly, including, without limitation, any obligation of such Person, whether or not contingent:

(1) to purchase any such primary obligation or any property constituting direct or indirect security therefor,

(2) to advance or supply funds:

(a) for the purchase or payment of any such primary obligation; or

(b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor; or

(3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation against loss in respect thereof.

"Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise. "Controlling" and "Controlled" have meanings correlative thereto.

"Covenant Compliance Event" means either (a) that a Specified Event of Default has occurred and is continuing, or (b) Availability at any time is less than the greater of (i) 10% of the Maximum Credit Amount or (ii) $67,500,000; provided, however, that once a Covenant Compliance Event has commenced, it shall only be discontinued on the first date thereafter that (i) no Specified Event of Default exists, and (ii) Availability has been greater than the greater of (1) 10% of the Maximum Credit Amount or (2) $67,500,000 for thirty (30) consecutive days. For the avoidance of doubt, if a Covenant Compliance Event is discontinued at any time during a fiscal quarter, then the Loan Parties shall not be required to maintain the Fixed Charge Coverage Ratio as of the last day of such fiscal quarter.

"Covered Entity" has the meaning set forth in Section 9.29.

"Covered Party" has the meaning set forth in Section 9.29.

"Credit Card Accounts" means any "payment intangibles," as defined in the UCC, receivables or other rights to payment of a monetary obligation due to any Loan Party in connection with purchases of Inventory of such Loan Party in the ordinary course of business from (1) a credit card issuer or a credit card processor with respect to (a) credit cards issued by Visa, MasterCard, American Express, Discover, each of their respective Affiliates, and any other credit card issuers that are reasonably acceptable to the Administrative Agent, (b) private label credit cards of any Loan Party issued under non-recourse arrangements substantially similar to those in effect on the date hereof or (c) debit cards issued by issuers or providers that are reasonably acceptable to the Administrative Agent, (2) PayPal, Inc., Stripe, Square, Venmo, Apple Pay, AfterPay, Klarna or any other similar "Buy Now, Pay Later" product, or any other e- commerce service providers or electronic payment services providers that are reasonably acceptable to the Administrative Agent, or (3) subject to the approval of the Administrative Agent in its Permitted Discretion, Progressive Leasing under the Progressive Leasing Documents, in each case, which have been earned by performance by such Loan Party but not yet paid to such Loan Party by such credit card issuer, credit card processor, or other service provider.

"Credit Card Agreement" means any agreement between (i) on the one hand, a Loan Party, and (ii) on the other hand (a) a credit card issuer or a credit card processor (including any credit card processor that processes purchases of Inventory from a Loan Party through debit cards) or (b) PayPal, Inc., Stripe, Square, Venmo, Apple Pay, AfterPay, Klarna or any other similar "Buy Now, Pay Later" product, or any other e- commerce service providers or electronic payment services providers reasonably acceptable to the Administrative Agent or Progressive Leasing, in each case, relating to any Credit Card Account included or intended to be included in the Borrowing Base.

"Credit Card Notifications" means each Credit Card Notification, in form and substance reasonably satisfactory to the Administrative Agent, executed by one or more Loan Parties and delivered by such Loan Parties to credit card issuers, credit card processors, or other applicable processors or providers that are party to any Credit Card Agreement.

"Credit Party" means the Administrative Agent, the Issuing Bank, the Swingline Lender or any other Lender.

"Currency" means U.S. Dollars or any Alternative Currency and "Currencies" shall mean, collectively, U.S. Dollars and each Alternative Currency.

"Customs Broker/Carrier Agreement" has the definition set forth in the definition of "Eligible In- Transit Inventory".

"Daily Rate Loan" means a Loan that bears interest at a rate based on (i) the Alternate Base Rate, (ii) Daily Simple RFR or (iii) Daily Simple SOFR.

"Daily Rate Loan Option" means the option of the Borrower to have Loans bear interest at the rate and under the terms specified in Section 2.08(b).

"Daily Simple RFR" means, for any day (an "RFR Day"), a rate per annum determined by the Administrative Agent, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to any applicable Daily Simple RFR below by dividing (the resulting quotient rounded upwards, at the Administrative Agent's discretion, to the nearest 1/100 of 1%) (a) the applicable Daily Simple RFR set forth below by (b) a number equal to 1.00 minus the RFR Reserve Percentage: Euro, €STR for the day (such day, adjusted as applicable as set forth herein, the "€STR Lookback Day") that is two (2) Business Days prior to (A) if such RFR Day is a Business Day, such RFR Day or (B) if such RFR Day is not a Business Day, the Business Day immediately preceding such RFR Day, in each case, as such €STR is published by the €STR Administrator on the €STR Administrator's Website; provided that if the adjusted rate as determined above would be less than the Floor, such rate shall be deemed to be the Floor for purposes of this Agreement. The adjusted Daily Simple RFR rate for each outstanding Daily Simple RFR Loan shall be adjusted automatically as of the effective date of any change in the RFR Reserve Percentage. The Administrative Agent shall give prompt notice to the Borrower of the adjusted Daily Simple RFR Rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error. If by 5:00 pm (local time for the applicable RFR) on the second (2nd) Business Day immediately following any Daily Simple RFR Lookback Day, the RFR in respect of such Daily Simple RFR Lookback Day has not been published on the applicable RFR Administrator's Website and a Benchmark Replacement Date with respect to the applicable Daily Simple RFR has not occurred, then the RFR for such Daily Simple RFR Lookback Day will be the RFR as published in respect of the first preceding Business Day for which such RFR was published on the RFR Administrator's Website; provided that any RFR determined pursuant to this sentence shall be utilized for purposes of calculation of Daily Simple RFR for no more than three (3) consecutive RFR Days. Any change in Daily Simple RFR due to a change in the applicable RFR shall be effective from and including the effective date of such change in the RFR without notice to the Borrowers.

"Daily Simple RFR Loan" means a Loan that bears interest at a rate based on Daily Simple RFR.

"Daily Simple RFR Lookback Days" means the €STR Lookback Day.

"Daily Simple RFR Option" means the option of the Borrowers to have Loans bear interest at the rate and under the terms specified in Section 2.08(b)(B).

"Daily Simple SOFR" means, for any day (a "SOFR Rate Day"), the interest rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, at the Administrative Agent's discretion, to the nearest 1/100th of 1%) (A) SOFR for the day (the "SOFR Determination Date") that is 2 Business Days prior to (i) such SOFR Rate Day if such SOFR Rate Day is a

Business Day or (ii) the Business Day immediately preceding such SOFR Rate Day if such SOFR Rate Day is not a Business Day, by (B) a number equal to 1.00 minus the SOFR Reserve Percentage, in each case, as such SOFR is published by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate) on the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source identified by the Federal Reserve Bank of New York or its successor administrator for the secured overnight financing rate from time to time. If Daily Simple SOFR as determined above would be less than the SOFR Floor, then Daily Simple SOFR shall be deemed to be the SOFR Floor. If SOFR for any SOFR Determination Date has not been published or replaced with a Benchmark Replacement by 5:00 p.m. (Pittsburgh, Pennsylvania time) on the second Business Day immediately following such SOFR Determination Date, then SOFR for such SOFR Determination Date will be SOFR for the first Business Day preceding such SOFR Determination Date for which SOFR was published in accordance with the definition of "SOFR"; provided that SOFR determined pursuant to this sentence shall be used for purposes of calculating Daily Simple SOFR for no more than three (3) consecutive SOFR Rate Days. If and when Daily Simple SOFR as determined above changes, any applicable rate of interest based on Daily Simple SOFR will change automatically without notice to the Borrower, effective on the date of any such change.

"Daily Simple SOFR Loan" means a Loan that bears interest based on Daily Simple SOFR.

"Default" means any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

"Default Right" has the meaning set forth in Section 9.29.

"Defaulting Lender" means any Lender that (a) has failed, within two Business Days of the date required to be funded or paid, to (i) fund any portion of its Loans, (ii) fund any portion of its participations in Letters of Credit or Swingline Loans 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 Administrative Agent and the Borrower Representative 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 any Borrower 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 Business Days after request by a Credit Party or any Borrower, in each case, 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 Loans and participations in then outstanding Letters of Credit and Swingline Loans under this Agreement, provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt by such Credit Party and such Borrower of such certification in form and substance satisfactory to them and the Administrative Agent, or (d) has become the subject of a Bankruptcy Event or a Bail-In Action.

"Designated Non-cash Consideration" means the Fair Market Value (as determined in good faith by the Company) of non-cash consideration received by the Company or a Restricted Subsidiary in connection with a Disposition that is so designated as Designated Non-cash Consideration pursuant to an officer's certificate signed by a Financial Officer of the Company, setting forth such valuation, less the amount of Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

"Disposition" means with respect to any property, any sale, lease, sublease (as lessor or sublessor) license, sale and leaseback, assignment, conveyance, transfer, license or other disposition thereof (including by means of a "plan of division" under the Delaware Limited Liability Company Act or any comparable transaction under any similar law). The terms "Dispose" and "Disposed of" shall have correlative meanings.

"Disqualified Institution" means, on any date, (a) any Person designated by the Company as a "Disqualified Institution" by written notice delivered to the Administrative Agent on or prior to the date hereof and (b) any other Person that is a Competitor of the Company or any of its Subsidiaries, which Person has been designated by the Company as a "Disqualified Institution" by written notice to the Administrative Agent not less than five (5) Business Days prior to such date; provided that "Disqualified Institutions" shall exclude any Person that the Company has designated as no longer being a "Disqualified Institution" by written notice delivered to the Administrative Agent from time to time; provided further that, for the avoidance of doubt, a Competitor shall not include any bona fide debt fund or investment vehicle that is primarily engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of business which is managed, sponsored or advised by any person controlling, controlled by or under common control with such Competitor or affiliate thereof, as applicable, and for which no personnel involved with the investment of such Competitor, as applicable, (1) makes any investment decisions or (2) has access to any information (other than information publicly available) relating to the Company or any entity that forms a part of the Company's business (including Subsidiaries of the Company).

"Disqualified Stock" means any Equity Interests which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise (other than as a result of a change of control or asset sale), or is redeemable at the option of the holder thereof, in whole or in part (other than as a result of a change of control or asset sale), in each case at any time on or prior to the date that is 91 days after the Maturity Date, or (b) is convertible into or exchangeable (unless at the sole option of the issuer thereof) for (i) Indebtedness or (ii) any Equity Interests referred to in (a) above, in each case at any time prior to the date that is 91 days after the Maturity Date; provided, however, that only the portion of such Equity Interests which so matures or is mandatorily redeemable, is so redeemable at the option of the holder or is so convertible or exchangeable thereof prior to such date shall be deemed to be Disqualified Stock; provided, further, however, that if such Equity Interests are issued to any employee or to any plan for the benefit of employees of the Company or their Subsidiaries or by any such plan to such employees, such Equity Interests shall not constitute Disqualified Stock solely because it may be required to be repurchased by such Person in order to satisfy applicable statutory or regulatory obligations or as a result of such employee's termination, death or disability; provided, further, that any class of Equity Interests of such Person that by its terms authorizes such Person to satisfy its obligations thereunder by delivery of Equity Interests that are not Disqualified Stock shall not be deemed to be Disqualified Stock.

"Dollar Amount" means (a) with regard to any calculation denominated in U.S. Dollars, the amount thereof, (b) if such amount is expressed in an Alternative Currency, the equivalent of such amount in U.S. Dollars determined by using the rate of exchange for the purchase of U.S. Dollars with the Alternative Currency last provided (either by publication or otherwise provided to the Administrative Agent or the Issuing Bank, as applicable) by the applicable Bloomberg source (or such other publicly available source for displaying exchange rates as determined by the Administrative Agent or the Issuing Bank, as applicable, from time to time) on the date that is the Eurocurrency Lookback Date (for amounts relating to Eurocurency Loans denominated in an Alternative Currency to which the Eurocurrency Rate would apply; the applicable Daily Simple RFR Lookback Day (for amounts relating to RFR Loans and Letters of Credit denominated in an Alternative Currency to which Daily Simple RFR would apply) immediately preceding the date of

determination, or otherwise on the date which is two (2) Business Days immediately preceding the date of determination or otherwise with respect to Loans to which any other Interest Rate Option applies, the lookback date applicable thereto (or if such service ceases to be available or ceases to provide such rate of exchange, the equivalent of such amount in U.S. Dollars as determined by the Administrative Agent or the Issuing Bank, as applicable using any method of determination it deems appropriate in its sole discretion) and (c) if such amount is denominated in any other currency, the equivalent of such amount in U.S. Dollars as determined by the Administrative Agent or the Issuing Bank, as applicable, using any method of determination it deems appropriate in its sole discretion. Any determination by the Administrative Agent or the Issuing Bank pursuant to clauses (b) or (c) above shall be conclusive absent manifest error.

"Document" has the meaning assigned to such term in the Security Agreement.

"Domestic Subsidiary" means a Subsidiary organized under the laws of a jurisdiction located in the U.S.

"Dominion Period" means (a) any period during which any Event of Default has occurred and is continuing or (b) any period (i) commencing at any time when Availability shall be less than the greater of
(x) $90,000,000 and (y) 12.5% of the Maximum Credit Amount, in either case, for a period of five (5) consecutive Business Days and (ii) ending when Availability shall have been greater than or equal to the greater of (x) $90,000,000 and (y) 12.5% of the Maximum Credit Amount, in either case, for a period of thirty (30) consecutive Business Days.

"DQ List" has the meaning specified in Section 9.04(e).

"ECP" means an "eligible contract participant" as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

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

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

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

"Electronic Signature" means an electronic sound, symbol, or process attached to, or associated with, a contract or other record and adopted by a Person with the intent to sign, authenticate or accept such contract or record.

"Electronic System" means any electronic system, including email, Syndtrak, e-fax, Intralinks®, ClearPar® and any other Internet or extranet-based site, whether such electronic system is owned, operated or hosted by the Administrative Agent and the Issuing Bank and any of its respective Related Parties or any other Person, providing for access to data protected by passcodes or other security system.

"Eligible Credit Card Accounts" means at the time of any determination thereof, each Credit Card Account of a Loan Party that at the time of creation and continuing to the time of such determination is not ineligible for inclusion in the calculation of the Borrowing Base pursuant to any of clauses (a) through (o) below. Without limiting the foregoing, to qualify as an Eligible Credit Card Account, such Credit Card Account shall indicate no Person other than a Loan Party as payee or remittance party. In determining the amount to be so included, the face amount of a Credit Card Account shall be reduced by, without duplication, to the extent not reflected in such face amount or reflected in a Reserve, (i) the amount of all accrued and actual fees and charges due to the credit card issuer or credit card processor by any Loan Party, discounts, claims, credits or credits pending, promotional program allowances, price adjustments, finance charges or other allowances (including any amount that a Loan Party may be obligated to rebate to a customer, a credit card issuer or credit card processor pursuant to the terms of any agreement or understanding), and (ii) the aggregate amount of all cash received in respect of such Credit Card Account but not yet applied by the Loan Parties to reduce the amount of such Credit Card Account. Any Credit Card Account included within any of the following categories shall not constitute an Eligible Credit Card Account:

(a) which is not earned or does not represent the bona fide amount due to a Loan Party from a credit card processor, a credit card issuer, debit card issuer or other applicable service provider that originated in the ordinary course of business of the applicable Loan Party;

(b) which is not owned by a Loan Party or to which a Loan Party does not have good title;

(c) in which the payee of such Credit Card Account is a Person other than a Loan Party;

(d) which does not constitute an "Account" (as defined in the UCC) or a "payment intangible" (as defined in the UCC);

(e) which has been outstanding for more than five (5) Business Days from the date of sale;

(f) with respect to which the applicable credit card issuer, credit card processor, debit card issuer or other applicable service provider has (i) applied for, suffered, or consented to the appointment of any receiver, interim receiver, custodian, trustee, monitor, administrator, sequestrator or liquidator of its assets, (ii) has had possession of all or a material part of its property taken by any receiver, interim receiver, custodian, trustee, monitor, administrator, sequestrator or liquidator, (iii) filed, or had filed against it (but only so long as any such involuntary filing has not been stayed or vacated), any request or petition for liquidation, reorganization, arrangement, adjustment of debts, adjudication as bankrupt, winding-up, or voluntary or involuntary case under any Insolvency Law, (iv) has admitted in writing its inability, or is generally unable to, pay its debts as they become due, (v) become insolvent or (vi) ceased operation of its business;

(g) which is not a valid, legally enforceable obligation of the applicable credit card issuer or credit card processor or debit card issuer or other applicable service provider with respect thereto;

(h) which is not subject to a duly perfected first priority security interest in favor of the Administrative Agent (for the benefit of the Secured Parties) (other than Permitted Liens set forth in clauses (2)(a), (3), (22), (25) and (28)(i) of the definition thereof to the extent such Permitted Liens arise under and have priority by operation of law);

(i) which is subject to any Lien, other than (i) a Lien in favor of the Administrative Agent (for the benefit of the Secured Parties), (ii) any Permitted Liens contemplated by the applicable processor agreements and for which appropriate Reserves (as determined by the Administrative Agent in its Permitted

Discretion) have been established, and (iii) Liens securing any Other Secured Debt Obligations (if any) that are subject to an ABL Intercreditor Agreement and which do not have priority over the Lien in favor of the Administrative Agent;

(j) with respect to which (i) any covenant has been breached in any material respect or (ii) any representation or warranty is not true in all material respects, in each case of (i) and (ii) to the extent contained in this Agreement or the Security Agreement; provided that each such representation and warranty shall be true and correct in all respects to the extent already qualified by a materiality standard;

(k) to the extent not reflected in a Reserve, which is subject to risk of set-off, recoupment, non- collection or not being processed due to unpaid and/or accrued credit card processor fee balances, to the extent of the lesser of the balance of the applicable Credit Card Account or the unpaid credit card processor fees;

(l) which is evidenced by "chattel paper" or an "instrument" of any kind unless such "chattel paper" or "instrument" is in the possession of the Administrative Agent, and to the extent necessary or appropriate, endorsed to the Administrative Agent;

(m) which the Administrative Agent, after consultation with the Borrower Representative, in its Permitted Discretion to be uncertain of collection;

(n) which represents a deposit or partial payment in connection with the purchase of Inventory of such Loan Party; or

(o) which is not subject to a Credit Card Notification (subject to Section 5.16).

"Eligible In-Transit Inventory" means, as of the date of determination thereof, without duplication, In-Transit Inventory of a Loan Party that, except as otherwise agreed by the Administrative Agent in its Permitted Discretion, meets each of the following criteria, subject to Schedule 5.16:

(a) the Administrative Agent shall have received (1) a true and correct copy of the bill of lading and, if requested by the Administrative Agent, other shipping documents for such Inventory and (2) evidence of satisfactory marine cargo and casualty insurance naming the Administrative Agent as lender loss payee and otherwise covering such risks as the Administrative Agent may reasonably request,

(b) the Administrative Agent shall have received(1) reasonable confirmation that one of the Loan Parties (or at the request of the Administrative Agent, the Administrative Agent) is named as consignee on the bill of lading or seaway bill, (2) a reasonably acceptable agreement has been executed with such Loan Party's customs broker, freight forwarder, consolidator or carrier, as applicable, in which each of the customs broker, freight forwarder, consolidator or carrier, as applicable, agrees that it holds the bill of lading or seaway bill as agent for the Administrative Agent and has agreed to follow the instructions of the Administrative Agent in respect of the Inventory (a "Customs Broker/Carrier Agreement"), and (3) if so requested by the Administrative Agent, an acceptable waiver letter from the seller of any such goods disclaiming any stoppage in transit rights and lien rights as against the applicable goods and Loan Parties,

(c) the common carrier is not an Affiliate of the applicable vendor or supplier,

(d) the customs broker is not an Affiliate of any Loan Party,

(e) such Inventory has not been in-transit for more than 75 days from the date such Inventory first became Eligible Inventory (without regard to clause (g) of the definition of "Eligible Inventory"), and

(f) such Inventory satisfies all of the criteria for Eligible Inventory (except the criteria in clause (g) of the definition of "Eligible Inventory");

provided that the Administrative Agent may, in its Permitted Discretion, exclude any particular Inventory from the definition of "Eligible In-Transit Inventory" in the event that the Administrative Agent determines that such Inventory is subject to any Person's right of reclamation, repudiation, stoppage in transit or any event has occurred or is reasonably anticipated by the Administrative Agent to arise which may otherwise adversely impact the ability of the Administrative Agent to realize upon such Inventory.

"Eligible Inventory" means, as of the date of determination thereof, without duplication, items of Inventory of a Loan Party that are finished goods inventory, merchantable and readily saleable in the ordinary course of such Loan Party's business (provided that, for the avoidance of doubt, "saleable in the ordinary course of a Loan Party's business" shall include, without limitation, clearance and bulk inventory sales in the ordinary course), in each case that is not excluded as ineligible by virtue of one or more of the criteria set forth below. Eligible Inventory shall not include any Inventory:

(a) which is not subject to a first priority perfected Lien in favor of the Administrative Agent (for the benefit of the Secured Parties) (other than, so long as the Administrative Agent shall have implemented any applicable Reserve in its Permitted Discretion in respect thereof, Permitted Liens set forth in clauses (2), (3) and (22) of the definition thereof to the extent such Liens arise under and have priority by operation of law);

(b) which is subject to any Lien other than (i) a Lien in favor of the Administrative Agent (for the benefit of the Secured Parties), (ii) a Permitted Lien arising by operation of law which does not have priority over the Lien in favor of the Administrative Agent (for the benefit of the Secured Parties) unless the Administrative Agent shall have implemented a Reserve in its Permitted Discretion in respect thereof, and (iii) Liens securing any Other Secured Debt Obligations (if any) that are subject to an ABL Intercreditor Agreement and which do not have priority over the Lien in favor of the Administrative Agent;

(c) which is unmerchantable, defective, used, unfit for sale, unacceptable due to age, type, category and/or quantity or with respect to which a liquidation value could not be obtained (such as special order Inventory, samples, Inventory located at corporate offices, and other Inventory which is not of the type usually sold in the ordinary course of the Loan Parties' business);

(d) with respect to which any covenant, representation or warranty contained in this Agreement or in any Security Agreement has been breached in any material respect or is not true in any material respect (or with respect to any representation or warranty that is already qualified by materiality, such representation and warranty is untrue) and which does not conform in all material respects to all standards imposed by any Governmental Authority;

(e) in which any Person other than such Loan Party shall (i) have any direct or indirect ownership, interest or title or (ii) be indicated on any purchase order or invoice with respect to such Inventory as having or purporting to have an interest therein;

(f) which is not finished goods or which constitutes packaging and shipping material, manufacturing supplies, samples, prototypes, displays or display items, bill-and-hold or ship-in-place goods, goods that are returned to the vendor or marked for return to the vendor, repossessed goods, defective or damaged goods, goods held on consignment, or goods which are not of a type held for sale in the ordinary course of business (for the avoidance of doubt, sales in the ordinary course of business includes clearance sales and bulk inventory sales in the ordinary course);

(g) which (i) is not located in the U.S. or (ii) is In-Transit Inventory;

(h) which is located at any location that is not (i) an operating retail store location, (ii) a temporary locations under the control of a Loan Party, (iii) a distribution center owned or leased by a Loan Party or (iv) a third party warehouse or otherwise in the possession of a bailee that has been disclosed to the Administrative Agent, in each case, other than (x) Inventory in transit between any of the foregoing locations, and (y) Eligible In-Transit Inventory;

(i) which is located in any location leased by such Loan Party (other than any retail store of such Loan Party located in a jurisdiction that does not provide for a common law or statutory landlord's lien on the personal property of tenants that would be prior or superior to the Liens of the Administrative Agent) unless, subject to Section 5.16, (i) the lessor has delivered to the Administrative Agent a Collateral Access Agreement or (ii) a Rent Reserve has been established by the Administrative Agent in its Permitted Discretion;

(j) which is (A) located in any third party warehouse or is in the possession of a bailee (other than a third party processor) unless, subject to Section 5.16, (i) such warehouseman or bailee has delivered to the Administrative Agent a Collateral Access Agreement and such other documentation as the Administrative Agent may require or (ii) an appropriate Reserve has been established by the Administrative Agent in its Permitted Discretion;

(k) which is being processed offsite at a third party location or outside processor, unless, subject to Section 5.16, (i) such third party processor has delivered to the Administrative Agent a Collateral Access Agreement and such other documentation as the Administrative Agent may require or (ii) an appropriate Reserve has been established by the Administrative Agent in its Permitted Discretion;

(l) which is the subject of a consignment by such Loan Party as consignor;

(m) which contains or bears any Intellectual Property rights licensed to such Loan Party unless the Administrative Agent is satisfied that it may sell or otherwise Dispose of such Inventory without (i) infringing the rights of such licensor, (ii) violating any contract with such licensor, or (iii) incurring any liability with respect to payment of royalties other than royalties incurred pursuant to sale of such Inventory under the current licensing agreement;

(n) which is not reflected in a current perpetual inventory report of such Loan Party (unless such Inventory is reflected in a report to the Administrative Agent as "in transit" Inventory;

(o) for which reclamation rights have been asserted by the seller;

(p) which does not meet such other eligibility criteria for Inventory as the Administrative Agent in its Permitted Discretion may determine from time to time; provided, however, that the Administrative Agent shall not add any additional eligibility criteria (or amend any then-existing eligibility criteria to make the same more restrictive) without giving at least five (5) Business Days' prior notice to the Borrower Representative; provided further that, if after the delivery of such notice the Borrower Representative notifies the Administrative Agent that it desires to discuss the changes described therein, then the Administrative Agent will discuss such changes with the Borrower Representative, provided that nothing in this proviso shall obligate the Administrative Agent to eliminate, reduce, or delay any such changes;

(q) which has been designated or demanded to be returned to or retained by the applicable vendor or which has been recognized as damaged or off quality by the applicable Loan Party; or

(r) Inventory acquired in a Permitted Acquisition or which is not of the type usually sold in the ordinary course of the Loan Parties' business (for the avoidance of doubt, sales in the ordinary course of business includes clearance sales and bulk inventory sales in the ordinary course), unless and until the Administrative Agent has completed or received (or, with respect to Inventory in an aggregate amount not to exceed $25,000,000, waived) (i) an appraisal of such Inventory from an appraiser acceptable to the Administrative Agent in its Permitted Discretion and establishes an advance rate and Reserves (if applicable) therefor, and otherwise agrees that such Inventory shall be deemed Eligible Inventory, and (ii) upon the request of the Administrative Agent in its Permitted Discretion, a commercial field examination, all of the results of the foregoing to be satisfactory to the Administrative Agent in its Permitted Discretion;

provided further that in determining the value of the Eligible Inventory, such value shall be reduced by, without duplication of amounts already accounted for in determining such value, any amounts representing (i) vendor rebates; (ii) costs included in Inventory relating to advertising; (iii) a shrink reserve, an obsolescence reserve, and a reserve based on markdowns (both permanent and point of sale), and (iv) the unreconciled discrepancy between the general inventory ledger and the perpetual inventory ledger, to the extent the general inventory ledger reflects less Inventory than the perpetual inventory ledger.

"Environment" means any surface water, groundwater, drinking water supply, land surface or subsurface strata or ambient air.

"Environmental Laws" means all laws, rules, regulations, codes, ordinances, and all binding orders, decrees, judgments, injunctions, notices or agreements passed, adopted, issued, promulgated or entered into by any Governmental Authority, relating to protection of the environment, preservation or reclamation of natural resources, the management, Release or threatened Release of any Hazardous Material or to health and safety matters to the extent related to exposure to Hazardous Materials.

"Environmental Liability" means (i) any obligation or responsibility of any Loan Party or any Restricted Subsidiary to comply with the terms of any order, decree, injunction, claim, notice or obligation of an agreement; or (ii) any obligation or responsibility of any Loan Party or any Restricted Subsidiary for damages, costs of environmental investigations or remediation, fines, or penalties of any Loan Party or any Restricted Subsidiary, either of which is resulting from or based upon (a) a violation of any Environmental Law, (b) the generation, use, handling, transportation, storage, treatment or disposal of any Hazardous Materials, (c) any exposure to any Hazardous Materials resulting in physical injury or property damage or a claim of such injury or property damage, (d) the Release or threatened Release of any Hazardous Materials into the Environment, or (e) any contract, agreement or other consensual arrangement pursuant to which liability is assumed by or imposed upon any Loan Party or any Restricted Subsidiary with respect to the foregoing clauses (i) or (ii).

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any of the foregoing (but excluding any debt security that is convertible into, or exchangeable for, Equity Interests).

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with a Loan Party, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"ERISA Event" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the failure to satisfy the "minimum funding standard" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by any Loan Party or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination or partial termination of any Plan; (e) the receipt by any Loan Party or any ERISA Affiliate from the PBGC of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by any Loan Party or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal of any Loan Party or any ERISA Affiliate from any Multiemployer Plan; (g) the receipt by any Loan Party or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from any Loan Party or any ERISA Affiliate of any notice, concerning the imposition upon any Loan Party or any ERISA Affiliate of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent (within the meaning of Title IV of ERISA), in "at-risk" status (as defined in Section 303(i) of ERISA or Section 430(i) of the Code) or in "endangered" or "critical" status (within the meaning of Section 432 of the Code or Section 305 of ERISA); (h) the failure to timely make a contribution required to be made with respect to any Plan or Multiemployer Plan; or (i) the conditions for imposition of a lien under Section 303(k) of ERISA shall have been met with respect to any Plan.

"Erroneous Payment" has the meaning assigned to it in Section 8.12(a).

"Erroneous Payment Deficiency Assignment" has the meaning assigned to it in Section 8.12(d).

"Erroneous Payment Impacted Class" has the meaning assigned to it in Section 8.12(d).

"Erroneous Payment Return Deficiency" has the meaning assigned to it in Section 8.12(d).

"Erroneous Payment Subrogation Rights" has the meaning assigned to it in Section 8.12(d).

"ESG" has the meaning specified in Section 9.02.

"ESG Ratings" has the meaning specified in Section 9.02.

"ESG Amendment" has the meaning specified in Section 9.02.

"ESG Pricing Provisions" has the meaning specified in Section 9.02.

"€STR" means a rate equal to the Euro Short Term Rate as administered by the €STR Administrator.

"€STR Administrator" means the European Central Bank (or any successor administrator of the Euro Short Term Rate).

"€STR Administrator's Website" means the European Central Bank's website, currently at http://www.ecb.europa.eu, or any successor source for the Euro Short Term Rate identified as such by the
€STR Administrator from time to time.

"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.

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

"Eurocurrency Banking Day" means any day which is, as applicable, for Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to Canadian Dollars, any day on which banks are open for business in Canada.

"Eurocurrency Rate" means, with respect to any Eurocurrency Rate Borrowing for any Interest Period, an interest rate per annum determined by Administrative Agent by dividing (the resulting quotient rounded upwards, at the Administrative Agent's discretion, to the nearest 1/100 of 1%)(a) the applicable Eurocurrency Rate below for such Interest Period by (b) a number equal to 1.00 minus the Eurocurrency Reserve Percentage: denominated in Canadian Dollars, the rate per annum (the "CDOR Rate") as determined by the Administrative Agent, equal to the arithmetic average rate applicable to Canadian Dollar bankers' acceptances (C$BAs) for the applicable Interest Period appearing on the Bloomberg page BTMM CA, rounded upwards, at the Administrative Agent's discretion, to the nearest 1/100 of 1% per annum, at approximately 11:00 a.m. Eastern Time, two (2) Eurocurrency Banking Days prior to the commencement of such Interest Period; provided that if by such time such rate does not appear on the Bloomberg page BTMM CA, the CDOR Rate on such day shall be the rate for such period applicable to Canadian Dollar bankers' acceptances quoted by a bank listed in Schedule I of the Bank Act (Canada), as selected by the Administrative Agent, as of 11:00 a.m. Eastern Time on such day or, if such day is not a Business Day, then on the immediately preceding Business Day; provided further that any CDOR Rate so determined based on the immediately preceding Business Day shall be utilized for purposes of calculation of the Eurocurrency Rate for no more than three (3) consecutive Business Days (collectively, the "CDOR Lookback Day"); provided that if the adjusted Eurocurrency Rate as determined above would be less than the Floor, such rate shall be deemed to be the Floor for purposes of this Agreement. The Eurocurrency Rate for any Loans shall be based upon the Eurocurrency Rate for the Currency in which such Loans are requested. The Eurocurrency Rate for each outstanding Eurocurrency Rate Loan shall be adjusted automatically as of the effective date of any change in the Eurocurrency Reserve Percentage. The Administrative Agent shall give prompt notice to the Borrower of the Eurocurrency Rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error.

"Eurocurrency Rate Lookback Days" means the CDOR Lookback Day and each such day is a "Eurocurrency Rate Lookback Day".

"Eurocurrency Rate Borrowing" means, as to any Borrowing, a Eurocurrency Rate Loan .

"Eurocurrency Rate Loan" means a Loan that bears interest at a rate based on the Eurocurrency Rate.

"Eurocurrency Rate Option" means the option of the Borrowers to have Loans bear interest at the rate and under the terms specified in Section 2.08(a)(i)(B).

"Eurocurrency Reserve Percentage" means, for any day during any Interest Period, the reserve percentage in effect on such day, whether or not applicable to any Lender, under regulations issued from time to time by the Board for determining the maximum reserve requirement (including any emergency, special, supplemental or other marginal reserve requirement) with respect to eurocurrency funding (currently referred to as "Eurocurrency liabilities" in Regulation D) or any other reserve ratio or analogous requirement of any central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of the Loans.

"European Union" means the region comprised of member states of the European Union pursuant to the Treaty of Rome of March 25, 1957, as amended by the Single European Act 1986 and the Maastricht Treaty (signed February 7, 1992), as amended from time to time.

"Event of Default" has the meaning assigned to such term in Article VII.

"Excluded Asset" has the meaning assigned to such term in the Security Agreement.

"Excluded Domestic Subsidiary" means, collectively, (i) any CFC Holdco, (ii) any Domestic Subsidiary that is a direct or indirect Subsidiary of a CFC and (iii) any other Domestic Subsidiary of any Loan Party formed or otherwise acquired after the date hereof if the execution of a Joinder Agreement and the Guarantee of the Obligations would cause material adverse tax consequences to any Loan Party or any Affiliate of a Loan Party in the reasonable good faith determination of the Company, in consultation with the Administrative Agent.

"Excluded Subsidiary" means each (a) Immaterial Subsidiary, (b) Unrestricted Subsidiary, (c) Excluded Domestic Subsidiary, (d) Foreign Subsidiary, (e) Subsidiary that is not a Wholly Owned Subsidiary, (f) Subsidiary that is prohibited by applicable law, rule or regulation or by any contractual obligation (if, with respect to any such contractual obligations, such contractual obligations were existing on the date hereof or existing at the time of acquisition thereof after the date hereof), in each case from guaranteeing the Obligations or that would require governmental (including regulatory) consent, approval, license or authorization to provide a guarantee unless such consent, approval, license or authorization has been received, (g) any other Subsidiary if in the reasonable good faith determination of the Company, in consultation with the Administrative Agent, a guarantee by such Subsidiary would result in materially adverse tax consequences to the Company or any of its Subsidiaries and (h) any other Subsidiary with respect to which, in the reasonable judgment of the Administrative Agent (confirmed in writing by notice to the Company), the cost or other consequences of becoming a Guarantor shall be excessive in view of the benefits to be obtained by the Lenders therefrom; provided that any Subsidiary of the Company that is a guarantor of any Other Secured Debt Obligations (if any) shall become a Guarantor hereunder.

"Excluded Swap Obligation" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guarantee of such Guarantor of, or the grant by such Guarantor of a security interest to secure, such Swap Obligation (or any Guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Guarantor's failure for any reason to constitute an ECP at the time the Guarantee of such Guarantor or the grant of such security interest becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such Guarantee or security interest is or becomes illegal.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient: (a) Taxes imposed on or measured by net income or capital (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 a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrowers under Section 2.19(b)) or (ii) such Lender changes its lending office, except in each case to

the extent that, pursuant to Section 2.17, 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 lending office; (c) Taxes attributable to such Recipient's failure to comply with Section 2.17(f); and (d) any U.S. Federal withholding Taxes imposed under FATCA, (i) is a person with which a Loan Party does not deal at arm's length (for the purposes of the ITA), or (ii) is a "specified shareholder" (as defined in subsection 18(5) of the ITA) of a Loan Party or does not deal at arm's length (for the purposes of the ITA) with such a "specified shareholder" (other than where the non-arm's length relationship arises, or where the Recipient is a "specified shareholder" or does not deal at arm's length with a "specified shareholder", in connection with or as a result of the Recipient having become a party to, received or perfected a security interest under or received or enforced any rights under, a Loan Document).

"Existing Credit Agreement" means that certain Second Amended and Restated Credit Agreement, dated as of September 22, 2021, by and among the Company, certain Subsidiaries of the Company, PNC Bank, National Association, as administrative agent, and a syndicate of lenders, as amended.

"Existing Letters of Credit" means each of the letters of credit described on Schedule 1.01(b).

"Fair Market Value" means, with respect to any asset or property, the price which could be negotiated in an arm's-length transaction, for cash, between a willing seller and a willing and able buyer, with neither party being compelled to buy or sell.

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities entered into in connection with the implementation of the foregoing.

"Fee Letter" means that certain amended and restated fee letter, dated as of the date hereof, executed by the Company, the Administrative Agent, and PNC Capital Markets, LLC.

"Finance Lease" means, with respect to any Person, any lease of any real or personal property by such Person as lessee that, in conformity with GAAP, is accounted for as a finance lease on the balance sheet of such Person.

"Finance Lease Obligations" means, with respect to any Person and a Finance Lease, the amount of the obligation of such Person as the lessee under such Finance Lease which would, in accordance with GAAP, appear as a liability on a balance sheet of such Person.

"Financial Officer" means with respect to the Company, its President, Chief Executive Officer, Chief Financial Officer, Treasurer or Controller, or other duly elected or appointed officer of the Borrower Representative reasonably acceptable to the Administrative Agent.

"Fixed Charge Coverage Ratio" means, for any period of determination with respect to the Company on a Consolidated Basis, the ratio of (a) Consolidated EBITDA for such period minus the sum of (i) Unfinanced Capital Expenditures plus (ii) the portion of taxes based on income actually paid in cash and provisions for cash income taxes, to (b) Fixed Charges for such period.

"Fixed Charges" means, for any period of determination, the sum of (a) any scheduled amortization payments paid or payable during such period on all Indebtedness of the Company and its Restricted Subsidiaries (including the principal component of all obligations in respect of all Finance Lease

Obligations), plus (b) consolidated cash Interest Expense of the Company and its Restricted Subsidiaries for such period.

"Flood Laws" has the meaning assigned to such term in Section 8.10.

"Floor" means 0.00% per annum.

"Foreign Lender" means a Lender that is not a U.S. Person.

"Foreign Subsidiary" means any Subsidiary which is not a Domestic Subsidiary.

"Funding Accounts" means the deposit account(s) of the Borrowers to which the Administrative Agent or the Swingline Lender is authorized by the Borrowers (or by the Borrower Representative on their behalf) to transfer the proceeds of any Borrowings requested or authorized pursuant to this Agreement.

"GAAP" means accounting principles generally accepted in the U.S., consistently applied.

"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 (including any supra- national body exercising such powers or functions, such as the European Union or the European Central Bank).

"Guarantee" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term Guarantee shall not include (i) warranties or indemnities made in trade contracts, asset sale agreements, acquisition agreements, commitment letters, engagement letters and brokerage and deposit agreements in the ordinary course of business, and warranties and indemnities to lenders in any documents evidencing Indebtedness permitted pursuant to Section 6.01 with respect to the guarantor, (ii) any indemnities made in connection with liability of a Person's directors, officers and employees in their capacities as such as permitted by applicable law, (iii) any contingent liability arising from the endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business, and (iv) any continuing liability of the Company or its Subsidiaries as a lessee under a lease after such lease has been assigned or subleased by such Person.

"Guaranteed Obligations" has the meaning set forth in Section 10.01.

"Guarantors" means each Domestic Subsidiary of a Borrower that is listed on the signature pages hereto as a Guarantor or that becomes a party hereto as a Guarantor pursuant to Section 5.14, in each case, until such Subsidiary's Guaranty is released in accordance herewith.

"Hazardous Material" means: (a) any substance, material, or waste that is included within the definitions of "hazardous substances," "hazardous materials," "hazardous waste," "toxic substances," "toxic materials," "toxic waste," or words of similar import in any Environmental Law; (b) those substances listed as hazardous substances by the United States Department of Transportation (or any successor agency) (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) (40 C.F.R. Part 302 and amendments thereto); and (c) any substance, material, or waste that is (i) petroleum, petroleum derivative or fraction, or a petroleum by-product, (ii) asbestos or asbestos- containing material, (iii) polychlorinated biphenyls, (iv) ozone depleting substances, (v) radon gas, or (vi) a pesticide, herbicide, or other substance regulated under the Federal Insecticide, Fungicide and Rodentide Act ("FIFRA"), 7 U.S.C. §136 et seq.

"Immaterial Subsidiary" means any Subsidiary (other than a Borrower) designated by the Borrower Representative to the Administrative Agent as an "Immaterial Subsidiary" and that meets each of the following criteria as of the last day of the most recent fiscal quarter for which financial statements have been delivered to the Administrative Agent pursuant to Sections 5.01(a) or (b): (a) such Subsidiary and its Subsidiaries accounted for less than (x) 2.5% of Total Assets at such date and (y) 2.5% of the consolidated revenues of the Company and its Subsidiaries for the most recent four fiscal quarter period ending on such date, (b) all Immaterial Subsidiaries and their respective Subsidiaries accounted for less than (x) 5.0% of Total Assets at such date and (y) 5.0% of the consolidated revenues of the Company and its Subsidiaries for the most recent four fiscal quarter period ending on such date, and (c) such Subsidiary and its Subsidiaries do not own any Material Intellectual Property; provided, that no Subsidiary shall be or be designated as an "Immaterial Subsidiary" if such Subsidiary has provided a Guaranty of, or pledged any Collateral as security for, any Other Secured Debt Obligations (if any) (unless such Guaranty or pledge, as applicable, is released prior to or substantially concurrently with such designation). Each Immaterial Subsidiary as of the date hereof shall be set forth in Schedule 1.01(c), and the Borrower Representative shall update such Schedule from time to time after the date hereof as necessary to reflect all Immaterial Subsidiaries at such time (the selection of Subsidiaries to be added to or removed from such Schedule to be made as the Borrower may determine).

"Incur" means issue, assume, guarantee, incur or otherwise be or become liable for; provided, however, that any Indebtedness or Equity Interests of a Person existing at the time such person becomes a Subsidiary (whether by merger, amalgamation, consolidation, acquisition or otherwise) shall be deemed to be Incurred by such Person at the time it becomes a Subsidiary. "Incurred" and "Incurrence" shall have like meanings.

"Indebtedness" means, with respect to any Person:

(1) the principal amount of any indebtedness of such Person, whether or not contingent, (a) in respect of borrowed money, (b) evidenced by bonds, notes, debentures or similar instruments or letters of credit, bankers' acceptances, or similar facilities (or, without duplication, reimbursement agreements in respect thereof), (c) representing the deferred and unpaid purchase price of any property (except any such balance that constitutes (i) a trade payable or similar obligation to a trade creditor Incurred in the ordinary course of business, (ii) any earn-out obligations until such obligation becomes a liability on the balance sheet of such Person in accordance with GAAP, (iii) obligations accounted for as an operating lease in conformity with GAAP, and (iv) liabilities accrued in the ordinary course of business), (d) in respect of Finance Lease Obligations; and (e) all monetary obligations that qualify as indebtedness on the balance sheet of such Person in accordance with GAAP under any receivables factoring, receivable sales or similar transactions and all attributable indebtedness calculated in accordance with GAAP under any synthetic lease, tax ownership/operating lease, off-balance sheet financing or similar financing;

(2) to the extent not otherwise included, any obligation of such Person to be liable for, or to pay, as obligor, guarantor or otherwise, the obligations referred to in clause (1) of another Person (other than by endorsement of negotiable instruments for collection in the ordinary course of business); and

(3) to the extent not otherwise included, Indebtedness of another Person secured by a Lien on any asset owned by such Person (whether or not such Indebtedness is assumed by such Person); provided, however, that the amount of such Indebtedness will be the lesser of: (a) the Fair Market Value (as determined in good faith by the Company) of such asset at such date of determination, and (b) the amount of such Indebtedness of such other Person;

provided, however, that, notwithstanding the foregoing, Indebtedness shall be deemed not to include (1) Contingent Obligations incurred in the ordinary course of business and not in respect of borrowed money; (2) deferred or prepaid revenues; (3) purchase price holdbacks in respect of a portion of the purchase price of an asset to satisfy warranty or other unperformed obligations of the respective seller; (4) trade and other ordinary course payables and accrued expenses arising in the ordinary course of business; (5) in the case of the Company and the Subsidiaries, (x) all intercompany Indebtedness solely among the Company and the Restricted Subsidiaries made in the ordinary course of business and (y) intercompany liabilities in connection with cash management, tax and accounting operations of the Company and the Subsidiaries; and (6) any Swap Agreement Obligations; provided that such agreements are entered into for bona fide hedging purposes of the Company and the Subsidiaries (as determined in good faith by the board of directors or senior management of the Company, whether or not accounted for as a hedge in accordance with GAAP) and, in the case of any foreign exchange contract, currency swap agreement, futures contract, option contract or other similar agreement, such agreements are related to business transactions of the Company and the Subsidiaries entered into in the ordinary course of business and, in the case of any interest rate protection agreement, interest rate future agreement, interest rate option agreement, interest rate swap agreement, interest rate cap agreement, interest rate collar agreement, interest rate hedge agreement or other similar agreement or arrangement, such agreements substantially correspond in terms of notional amount, duration and interest rates, as applicable, to Indebtedness of the Company or the Subsidiaries Incurred without violation of this Agreement.

Notwithstanding anything in this Agreement to the contrary, Indebtedness shall not include, and shall be calculated without giving effect to, the effects of Financial Accounting Standards Board Accounting Standards Codification 815 (or any other Accounting Standards Codification or Financial Accounting Standards having a similar result or effect or any successor thereto) to the extent such effects would otherwise increase or decrease an amount of Indebtedness for any purpose under this Agreement as a result of accounting for any embedded derivatives created by the terms of such Indebtedness; and any such amounts that would have constituted Indebtedness under this Agreement but for the application of this sentence shall not be deemed an Incurrence of Indebtedness under this Agreement.

"Indemnified Taxes" 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 Loan Party under any Loan Document and (b) to the extent not otherwise described in subsection (a), Other Taxes.

"Indemnitee" has the meaning assigned to such term in Section 9.03(b).

"Independent Financial Advisor" means an accounting, appraisal or investment banking firm or consultant, in each case of nationally recognized standing, that is, in the good faith determination of the Company, qualified to perform the task for which it has been engaged.

"Ineligible Institution" has the meaning assigned to such term in Section 9.04(b).

"Information" has the meaning assigned to such term in Section 9.12.

"Insolvency Laws" means each of the Bankruptcy Code, as amended, and any other applicable state, provincial, territorial or federal bankruptcy laws, each as now and hereafter in effect, any successors to such statutes and any other applicable insolvency or other similar law of any jurisdiction, including any corporate law of any jurisdiction permitting a debtor to obtain a stay or a compromise of the claims of its creditors against it and including any rules and regulations pursuant thereto.

"Intellectual Property" means all present and future: trade secrets, know-how and other proprietary information; trademarks, trademark applications, internet domain names, service marks, trade dress, trade names, business names, designs, logos, slogans (and all translations, adaptations, derivations and combinations of the foregoing) indicia and other source and/or business identifiers, and all registrations or applications for registrations which have heretofore been or may hereafter be issued thereon throughout the world; copyrights and copyright applications (including copyrights for computer programs) and all tangible and intangible property embodying the copyrights, unpatented inventions (whether or not patentable); patents and patent applications; industrial design applications and registered industrial designs; license agreements related to any of the foregoing and income therefrom; books, customer lists, records, writings, computer tapes or disks, flow diagrams, specification sheets, computer software, source codes, object codes, executable code, data, databases and other physical manifestations, embodiments or incorporations of any of the foregoing; all other intellectual property; and all common law and other rights throughout the world in and to all of the foregoing.

"Intercompany Subordination Agreement" means the Intercompany Subordination Agreement, dated as of the Closing Date, among the Company and its Subsidiaries, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders, as amended, restated, supplemented or otherwise modified from time to time in accordance with the terms thereof.

"Interest Election Request" means a request by the Borrower Representative to convert or continue a Borrowing in accordance with Section 2.08, which shall be, in the case of any such written request, in the form of Exhibit E or any other form approved by the Administrative Agent.

"Interest Expense" means, with respect to any Person for any fiscal period, interest expense of such Person determined in accordance with GAAP for the relevant period ended on such date.

"Interest Payment Date" means (a) with respect to any Loan with an Interest Period applicable thereto, the last day of the Interest Period applicable to such Borrowing of which such Loan is a part and, in the case of any such Borrowing with an Interest Period of more than three months' duration, also at the end of each three-month period during such Interest Period, (b) with respect to all other Loans (including the Swingline Loans), the first Business Day of each calendar quarter and the Maturity Date, and (c) the Maturity Date.

"Interest Period" means the period of time selected by the Borrowers in connection with (and to apply to) any election permitted hereunder by the Borrower to have Revolving Loans bear interest under a Term Rate Loan Option. Subject to the last sentence of this definition and subject to availability for the interest rate applicable to the relevant Currency, such period shall be one-month, three-months, or six- months. Such Interest Period shall commence on the effective date of such Term Rate Loan Option, which shall be (i) the Borrowing Date if the Borrowers are requesting new Loans, or (ii) the date of renewal of or conversion to a Term Rate Loan Option if the Borrowers are renewing or converting to a Term Rate Loan Option applicable to outstanding Loans. Notwithstanding the second sentence hereof: (A) any Interest Period which would otherwise end on a date which is not a Business Day shall be extended to the next succeeding Business Day unless such Business Day falls in the next calendar month, in which case such

Interest Period shall end on the next preceding Business Day, (B) the Borrowers shall not select, convert to or renew an Interest Period for any portion of the Loans that would end after the Expiration Date, and (C) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period.

"Interest Rate Option" means any Term Rate Loan Option or Daily Rate Loan Option.

"In-Transit Inventory" means Inventory of a Loan Party which is in transit with a common carrier from vendors or suppliers of the Loan Party.

"Inventory" has the meaning assigned to such term in the Security Agreement.

"Inventory Advance Rate" means ninety percent (90%); provided that the Borrower Representative may elect, upon at least thirty (30) days' prior written notice to the Administrative Agent, in each calendar year, a period of four consecutive calendar months (any such four month period, an "Increased Advance Rate Period"), in which such amount shall be equal to ninety-two and one-half percent (92.5%); provided, further, that, there shall be a period of at least three (3) consecutive months between each Increased Advance Rate Period; provided, further, that, an Increased Advance Rate Period shall be in effect as of the Closing Date.

"Investments" means, with respect to any Person, all investments by such Person in other Persons (including Affiliates) in the form of loans (including guarantees), advances or capital contributions, repayments of intercompany Indebtedness pursuant to clauses (a) and (b) of the definition of "Junior Indebtedness", purchases or other acquisitions for consideration of Indebtedness, Equity Interests or other securities issued by any other Person and investments that are required by GAAP to be classified on the balance sheet of such Person in the same manner as the other investments included in this definition to the extent such transactions involve the transfer of cash or other property. For purposes of the definition of "Unrestricted Subsidiary" and Section 6.02:

(1) "Investments" shall include the portion (proportionate to the Company's direct or indirect equity interest in such Subsidiary) of the Fair Market Value (as determined in good faith by the Company) of the net assets of such Subsidiary at the time that such Subsidiary is designated an Unrestricted Subsidiary; provided, however, that upon a redesignation of such Subsidiary as a Restricted Subsidiary, the Company shall be deemed to continue to have a permanent "Investment" in an Unrestricted Subsidiary equal to an amount (if positive) equal to:

(a) its "Investment" in such Subsidiary at the time of such redesignation less

(b) the portion (proportionate to its direct or indirect equity interest in such Subsidiary) of the Fair Market Value (as determined in good faith by the Company) of the net assets of such Subsidiary at the time of such redesignation; and

(2) any property transferred to or from an Unrestricted Subsidiary shall be valued at its Fair Market Value (as determined in good faith by the Company) at the time of such transfer.

"IRS" means the United States Internal Revenue Service.

"Issuing Bank" means (a) PNC, (b) U.S. Bank and (c) any other Lender from time to time designated by the Borrower Representative as an Issuing Bank, with the consent of such Lender and upon notice to the Administrative Agent, in which case the term "Issuing Bank" shall mean PNC and each such

Lender, individually or collectively as the context shall require and their respective successors. The Issuing Bank may, in its discretion, arrange for one or more Letters of Credit to be issued by its Affiliates, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate (it being agreed that such Issuing Bank shall, or shall cause such Affiliate to, comply with the requirements of Section 2.06 with respect to such Letters of Credit). At any time there is more than one Issuing Bank, all singular references to the Issuing Bank shall mean any Issuing Bank, either Issuing Bank, each Issuing Bank, the Issuing Bank that has issued the applicable Letter of Credit, or both (or all) Issuing Banks, as the context may require.

"Joinder Agreement" means a Joinder Agreement in substantially the form of Exhibit F.

"Joint Venture" means a corporation, partnership, limited liability company or other entity (excluding any Subsidiary) in which any Person other than a Loan Party or any Restricted Subsidiary holds, directly or indirectly, an equity interest.

"Joint Venture Equity Interests" has the meaning given to such term in Section 3.02.

"Junior Indebtedness" means (a) unsecured Indebtedness for borrowed money (other than intercompany Indebtedness owing to the Company or to a Subsidiary if an Investment in such Subsidiary by the obligor of such Indebtedness in such amount would be permitted at such time; provided that any repayment of such Indebtedness will be deemed an Investment in such Subsidiary in such amount), (b) any Indebtedness which is by its terms subordinated in right of payment or lien priority to the Obligations (other than (x) intercompany Indebtedness owing to the Company or to a Subsidiary if an Investment in such Subsidiary by the obligor of such Indebtedness in such amount would be permitted at such time; provided that any repayment of such Indebtedness will be deemed an Investment in such Subsidiary in such amount, and (y) Other Secured Debt Obligations), and (c) Indebtedness arising from agreements of a Loan Party or any Subsidiary providing for the adjustment of acquisition or purchase price or similar obligations (including earn-outs), in each case, Incurred or assumed in connection with any Investments or any acquisition or disposition of any business, assets or a Subsidiary.

"KPIs" has the meaning specified in Section 9.02.

"LC Collateral Account" has the meaning assigned to such term in Section 2.06(j).

"LC Disbursement" means any payment made by an Issuing Bank pursuant to a Letter of Credit.

"LC Exposure" means, at any time, the sum of the Commercial LC Exposure and the Standby LC Exposure.

"LC Individual Sublimit" means, with respect to any Issuing Bank, an amount equal to (a) with respect to Letters of Credit issued by the Issuing Banks as of the Closing Date, the respective amounts set forth on the Commitment Schedule, and (b) with respect to Letters of Credit issued by any other Issuing Bank, the amount agreed to by the Issuing Bank and the Borrower Representative upon notice to the Administrative Agent, in each case, as such amount may be increased for an Issuing Bank as agreed to by such Issuing Bank and the Borrower Representative upon notice to the Administrative Agent.

"Lenders" means the Persons listed on the Commitment Schedule and any other Person that shall have become a Lender hereunder pursuant to Section 2.09 or an Assignment and Assumption, other than any such Person that ceases to be a Lender hereunder pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term "Lenders" includes the Swingline Lender and the Issuing Bank.

"Letter of Credit Fees" has the meaning assigned to such term in Section 2.12(b).

"Letters of Credit" has the meaning assigned to such term in Section 2.06, and the term "Letter of Credit" means any one of them or each of them singularly, as the context may require.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, hypothecation, charge, security interest or similar encumbrance of any kind in respect of such asset, whether or not filed, recorded or otherwise perfected under applicable law (including any conditional sale or other title retention agreement or any lease in the nature thereof); provided that in no event shall an operating lease or an agreement to sell be deemed to constitute a Lien.

"Loan Documents" means, collectively, this Agreement, any promissory notes issued pursuant to this Agreement, any Letter of Credit applications, the Collateral Documents, the Loan Guaranty, the Intercompany Subordination Agreement, each Compliance Certificate, the Fee Letter, any Borrowing Base Certificate, any promissory notes issued hereunder, and any and all other instruments, agreements, documents and writings executed in connection with the foregoing which the Company and the Administrative Agent agree in writing is a "Loan Document." Any reference in this Agreement or any other Loan Document to a Loan Document shall include all amendments, restatements, supplements or other modifications thereto, and shall refer to this Agreement or such Loan Document as the same may be in effect at any and all times such reference becomes operative.

"Loan Guaranty" means Article X of this Agreement.

"Loan Parties" means, collectively, the Borrowers and the Guarantors and any other Person who becomes a party to this Agreement pursuant to a Joinder Agreement and their successors and assigns, and the term "Loan Party" shall mean any one of them or all of them individually, as the context may require.

"Loans" means the loans and advances made by the Lenders or the Administrative Agent pursuant to this Agreement, including Revolving Loans, Swingline Loans, Overadvances and Protective Advances.

"Material Adverse Effect" means any set of circumstances or events which (a) is material and adverse to the business, properties, assets or financial condition of the Loan Parties and their Subsidiaries taken as a whole, (b) impairs materially the rights and remedies of the Administrative Agent, the Issuing Bank or any Lender under any Loan Document, or the ability of the Loan Parties taken as a whole to duly and punctually pay or perform any of the Obligations, (c) has a material adverse effect upon the legality, validity, binding effect or enforceability against any Loan Party of any Loan Document to which it is a party, (d) has a material adverse effect upon the Collateral, or (e) has a material adverse effect upon the Administrative Agent's Liens (on behalf of itself and other Secured Parties) on the Collateral or the priority of such Liens.

"Material Agreement" means any agreement to which any Loan Party or any Restricted Subsidiary is a party that, if terminated or if breached by any Loan Party or any Restricted Subsidiary, would be reasonably expected to have a Material Adverse Effect.

"Material Intellectual Property" means trademarks, trademark applications, service marks, trade dress, trade names, business names, designs, logos, slogans (and all translations, adaptations, derivations and combinations of the foregoing) indicia and other source and/or business identifiers, and all registrations or applications for registrations which have heretofore been or may hereafter be issued thereon throughout the world; copyrights and copyright applications (including copyrights for computer programs) and all tangible and intangible property embodying the copyrights, unpatented inventions (whether or not patentable); patents and patent applications; industrial design applications and registered industrial designs;

customer lists; license agreements related to any of the foregoing and income therefrom; in each case, (i) which are reasonably necessary in connection with the exercise of any rights or remedies with respect to the ABL Priority Collateral or (ii) the Disposition of which (including, without limitation, by means of a Restricted Payment or an Investment thereof) would otherwise materially adversely affect the Net Orderly Liquidation Value of the ABL Priority Collateral.

"Maturity Date" means the earliest to occur of (i) the date that is five (5) years after the Closing Date, (ii) the date that is 91 days prior to the stated maturity date of any Other Secured Debt Loans (if any) or any Refinancing Indebtedness which refinances any Other Secured Debt Loans and (iii) the date on which the Commitments are reduced to zero or otherwise terminated pursuant to the terms hereof.

"Maximum Credit Amount" means the lesser of (i) the Aggregate Commitments and (ii) the Borrowing Base.

"Monthly BBC Reporting Period" means any period (i) commencing (a) at any time when Availability shall be less than 80% of the Maximum Credit Amount for a period of five (5) consecutive Business Days or (b) the day on which a Weekly BBC reporting Period ends, and (ii) ending on the first day of the fiscal quarter beginning immediately after Availability shall have been greater than or equal to 80% of the Maximum Credit Amount for a period of thirty (30) consecutive Business Days.

"Maximum Rate" has the meaning assigned to such term in Section 9.18.

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"Net Orderly Liquidation Value" means, with respect to Inventory of any Person, the monthly orderly liquidation value thereof as determined in a manner reasonably acceptable to the Administrative Agent (after consultation with the Company) by an appraiser reasonably acceptable to the Administrative Agent, net of all costs of liquidation thereof.

"Net Proceeds" means, with respect to any Casualty, (a) the cash proceeds received in respect of such event including (i) any cash received in respect of any non-cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but excluding any interest payments), but only as and when received and (ii) insurance proceeds, minus (b) the sum of (i) all reasonable fees and out-of-pocket expenses paid to third parties (other than Affiliates) in connection with such event, (ii) the amount of all payments required to be made as a result of such event to repay Indebtedness (other than Loans) that is secured by a Lien in such asset that is not Collateral or is senior to the Liens securing the Secured Obligations or, other than with respect to assets that are Collateral in which the Administrative Agent has a first priority Lien, otherwise subject to mandatory prepayment as a result of such event and (iii) the amount of all taxes paid (or reasonably estimated to be payable) and the amount of any reserves established to fund contingent liabilities reasonably estimated to be payable, in each case during the year that such event occurred or the next succeeding year and that are directly attributable to such event (as determined reasonably and in good faith by a Financial Officer of the Borrower Representative).

"Non-Consenting Lender" has the meaning assigned to such term in Section 9.02(d).

"Obligated Party" has the meaning set forth in Section 10.02.

"Obligations" means all unpaid principal of and accrued and unpaid interest on the Loans to the Borrowers, all LC Exposure, all accrued and unpaid fees and all expenses, reimbursements (including pursuant to Section 2.06(a)), indemnities and other obligations of the Loan Parties to the Lenders or to any Lender, the Administrative Agent, any Issuing Bank or any indemnified party arising under the Loan Documents (including guarantee obligations and interest, costs, fees and other amounts accruing during the pendency of any proceeding under any Insolvency Laws, regardless of whether allowed or allowable in such proceeding).

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

"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 Taxes (other than a connection 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 Loan, Letter of Credit or any Loan Document).

"Other Secured Debt Agent" means the administrative agent or collateral agent under any Other Secured Debt Loan Agreement, and any successor or permitted assign thereof (or any Person acting in an analogous role).

"Other Secured Debt Documents" has the meaning given to such term in Section 6.01(b).

"Other Secured Debt Loan Agreement" has the meaning given to such term in Section 6.01(b).

"Other Secured Debt Loans" means the "Loans" (or any analogous term) as defined in any Other Secured Debt Loan Agreement.

"Other Secured Debt Obligations" means the "Obligations" (or any analogous term) as defined in any Other Secured Debt Loan Agreement.

"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 2.19).

"Overadvance" has the meaning assigned to such term in Section 2.05(b).

"Overnight Bank Funding Rate" means for any day, (a) with respect to any amount denominated in U.S. Dollars, the rate comprising both overnight federal funds and overnight eurocurrency borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the Federal Reserve Bank of New York, as set forth on its public website from time to time, and as published on the next succeeding Business Day as the overnight bank funding rate by the Federal Reserve Bank of New York (or by such other recognized electronic source (such as Bloomberg) selected by the Administrative Agent for the purpose of displaying such rate); provided, that if such day is not a Business Day, the Overnight Bank Funding Rate for such day shall be such rate on the immediately preceding Business Day; provided, further, that if such rate shall at any time, for any reason, no longer exist, a comparable replacement rate determined by the Administrative Agent at such time (which determination shall be conclusive absent manifest error); and (b) with respect to any amount denominated in an Alternative

Currency, an overnight rate determined by the Administrative Agent or the Issuing Bank, as the case may be, in accordance with banking industry rules on interbank compensation (which determination shall be conclusive absent manifest error), provided, that if the Overnight Bank Funding Rate as determined in accordance with either clause (a) or (b) above would be less than zero, then such rate shall be deemed to be zero,. The rate of interest charged shall be adjusted as of each Business Day based on changes in the Overnight Bank Funding Rate without notice to the Borrowers.

"PACA" means the Perishable Agriculture Commodities Act, 1930 and all regulations promulgated thereunder, as amended from time to time.

"Parent" means, with respect to any Lender, any Person as to which such Lender is, directly or indirectly, a subsidiary.

"Participant" has the meaning assigned to such term in Section 9.04(c).

"Participant Register" has the meaning assigned to such term in Section 9.04(c).

"Participation Advance" shall have the meaning set forth in Section 2.06(d) hereof.

"Payment Conditions" means, at the time of determination with respect to any specified transaction or payment, that:

(a) no Default or Event of Default then exists or would arise as a result of entering into such transaction or the making such payment;

(b) immediately after giving effect to such transaction or payment, one of the following tests shall be satisfied:

(i) (1) Availability for the thirty (30) consecutive day period immediately preceding such specified transaction or payment shall not have been less than the greater of $112,500,000 and 15% of the Maximum Credit Amount, and (2) Availability on the date of such specified transaction or payment shall not be less than the greater of such amounts; or

(ii) (1) no Revolving Loans shall have been outstanding for the 30 consecutive day period immediately preceding such specified transaction or payment, and (2) such transaction or payment is to be funded solely with cash on hand; and

(c) the Administrative Agent shall have received a certificate from a Responsible Officer of the Borrower Representative, including an updated Borrowing Base Certificate (as applicable), certifying as to compliance with the preceding clauses and demonstrating (in reasonable detail) the calculations required thereby; provided that no such certificate shall be required for any transaction made in reliance on the Payment Conditions with a value of less than $11,250,000.

"Payment Office" means initially PNC Firstside Center, 500 First Ave., 4th Floor, Pittsburgh, PA 15219, REF: BIG LOTS STORES LLC; thereafter, such other office of Administrative Agent, if any, which it may designate by written notice to the Borrower Representative and to each Lender to be the Payment Office.

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Permitted Acquisition" means any Acquisition by the Company or any Restricted Subsidiary in a transaction that satisfies each of the following requirements:

(a) if a Loan Party is acquiring the ownership interests in a Domestic Subsidiary (other than an Excluded Subsidiary), such Person shall execute a Joinder Agreement and such other documents required by Section 5.14 and join this Agreement as a Borrower or Guarantor pursuant to Section 5.14;

(b) the board of directors or other equivalent governing body of such Person shall have approved such Acquisition and the Loan Parties also shall have delivered to the Administrative Agent and the Lenders written evidence of the approval of the board of directors (or equivalent body) of such Person for such Acquisition;

(c) each applicable Governmental Authority shall have approved such Acquisition to the extent necessary to consummate such Acquisition and the Loan Parties shall have delivered to the Administrative Agent and the Lenders written evidence of the approval of such Governmental Authority or such Acquisition;

(d) the business, division, product line or line of business acquired, or the business conducted by the Person whose ownership interests are being acquired, as applicable, shall be engaged in a business otherwise permitted to be engaged in by a Loan Party under this Agreement;

(e) as of the date of the execution of the definitive acquisition agreement, no Default exists, will exist, or would result therefrom;

(f) excluding Acquisitions with respect to which the Consideration less than $56,250,000, the Loan Parties shall deliver to the Administrative Agent at least five (5) days before (or such shorter timeframe as may be agreed to by the Administrative Agent in its sole discretion) such Acquisition (i) notice of such Acquisition and (ii) copies of (x) any agreements entered into or proposed to be entered into by such Loan Parties in connection with such Acquisition, (y) such other information about such Person or its assets as the Administrative Agent or any Lender may reasonably require;

(g) if such Acquisition is an acquisition of Equity Interests, such Acquisition will not result in any violation of Regulation U; and

(h) either (i) the Loan Parties shall have satisfied the Payment Conditions before and immediately after giving effect to such Acquisition or (ii) the aggregate Consideration for all such Permitted Acquisitions in reliance on this sub-clause (ii) does not exceed $45,000,000 after the Closing Date.

"Permitted Discretion" means a determination made by the Administrative Agent in the exercise of its reasonable (from the perspective of a secured asset-based lender) credit judgment, exercised in good faith in accordance with customary business practices in the retail industry.

"Permitted Investments" means:

(1) any Investment in the Company or any Restricted Subsidiary; provided that the aggregate amount of Investments by Loan Parties in Restricted Subsidiaries that are not Loan Parties in reliance on this Clause (1) shall not exceed (when combined with Investments made by Loan Parties in Subsidiaries that are not (or do not become in connection with such transaction) Loan Parties in reliance on Clauses (3), (21) and (22) of the definition of Permitted Investments) $30,000,000; provided that, upon written notice from a Responsible Officer of the Borrower Representative to the Administrative Agent, the dollar amounts set forth in the foregoing proviso shall be reset at $30,000,000 on any such date as the

Payment Conditions become satisfied (it being understood that such written notice shall include an updated Borrowing Base Certificate (as applicable) and calculations (in reasonable detail) demonstrating compliance with the Payment Conditions); provided, further that, with respect to any such Investment (in a single transaction or a series of related transactions) consisting of assets constituting ABL Priority Collateral of the type eligible to be included in the Borrowing Base that decreases the Borrowing Base by $5,625,000 or more (after giving effect thereto), the Borrower Representative shall have first delivered an updated Borrowing Base Certificate to the Administrative Agent giving pro forma effect to such Investment and demonstrating pro forma compliance with Section 6.12;

(2) any Investment in (A) cash, (B) Cash Equivalents, (C) short term tax-exempt securities rated not lower than BBB by S&P, Baa2 by Moody's or an equivalent rating by Fitch with provisions for liquidity or maturity accommodations of two (2) years or less; (D) investments in other readily marketable securities (excluding any equity or equity-linked securities other than auction rate preferred securities) which are rated P1 or P2 by Moody's, A1 or A2 by S&P or F1 or F2 by Fitch (in lieu of a short term rating, a long term rating of not less than A2 by Moody's, A by S&P or an equivalent rating by Fitch would qualify under this sub-clause (vii), provided that no such security position shall exceed five percent (5%) of the invested cash portfolio of the Loan Parties); and (E) in the case of investments by any Foreign Subsidiary, obligations of a credit quality and maturity comparable to that of the items referred to in clauses (B) through (D) above that are available in local markets;

(3) any Permitted Acquisition; provided that the aggregate amount of Investments by Loan Parties in Restricted Subsidiaries that are not Loan Parties (or do not merge into a Loan Party in connection with such transaction) in reliance on this Clause (3) shall not exceed (when combined with Investments made by Loan Parties in Subsidiaries that are not (or do not become in connection with such transaction) Loan Parties in reliance on Clauses (1), (21) and (22) of the definition of Permitted Investments) $30,000,000; provided, further that, upon written notice from a Responsible Officer of the Borrower Representative to the Administrative Agent, the dollar amount set forth in the foregoing proviso shall be reset at $30,000,000 on any such date as the Payment Conditions become satisfied (it being understood that such written notice shall include an updated Borrowing Base Certificate (as applicable) and calculations (in reasonable detail) demonstrating compliance with the Payment Conditions); provided, further that, with respect to any such Investment (in a single transaction or a series of related transactions) consisting of assets constituting ABL Priority Collateral of the type eligible to be included in the Borrowing Base that decreases the Borrowing Base by $5,625,000 or more (after giving effect thereto), the Borrower Representative shall have first delivered an updated Borrowing Base Certificate to the Administrative Agent giving pro forma effect to such Investment and demonstrating pro forma compliance with Section 6.12;

(4) any Investment in securities or other assets not constituting cash or Cash Equivalents and received in connection with any disposition of assets permitted by Section 6.04;

(5) any Investment existing on the date hereof or an Investment consisting of any extension, modification or renewal of any Investment existing on the date hereof; provided that the amount of any such Investment may be increased (x) as required by the terms of such Investment as in existence on the date hereof to the extent set forth Schedule 6.02 or (y) as otherwise permitted under this Agreement;

(6) loans and advances to officers, directors, employees or consultants of the Company or any of its Subsidiaries (i) in the ordinary course of business in an aggregate outstanding amount (valued at the time of the making thereof, and without giving effect to any write-downs or write-offs thereof) not to exceed $11,250,000 at the time of Incurrence, (ii) in respect of payroll payments and expenses in the ordinary course of business and (iii) in connection with such Person's purchase of Equity Interests of the Company or any direct or indirect parent of the Company solely to the extent that the amount of such loans and advances shall be contributed to the Company in cash as common equity;

(7) any Investment acquired by the Company or any Restricted Subsidiary (a) in exchange for any other Investment or accounts receivable held by the Company or such Restricted Subsidiary in connection with or as a result of a bankruptcy, workout, reorganization or recapitalization of the issuer of such other Investment or accounts receivable, or (b) as a result of a foreclosure by the Company or any Restricted Subsidiary with respect to any secured Investment or other transfer of title with respect to any secured Investment in default, or as a result of a Bail-In Action with respect to any contractual counterparty of the Company or any Restricted Subsidiary;

(8) any Investment acquired by the Company or any Subsidiary in the settlement of overdue Indebtedness and accounts payable owed to a Loan Party or a Subsidiary in the ordinary course of business and for amounts which, individually and in the aggregate, are not material to the Loan Parties or their Subsidiaries;

(9) Swap Agreement Obligations permitted under Section 6.01(j);

(10) additional Investments by the Company or any Restricted Subsidiary having an aggregate Fair Market Value (as determined in good faith by the Company), taken together with all other Investments made pursuant to this clause (10) that are at that time outstanding, not to exceed $30,000,000; provided, however, that if any Investment pursuant to this clause (10) is made in any Person that is not a Loan Party at the date of the making of such Investment and such Person becomes a Loan Party after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (10) for so long as such Person continues to be a Loan Party;

(11) [Reserved];

(12) Investments the payment for which consists of Equity Interests of the Company (other than Disqualified Stock);

(13) any transaction to the extent it constitutes an Investment that is permitted by and made in accordance with the provisions of Section 6.05 (except transactions described in clauses (a), (b), (c), (e), (f), (g), (i) or (m) of Section 6.05);

(14) guarantees issued in accordance with Section 6.01, including, without limitation, any guarantee or other obligation issued or incurred under this Agreement in connection with any letter of credit issued for the account of the Company or any of its Restricted Subsidiaries (including with respect to the issuance of, or payments in respect of drawings under, such letters of credit);

(15) Investments consisting of purchases and acquisitions of inventory, supplies, materials, services or equipment or purchases of contract rights or licenses or leases of in-bound intellectual property (including, without limitation, Investments made in connection with a Similar Business), in each case, in the ordinary course of business;

(16) [Reserved];

(17) [Reserved];

(18) Investments of a Restricted Subsidiary acquired after the date hereof or of an entity merged into, amalgamated with, or consolidated with a Loan Party or a Restricted Subsidiary in a transaction that is not prohibited by Section 6.08 after the date hereof to the extent that such Investments

were not made in contemplation of such acquisition, merger, amalgamation or consolidation and were in existence on the date of such acquisition, merger, amalgamation or consolidation;

(19) Investments in the ordinary course of business consisting of UCC Article 3 endorsements for collection or deposit and UCC Article 4 customary trade arrangements with customers;

(20) advances in the form of a prepayment of expenses in the ordinary course of business, so long as such expenses are being paid in accordance with customary trade terms of the Company or the Restricted Subsidiaries;

(21) Investments in Joint Ventures or Unrestricted Subsidiaries having an aggregate Fair Market Value (as determined in good faith by the Company), taken together with all other Investments made pursuant to this clause (21) that are at that time outstanding, not to exceed (x) $30,000,000, plus (y) an amount equal to any returns (including dividends, interest, distributions, returns of principal, profits on sale, repayments, income and similar amounts) actually received in respect of any such Investment (with the Fair Market Value of each Investment being measured at the time made and without giving effect to subsequent changes in value); provided that the aggregate amount of Investments made by Loan Parties in reliance on this Clause (21) shall not exceed (when combined with Investments made by Loan Parties in Subsidiaries that are not (or do not become in connection with such transaction) Loan Parties in reliance on Clauses (1), (3) and (22) of the definition of Permitted Investments) $30,000,000; provided, further that, upon written notice from a Responsible Officer of the Borrower Representative to the Administrative Agent, the dollar amount set forth in the foregoing proviso shall be reset at $30,000,000 on any such date as the Payment Conditions become satisfied (it being understood that such written notice shall include an updated Borrowing Base Certificate (as applicable) and calculations (in reasonable detail) demonstrating compliance with the Payment Conditions); provided, however, that if any Investment pursuant to this clause (21) is made in any Person that is not a Loan Party at the date of the making of such Investment and such Person becomes a Loan Party after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (21) for so long as such Person continues to be a Loan Party; provided, further that, with respect to any such Investment (in a single transaction or a series of related transactions) consisting of assets constituting ABL Priority Collateral of the type eligible to be included in the Borrowing Base that decreases the Borrowing Base by $5,625,000 or more (after giving effect thereto), the Borrower Representative shall have first delivered an updated Borrowing Base Certificate to the Administrative Agent giving pro forma effect to such Investment and demonstrating pro forma compliance with Section 6.12;

(22) any Investment in any Subsidiary of the Company or any Joint Venture in connection with intercompany cash management arrangements or related activities arising in the ordinary course of business; provided that the aggregate amount of Investments made by Loan Parties in Subsidiaries or joint ventures that are not Loan Parties in reliance on this Clause (22) shall not exceed (when combined with Investments made by Loan Parties in Subsidiaries that are not (or do not become in connection with such transaction) Loan Parties in reliance on Clauses (1), (3) and (21) of the definition of Permitted Investment) $30,000,000; provided, further that, upon written notice from a Responsible Officer of the Borrower Representative to the Administrative Agent, the dollar amount set forth in the foregoing proviso shall be reset at $30,000,000 on any such date as the Payment Conditions become satisfied (it being understood that such written notice shall include an updated Borrowing Base Certificate (as applicable) and calculations (in reasonable detail) demonstrating compliance with the Payment Conditions); provided, however, that if any Investment pursuant to this clause (22) is made in any Person that is not a Loan Party at the date of the making of such Investment and such Person becomes a Loan Party after such date, such Investment shall thereafter be deemed to have been made pursuant to clause (1) above and shall cease to have been made pursuant to this clause (22) for so long as such Person continues to be a Loan Party;

(23) trade credit extended on usual and customary terms in the ordinary course of business;

(24) Guarantees of any Loan Party or any Restricted Subsidiary of leases or of other obligations that do not constitute Indebtedness, in each case entered into in the ordinary course of business; and

(25) subject to Pro Forma Compliance with the Payment Conditions, any other Investments.

"Permitted Liens" means, with respect to any Person:

(1) pledges, bonds or deposits and other Liens granted by such Person under workmen's compensation laws, unemployment or employment insurance laws, old age pensions or similar legislation or programs, or good faith deposits in connection with bids, tenders, contracts (other than for the payment of Indebtedness (it being understood that Indebtedness permitted pursuant to Section 6.01(cc) and other obligations in respect of cash management services shall not constitute Indebtedness for purposes of this clause (1))) or leases to which such Person is a party, or deposits to secure public or statutory obligations of such Person or deposits of cash or U.S. government bonds to secure surety or appeal bonds, performance and return of money bonds, or deposits as security for contested Taxes or import duties or payments of rent, in each case Incurred in the ordinary course of business;

(2) (a) Liens imposed by law and landlords', carriers', warehousemen's, mechanics', materialmen's, repairmen's, construction, or other like Liens, (b) Liens of customs brokers, freight forwarders and common carriers, (c) [reserved], and (d) statutory and common law Liens of landlords, in each case securing obligations that are not overdue by more than forty-five (45) days or that are being contested in good faith by appropriate proceedings or other Liens arising out of judgments or awards against such Person with respect to which such Person shall then be proceeding with an appeal or other proceedings for review;

(3) Liens for Taxes not yet overdue by more than forty-five (45) days (or, with respect to real estate Taxes, any longer period before delinquency), or that are being contested in good faith by appropriate proceedings, if adequate reserves with respect thereto have been provided in accordance with GAAP;

(4) deposits or escrows to secure performance and surety bonds or bid bonds or with respect to other regulatory requirements or letters of credit, bankers' acceptances or similar obligations (other than Indebtedness for borrowed money (it being understood that Indebtedness permitted pursuant to Section 6.01(cc) and other obligations in respect of cash management services shall not constitute Indebtedness for purposes of this clause (4))) issued pursuant to the request of and for the account of any Person in the ordinary course of business;

(5) any state of facts as shown by any professional survey or physical inspection of any owned or leased real property, minor encumbrances, minor encroachments, trackage rights, special and supplemental assessments, easements or reservations of, or rights of others for licenses, rights-of-way, sewers, electric lines, telegraph and telephone lines, communication towers, other utilities and other similar purposes, servicing agreements, development agreements, site plan agreements, land use and air rights agreements, reservations, restrictions and leases for mineral and water rights, all title exceptions, exclusions and encumbrances in existence with respect to all owned or leased real property as of the date of this Agreement at the time of acquisition of any interest in real property acquired after the date of this Agreement and in existence at the time of such acquisition, and other similar liens, charges and encumbrances incurred

in the ordinary course of business, or title defects or irregularities that are of a minor nature or zoning or other restrictions as to the use of real properties or Liens incidental to the conduct of the business of such Person or to the ownership of its properties which were not Incurred in connection with Indebtedness and in each case which do not in the aggregate with respect to any particular real property materially adversely affect the value of said properties and materially impair their use in the operation of the business of such Person as of the date of this Agreement or the date of any future acquisition as the case may be;

(6) (A) Liens on assets of a Subsidiary that is not a Loan Party securing Indebtedness of a Subsidiary that is not a Loan Party permitted to be Incurred pursuant to Section 6.01;

(B) [Reserved];

(C) Liens securing obligations in respect of Indebtedness permitted to be Incurred pursuant to clause (d) or (m) (to the extent such guarantees are issued in respect of any Indebtedness) of Section 6.01; provided that, in the case of clause (m) any Lien on the Collateral in reliance on this clause (6)(C) shall be junior to the Liens on the Collateral securing the Obligations pursuant to any ABL Intercreditor Agreement and/or a junior lien intercreditor agreement or collateral trust agreement reasonably satisfactory to the Administrative Agent and the Required Lenders reflecting the junior-lien status of the Liens securing such Indebtedness as it relates to Collateral;

(D) [Reserved];

(E) Liens created pursuant to the Collateral Documents or otherwise securing the Obligations;

(7) any Lien existing on the date of this Agreement and described on Schedule 6.07, provided that the principal amount secured thereby is not hereafter increased, and no additional assets become subject to such Lien (except pursuant to the terms of the agreements governing such Lien as in effect on the date of this Agreement);

(8) Liens on assets, property or shares of stock of a Person at the time such Person becomes a Subsidiary; provided, however, that such Liens are not created or Incurred in connection with, or in contemplation of, such other Person becoming such a Subsidiary; provided, further, however, that such Liens may not extend to any other property owned by the Company or any Restricted Subsidiary (other than pursuant to after-acquired property clauses in effect with respect to such Lien at the time of acquisition on property of the type that would have been subject to such Lien notwithstanding the occurrence of such acquisition);

(9) Liens on assets or property at the time the Company or a Restricted Subsidiary acquired the assets or property, including any acquisition by means of a merger, amalgamation or consolidation with or into the Company or any Restricted Subsidiary; provided, however, that such Liens are not created or Incurred in connection with, or in contemplation of, such acquisition; provided, further, however, that the Liens may not extend to any other property owned by the Company or any Restricted Subsidiary (other than pursuant to after-acquired property clauses in effect with respect to such Lien at the time of acquisition on property of the type that would have been subject to such Lien notwithstanding the occurrence of such acquisition);

(10) [Reserved];

(11) Liens on not more than $22,500,000 of deposits securing Swap Agreement Obligations which were not incurred in violation of this Agreement;

(12) [Reserved];

(13) leases, subleases, licenses and sublicenses of real property which do not materially interfere with the ordinary conduct of the business of the Company or any of the Subsidiaries, and all Liens created or purported to be created by any lessee, sublesse, licensee or sublicensee of any Loan Parties in violation of any applicable lease, sublease, licensee or sublicensee, without the express permission of such Loan Parties;

(14) Liens arising from UCC financing statement filings regarding operating leases or other obligations not constituting Indebtedness (it being understood that Indebtedness permitted pursuant to Section 6.01(cc) and other obligations in respect of cash management services shall not constitute Indebtedness for purposes of this clause (14));

(15) Liens in favor of any Loan Party;

(16) [Reserved];

(17) pledges and deposits made in the ordinary course of business to secure liability to insurance carriers;

(18) Liens on the Equity Interests of Unrestricted Subsidiaries;

(19) (a) leases or subleases, and licenses or sublicenses (including with respect to intellectual property) granted to others in the ordinary course of business, in all such cases, not interfering in any material respect with the business of the Company and the Subsidiaries, taken as a whole and (b) and Liens on real property which is not owned but is leased or subleased by the Company or any Restricted Subsidiary;

(20) Liens to secure any refinancing, future advance, increase, cross-collateralization, refunding, extension, renewal or replacement (or successive refinancings, refundings, extensions, renewals or replacements) as a whole, or in part, of any Indebtedness secured by any Lien referred to in clauses 6(C), (7), (8), (9), (11), and (35) of this definition; provided, however, that (x) such new Lien shall be limited to all or part of the same property (including any after acquired property to the extent it would have been subject to the original Lien) that secured the original Lien (plus improvements on and accessions to such property, proceeds and products thereof, customary security deposits and any other assets pursuant to the after-acquired property clauses to the extent such assets secured (or would have secured) the Indebtedness being refinanced, refunded, extended, renewed or replaced), and (y) the Indebtedness secured by such Lien at such time is not increased to any amount greater than the sum of (A) the outstanding principal amount (or accreted value, if applicable) described under clauses 6(C), (7), (8), (9), (11) and (35) of this definition at the time the original Lien became a Permitted Lien under this Agreement and, in the case of any Lien on Collateral, shall not have a greater priority level with respect to Liens securing the Obligations that the Liens securing the Indebtedness so refinanced, refunded, extended, renewed or replaced, (B) unpaid accrued interest and premiums (including tender premiums), and (C) an amount necessary to pay any underwriting discounts, defeasance costs, commissions, fees and expenses related to such refinancing, refunding, extension, renewal or replacement; provided, further, however, that in the case of Liens to secure any refinancing, refunding, extension or renewal of Indebtedness secured by a Lien referred to in clause (8) or (9), such new Lien shall have priority equal to or more junior than the Lien securing such refinanced, refunded, extended or renewed Indebtedness;

(21) [Reserved];

(22) judgment and attachment Liens not giving rise to an Event of Default and notices of lis pendens and associated rights related to litigation being contested in good faith by appropriate proceedings and for which adequate reserves have been made;

(23) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale or purchase of goods entered into in the ordinary course of business or in connection with a Similar Business;

(24) Liens incurred to secure cash management services or to implement cash pooling arrangements in the ordinary course of business;

(25) Liens in favor of credit card issuers or credit card processors pursuant to agreements therewith;

(26) any encumbrance or restriction (including put and call arrangements) with respect to Equity Interests of any Joint Venture or similar arrangement securing obligations of such Joint Venture or pursuant to any joint venture agreement or similar agreement;

(27) any amounts held by a trustee in the funds and accounts under any indenture issued in escrow pursuant to customary escrow arrangements pending the release thereof, or under any indenture pursuant to customary discharge, redemption or defeasance provisions;

(28) Liens (i) arising by virtue of any statutory or common law provisions relating to banker's Liens, rights of set-off or similar rights and remedies as to deposit accounts or other funds maintained with a depository or financial institution, (ii) attaching to commodity trading accounts or other commodity brokerage accounts incurred in the ordinary course of business or (iii) encumbering reasonable customary initial deposits and margin deposits and similar Liens attaching to brokerage accounts incurred in the ordinary course of business and not for speculative purposes;

(29) Liens that are contractual rights of set-off relating to pooled deposits, sweep accounts, reserve accounts or similar accounts of the Company or any Restricted Subsidiary to permit satisfaction of overdraft or similar obligations incurred in the ordinary course of business of the Company or any Restricted Subsidiary, including with respect to credit card charge-backs and similar obligations;

(30) Liens disclosed by the title reports, commitments or title insurance policies delivered pursuant to (a) an Other Secured Debt Loan Agreement (if any), and, in each case, any replacement, modification, date down, extension or renewal of any such Lien; provided that such replacement, modification, date down, extension or renewal Lien shall not cover any property other than the property that was subject to such Lien prior to such replacement, modification, date down, extension or renewal; provided, further, that the Indebtedness and other obligations secured by such replacement, modification, date down, extension or renewal Lien are permitted as security for Other Secured Debt Obligations under this Agreement; and (b) the acquisition of any interest of any Loan Party in real property acquired after the date of this Agreement and in existence at the time of such acquisition (and not created or suffered expressly in anticipation of such acquisition);

(31) Liens that are contractual rights of set-off relating to purchase orders and other agreements entered into with customers, suppliers or service providers of the Company or any Restricted Subsidiary in the ordinary course of business;

(32) in the case of real property that constitutes a leasehold or subleasehold interest, (x) any Lien to which the fee simple interest (or any superior leasehold interest) is or may become subject

and any subordination of such leasehold or subleasehold interest to any such Lien in accordance with the terms and provisions of the applicable leasehold or subleasehold documents, and (y) any right of first refusal, right of first negotiation or right of first offer which is granted to the lessor or sublessor;

(33) agreements to subordinate any interest of the Company or any Restricted Subsidiary in any accounts receivable arising from inventory consigned by the Company or any such Restricted Subsidiary pursuant to an agreement entered into in the ordinary course of business;

(34) Liens securing insurance premium financing arrangements; provided that such Liens are limited to the applicable unearned insurance premiums;

(35) Liens on the Collateral securing any Other Secured Debt Obligations (if any) and the related Guarantees, which Liens shall have the priority set forth in any ABL Intercreditor Agreement;

(36) Liens on securities that are the subject of repurchase agreements constituting Cash Equivalents under clause (e) of the definition thereof;

(37) Liens upon real or personal property, including any attachment thereof, prior to adjudication of a dispute on the merits;

(38) [Reserved];

(39) Liens in favor of landlords on leasehold improvements financed by allowances or advances provided by such landlords pursuant to lease arrangements;

(40) Liens on proceeds in an aggregate amount not to exceed $11,250,000 at any one time outstanding granted in connection with securities lending transactions or reverse repurchase agreements involving United States Treasury bonds;

(41) Liens securing other obligations of the Loan Parties and their Restricted Subsidiaries in an aggregate amount not to exceed $45,000,000 at any one time outstanding;

(42) [Reserved]; and

(43) Liens created in connection with any Sale/Leaseback Transaction permitted by Section 6.04.

"Person" means any natural person, corporation, limited liability company, unlimited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" means any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which any Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Plan Asset Regulations" means 29 CFR § 2510.3-101 et seq., as modified by Section 3(42) of ERISA, as amended from time to time.

"PNC" means PNC Bank, National Association, a national banking association, and shall include its branches, as applicable, and its successors.

"Preferred Stock" means any Equity Interest with preferential right of payment of dividends or upon liquidation, dissolution, or winding up.

"Prime Rate" means the base commercial lending rate of PNC (or any successor Administrative Agent as provided herein) as publicly announced to be in effect from time to time. Each change in the Prime Rate shall be adjusted automatically, without notice, and effective from and including the date such change is publicly announced as being effective. This rate of interest is determined from time to time by PNC or the successor Administrative Agent, as applicable, as a means of pricing some loans to its customers and is neither tied to any external rate of interest or index nor does it necessarily reflect the lowest rate of interest actually charged by PNC or the successor Administrative Agent, as applicable, to any particular class or category of customers of PNC or the successor Administrative Agent, as applicable.

"Pro Forma Compliance" means, with respect to any determination for any period and any transaction, that such determination shall be made by giving pro forma effect to each such transaction, as if each such transaction had been consummated on the first day of such period, based on, in the case of determinations made in reliance on pro-forma financial statement calculations only, historical results accounted for in accordance with GAAP and, to the extent applicable, reasonable assumptions that are specified in detail in the relevant compliance certificate, financial statement or other document provided to the Administrative Agent or any Lender in connection herewith (which shall be prepared by the Company in good faith (subject to the approval of the Administrative Agent, not to be unreasonably withheld)) and for such purposes historical financial statements shall be recalculated as if such transaction had been consummated at the beginning of the applicable period, and any Indebtedness or other liabilities to be incurred, assumed or repaid had been incurred, assumed or repaid at the beginning of such period (and assuming that such Indebtedness to be incurred bears interest during any portion of the applicable measurement period prior to the relevant acquisition at the weighted average of the interest rates applicable to such Indebtedness incurred during such period) and, to the extent pro forma financial statements are required to be prepared by the Company under Regulation S-X of the Securities Act of 1933 ("Reg. S-X") reflecting such transaction for any period, all pro forma calculations made hereunder with respect to such transaction and for such period shall be in conformity with Reg. S-X at all times after such pro-forma financial statements reflecting such transactions are required to be filed by the Company under Reg. S-X.

"Progressive Leasing" means Prog Finance, LLC (or any successor thereto or assignee thereof).

"Progressive Leasing Documents" means that certain Amended and Restated Merchant Agreement dated as of March 27, 2014, between Big Lots Stores, LLC and Progressive Leasing and any other documents delivered in connection therewith, as the same may be amended, modified supplemented or restated from time to time.

"Projections" has the meaning assigned to such term in Section 3.06(b).

"Protective Advance" has the meaning assigned to such term in Section 2.04.

"Public-Sider" means any representative of a Lender that does not want to receive material non- public information within the meaning of federal and state securities laws.

"QFC" has the meaning set forth in Section 9.29.

"QFC Credit Support" has the meaning set forth in Section 9.29.

"Qualified ECP Guarantor" means, in respect of any Swap Obligation, each Loan Party that has assets exceeding $10,000,000 at the time the relevant Loan Guaranty or grant of the relevant security

interest becomes or would become effective with respect to such Swap Obligation or such other person as constitutes an "eligible contract participant" under the Commodity Exchange Act or any regulations promulgated thereunder and can cause another person to qualify as an "eligible contract participant" at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Qualified Counterparties" means each Administrative Agent, each Lender and each Affiliate of a Lender.

"Real Estate" means all leases and all land, together with the buildings, structures, parking areas, and other improvements thereon, now or hereafter owned by any Loan Party or any Restricted Subsidiary, as the context may require, including all easements, rights-of-way, and similar rights relating thereto and all leases, tenancies, and occupancies thereof.

"Recipient" means, as applicable, (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, or any combination thereof (as the context requires).

"Register" has the meaning assigned to such term in Section 9.04.

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

"Release" means any releasing, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, disposing or dumping of any Hazardous Material into the Environment.

"Relevant Entity" means (a) each Loan Party and each Subsidiary of any Loan Party, and (b) each Person that, directly or indirectly, is in control of a Person described in clause (a) above. For purposes of this definition, control of a Person means the direct or indirect (x) ownership of, or power to vote, twenty- five percent (25%) or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.

"Relevant Governmental Body" means (a) with respect to a Benchmark Replacement in respect of Loans denominated in U.S. Dollars, the Board and/or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the Board or the Federal Reserve Bank of New York, or any successor thereto, and (b) with respect to a Benchmark Replacement in respect of Loans denominated in any Alternative Currency, (1) the central bank for the Currency in which such Benchmark Replacement is denominated or any central bank or other supervisor which is responsible for supervising either (A) such Benchmark Replacement or (B) the administrator of such Benchmark Replacement or (2) any working group or committee officially endorsed or convened by (A) the central bank for the Currency in which such Benchmark Replacement is denominated, (B) any central bank or other supervisor that is responsible for supervising either (i) such Benchmark Replacement or (ii) the administrator of such Benchmark Replacement, (C) a group of those central banks or other supervisors or (D) the Financial Stability Board or any part thereof.

"Relevant Plan" has the meaning set forth in Section 9.04(e).

"Rent Reserve" means, with respect to any store, warehouse distribution center, regional distribution center or depot where any Inventory subject to Liens arising by operation of law is located and,

at all times after the ninetieth (90th) day after the Closing Date (subject to the extension under Section 5.16), no Collateral Access Agreement for such location has been obtained, a reserve equal to two (2) months' rent at such store, warehouse distribution center, regional distribution center or depot.

"Report" means reports prepared by the Administrative Agent or another Person showing the results of appraisals, field examinations or audits pertaining to the assets of the Loan Parties from information furnished by or on behalf of the Borrowers, after the Administrative Agent has exercised its rights of inspection pursuant to this Agreement, which Reports may be distributed to the Lenders by the Administrative Agent.

"Reportable Compliance Event" means that any Relevant Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint or similar charging instrument, arraigned, or custodially detained in connection with any Anti-Terrorism Law or any predicate crime to any Anti-Terrorism Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations is in actual or probable violation of any Anti-Terrorism Law.

"Required Lenders" means, at any time, Lenders (other than Defaulting Lenders) having Revolving Exposures and unused Commitments representing more than 50% of the sum of the Aggregate Credit Exposure and unused Commitments at such time.

"Requirement of Law" means, with respect to any Person, (a) the charter, articles or certificate of organization or incorporation and bylaws or other organizational or governing documents of such Person and (b) any statute, law (including common law), treaty, rule, regulation, code, ordinance, order, decree, writ, judgment, injunction or determination of any arbitrator or court or other Governmental Authority (including Environmental Laws), in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

"Reserves" means (a) without duplication of any other Reserves or items that are otherwise addressed through eligibility criteria, any reserves which the Administrative Agent deems necessary, in its Permitted Discretion, (i) to reflect impediments to the Administrative Agent's ability to realize upon the Collateral, (ii) to reflect claims and liabilities that the Administrative Agent determines will need to be satisfied in connection with the realization upon the ABL Priority Collateral of the type eligible to be included in the Borrowing Base, or (iii) to reflect criteria, events, conditions, contingencies or risks which adversely affect any component of the Borrowing Base, or the assets, business, financial performance or financial condition of any Loan Party, including, for example, reserves for accrued and unpaid interest on the Obligations, Rent Reserves, reserves for loyalty programs, reserves for outstanding gift certificates and gift cards of the Loan Parties entitling the holder thereof to use all or a portion of the certificate or gift card to pay all or a portion of the purchase price for any Inventory, reserves for consignee's, warehousemen's, mortgagee's and bailee's charges, reserves for deferred, unpaid rent obligations with respect to the Loan Parties' leases of real property to the extent the applicable Loan Party and Landlord have not entered into a written agreement providing for a payment plan for, or waiver of, such deferred rent obligations, reserves for dilution of Credit Card Accounts, reserves for layaway deposits, reserves for payables to vendors entitled to the benefits of PACA or any similar statute or regulation, reserves for customs charges and shipping charges and other foreign landing costs related to any Inventory in transit, reserves for expenses associated with merchandise repurpose processing, and reserves for outstanding taxes, fees, assessments, and other governmental charges, (b) Banking Services/Swap Reserves, and (c) reserves with respect to obligations under the Synthetic Lease Agreement and, as determined by the Administrative Agent in Permitted Discretion, the Supply Chain Financing Agreement. Notwithstanding anything to the contrary contained herein, unless otherwise agreed to by the Administrative Agent and all Lenders who are participants in the Synthetic Lease Agreement, Reserves shall, at all times, include a Reserve in the amount of the obligations then owing under the Synthetic Lease Agreement.

The Administrative Agent may, in its Permitted Discretion and with no less than five (5) Business Days' prior written notice to the Borrower Representative (other than during a Dominion Period in which case notice shall not be required), adjust Reserves, provided that, if after the delivery of such notice the Borrower Representative notifies the Administrative Agent that it desires to discuss the Reserves described therein, then the Administrative Agent will discuss such Reserves with the Borrower Representative, provided that nothing in this proviso shall obligate the Administrative Agent to eliminate, reduce, or delay any such Reserves; provided, that no Borrowings shall be permitted (or Letters of Credit issued) against the newly proposed Reserves during any such five (5) Business Day period.

"Resolution Authority" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Responsible Officer" means, with respect to any Loan Party, the Chief Executive Officer, President, Chief Financial Officer, Treasurer or Assistant Treasurer of such Loan Party, any other executive officer, including any Executive Vice President or Senior Vice President of such Loan Party, any Vice President of any Restricted Subsidiary of such Loan Party, any manager or the members (as applicable) in the case of any Loan Party which is a limited liability company, and such other individuals, designated by written notice to the Administrative Agent from the Borrower Representative, authorized to execute notices, reports and other documents on behalf of such Loan Party required hereunder. The Borrower Representative may amend such list of individuals from time to time by giving written notice of such amendment to the Administrative Agent. Any document delivered hereunder that is signed by a Responsible Officer of a Loan Party shall be conclusively presumed to have been authorized by all necessary corporate, partnership and/or other action on the part of such Loan Party and such Responsible Officer shall be conclusively presumed to have acted on behalf of such Loan Party in their capacity as an officer of such Loan Party and not in any individual capacity.

"Refinancing Indebtedness" has the meaning specified in Section 6.01(n).

"Restricted Investment" means any Investment that is not a Permitted Investment.

"Restricted Payments" has the meaning specified in Section 6.02(a).

"Restricted Subsidiary" means, with respect to any Person, any Subsidiary of such Person other than an Unrestricted Subsidiary of such Person. Unless the context otherwise requires, the term "Restricted Subsidiary" shall mean a Restricted Subsidiary of the Company. Each Loan Party (other than the Company) shall constitute a Restricted Subsidiary.

"Revaluation Date" means (a) with respect to each Borrowing of a Term Rate Loan denominated in an Alternative Currency, (i) each date of a borrowing, renewal, and conversion pursuant to the terms of this Agreement and (ii) such additional dates as the Administrative Agent shall determine or the Required Lenders shall require; and (b) with respect to each Borrowing of a Daily Rate Loan denominated in an Alternative Currency, each date such Daily Rate Loan is outstanding.

"Revolving Exposure" means, with respect to any Lender at any time, the sum of (a) the outstanding principal amount of such Lender's Revolving Loans, LC Exposure, Participation Advances, and Swingline Exposure at such time, *plus* (b) an amount equal to its Applicable Percentage of the aggregate principal amount of Overadvances and Protective Advances outstanding at such time.

"Revolving Exposure Limitations" has the meaning set forth in Section 2.01.

"Revolving Loan" means a Loan made pursuant to Section 2.01(a).

"RFR" means, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to, Euro, €STR.

"RFR Adjustment" means with respect to RFR Loans or Term RFR Loans, the adjustment set forth in the table below corresponding to such Alternative Currency for the corresponding Daily Simple RFR Option or Term RFR Option:

Currency	Adjustment to Daily Simple RFR	Adjustment to Term RFR
Euros	0.0456%	0.0456%

"RFR Administrator" means the €STR Administrator.

"RFR Business Day" means as applicable, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to Euro, a TARGET Day.

"RFR Day" has the meaning specified in the definition of "Daily Simple RFR".

"RFR Loan" means a Loan that bears interest at a rate based on Daily Simple RFR or, after the replacement of the then-current Benchmark for any Currency for all purposes hereunder or under any Loan Document with Term RFR pursuant to Section 2.14(d), Term RFR for such Currency, as the context may require.

"RFR Reserve Percentage" means as of any day, the maximum effective percentage in effect on such day, if any, as prescribed by the Board (or any successor) for determining the reserve requirements (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to RFR Loans.

"S&P" means Standard & Poor's Ratings Services, a Standard & Poor's Financial Services LLC business.

"Sale/Leaseback Transaction" means an arrangement relating to property now owned or hereafter acquired by a Loan Party or a Restricted Subsidiary whereby such Loan Party or Restricted Subsidiary transfers such property to a Person and such Loan Party or Restricted Subsidiary leases it from such Person, other than leases between any Loan Party and a Restricted Subsidiary or between Restricted Subsidiaries.

"Sanctioned Country" means, at any time, a country, region or territory which is the subject or target of any Sanctions.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or by the United Nations Security Council, Her Majesty's Treasury of the United Kingdom, the European Union or any EU member state, or (b) any Person otherwise the subject of any Sanctions.

"Sanctions" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time (a) by the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) by

the United Nations Security Council, the European Union or Her Majesty's Treasury of the United Kingdom.

"Same Day Funds" means (a) with respect to disbursements and payments in U.S. Dollars, immediately available funds, and (b) with respect to disbursements and payments in an Alternative Currency, same day or other funds as may be determined by the Administrative Agent or the Issuing Bank, as the case may be, to be customary in the place of disbursement or payment for the settlement of international banking transactions in the relevant Alternative Currency.

"SEC" means the Securities and Exchange Commission of the U.S.

"Secured Obligations" means all Obligations, together with all (a) Banking Services Obligations of the Borrowers or any Restricted Subsidiary of a Borrower; (b) Swap Agreement Obligations of the Borrowers or any Restricted Subsidiary of a Borrower owing to one or more Qualified Counterparties; and
(c) all obligations owed under the Synthetic Lease Agreement and Supply Chain Financing Agreement; provided that Excluded Swap Obligations with respect to any Loan Party shall not be Secured Obligations of such Loan Party.

"Secured Parties" means (a) the Administrative Agent, (b) the Lenders, (c) each Issuing Bank,
(d) Qualified Counterparties to whom any Banking Services Obligations are owing, (e) Qualified Counterparties to whom Swap Agreement Obligations constituting Secured Obligations hereunder are owing, (f) the counterparties to the Synthetic Lease Agreement and Supply Chain Financing Agreement, and (g) the successors and assigns of each of the foregoing.

"Security Agreement" means that certain Security Agreement, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders, dated as of the Closing Date, among the Loan Parties and the Administrative Agent, and, as the context requires, any other pledge or security agreement entered into, after the Closing Date by any other Loan Party (as required by this Agreement or any other Loan Document), or any other Person, as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Senior Representative" means, with respect to any Indebtedness, the trustee, administrative agent, collateral agent, security agent or similar agent under the indenture or agreement pursuant to which such Indebtedness is issued, incurred or otherwise obtained, as the case may be, and each of their successors in such capacities.

"Settlement" has the meaning assigned to such term in Section 2.05(d).

"Settlement Date" has the meaning assigned to such term in Section 2.05(d).

"Similar Business" has the meaning specified in Section 6.06.

"SOFR" means, for any day, a rate equal to the secured overnight financing rate as administered by the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Adjustment" means, for Daily Simple SOFR, ten (10) basis points (0.10%) and for Term SOFR, the percentages set forth in the below table:

SOFR Adjustment	Interest Period
ten (10) basis points (0.10%)	For a 1-month Interest Period

	or a 3-month Interest Period
twenty-five (25) basis points (0.25%)	For a 6-month Interest Period

"SOFR Floor" means a rate of interest per annum equal to 0.00% per annum.

"SOFR Reserve Percentage" means, for any day, the maximum effective percentage in effect on such day, if any, as prescribed by the Board (or any successor) for determining the reserve requirements (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to SOFR funding.

"Solvent" means, with respect to any Person on any date of determination, taking into account any right of reimbursement, contribution or similar right available to such Person from other Persons, that on such date (i) the fair value of the property of such Person is greater than the total amount of liabilities, including contingent liabilities, of such Person, (ii) 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, (iii) such Person is able to realize upon its assets and pay its debts and other liabilities, contingent obligations and other commitments as they mature in the normal course of business, (iv) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature, and (v) 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 unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in 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.

"Specified Event of Default" means the occurrence of any Event of Default described in any of Sections 7(a), 7(b) (but solely with respect to a misrepresentation made in any Borrowing Base Certificate), 7(c)(i) (but solely with respect to Sections 5.01(a), 5.01(b), 5.01(d), 5.01(e) and Article VI) or 7(e).

"Standby LC Exposure" means, at any time, the sum of (a) the aggregate undrawn amount of all standby Letters of Credit outstanding at such time *plus* (b) the aggregate amount of all LC Disbursements relating to standby Letters of Credit that have not yet been reimbursed by or on behalf of the Borrowers at such time. The Standby LC Exposure of an Issuing Bank (in its capacity as such) shall be the Standby Exposure in respect of standby Letters of Credit issued by such Issuing Bank. The Standby LC Exposure of any Lender at any time shall be its Applicable Percentage of the aggregate Standby LC Exposure at such time.

"Statements" has the meaning given to such term in Section 3.06(a).

"Subordinated Indebtedness" of a Person means any Indebtedness of such Person the payment of which is subordinated to payment of the Secured Obligations to the written satisfaction of the Administrative Agent.

"subsidiary" means, with respect to any Person (the "parent") at any date, any corporation, limited liability company, partnership, association or other business entity (a) of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such

date, owned, controlled or held, or (b) that is, as of such date, otherwise Controlled, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" means any direct or indirect subsidiary of the Company or a Loan Party, as applicable.

"Subsidiary Borrowers" means, collectively (i) each Domestic Subsidiary of the Company that is a party to this Agreement as a "Borrower" on the date hereof and (ii) each Domestic Subsidiary of the Company that becomes a party to this Agreement as a "Borrower" after the date hereof pursuant to Section 5.14, in each case, until such time as such Domestic Subsidiary is released from its obligations under the Loan Documents in accordance with this Agreement.

"Subsidiary Equity Interests" has the meaning specified in Section 3.02.

"Supported QFC" has the meaning set forth in Section 9.29.

"Supply Chain Financing Agreement" means, collectively, (a) that certain Funding Program Documentation, dated as of December 7, 2018, between, among others, Big Lots Stores, Inc., as customer, and PNC Bank, National Association, as provider, as amended and in effect on the Closing Date and as may be further amended in accordance with the terms of this Agreement, and the other documents executed in connection therewith, and (b) any similar agreement between a Loan Party and any Lender or any of its Affiliates to the extent the Administrative Agent receives a written notice thereof within thirty (30) days of execution of any such similar agreement.

"Sustainability Structuring Agent" means PNC Capital Markets LLC.

"Swap Agreement" means any agreement with respect to any swap, forward, spot, future, credit default or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrowers or the Restricted Subsidiaries shall be a Swap Agreement.

"Swap Agreement Obligations" means any and all obligations of the Loan Parties and their Restricted Subsidiaries, whether absolute or contingent and howsoever and whensoever created, arising, evidenced or acquired (including all renewals, extensions and modifications thereof and substitutions therefor), under (a) any and all Swap Agreements permitted hereunder with a Lender or an Affiliate of a Lender, and (b) any and all cancellations, buy backs, reversals, terminations or assignments of any such Swap Agreement transaction.

"Swap Obligation" means, with respect to any Guarantor, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act or any rules or regulations promulgated thereunder.

"Swingline Exposure" means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the aggregate Swingline Exposure at such time.

"Swingline Lender" means PNC, in its capacity as lender of Swingline Loans hereunder. Any consent required of the Administrative Agent or the Issuing Bank shall be deemed to be required of the

Swingline Lender and any consent given by PNC in its capacity as Administrative Agent or Issuing Bank shall be deemed given by PNC in its capacity as Swingline Lender.

"Swingline Loan" has the meaning assigned to such term in Section 2.05(a).

"Synthetic Lease Agreement" means the Operative Agreements, as the term "Operative Agreements" is defined in Appendix A to that certain Participation Agreement by and among one or more of the Loan Parties, Wells Fargo Bank, National Association, as agent, and the lease participants party thereto from time, dated as of November 30, 2017, as amended and in effect on the Closing Date and as may be further amended in accordance with the terms of this Agreement, and the other documents executed in connection therewith.

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

"TARGET Day" means any day on which TARGET2 is open for the settlement of payments in Euros.

"Taxes" means any and 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 Rate Loan" means a Loan that bears interest at a rate based on the Term SOFR Rate or Term RFR.

"Term Rate Loan Option" means the option of the Borrower to have Loans bear interest at the rate and under the terms specified in Section 2.08(a)(i).

"Term RFR" means, with respect to Euros for any Interest Period, a rate per annum determined by the Administrative Agent, for any Obligations, interest, fees, commissions or other amounts denominated in, or calculated with respect to any applicable Term RFR Forward Looking Rate by dividing (the resulting quotient rounded upwards, at the Administrative Agent's discretion, to the nearest 1/100 of 1%) (a) the applicable Term RFR Forward Looking Rate by (b) a number equal to 1.00 minus the RFR Reserve Percentage; provided that if the adjusted rate as determined above would be less than the Floor, such rate shall be deemed to be the Floor for purposes of this Agreement. The adjusted Term RFR for each outstanding Term RFR Loan shall be adjusted automatically as of the effective date of any change in the RFR Reserve Percentage. The Administrative Agent shall give prompt notice to the Borrower of the adjusted Term RFR rate as determined or adjusted in accordance herewith, which determination shall be conclusive absent manifest error.

"Term RFR Forward Looking Rate" means, with respect to Euros for any Interest Period, the forward-looking term rate for a period comparable to such Interest Period based on the RFR for such Currency that is published by an authorized benchmark administrator and is displayed on a screen or other information service, each as identified or selected by the Administrative Agent in its reasonable discretion at approximately a time and as of a date prior to the commencement of such Interest Period determined by the Administrative.

"Term RFR Loan" means a Loan that bears interest based on Term RFR.

"Term RFR Notice" means a notification by the Administrative Agent to the Lenders and the Borrower of the occurrence of a Term RFR Transition Event.

"Term RFR Option" means the option of the Borrower to have Loans bear interest at the rate and under the terms specified in Section 2.08(a)(i)(C).

"Term RFR Transition Date" means, in the case of a Term RFR Transition Event, the date that is set forth in the Term RFR Notice provided to the Lenders and the Borrower pursuant to Section 2.14(d) which date shall be at least 30 (thirty) calendar days from the date of the Term RFR Notice.

"Term RFR Transition Event" means, with respect to Euros for any Interest Period, the determination by the Administrative Agent that (a) the applicable Term RFR for such Currency is determinable for each Available Tenor, (b) the administration of such Term RFR is administratively feasible for the Administrative Agent, (c) the RFR Administrator publishes, publicly announces or makes publicly available that such Term RFR is administered in accordance with the IOSCO Principles, (d) such Term RFR is used as a benchmark rate in at least five currently outstanding syndicated credit facilities denominated in the applicable Currency (and such syndicated credit facilities are identified and are publicly available for review), and (e) such Term RFR is recommended for use by a Relevant Governmental Body.

"Term SOFR Administrator" means CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Administrative Agent in its reasonable discretion).

"Term SOFR Rate" means, with respect to any amount to which the Term SOFR Rate Option applies, for any Interest Period, the interest rate per annum determined by the Administrative Agent by dividing (the resulting quotient rounded upwards, at the Administrative Agent's discretion, to the nearest 1/100th of 1%) (A) the Term SOFR Reference Rate for a tenor comparable to such Interest Period, as such rate is published by the Term SOFR Administrator on the day (the "Term SOFR Determination Date") that is two (2) Business Days prior to the first day of such Interest Period, by (B) a number equal to 1.00 minus the SOFR Reserve Percentage. If the Term SOFR Reference Rate for the applicable tenor has not been published or replaced with a Benchmark Replacement by 5:00 p.m. (Pittsburgh, Pennsylvania time) on the Term SOFR Determination Date, then the Term SOFR Reference Rate, for purposes of clause (A) in the preceding sentence, shall be the Term SOFR Reference Rate for such tenor on the first Business Day preceding such Term SOFR Determination Date for which such Term SOFR Reference Rate for such tenor was published in accordance herewith, so long as such first preceding Business Day is not more than three (3) Business Days prior to such Term SOFR Determination Date. If the Term SOFR Rate, determined as provided above, would be less than the SOFR Floor, then the Term SOFR Rate shall be deemed to be the SOFR Floor. The Term SOFR Rate shall be adjusted automatically without notice to the Borrower on and as of (i) the first day of each Interest Period, and (ii) the effective date of any change in the SOFR Reserve Percentage.

"Term SOFR Rate Loan" means a Loan that bears interest based on the Term SOFR Rate.

"Term SOFR Rate Option" means the option of the Borrower to have Loans bear interest at the rate and under the terms specified in Section 2.08(a)(i)(A).

"Term SOFR Reference Rate" means the forward-looking term rate based on SOFR.

"Test Period" means, as of any date of determination, the most recently completed four (4) fiscal quarters of the Loan Parties ended on or prior to such time (taken as one accounting period) for which financial statements have been delivered (or are required to have been delivered) to the Administrative Agent.

"Total Assets" means, at any date of determination, the consolidated total assets of the Company and its Restricted Subsidiaries as of the last day of the most recent fiscal quarter of the Company for which financial statements have been delivered pursuant to Section 5.01(a) or (b) as adjusted to give effect to any acquisition or Disposition of a Person or assets that may have occurred on or after the last day of such fiscal quarter.

"Trade Date" has the meaning set forth in Section 9.04(e).

"Transactions" means the execution, delivery and performance by the Loan Parties of this Agreement and the other Loan Documents, the borrowing of Loans and other credit extensions, the use of the proceeds thereof and the issuance of Letters of Credit hereunder.

"Type", when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to (a) the Alternate Base Rate, (b) Term SOFR Rate, (c) prior to the Term RFR Transition Date with respect to Euros, the Daily Simple RFR for such Currency or, on and after the Term RFR Transition Date with respect to any such Currency, the Term RFR for such Currency, (d) Daily Simple SOFR or (e) Eurocurrency Rate.

"UCC" means the Uniform Commercial Code as in effect from time to time in the State of Ohio or in any other state the laws of which are required to be applied in connection with the issue of perfection of security interests.

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

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"Unfinanced Capital Expenditures" means for any period, Capital Expenditures of the Company and its Restricted Subsidiaries made in cash during such period, except to the extent financed with the proceeds of Finance Lease Obligations or other Indebtedness (other than Loans incurred hereunder), common Equity Interests or Disqualified Stock, or casualty proceeds, condemnation proceeds, or other proceeds that would not be included in Consolidated EBITDA, less cash received from the sale of any fixed assets of the Company and its Restricted Subsidiaries (including, without limitation, equipment) during such period; provided that the aggregate amount of Unfinanced Capital Expenditures during such period may not be less than zero.

"Unliquidated Obligations" means, at any time, any Secured Obligations (or portion thereof) that are contingent in nature or unliquidated at such time, including any Secured Obligation that is: (i) an obligation to reimburse a bank for drawings not yet made under a letter of credit issued by it; (ii) any other obligation (including any guarantee) that is contingent in nature at such time; or (iii) an obligation to provide collateral to secure any of the foregoing types of obligations.

"Unrestricted Subsidiary" means:

(1) any Subsidiary of the Company that at the time of determination shall be designated an Unrestricted Subsidiary by the Board of Directors of the Company in the manner provided below; and

(2) any Subsidiary of an Unrestricted Subsidiary.

The Company may designate any Subsidiary of the Company (including any newly acquired or newly formed Subsidiary of the Company) to be an Unrestricted Subsidiary by written notice to the Administrative Agent unless at the time of such designation such Subsidiary or any of its Subsidiaries owns any Equity Interests or Indebtedness of, or owns or holds any Lien on any property of, the Company or any other Restricted Subsidiary that is not a Subsidiary of the Subsidiary to be so designated, in each case at the time of such designation; provided, however, that the Subsidiary to be so designated and its Subsidiaries do not at the time of designation have and do not thereafter Incur any Indebtedness pursuant to which the lender has recourse to any of the assets of the Company or any of the Restricted Subsidiaries unless otherwise permitted under Section 6.02; provided, further, however, that either:

(a) the Subsidiary to be so designated has total consolidated assets of $2,250 or less;
or

(b) if such Subsidiary has consolidated assets greater than $2,250, then such designation would be permitted under Section 6.02.

Notwithstanding the foregoing, no Unrestricted Subsidiary may own any Material Intellectual Property unless such Material Intellectual Property is subject to a non-exclusive, irrevocable (until the Secured Obligations (other than contingent or indemnity obligations for which no claim has been made by the Person entitled thereof) have been paid in full and all Commitments have terminated), royalty-free license of such Material Intellectual Property and applications in favor of the Administrative Agent for use in connection with the exercise of rights and remedies of the Secured Parties under the Loan Documents with respect to the ABL Priority Collateral, which license shall be substantially similar to the license described in Section 8(c) of the Security Agreement (or otherwise reasonably satisfactory to the Administrative Agent).

The Company may designate any Unrestricted Subsidiary to be a Restricted Subsidiary by written notice to the Administrative Agent; provided, however, that immediately after giving effect to such designation, the Company shall be in Pro Forma Compliance with the Payment Conditions.

In no event may any Subsidiary that is a "Restricted Subsidiary" (or an analogous concept) under an Other Secured Debt Loan Agreement be designated an Unrestricted Subsidiary (unless such Subsidiary is designated an "Unrestricted Subsidiary" under an Other Secured Debt Loan Agreement prior or substantially concurrently with such designation). As of the date hereof, no entity is an Unrestricted Subsidiary.

"U.S." means the United States of America.

"U.S. Benefit Plan" means any of (a) an "employee benefit plan" (as defined in Section 3(3) of ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in Section 4975 of the Code to which Section 4975 of the Code applies, and (c) any Person whose assets include (for purposes of the Plan Asset Regulations 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".

"U.S. Dollar" or "$"means the lawful money of the United States of America.

"U.S. Government Securities Business Day" means any day except for (a) a Saturday or Sunday or (b) a day on which the Securities Industry and Financial Markets Association recommends that the fixed

income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"U.S. Person" means a "United States person" within the meaning of Section 7701(a)(30) of the Code.

"U.S. Special Resolution Regimes" has the meaning set forth in Section 9.29.

"U.S. Tax Compliance Certificate" has the meaning assigned to such term in Section 2.17(f)(ii)(B)(3).

"USA PATRIOT Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness or Disqualified Stock or Preferred Stock, as the case may be, at any date, the quotient obtained by dividing (1) the sum of the products of the number of years from the date of determination to the date of each successive scheduled principal payment of such Indebtedness or redemption or similar payment with respect to such Disqualified Stock or Preferred Stock multiplied by the amount of such payment, by (2) the sum of all such payments.

"Weekly BBC Reporting Period" means any period (i) commencing at any time when Availability shall be less than the greater of (x) $90,000,000 and (y) 12.5% of the Maximum Credit Amount, in either case, for a period of five (5) consecutive Business Days and (ii) ending when Availability shall have been greater than or equal to the greater of (x) $90,000,000 and (y) 12.5% of the Maximum Credit Amount, in either case, for a period of thirty (30) consecutive Business Days; provided however that, upon the end of any Weekly BBC Reporting Period, the Borrowers shall immediately be deemed to have commenced a Monthly BBC Reporting Period irrespective of Availability at such time.

"Wholly Owned Subsidiary" of any Person means a Restricted Subsidiary of such Person 100% of the outstanding Equity Interests or other ownership interests of which (other than directors' qualifying shares or shares required pursuant to applicable Requirements of Law) shall at the time be owned by such Person or by one or more Wholly Owned Subsidiaries of such Person.

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

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

SECTION 1.02 Classification of Loans and Borrowings. For purposes of this Agreement, Loans and Borrowings may be classified and referred to by Type.

SECTION 1.03 Terms Generally. 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 "law" shall be construed as referring to all statutes, rules, regulations, codes and other laws (including official rulings and interpretations thereunder having the force of law or with which affected Persons customarily comply) and all judgments, orders and decrees of all Governmental Authorities. The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) 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, restated, supplemented or otherwise modified (subject to any restrictions on such amendments, restatements, supplements or modifications set forth herein or in the other Loan Documents), (b) any definition of or reference to any statute, rule or regulation shall be construed as referring thereto as from time to time amended, supplemented or otherwise modified (including by succession of comparable successor laws), (c) any reference herein to any Person shall be construed to include such Person's successors and assigns (subject to any restrictions on assignments set forth herein) and, in the case of any Governmental Authority, any other Governmental Authority that shall have succeeded to any or all functions thereof, (d) 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, (e) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement, (f) any reference in any definition to the phrase "at any time" or "for any period" shall refer to the same time or period for all calculations or determinations within such definition, and (g) 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.

SECTION 1.04 Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with GAAP, as in effect from time to time; provided that, if after the date hereof there occurs (a) any change in GAAP or in the application thereof on the operation of any provision hereof or (b) any change in the historical accounting practices, systems or reserves relating to the components of the Borrowing Base that is adverse to the Lenders in any material respect, and the Borrower Representative notifies the Administrative Agent that the Borrowers request an amendment to any provision hereof to eliminate the effect of such change (or if the Administrative Agent notifies the Borrower Representative that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change, then the provisions herein shall be interpreted on the basis of GAAP as in effect and applied, or based on the historical accounting practices, systems or reserves in effect, in each case, immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith, and the Borrower Representative, the Administrative Agent and the Lenders agree to negotiate in good faith with respect to any proposed amendment to eliminate or adjust for the effect of any such change. 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 Financial Accounting Standards Board Accounting Standards Codification 825-10-25 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect or any successor thereto) to value any Indebtedness or other liabilities of the Company or any Subsidiary at "fair value", as defined therein and (ii) without giving effect to any treatment of Indebtedness in respect of convertible debt instruments under Financial Accounting Standards Board Accounting Standards Codification 470-20 (or any other Accounting Standards Codification or Financial Accounting Standard having a similar result or effect) to value any such Indebtedness in a reduced or bifurcated manner as described therein, and such Indebtedness shall at all times be valued at the full stated principal amount thereof.

SECTION 1.05 Benchmark Replacement Notification. Section 2.14(d) of this Agreement provides a mechanism for determining an alternative rate of interest in the event that the Term SOFR Rate, Daily Simple SOFR, Daily Simple RFR or Term RFR for any applicable Currency is no longer available or in certain other circumstances. The Administrative Agent does not warrant or accept any responsibility for and shall not have any liability with respect to, the administration, submission or any other matter related to the Term SOFR Rate, Daily Simple SOFR, Daily Simple RFR or Term RFR for any applicable Currency, or with respect to any alternative or successor rate thereto, or replacement rate therefor.

SECTION 1.06 Status of Obligations. In the event that any Borrower or any other Loan Party shall at any time issue or have outstanding any Subordinated Indebtedness, such Borrower shall take or cause such other Loan Party to take all such actions as shall be necessary to cause the Secured Obligations to constitute senior indebtedness (however denominated) in respect of such Subordinated Indebtedness and to enable the Administrative Agent and the Lenders to have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness, in each case, to the extent set forth in the applicable subordination agreement. Without limiting the foregoing, the Secured Obligations are hereby designated as "senior indebtedness" and as "designated senior indebtedness" and words of similar import under and in respect of any indenture or other agreement or instrument under which such Subordinated Indebtedness is outstanding and are further given all such other designations as shall be required under the terms of any such Subordinated Indebtedness in order that the Lenders may have and exercise any payment blockage or other remedies available or potentially available to holders of senior indebtedness under the terms of such Subordinated Indebtedness, in each case, to the extent set forth in the applicable subordination agreement.

SECTION 1.07 Exchange Rates. Without limiting the other terms of this Agreement, the calculations and determinations under this Agreement of any amount in any currency other than U.S. Dollars shall be deemed to refer to the Dollar Amount thereof, as the case may be, and all Borrowing Base Certificates delivered under this Agreement shall express such calculations or determinations in U.S. Dollars or the Dollar Amount thereof, as the case may be. The Administrative Agent or the Issuing Bank, as applicable, shall determine the Dollar Amount amounts of Loans and Letters of Credit denominated in Alternative Currencies. Such Dollar Amount shall become effective as of the Revaluation Date and shall be the Dollar Amount of such amounts until the next Revaluation Date to occur. Except for purposes of financial statements delivered by Loan Parties hereunder or calculating financial covenants hereunder or except as otherwise provided herein, the applicable amount of any currency (other than U.S. Dollars) for purposes of the Loan Documents shall be such Dollar Amount amount as so determined by the Administrative Agent or the Issuing Bank, as applicable. Wherever in this Agreement in connection with the initial advance, or the conversion, continuation or prepayment, of a Loan or the issuance, amendment or extension of a Letter of Credit, an amount, such as a required minimum or multiple amount, is expressed in U.S. Dollars, but such Loan or Letter of Credit is denominated in an Alternative Currency, such amount shall be the relevant Alternative Currency Equivalent of such U.S. Dollar amount (the resulting quotient rounded upwards, at the Administrative Agent's discretion, to the nearest 1/100 of 1%), as determined by the Administrative Agent or the Issuing Bank, as the case may be. All financial statements and Compliance Certificates shall be set forth in U.S. Dollars. For purposes of preparing financial statements, calculating financial covenants, and determining compliance with covenants expressed in U.S. Dollars, Alternative Currencies shall be converted into U.S. Dollars in accordance with GAAP.

SECTION 1.08 Divisions. For all purposes under the Loan Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws): (a) if any asset, right, obligation or liability of any Person becomes the asset, right, obligation or liability of a different Person, then it shall be deemed to have been transferred from the original Person to the subsequent Person, and (b) if any new Person comes into existence, such new Person shall be deemed to have been organized on the first date of its existence by the holders of its Equity Interests at such time.

ARTICLE II.

THE CREDITS

SECTION 2.01 Commitments. Subject to the terms and conditions set forth herein, each Lender severally agrees, from time to time during the Availability Period, to make Revolving Loans denominated in U.S. Dollars or Alternative Currencies to the Borrowers in an aggregate principal amount that will not result in:

(i) such Lender's Revolving Exposure exceeding such Lender's Commitment;

(ii) the Aggregate Credit Exposure exceeding the Aggregate Commitments; or

(iii) the Aggregate Credit Exposure of all Lenders exceeding the Borrowing Base.

subject to the Administrative Agent's authority, in its sole discretion, to make Protective Advances and Overadvances pursuant to the terms of Sections 2.04 and 2.05. The limitations on Borrowings referred to in clauses (i) through (v) are referred to collectively as the "Revolving Exposure Limitations." Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrowers may borrow, prepay and reborrow Revolving Loans.

SECTION 2.02 Loans and Borrowings.

(a) Each Loan (other than a Swingline Loan) shall be made as part of a Borrowing consisting of Loans of the same Type made by the Lenders ratably in accordance with their respective Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required. Any Protective Advance, any Overadvance and any Swingline Loan shall be made in accordance with the procedures set forth in Sections 2.04 and 2.05.

(b) All Borrowings (other than Swingline Borrowings) shall be denominated in U.S. Dollars or in Alternative Currencies. Subject to Section 2.14, each Borrowing shall be comprised entirely of ABR Loans, Term SOFR Rate Loans or Alternative Currency Loans as the Borrower Representative may request in accordance herewith, provided that, subject to a funding indemnity letter in form and substance reasonably satisfactory to the Administrative Agent, all Borrowings made on the Closing Date will be made as SOFR Borrowings. Each Swingline Loan shall be a Daily Simple SOFR Loan. Each Lender at its option may make any Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan (and in the case of an Affiliate, the provisions of Sections 2.14, 2.15, 2.16 and 2.17 shall apply to such Affiliate to the same extent as to such Lender); provided, however, (i) the exercise of such option shall be recorded in the Register in accordance with Section 9.04(b)(iv) and such Affiliate shall have provided the tax forms required by 2.17(f) to the Administrative Agent, and (ii) any that any exercise of such option shall not affect the obligation of the Borrowers to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Term Rate Loan Option or SOFR Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of $1,000,000 and not less than $1,000,000. At the time that each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of $100,000 and not less than $1,000,000; provided that an ABR Borrowing may be in an aggregate amount that is equal to the entire unused balance of the Aggregate Commitments or that is required to finance the reimbursement of an LC Disbursement as

contemplated by Section 2.06(d). Each Swingline Loan shall be in an amount that is an integral multiple of $100,000 and not less than $100,000. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be, collectively, more than a total of twelve (12) SOFR Borrowings and Term Rate Loan Option Loans outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower Representative shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

SECTION 2.03 Requests for Borrowings.

(a) To request a Borrowing (other than a Swingline Loan), the Borrower Representative shall notify the Administrative Agent of such request in writing (whether through Administrative Agent's pinnacle system or other form of electronic submission acceptable to the Administrative Agent) in a form approved by the Administrative Agent and signed by the Borrower Representative not later than 1:00 p.m., New York time:

(i) three (3) Business Days prior to the proposed Borrowing Date with respect to the making of Revolving Loans denominated in U.S. Dollars to which the Term SOFR Rate Option applies or the conversion to or the renewal of any such Interest Rate Option for any Revolving Loans denominated in U.S. Dollars;

(ii) four (4) Business Days prior to the proposed Borrowing Date with respect to the making of Revolving Loans denominated in Alternative Currencies to which the Daily Simple RFR Option or Term RFR Option applies, or the conversion to or renewal of a Daily Simple RFR Option or Term RFR Option for any Revolving Loans denominated in Alternative Currencies; and/or

(iii) the same Business Day of the proposed Borrowing Date with respect to the making of a Revolving Loan to which the Alternate Base Rate applies or the last day of the preceding Interest Period with respect to the conversion to the Alternate Base Rate for any Revolving Loan,

(b) Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery, facsimile, or emailed pdf to the Administrative Agent of a written Borrowing Request signed by the Borrower Representative. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

(i) the name of the applicable Borrower(s);

(ii) the aggregate amount of the requested Borrowing and a breakdown of the separate wires comprising such Borrowing;

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

(iv) the Type and Currency of such Borrowing; and

(v) if applicable, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period."

Any Borrowing Request that shall fail to specify any of the information required by the preceding provisions of this paragraph may be rejected by the Administrative Agent if such failure is not corrected promptly after the Administrative Agent shall give written or telephonic notice thereof to the Borrower

Representative and, if so rejected, will be of no force or effect. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

SECTION 2.04 Protective Advances.

(a) Subject to the limitations set forth below, after the Closing Date, the Administrative Agent is authorized by the Borrowers and the Lenders, from time to time in the Administrative Agent's sole discretion (but shall have absolutely no obligation to), to make Loans to the Borrowers on behalf of all Lenders, which the Administrative Agent, in its Permitted Discretion, deems necessary or desirable (i) to preserve or protect the applicable Collateral, or any portion thereof, (ii) to enhance the likelihood of, or maximize the amount of, repayment of the applicable Loans and other applicable Obligations, or (iii) to pay any other amount chargeable to or required to be paid by the applicable Borrower pursuant to the terms of this Agreement, including payments of reimbursable expenses (including costs, fees, and expenses as described in Section 9.03) and other sums payable under the Loan Documents (any of such Loans are herein referred to as "Protective Advances"); provided that (i) the aggregate principal amount of outstanding Protective Advances shall not, at any time, exceed (x) 5% of the Aggregate Commitments then in effect or (y) when aggregated with the aggregate outstanding principal amount of Overadvances, 10% of the Aggregate Commitments then in effect; provided further that no Protective Advance shall be made if after giving effect thereto, any Lender's Revolving Exposure shall exceed such Lender's Commitment. Protective Advances may be made even if the conditions precedent set forth in Section 4.02 have not been satisfied. The Protective Advances shall be secured by the Liens in favor of the Administrative Agent in and to the applicable Collateral and shall constitute Obligations hereunder. All Protective Advances shall be in U.S. Dollars and ABR Borrowings. The Administrative Agent's authorization to make Protective Advances may be revoked at any time by the Required Lenders. Any such revocation must be in writing and shall become effective prospectively upon the Administrative Agent's receipt thereof. At any time the making of such Revolving Loan would not violate the Revolving Exposure Limitations and the conditions precedent set forth in Section 4.02 have been satisfied, the Administrative Agent may request the Lenders to make a Revolving Loan to repay a Protective Advance. At any other time the Administrative Agent may require the Lenders to fund their risk participations described in Section 2.04(b).

(b) Upon the making of a Protective Advance by the Administrative Agent (whether before or after the occurrence of a Default), each Lender shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from the Administrative Agent, without recourse or warranty, an undivided interest and participation in such Protective Advance in proportion to its Applicable Percentage. From and after the date, if any, on which any Lender is required to fund its participation in any Protective Advance purchased hereunder, the Administrative Agent shall promptly distribute to such Lender, such Lender's Applicable Percentage of all payments of principal and interest and all proceeds of Collateral received by the Administrative Agent in respect of such Protective Advance; provided that no Lender holding a Commitment shall be obligated in any event to make Revolving Loans in an amount in excess of its Commitment minus its Applicable Percentage (taking into account any reallocations under Section 2.20) of the LC Exposure of all outstanding Letters of Credit.

SECTION 2.05 Swingline Loans and Overadvances.

(a) The Administrative Agent, the Swingline Lender and the Lenders agree that in order to facilitate the administration of this Agreement and the other Loan Documents, promptly after the Borrower Representative requests a Daily Simple SOFR Loan, the Swingline Lender may, at its election and option made in its sole discretion cancelable at any time for any reason whatsoever, have the terms of this Section 2.05(a) apply to such Borrowing Request by advancing, on behalf of the Lenders and in the amount requested, same day funds to the applicable Borrowers, on the date of the applicable Borrowing to the

applicable Funding Account(s) (each such Loan made solely by the Swingline Lender pursuant to this Section 2.05(a) is referred to in this Agreement as a "Swingline Loan"), with settlement among them as to the Swingline Loans to take place on a periodic basis as set forth in Section 2.05(d). Each Swingline Loan shall be subject to all the terms and conditions applicable to other Loans funded by the Lenders, except that all payments thereon shall be payable to the Swingline Lender solely for its own account and such interest shall be based on Daily Simple SOFR. The aggregate Dollar Amount of Swingline Loans outstanding at any time drawn under the Borrowing Base, shall not exceed ten percent (10%) of the then applicable Aggregate Commitments. The Swingline Lender shall not make any Swingline Loan if, after giving effect thereto, the Borrowers would not be in compliance with the Revolving Exposure Limitations or if, after giving effect to such request, the aggregate Dollar Amount of all Swingline Loans outstanding after giving effect thereto would be greater than the Maximum Credit Amount as in effect on such date. All Swingline Loans shall be Daily Simple SOFR Loan in U.S. Dollars. Swingline Lender's agreement to make Swingline Loans under this Agreement is cancelable at any time for any reason whatsoever and the making of Swingline Loans by Swingline Lender from time to time shall not create any duty or obligation, or establish any course of conduct, pursuant to which Swingline Lender shall thereafter be obligated to make Swingline Loans in the future.

(b) Any provision of this Agreement to the contrary notwithstanding, at the request of the Borrower Representative, the Administrative Agent may in its sole discretion (but with absolutely no obligation), make Revolving Loans to the Borrowers, on behalf of the Lenders, in amounts that exceed Availability (any such excess Revolving Loans are herein referred to collectively as "Overadvances"); provided that, no Overadvance shall result in a Default due to Borrowers' failure to comply with Section 2.01 for so long as such Overadvance remains outstanding in accordance with the terms of this paragraph, but solely with respect to the amount of such Overadvance; provided, further that the aggregate amount of outstanding Overadvances shall not, at any time, exceed (x) 5% of the Aggregate Commitments then in effect or (y) when aggregated with the aggregate outstanding amount of Protective Advances then outstanding, 10% of the Aggregate Commitments then in effect; provided further that no Overadvance shall be made if after giving effect thereto, any Lender's Revolving Exposure shall exceed such Lender's Commitment. Overadvances may be made even if the condition precedent set forth in Section 4.02(c) has not been satisfied. All Overadvances shall be in U.S. Dollars and ABR Borrowings. The Borrowers shall be required to repay each Overadvance no later than the 30th day after the date of the making thereof. The Administrative Agent's authorization to make Overadvances may be revoked at any time by the Required Lenders. Any such revocation must be in writing and shall become effective prospectively upon the Administrative Agent's receipt thereof.

(c) Upon the making of a Swingline Loan or an Overadvance (whether before or after the occurrence of a Default and regardless of whether a Settlement has been requested with respect to such Swingline Loan or Overadvance), each Lender shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from the Swingline Lender or the Administrative Agent, as the case may be, without recourse or warranty, an undivided interest and participation in such Swingline Loan or Overadvance in proportion to its Applicable Percentage of the Commitment. The Swingline Lender or the Administrative Agent may, at any time, require the Lenders to fund their participations. From and after the date, if any, on which any Lender is required to fund its participation in any Swingline Loan or Overadvance purchased hereunder, the Administrative Agent shall promptly distribute to such Lender, such Lender's Applicable Percentage of all payments of principal and interest and all proceeds of Collateral received by the Administrative Agent in respect of such Loan; provided that no Lender holding a Commitment shall be obligated in any event to make Revolving Loans in an amount in excess of its Commitment minus its Applicable Percentage (taking into account any reallocations under Section 2.20) of the LC Exposure of all outstanding Letters of Credit.

(d) The Administrative Agent, on behalf of the Swingline Lender, shall request settlement (a "Settlement") with the Lenders on at least a weekly basis or on any date that the Administrative Agent elects or that Swingline Lender at its own option exercisable for any reason may request, by notifying the Lenders of such requested Settlement by facsimile, telephone, or electronic transmission no later than 3:00 p.m. on the date of such requested Settlement (the "Settlement Date"). Each Lender (other than the Swingline Lender, in the case of the Swingline Loans) shall transfer the amount of such Lender's Applicable Percentage of the outstanding principal amount of the applicable Loan (plus interest accrued thereon to the extent requested by Administrative Agent) with respect to which Settlement is requested to the Administrative Agent, to such account of the Administrative Agent as the Administrative Agent may designate, not later than 5:00 p.m. on such Settlement Date if requested by 3:00 p.m., otherwise not later than 5:00 p.m. the next Business Day. Settlements may occur during the existence of a Default and whether or not the applicable conditions precedent set forth in Section 4.02 have then been satisfied or the Commitments have otherwise been terminated. Such amounts transferred to the Administrative Agent shall be applied against the amounts of the Swingline Lender's Swingline Loans and, together with Swingline Lender's Applicable Percentage of such Swingline Loan, shall constitute Revolving Loans of such Lenders, respectively. If any such amount is not transferred to the Administrative Agent by any Lender on such Settlement Date, the Swingline Lender shall be entitled to recover from such Lender on demand such amount, together with interest thereon, as specified in Section 2.07.

SECTION 2.06 Letters of Credit.

(a) General. Subject to the terms and conditions hereof, on and after the Closing Date, an Issuing Bank shall issue or cause the issuance of standby and/or commercial letters of credit denominated in U.S. Dollars ("Letters of Credit") for the account of any Borrower, either for its support or the support of any of its Restricted Subsidiaries' obligations, so long as, after the issuance thereof, (i) the LC Exposure shall not exceed $90,000,000, (ii) LC Exposure of any Issuing Bank shall not exceed such Issuing Bank's LC Individual Sublimit, and (iii) the Borrowers will be in compliance with the Revolving Exposure Limitations. All disbursements or payments related to Letters of Credit shall be deemed to be Revolving Loans and shall bear interest at the Applicable Rate for ABR Loans. Letters of Credit that have not been drawn upon shall not bear interest (but fees shall accrue in respect of outstanding Letters of Credit as provided in Section 2.12(b) hereof). Notwithstanding any other provision of this Agreement, no Issuing Bank shall be under any obligation to issue any Letter of Credit if (i) 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 any 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 date of this Agreement, or shall impose upon the Issuing Bank any unreimbursed loss, cost or expense which was not applicable on the date of this Agreement, and which the Issuing Bank in good faith deems material to it, or (ii) the issuance of the Letter of Credit would violate one or more policies of the Issuing Bank applicable to letters of credit generally. Each Borrower unconditionally and irrevocably agrees that, in connection with any Letter of Credit issued for the support of any Restricted Subsidiary's obligations as provided in the first sentence of this paragraph, such Borrower will be fully responsible for the reimbursement of LC Disbursements in accordance with the terms hereof, the payment of interest thereon and the payment of fees due under this Agreement to the same extent as if it were the sole account party in respect of such Letter of Credit (such Borrower hereby irrevocably waiving any defenses that might otherwise be available to it as a guarantor or surety of the obligations of such Restricted Subsidiary that is an account party in respect of any such Letter of Credit).

(b) Issuance of Letters of Credit.

(i) Borrower Representative, on behalf of any Borrower, either for the support of any obligations of any Borrower's or any Restricted Subsidiary thereof, may request an Issuing Bank to issue or cause the issuance, amendment, or extension of a Letter of Credit by delivering to the Issuing Bank, with a copy to Administrative Agent at the Payment Office, prior to 1:00 p.m., at least five (5) Business Days prior to the proposed date of issuance, amendment, or extension (or such shorter period as may be agreed to by the Issuing Bank and Administrative Agent), such Issuing Bank's form of Letter of Credit Application (the "Letter of Credit Application") completed to the satisfaction of Administrative Agent and the Issuing Bank (which shall include, among other things, the amount of such Letter of Credit); and, such other certificates, documents and other papers and information as Administrative Agent or the Issuing Bank may reasonably request. No Issuing Bank shall issue any requested Letter of Credit if such Issuing Bank has received notice at least one day prior to the requested date of issuance, amendment or extension of the applicable Letter of Credit, from Administrative Agent or any Lender that one or more of the applicable conditions set forth in Section 4.02 of this Agreement have not been satisfied or the commitments of Lenders to make Revolving Loans hereunder have been terminated for any reason.

(ii) Each Letter of Credit shall, among other things, (i) provide for the payment of sight drafts, other written demands for payment, or acceptances of usance drafts when presented for honor thereunder in accordance with the terms thereof and when accompanied by the documents described therein and (ii) have an expiry date not later than twelve (12) months after such Letter of Credit's date of issuance, provided that a Letter of Credit may include a provision for the automatic extension of the Letter of Credit, but in no event expire later than the Maturity Date (except that a Letter of Credit may expire up to one year beyond the Expiration Date if such Letter of Credit has been Cash Collateralized on or prior to date of issuance thereof). Each standby Letter of Credit shall be subject either to the Uniform Customs and Practice for Documentary Credits as most recently published by the International Chamber of Commerce at the time a Letter of Credit is issued (the "UCP") or the International Standby Practices (International Chamber of Commerce Publication Number 590) (the "ISP98 Rules"), or any subsequent revision thereof at the time a standby Letter of Credit is issued, as determined by Issuing Bank, and each commercial Letter of Credit shall be subject to the UCP. In addition, no commercial Letter of Credit may permit the presentation of an ocean bill of lading that includes a condition that the original bill of lading is not required to claim the goods shipped thereunder.

(iii) Administrative Agent shall use its reasonable efforts to notify Lenders of the request by Borrower Representative for a Letter of Credit hereunder.

(c) Requirements For Issuance of Letters of Credit.

(i) Borrower Representative shall authorize and direct any Issuing Bank to name the applicable Borrower as the "Applicant" or "Account Party" of each Letter of Credit. If Administrative Agent is not the Issuing Bank of any Letter of Credit, Borrower Representative shall authorize and direct the applicable Issuing Bank to deliver to Administrative Agent all instruments, documents, and other writings and property received by such Issuing Bank pursuant to the Letter of Credit and to accept and rely upon Administrative Agent's instructions and agreements with respect to all matters arising in connection with the Letter of Credit, and the application therefor.

(ii) In connection with all commercial Letters of Credit issued or caused to be issued by an Issuing Bank under this Agreement, each Borrower hereby appoints the Issuing Bank, or its designee, as its attorney, with full power and authority if an Event of Default shall have occurred and for as long as such Event of Default is continuing: (i) to sign and/or endorse such Borrower's name upon any warehouse or other receipts, and acceptances; (ii) to sign such Borrower's name on

bills of lading; (iii) to clear Inventory through the United States of America Customs Department ("Customs") in the name of such Borrower or Issuing Bank or Issuing Bank's designee, and to sign and deliver to Customs officials powers of attorney in the name of such Borrower for such purpose; and (iv) to complete in such Borrower's name or Issuing Bank's, or in the name of Issuing Bank's designee, any order, sale or transaction, obtain the necessary documents in connection therewith, and collect the proceeds thereof. Neither Administrative Agent, Issuing Bank nor their attorneys will be liable for any acts or omissions nor for any error of judgment or mistakes of fact or law taken in accordance with this Section 2.06, except for Administrative Agent's, Issuing Bank's or their respective attorney's gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment). This power, being coupled with an interest, is irrevocable as long as any Letters of Credit remain outstanding.

(d) Disbursements, Reimbursement.

(i) 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 participation in such Letter of Credit and each drawing thereunder in an amount equal to such Lender's Applicable Percentage of the LC Exposure (as in effect from time to time) and the amount of such drawing, respectively.

(ii) In the event of any request for a drawing under a Letter of Credit by the beneficiary or transferee thereof, the Issuing Bank will promptly notify Administrative Agent and Borrower Representative. Regardless of whether Borrower Representative shall have received such notice, Borrowers shall reimburse (such obligation to reimburse Issuing Bank shall sometimes be referred to as a "Reimbursement Obligation") Issuing Bank prior to 1:00 p.m., New York time, on each date that an amount is paid by Issuing Bank under any Letter of Credit (each such date, a "Drawing Date") in an amount equal to such LC Disbursement so paid by the Issuing Bank. In the event the Borrowers fail to reimburse Issuing Bank for the full amount of any drawing under any Letter of Credit by 1:00 p.m., New York time, on the Drawing Date, Issuing Bank will promptly notify Administrative Agent and each Lender holding a Commitment thereof, and Borrowers shall be automatically deemed to have requested that a Revolving Loan in an amount equal to such payment to be maintained as an ABR Loan be made by Lenders to be disbursed on the Drawing Date under such Letter of Credit, and Lenders holding the Commitments shall be unconditionally obligated to fund such Revolving Loan (all whether or not the conditions specified in Section 4.02 are then satisfied or the commitments of Lenders to make Revolving Loans hereunder have been terminated for any reason) as provided for in Section 2.06(d)(iii) below. Any notice given by Issuing Bank pursuant to this Section 2.06(d)(ii) may be oral if promptly confirmed in writing; provided that the lack of such a confirmation shall not affect the conclusiveness or binding effect of such notice.

(iii) Each Lender holding a Commitment shall upon any notice pursuant to Section 2.06(d)(ii) make available to Issuing Bank through Administrative Agent at the Payment Office an amount in immediately available funds equal to its Applicable Percentage (subject to any contrary provisions of Section 2.20) of the amount of the drawing, whereupon the participating Lenders shall (subject to Section 2.06(d)(iv)) each be deemed to have made a Revolving Loan maintained as an ABR Loan to Borrowers in that amount. If any Lender holding a Commitment so notified fails to make available to Administrative Agent, for the benefit of Issuing Bank, the amount of such Lender's Applicable Percentage of such amount by 2:00 p.m. on the Drawing Date, then interest shall accrue on such Lender's obligation to make such payment, from the Drawing Date to the date on which such Lender makes such payment (1) at a rate per annum equal to the Overnight Bank Funding Rate during the first three (3) days following the Drawing Date and (2) at a rate per annum equal to the rate applicable to Revolving Loans maintained as an ABR Loan on and after the fourth

day following the Drawing Date. Administrative Agent and Issuing Bank will promptly give notice of the occurrence of the Drawing Date, but failure of Administrative Agent or Issuing Bank to give any such notice on the Drawing Date or in sufficient time to enable any Lender holding a Commitment to effect such payment on such date shall not relieve such Lender from its obligations under this Section 2.06(d)(iii), provided that such Lender shall not be obligated to pay interest as provided in Section 2.06(d)(iii)(1) and (2) until and commencing from the date of receipt of notice from Administrative Agent or Issuing Bank of a drawing.

(iv) With respect to any unreimbursed drawing that is not converted into a Revolving Loan maintained as an ABR Loan to Borrowers in whole or in part as contemplated by Section 2.06(d)(ii), for any reason, Borrowers shall be deemed to have incurred from Administrative Agent a borrowing (each a "Letter of Credit Borrowing") in the amount of such drawing. Such Letter of Credit Borrowing shall be due and payable on demand (together with interest) and shall bear interest at the rate per annum applicable to a Revolving Loan maintained as an ABR Loan. Each applicable Lender's payment to Administrative Agent pursuant to Section 2.06(d)(iii) shall be deemed to be a payment in respect of its participation in such Letter of Credit Borrowing and shall constitute a "Participation Advance" from such Lender in satisfaction of its obligation to participate in respect of the applicable Letter of Credit under this Section 2.06(d).

(v) Each applicable Lender's obligations hereunder to participate in respect of the Letters of Credit shall continue until the last to occur of any of the following events: (x) Issuing Bank ceases to be obligated to issue or cause to be issued Letters of Credit hereunder; (y) no Letter of Credit issued or created hereunder remains outstanding and uncancelled; and (z) all Persons have been fully reimbursed for all payments made under or relating to Letters of Credit.

(e) Repayment of Participation Advances. Upon (and only upon) receipt by Administrative Agent for the account of Issuing Bank of immediately available funds from Borrowers (i) in reimbursement of any payment made by Issuing Bank or Administrative Agent under the Letter of Credit with respect to which any Lender has made a Participation Advance to Administrative Agent, or (ii) in payment of interest on such a payment made by Issuing Bank or Administrative Agent under such a Letter of Credit, Administrative Agent will pay to each Lender holding a Commitment, in the same funds as those received by Administrative Agent, the amount of such Lender's Applicable Percentage of such funds, except Administrative Agent shall retain the amount of the Applicable Percentage of such funds of any Lender holding a Commitment that did not make a Participation Advance in respect of such payment by Administrative Agent (and, to the extent that any of the other Lender(s) holding the Commitment have funded any portion of such Defaulting Lender's Participation Advance in accordance with the provisions of Section 2.20, Administrative Agent will pay over to such non-Defaulting Lenders a pro rata portion of the funds so withheld from such Defaulting Lender). If Issuing Bank or Administrative Agent is required at any time to return to any such Borrower, or to a trustee, receiver, liquidator, custodian, or any official in any insolvency proceeding, any portion of the payments made by such Borrowers to Issuing Bank or Administrative Agent pursuant to Section 2.06(e) in reimbursement of a payment made under the Letter of Credit or interest or fee thereon, each applicable Lender shall, on demand of Administrative Agent, forthwith return to Issuing Bank or Administrative Agent the amount of its Applicable Percentage of any amounts so returned by Issuing Bank or Administrative Agent plus interest at the Overnight Bank Funding Rate.

(f) Documentation. Each Borrower agrees to be bound by the terms of the Letter of Credit Application and by Issuing Bank's interpretations of any Letter of Credit issued on behalf of such Borrower and by Issuing Bank's written regulations and customary practices relating to letters of credit, though Issuing Bank's interpretations may be different from such Borrower's own. In the event of a conflict between the Letter of Credit Application and this Agreement, this Agreement shall govern. It is understood

and agreed that, except in the case of gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), Issuing Bank shall not be liable for any error, negligence and/or mistakes, whether of omission or commission, in following Borrower Representative's or any Borrower's instructions or those contained in the Letters of Credit or any modifications, amendments or supplements thereto.

(g) Determination to Honor Drawing Request. In determining whether to honor any request for drawing under any Letter of Credit by the beneficiary thereof, Issuing Bank shall be responsible only to determine that the documents and certificates required to be delivered under such Letter of Credit have been delivered and that they comply on their face with the requirements of such Letter of Credit and that any other drawing condition appearing on the face of such Letter of Credit has been satisfied in the manner so set forth.

(h) Nature of Participation and Reimbursement Obligations. The obligation of each Lender holding a Revolving Commitment in accordance with this Agreement to make the Revolving Loans or Participation Advance as a result of a drawing under a Letter of Credit, and the obligations of Borrowers to reimburse Issuing Bank upon a draw under a Letter of Credit, shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Section 2.06(h) under all circumstances, including the following circumstances:

(i) any set-off, counterclaim, recoupment, defense or other right which such Lender or any Borrower, as the case may be, may have against Issuing Bank, Administrative Agent, any Borrower or Lender, as the case may be, or any other Person for any reason whatsoever;

(ii) the failure of any Borrower or any other Person to comply, in connection with a Letter of Credit Borrowing, with the conditions set forth in this Agreement for the making of a Revolving Loan, it being acknowledged that such conditions are not required for the making of a Letter of Credit Borrowing and the obligation of Lenders to make Participation Advances under Section 2.06(d);

(iii) any lack of validity or enforceability of any Letter of Credit;

(iv) any claim of breach of warranty that might be made by any Borrower, Administrative Agent, Issuing Bank or any Lender against the beneficiary of a Letter of Credit, or the existence of any claim, set-off, recoupment, counterclaim, cross-claim, defense or other right which any Borrower, Administrative Agent, Issuing Bank or any Lender may have at any time against a beneficiary, any successor beneficiary or any transferee of any Letter of Credit or assignee of the proceeds thereof (or any Persons for whom any such transferee or assignee may be acting), Issuing Bank, Administrative Agent or any Lender or any other Person, whether in connection with this Agreement, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between any Borrower or any Restricted Subsidiaries of such Borrower and the beneficiary for which any Letter of Credit was procured);

(v) the lack of power or authority of any signer of (or any defect in or forgery of any signature or endorsement on) or the form of or lack of validity, sufficiency, accuracy, enforceability or genuineness of any draft, demand, instrument, certificate or other document presented under or in connection with any Letter of Credit, or any fraud or alleged fraud in connection with any Letter of Credit, or the transport of any property or provision of services relating to a Letter of Credit, in each case even if Issuing Bank or any of Issuing Bank's Affiliates has been notified thereof;

(vi) payment by Issuing Bank under any Letter of Credit against presentation of a demand, draft or certificate or other document which is forged or does not fully comply with the terms of such Letter of Credit (provided that the foregoing shall not excuse Issuing Bank from any obligation under the terms of any applicable Letter of Credit to require the presentation of documents that on their face appear to satisfy any applicable requirements for drawing under such Letter of Credit prior to honoring or paying any such draw);

(vii) the solvency of, or any acts or omissions by, any beneficiary of any Letter of Credit, or any other Person having a role in any transaction or obligation relating to a Letter of Credit, or the existence, nature, quality, quantity, condition, value or other characteristic of any property or services relating to a Letter of Credit;

(viii) any failure by Issuing Bank or any of Issuing Bank's Affiliates to issue any Letter of Credit in the form requested by Borrower Representative, unless Administrative Agent and Issuing Bank have each received written notice from Borrower Representative of such failure within six (6) Business Days after Issuing Bank shall have furnished Administrative Agent and Borrower Representative a copy of such Letter of Credit and such error is material and no drawing has been made thereon prior to receipt of such notice;

(ix) the occurrence of any Material Adverse Effect;

(x) any breach of this Agreement or any other Loan Document by any party thereto;

(xi) the occurrence or continuance of an insolvency proceeding with respect to any Borrower or any Guarantor;

(xii) the fact that a Default or an Event of Default shall have occurred and be continuing;

(xiii) the fact that it may be past the Maturity Date, or the fact that this Agreement or the obligations of Lenders to make Revolving Loans have been terminated; and

(xiv) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing.

(i) Liability for Acts and Omissions.

(i) As between Borrowers and Issuing Bank, Swingline Lender, Administrative Agent and Lenders, each Borrower assumes all risks of the acts and omissions of, or misuse of the Letters of Credit by, the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, Issuing Bank shall not be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for an issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged (even if Issuing Bank or any of its Affiliates shall have been notified thereof); (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such 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; (iii) the failure of the beneficiary of any such Letter of Credit, or any other party to which such Letter of Credit may be transferred, to comply fully with any conditions required in order to draw upon such Letter of Credit or any other claim of any Borrower against any beneficiary of such Letter of Credit, or any such transferee, or any dispute between or among any Borrower and any beneficiary of any Letter of Credit or any such transferee;

(iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, facsimile, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of Issuing Bank, including any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Governmental Authority, and none of the above shall affect or impair, or prevent the vesting of, any of Issuing Bank's rights or powers hereunder. Nothing in the preceding sentence shall relieve Issuing Bank from liability for Issuing Bank's gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment) in connection with actions or omissions described in such clauses (i) through (viii) of such sentence. In no event shall Issuing Bank or Issuing Bank's Affiliates be liable to any Borrower for any indirect, consequential, incidental, punitive, exemplary or special damages or expenses (including without limitation attorneys' fees), or for any damages resulting from any change in the value of any property relating to a Letter of Credit.

(ii) Without limiting the generality of the foregoing, Issuing Bank and each of its Affiliates: (i) may rely on any oral or other communication believed in good faith by Issuing Bank or such Affiliate to have been authorized or given by or on behalf of the applicant for a Letter of Credit; (ii) may honor any presentation if the documents presented appear on their face substantially to comply with the terms and conditions of the relevant Letter of Credit; (iii) may honor a previously dishonored presentation under a Letter of Credit, whether such dishonor was pursuant to a court order, to settle or compromise any claim of wrongful dishonor, or otherwise, and shall be entitled to reimbursement to the same extent as if such presentation had initially been honored, together with any interest paid by Issuing Bank or its Affiliates; (iv) may honor any drawing that is payable upon presentation of a statement advising negotiation or payment, upon receipt of such statement (even if such statement indicates that a draft or other document is being delivered separately), and shall not be liable for any failure of any such draft or other document to arrive, or to conform in any way with the relevant Letter of Credit; (v) may pay any paying or negotiating bank claiming that it rightfully honored under the laws or practices of the place where such bank is located; and (vi) may settle or adjust any claim or demand made on Issuing Bank or its Affiliate in any way related to any order issued at the applicant's request to an air carrier, a letter of guarantee or of indemnity issued to a steamship agent or carrier or any document or instrument of like import (each an "Order") and honor any drawing in connection with any Letter of Credit that is the subject of such Order, notwithstanding that any drafts or other documents presented in connection with such Letter of Credit fail to conform in any way with such Letter of Credit.

(iii) In furtherance and extension and not in limitation of the specific provisions set forth above, any action taken or omitted by Issuing Bank under or in connection with the Letters of Credit issued by it or any documents and certificates delivered thereunder, if taken or omitted in good faith and without gross negligence or willful misconduct (as determined by a court of competent jurisdiction in a final non-appealable judgment), shall not put Issuing Bank under any resulting liability to any Borrower, Administrative Agent or any Lender.

(j) Cash Collateral. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower Representative receives notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this paragraph, the Borrowers shall Cash Collateralize all Letters of Credit; provided that the obligation to Cash Collateralize all Letters of Credit shall become effective immediately, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to any Borrower described in clause (e) of Article VII. For the purposes

of this Agreement, "Cash Collateralize" shall mean, with respect to any Letter of Credit, the deposit in U.S. Dollars in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders (the "LC Collateral Account"), an amount in cash equal to 105% of the amount of the LC Exposure in respect of such Letter of Credit issued and outstanding on such date plus accrued and unpaid interest thereon. Such deposit shall be held by the Administrative Agent as collateral for the payment and performance of the Secured Obligations. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the LC Collateral Account and the Borrowers hereby grant the Administrative Agent a security interest in the LC Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrowers' risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in the LC Collateral Account. Moneys in the LC Collateral Account shall be applied by the Administrative Agent to reimburse the Issuing Bank for LC Disbursements for which it has not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrowers for the LC Exposure at such time or, if the maturity of the Loans has been accelerated (but subject to the consent of the Required Lenders), be applied to satisfy other Secured Obligations. If the Borrowers are required to Cash Collateralize Letters of Credit solely as a result of the occurrence of an Event of Default, the cash collateral (to the extent not applied as aforesaid) shall be returned to the Borrowers within three (3) Business Days after all such Events of Default have been waived as confirmed in writing by the Administrative Agent.

(k) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Restricted Subsidiary, the Borrowers shall be obligated to reimburse the applicable Issuing Bank hereunder for any and all drawings under such Letter of Credit. Each Borrower hereby acknowledges that the issuance of Letters of Credit requested by such Borrower for the account of Restricted Subsidiaries inures to the benefit of such Borrower, and that such Borrower's business derives substantial benefits from the businesses of such Restricted Subsidiaries.

(l) Existing Letters of Credit. Each Existing Letter of Credit shall be deemed to be a Letter of Credit issued for the account of the Borrowers on the Closing Date for all purposes hereof and of the other Loan Documents (whether or not a Borrower was the applicant with respect thereto or otherwise responsible for reimbursement obligations with respect thereto prior to the Closing Date), and no issuance or similar fees (as distinguished from ongoing participation or fronting fees) will be required in connection with the deemed issuance of the Existing Letters of Credit on the Closing Date.

SECTION 2.07 Funding of Borrowings.

(a) Each Lender shall make each Loan to be made by such Lender hereunder on the proposed date thereof by wire transfer of immediately available funds by 3:00 p.m., New York time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders in an amount equal to such Lender's Applicable Percentage. The Administrative Agent will make such Loans available to the applicable Borrower by promptly crediting the amounts so received, in like funds, to the applicable Funding Account; provided that ABR Loans made to finance the reimbursement of (i) an LC Disbursement as provided in Section 2.06(d) shall be remitted by the Administrative Agent to the applicable Issuing Bank and (ii) a Protective Advance shall be retained by the Administrative Agent.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a

Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrowers severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the applicable Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of such Lender, the rate reasonably determined by the Administrative Agent to be the cost to it of funding such amount or (ii) in the case of the Borrowers, the interest rate applicable to ABR Loans. If such Lender does not pay such amount forthwith upon the Administrative Agent's demand therefor, the Administrative Agent may make a demand therefor upon the applicable Borrower, and the applicable Borrower shall pay such interest at the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing. Any payment by the applicable 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 Administrative Agent.

SECTION 2.08 Interest Elections. The Borrowers shall pay interest in respect of the outstanding unpaid principal amount of the Loans as selected by them from the applicable Interest Rate Options specified below applicable to the Revolving Loans or the Swingline Loans, respectively, it being understood that, subject to the provisions of this Agreement, the Borrowers may select different Interest Rate Options and different Interest Periods to apply simultaneously to the Loans comprising different Borrowings and may convert to or renew one or more Interest Period options with respect to all or any portion of the Loans comprising any Type; provided that if an Event of Default or Default exists and is continuing, the Borrowers may not request, convert to, or renew the Term Rate Loan Option, or Daily Simple RFR Option for any Loans and the Required Lenders may demand that all existing Borrowings (i) denominated in U.S. Dollars bearing interest under shall be converted immediately to an ABR Loan and (ii) denominated in an Alternative Currency shall either (x) in relation to Term Rate Loans, (A) be converted to an ABR Loan denominated in U.S. Dollars (in an amount equal to the Dollar Amount of such Alternative Currency) at the end of the Interest Period therefor or (B) be prepaid at the end of the applicable Interest Period in full, subject to the obligation of the Borrowers to pay any indemnity under Section 2.16 in connection with such conversion; or (y) in relation to Daily Rate Loans, be converted immediately to an ABR Loan denominated in U.S. Dollars (in an amount equal to the Dollar Amount of such Alternative Currency). If at any time the designated rate applicable to any Loan made by any Lender exceeds such Lender's highest lawful rate, the rate of interest on such Lender's Loan shall be limited to such Lender's highest lawful rate. The applicable Alternate Base Rate, Term SOFR Rate, Daily Simple SOFR, Daily Simple RFR, or Term RFR shall be determined by the Administrative Agent in accordance with this Agreement, and such determination shall be conclusive absent manifest error. Interest on the principal amount of each Loan denominated in an Alternative Currency shall be paid by the Borrowers in such Alternative Currency.

(a) Revolving Credit Interest Rate Options. The Borrowers shall have the right to select from the following Interest Rate Options applicable to the Revolving Loans:

(i) Revolving Loan Term Rate Loan Options:

(A) Term SOFR Rate Option. In the case of Term SOFR Rate Loans denominated in U.S. Dollars, a rate per annum (computed on the basis of a year of 360 days and actual days elapsed) equal to the Term SOFR Rate as determined for each applicable Interest Period plus the SOFR Adjustment for the applicable Interest Period plus the Applicable Rate; or

(B) Eurocurrency Rate Option. In the case of Eurocurrency Rate Loans denominated in Canadian Dollars, a rate per annum (computed on the basis of a year of 360 days and actual days elapsed, except that interest on Eurocurrency Rate Loans

denominated in Canadian Dollars as to which market practice differs from the foregoing shall be computed in accordance with market practice for such Loans) equal to the Eurocurrency Rate for such Currency as determined for each applicable Interest Period plus the Applicable Rate;

(C) Term RFR Option. On and after the Term RFR Transition Date with respect to any applicable Alternative Currency, in the case of Loans denominated in any Alternative Currency that bear interest based on Term RFR, a rate per annum (computed on the basis of a year of 360 days and actual days elapsed, except that interest on Loans denominated in Alternative Currencies as to which market practice differs from the foregoing shall be computed in accordance with market practice for such Loans) equal to the Term RFR for such Alternative Currency as determined for each applicable Interest Period plus the RFR Adjustment plus the Applicable Rate.

(b) Revolving Loan Daily Rate Loan Options:

(A) ABR Loans. In the case of ABR Loans denominated in U.S. Dollars, a fluctuating rate per annum (computed on the basis of a year of 365 or 366 days, as the case may be, and actual days elapsed) equal to the Alternate Base Rate plus the Applicable Rate, such interest rate to change automatically from time to time effective as of the effective date of each change in the Alternate Base Rate; or

(B) Daily Simple RFR Option. Prior to the Term RFR Transition Date with respect to Loans that bear interest at a rate based on Daily Simple RFR denominated in Euro, a fluctuating rate per annum (computed on the basis of a year of 360 days and actual days elapsed, except that interest on Loans denominated in Euro, as to which market practice differs from the foregoing shall be computed in accordance with market practice for such Loans) equal to the Daily Simple RFR for such Currency plus the RFR Adjustment plus the Applicable Rate, such interest rate to change automatically from time to time effective as of the effective date of each change in the applicable Daily Simple RFR.

(c) Swingline Loan Interest Rate. All Swingline Loans shall be denominated in U.S. Dollars, and accrue interest at a fluctuating rate per annum (computed on the basis of a year of 360 days and actual days elapsed) equal to the Daily Simple SOFR plus the SOFR Adjustment plus the Applicable Rate, such interest rate to change automatically from time to time effective as of the effective date of each change in Daily Simple SOFR.

(d) Rate Quotations. The Borrowers may call the Administrative Agent on or before the date on which an Interest Election Request is to be delivered to receive an indication of the rates then in effect, but it is acknowledged that such projection shall not be binding on the Administrative Agent or the Lenders nor affect the rate of interest which thereafter is actually in effect when the election is made.

(e) Conforming Changes Relating to Term SOFR, Daily Simple SOFR, Daily Simple RFR or Term RFR. With respect to the Term SOFR, Daily Simple SOFR, the Eurocurrency Rate, Daily Simple RFR or Term RFR, the Administrative Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document; provided that, the Administrative Agent shall provide notice to the Borrowers and the Lenders of each such amendment implementing such Conforming Changes reasonably promptly after such amendment becomes effective.

(f) At any time when the Borrowers shall convert to or renew a Term Rate Loan Option, the Borrowers shall notify the Administrative Agent thereof by delivering an Interest Election Request at least (i) for a Term SOFR Rate Option with respect to Revolving Loans denominated in U.S. Dollars, three (3) Business Days prior to the effective date, and (ii) for a Eurocurrency Rate Option or a Term RFR Option, in all cases, with respect to Revolving Loans denominated in Alternative Currencies, four (4) Business Days prior to the effective date. The notice shall specify an Interest Period during which such Interest Rate Option shall apply. Notwithstanding the preceding sentence, the following provisions shall apply to any selection of, renewal of, or conversion to a Term Rate Loan Option:

(g) Renewals. In the case of the renewal of a Term Rate Loan Option at the end of an Interest Period, the first day of the new Interest Period shall be the last day of the preceding Interest Period, without duplication in payment of interest for such day.

(h) No Conversion of Alternative Currency Loans. No Loan denominated in any Currency may be converted into a Loan of a different Interest Period, Type, or a Loan denominated in a different Currency, except as otherwise provided herein.

SECTION 2.09 Termination and Reduction of Commitments; Increase in Commitments.

(a) Unless previously terminated the Commitments shall terminate on the Maturity Date.

(b) The Borrowers may at any time terminate the Commitments upon (i) the payment in full in cash of all outstanding Loans, together with accrued and unpaid interest thereon and on any LC Exposure, (ii) the cancellation and return of all outstanding Letters of Credit (or alternatively, with respect to each such Letter of Credit, the Cash Collateralization (or, at the discretion of the Administrative Agent, a back- up standby letter of credit satisfactory to the Administrative Agent and the Issuing Bank) of all outstanding Letters of Credit, (iii) the payment in full in cash of the accrued and unpaid fees, and (iv) the payment in full in cash of all reimbursable expenses and other Secured Obligations, together with accrued and unpaid interest thereon.

(c) The Borrowers may from time to time reduce the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of $5,000,000 and (ii) the Borrowers shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Revolving Loans in accordance with Section 2.11, the Borrowers would not be in compliance with the Revolving Exposure Limitations.

(d) The Borrower Representative shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) or (c) of this Section at least three (3) Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower Representative pursuant to this Section shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower Representative may state that such notice is conditioned upon the effectiveness of other credit facilities, in which case such notice may be revoked by the Borrower Representative (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

(e) The Borrowers shall have the right to increase the Commitments by obtaining additional Commitments, either from one or more of the Lenders or another lending institution provided that (i) any such request for an increase shall be in a minimum amount of $10,000,000, (ii) the Commitments may be

increased pursuant hereto on no more than five (5) occasions, (iii) the aggregate amount of all additional Commitments obtained under this clause (e) shall not exceed $300,000,000, (iv) the identity of any such new Lender shall be acceptable to the Administrative Agent, such approval not to be unreasonably withheld or delayed, (v) any such new Lender assumes all of the rights and obligations of a "Lender" hereunder, and (vi) the procedure described in Section 2.09(f) have been satisfied. Nothing contained in this Section 2.09 shall constitute, or otherwise be deemed to be, a commitment on the part of any Lender to increase its Commitment hereunder at any time.

(f) Any amendment hereto for such an increase or addition shall be in form and substance reasonably satisfactory to the Administrative Agent and shall only require the written signatures of the Administrative Agent, the Borrowers and each Lender being added or increasing its Commitment, subject only to the approval of the Required Lenders if any such increase or addition would cause the Aggregate Commitments to exceed $1,200,000,000. As a condition precedent to such an increase or addition, the Borrowers shall deliver to the Administrative Agent (i) a certificate of each Loan Party signed by an Responsible Officer of such Loan Party (A) certifying and attaching the resolutions adopted by such Loan Party approving or consenting to such increase, and (B) in the case of the Borrowers, certifying that, before and after giving effect to such increase or addition, (1) the representations and warranties contained in Article III and the other Loan Documents are true and correct in all material respects (except that any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects only as of such specified date, and that any representation or warranty which is subject to any materiality qualifier shall be required to be true and correct in all respects) and (2) no Default exists, and (ii) legal opinions and documents consistent with those delivered on the Closing Date, to the extent reasonably requested by the Administrative Agent.

(g) On the effective date of any such increase or addition, (i) any Lender increasing (or, in the case of any newly added Lender, extending) its Commitment shall make available to the Administrative Agent such amounts in immediately available funds as the Administrative Agent shall determine, for the benefit of the other Lenders, as being required in order to cause, after giving effect to such increase or addition and the use of such amounts to make payments to such other Lenders, each Lender's portion of the outstanding Revolving Loans of all the Lenders to equal its revised Applicable Percentage of such outstanding Revolving Loans, and the Administrative Agent shall make such other adjustments among the Lenders with respect to the Revolving Loans then outstanding and amounts of principal, interest, commitment fees and other amounts paid or payable with respect thereto as shall be necessary, in the opinion of the Administrative Agent, in order to effect such reallocation and (ii) the Borrowers shall be deemed to have repaid and reborrowed all outstanding Revolving Loans as of the date of any increase (or addition) in the Commitments (with such reborrowing to consist of the Types of Revolving Loans, with related Interest Periods, if applicable, specified in a notice delivered by the Borrower Representative, in accordance with the requirements of Section 2.03). The deemed payments made pursuant to clause (ii) of the immediately preceding sentence shall be accompanied by payment of all accrued interest on the amount prepaid and shall be subject to indemnification by the Borrowers pursuant to the provisions of Section 2.16 if the deemed payment occurs other than on the last day of the related Interest Periods. Within a reasonable time after the effective date of any increase or addition, the Administrative Agent shall, and is hereby authorized and directed to, revise the Commitment Schedule to reflect such increase or addition and shall distribute such revised Commitment Schedule to each of the Lenders and the Borrower Representative, whereupon such revised Commitment Schedule shall replace the old Commitment Schedule and become part of this Agreement. Additionally, on the effective date of any such increase or addition, the following dollar floors shall be automatically and proportionately increased (such that the percentage yielded by dividing such existing dollar floor by the aggregate Commitments, in each case as in effect prior to the effectiveness of such increased or additional Commitments, is the same as the percentage yielded by dividing such increased dollar floor by the aggregate Commitments, in each case immediately following the effectiveness of such increased or additional Commitments): (i) the dollar floors set forth in the

definition of "Covenant Compliance Event"; (ii) the dollar floors set forth in clause (b) of the definition of "Dominion Period"; (iii) the dollar floors set forth in clauses (i) and (ii) of the definition of "Weekly BBC Reporting Period"; (iv) the dollar floors set forth in clause (b)(i) of the definition of "Payment Conditions"; and (v) the dollar floors set forth in Sections 5.07(a) and 5.07(b).

SECTION 2.10 Repayment and Amortization of Loans; Evidence of Debt.

(a) The Borrowers hereby unconditionally promise to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date, (ii) to the Administrative Agent the then unpaid amount of each Protective Advance on the earlier of the Maturity Date and demand by the Administrative Agent, and (iii) to the Administrative Agent the then unpaid principal amount of each Overadvance on the earlier of the Maturity Date and the 30th day after such Overadvance is made.

(b) On each Business Day during any Dominion Period, the Administrative Agent shall apply all funds credited to a Concentration Account of the Borrowers on such Business Day or the immediately preceding Business Day (at the discretion of the Administrative Agent, whether or not immediately available), first, to prepay any Protective Advances and Overadvance that may be outstanding, second, to prepay the Revolving Loans and Swingline Loans, and third, as the Borrower Representative may direct.

(c) 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 Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(d) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the 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 the Borrowers to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(e) The entries made in the accounts maintained pursuant to paragraph (c) or (d) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Loans in accordance with the terms of this Agreement.

(f) Any Lender (including the Swingline Lender) may request that Loans made by it be evidenced by a promissory note. In such event, the Borrowers shall execute and deliver to such Lender a promissory note payable to such Lender (or, if requested by such Lender, to such Lender and its registered assigns) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or to such payee and its registered assigns).

SECTION 2.11 Prepayment of Loans.

(a) The Borrowers shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (c) of this Section and, if applicable, payment of any break funding expenses under Section 2.16.

(b) Except for Overadvances permitted under Section 2.05, in the event and on each occasion that the Borrowers are not in compliance with the Revolving Exposure Limitations, the Borrowers shall severally prepay the Revolving Loans and/or Swingline Loans (or, if no such Loans are outstanding, Cash Collateralize outstanding Letters of Credit) of such Borrower(s) in an aggregate amount that, after giving effect to such prepayments or Cash Collateralization the Borrowers shall be in compliance with the Revolving Exposure Limitations.

(c) The Borrower Representative shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by facsimile or email) of any prepayment hereunder not later than (i) 1:00 p.m., New York time, (i) at least one (1) Business Day prior to the date of prepayment of the Revolving Loans that bear interest at the rate for ABR Loans; (ii) at least three (3) Business Days prior to the date of prepayment of the Revolving Loans denominated in U.S. Dollars that bear interest at the Term SOFR Rate; (iii) at least four (4) Business Days prior to the date of prepayment of the Revolving Loans denominated in Alternative Currencies that bear interest at the Daily Simple RFR Option, Term RFR Option or Eurocurrency Rate Option; or (iv) no later than 1:00 p.m. Eastern Time on the date of prepayment of Swingline Loans. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid, as well as a statement indicating the application of the prepayment among Loans to which the rate for ABR Loans, the Term SOFR Rate, Daily Simple SOFR, the Daily Simple RFR Option, the Term RFR Option and the Eurocurrency Rate Option applies; provided if the Borrowers prepay any Loans pursuant to this Section and fail to specify the application of same, such prepayment shall be applied first to Loans to which the rate for an ABR Loan applies, then to other Loans denominated in U.S. Dollars, then to Term RFR Loans denominated in an Alternative Currency, then to all other Loans; provided further that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.09, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.09. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Revolving Loans included in the prepaid Borrowing. Prepayments shall be accompanied by (i) accrued interest to the extent required by Section 2.13 and (ii) break funding payments, if any, pursuant to Section 2.16.

(d) Application Among Interest Rate Options. All prepayments required pursuant to this Section 2.11 shall first be applied among the Interest Rate Options to the principal amount of the Loans subject to the rate applicable to an ABR Loan, then to other Loans denominated in U.S. Dollars, then to Loans subject to the Term RFR Option denominated in an Alternative Currency, then to Loans subject to Daily Simple RFR denominated in an Alternative Currency, then to other Loans denominated in an Alternative Currency. In accordance with Section 2.17, the Borrowers shall indemnify the Lenders for any loss or expense, including loss of margin, incurred with respect to any such prepayments applied against Loans subject to a Term Rate Option on any day other than the last day of the applicable Interest Period.

SECTION 2.12 Fees.

(a) The Borrowers agree to pay to the Administrative Agent, for the account of each Lender in accordance with its Applicable Percentage, a commitment fee equal to the 0.20% per annum (the "Commitment Fee") multiplied by the actual daily amount of the Available Commitment during the period from and including the Closing Date to but excluding the date on which the Commitments terminate. Accrued commitment fees shall be payable in arrears on the first Business Day of each fiscal quarter of the Company and on the date on which the Commitments terminate, commencing on the first such date to occur

after the Closing Date. All commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day).

(b) The Borrowers shall pay (x) to Administrative Agent, for the ratable benefit of Lenders holding Commitments, fees for each Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, equal to with respect to LC Exposure, the same Applicable Rate used to determine the interest rate applicable to Term SOFR Rate Loans on the aggregate daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements), to be calculated on the basis of a 360-day year for the actual number of days elapsed and to be payable quarterly in arrears on the first day of each calendar quarter and on the Maturity Date, and (y) to Issuing Bank, a fronting fee of 0.125% per annum times the aggregate daily face amount of each outstanding Letter of Credit for the period from and excluding the date of issuance of same to and including the date of expiration or termination, to be payable quarterly in arrears on the first day of each calendar quarter and on the Maturity Date (all of the foregoing fees, the "Letter of Credit Fees"). In addition, the Borrowers shall pay to Issuing Bank, for the benefit of such Issuing Bank customary fees and administrative expenses payable with respect to the Letters of Credit as such Issuing Bank may generally charge or incur from time to time in connection with the issuance, maintenance, amendment (if any), assignment or transfer (if any), negotiation, and administration of Letters of Credit, to be payable on demand. All such charges shall be deemed earned in full on the date when the same are due and payable hereunder and shall not be subject to rebate or pro-ration upon the termination of this Agreement for any reason. Any such charge in effect at the time of a particular transaction shall be the charge for that transaction, notwithstanding any subsequent change in Issuing Bank's prevailing charges for that type of transaction. Upon and after the occurrence of an Event of Default, and during the continuation thereof, at the option of the Administrative Agent or at the direction of Required Lenders (or, in the case of any Event of Default under clause (e) of Article VII, immediately and automatically upon the occurrence of any such Event of Default without the requirement of any affirmative action by any party), the Letter of Credit Fees described in clause (x) of this Section 2.12(b) shall be increased by an additional two percent (2.0%) per annum; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to the Issuing Bank pursuant to this paragraph shall be payable within 30 days after demand.

(c) The Borrowers agree to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrowers and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due and shall be paid in U.S. Dollars, in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders.

(e) Upon payment, such fees in this Section 2.12 shall not be refundable under any circumstances, absent manifest error in calculation.

SECTION 2.13 Interest.

(a) Each Revolving Loan and each Swingline Loan shall bear interest at the rate applicable to the relevant Interest Rate Option for such Loan in accordance with Section 2.08.

(b) Each Protective Advance and each Overadvance shall bear interest at the rate applicable to ABR Loans denominated in U.S. Dollars in accordance with Section 2.08.

(c) Notwithstanding the foregoing, upon the occurrence and during the continuance of an Event of Default, the Administrative Agent or the Required Lenders may, at their option, by notice to the Borrower Representative, declare that (i) all Loans shall bear interest at 2% plus the rate otherwise applicable to such Loans as provided in the preceding paragraphs of this Section or (ii) in the case of any Letter of Credit Fees outstanding hereunder, such amount shall accrue at 2% plus the rate applicable to such Letter of Credit Fees as provided hereunder, in each case, from the date such Event of Default occurred until the date such Event of Default is waived in writing in accordance herewith; provided, that (x) the default rate of interest set forth in this clause (d) shall apply automatically and without notice to the Borrower Representative upon the occurrence and during the continuance of any Event of Default under clauses (a) or (e) of Article VII and (y) application of the default rate of interest pursuant to this clause (d) may be revoked at the option of the Required Lenders notwithstanding any provision of Section 9.02 requiring the consent of "each Lender affected thereby" for reductions in interest rates.

(d) As to all Loans, interest shall be due and payable in arrears on each Interest Payment Date; provided that (i) interest accrued pursuant to paragraph (e) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan (other than a prepayment of an ABR Loan prior to the end of the Availability Period), accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Loans prior to the end of the current Interest Period therefor, if applicable, accrued interest on such Loan shall be payable on the effective date of such conversion). Interest shall be computed to, but excluding, the date payment is due.

(e) If the Borrower Representative fails to select a new Interest Period to apply to any Borrowing of Loans in U.S. Dollars under any Term Rate Loan Option at the expiration of an existing Interest Period applicable to such Borrowing in accordance with the provisions of Section 2.08, the Borrower Representative shall be deemed to have converted such Borrowing to the an ABR Loan, as applicable to Revolving Loans, commencing upon the last day of the existing Interest Period. If the Borrower Representative fails to select a new Interest Period to apply to any Borrowing of Loans in an Alternative Currency under any Term Rate Loan Option at the expiration of an existing Interest Period applicable to such Borrowing in accordance with the provisions of Section 2.08 then, unless such Borrowing is repaid as provided herein, the Borrower Representative shall be deemed to have selected that such Borrowing shall automatically be continued under the applicable Term Rate Loan Option in its original Currency with an Interest Period of one (1) month at the end of such Interest Period. If the Borrower Representative provides any Borrowing Request related to a Loan at the Term SOFR Rate Option, or on and after the Term RFR Transition Date with respect to any Alternative Currency, the Term RFR Option for such Alternative Currency, but fails to identify an Interest Period therefor, such Borrowing Request shall be deemed to request an Interest Period of one (1) month. Any Borrowing Request that fails to select an Interest Rate Option shall be deemed to be a request for an ABR Loan. If no election as to Currency is specified in the applicable Borrowing Request, then the requested Loans shall be made in U.S. Dollars.

SECTION 2.14 Rate Unascertainable; Increased Costs; Deposits Not Available; Illegality; Benchmark Replacement Setting.

(a) Unascertainable; Increased Costs; Deposits Not Available. If at any time:

(i) on or prior to the first day of an Interest Period, the Administrative Agent shall have determined (which determination shall be conclusive and binding absent manifest error) that (x) the Term SOFR Rate, Daily Simple SOFR, Daily Simple RFR, Eurocurrency Rate or Term RFR applicable to a Loan (in each case whether in U.S. Dollars or an Alternative Currency) cannot be determined pursuant to the definition thereof, including, without limitation, because such rate for the corresponding applicable Currency is not available or published on a current basis or (y) a

fundamental change has occurred in the foreign exchange or interbank markets with respect to such Currency or with respect to such rate (including, without limitation, changes in national or international financial, political or economic conditions or currency exchange rates or exchange controls), or

(ii) the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error) that the Term SOFR Rate, Daily Simple SOFR, prior to the Term RFR Transition Date with respect to any Loans that bear interest based on Daily Simple RFR denominated in any Alternative Currency, or Daily Simple RFR with respect to any Currency, cannot be determined pursuant to the definition thereof or, on and after the Term RFR Transition Date with respect to any Loans that bear interest based Term RFR denominated in any Currency, Term RFR for such Currency cannot be determined pursuant to the definition thereof on or prior to the first day of any Interest Period, or

(iii) on or prior to the first day of an Interest Period, any Lender determines that for any reason in connection with any request for a Term Rate Loan (in each case whether denominated in U.S. Dollars or an Alternative Currency) or a conversion thereto or a continuation thereof that (A) deposits in the applicable Currency are not available to any Lender in connection with such Term Rate Loan, or are not being offered to banks in the market for the applicable Currency, amount, and Interest Period of such Term Rate Loan, or (B) the Term Rate Loan Option for any requested Currency or Interest Period with respect to a proposed Term Rate Loan, as applicable, does not adequately and fairly reflect the cost to such Lender of funding, establishing or maintaining such Loan and, in each case, such Lender has provided notice of such determination to the Administrative Agent,

then the Administrative Agent shall have the rights specified in Section 2.14(d).

(b) Illegality. If at any time any Lender shall have determined, or any Governmental Body shall have asserted, that the making, maintenance or funding of any Loan to which any Interest Rate Option applies, or the determination or charging of interest rates based upon any Interest Rate Option has been made impracticable or unlawful, by compliance by such Lender in good faith with any Law or any interpretation or application thereof by any Governmental Body or with any request or directive of any such Governmental Body (whether or not having the force of Law), or any Governmental Body has imposed material restrictions on the authority of such Lender to purchase, sell, or take deposits of any Currency in the applicable interbank market for the applicable Currency,

then the Administrative Agent shall have the rights specified in Section 2.14(d).

(c) Administrative Agent's and Lender's Rights. In the case of any event specified in Section 2.14(a) above, the Administrative Agent shall promptly so notify the Lenders and the Borrowers thereof, and in the case of an event specified in Section 2.14(b) above, such Lender shall promptly so notify the Administrative Agent and endorse a certificate to such notice as to the specific circumstances of such notice, and the Administrative Agent shall promptly send copies of such notice and certificate to the other Lenders and the Borrowers.

(i) Upon such date as shall be specified in such notice (which shall not be earlier than the date such notice is given), the obligation of (A) the Lenders, in the case of such notice given by the Administrative Agent, or (B) such Lender, in the case of such notice given by such Lender, to allow the Borrower to select, convert to or renew a Loan under the affected Interest Rate Option in each such Currency shall be suspended (to the extent of the affected Interest Rate Option, or the applicable Interest Periods) until the Administrative Agent shall have later notified the Borrower,

or such Lender shall have later notified the Administrative Agent, of the Administrative Agent's or such Lender's, as the case may be, determination that the circumstances giving rise to such previous determination no longer exist.

(ii) If at any time the Administrative Agent makes a determination under Section 2.14(a): (a) if the Borrower Representative has previously notified the Administrative Agent of its selection of, conversion to or renewal of a an affected Interest Rate Option, and such Interest Rate Option has not yet gone into effect, such notification shall (i) with regard to any such pending request for Loans denominated in U.S. Dollars, be deemed to provide for selection of, conversion to or renewal of an ABR Loan otherwise available with respect to such Loans in the amount specified therein and (ii) with regard to any such pending request for Loans denominated in an Alternative Currency, be deemed ineffective (in each case to the extent of the affected Interest Rate Option or the applicable Interest Periods), (b) any outstanding affected Loans denominated in U.S. Dollars shall be deemed to have been converted into ABR Loans immediately or, in the case of Term Rate Loans, at the end of the applicable Interest Period, and (c) any outstanding affected Loans denominated in an Alternative Currency shall, at the Borrower's election, either be converted into ABR Loans denominated in U.S. Dollars (in an amount equal to the Dollar Amount of such Alternative Currency) immediately or, in the case of Term Rate Loans, at the end of the applicable Interest Period or prepaid in full immediately or, in the case of Term Rate Loans, at the end of the applicable Interest Period; provided, however that absent notice from the Borrower Representative of conversion or prepayment, such Loans shall automatically be converted to ABR Loans (in an amount equal to the Dollar Amount of such Alternative Currency).

(iii) If any Lender notifies the Administrative Agent of a determination under Section 2.14(b), the Borrowers shall, subject to the Borrowers' indemnification Obligations under Section 2.16, as to any Loan of the Lender to which an affected Interest Rate Option applies, on the date specified in such notice either convert such Loan to an ABR Loan otherwise available with respect to such Loan (which shall be, with respect to Loans denominated in an Alternative Currency, in an amount equal to the Dollar Amount of such Alternative Currency) or prepay such Loan in accordance with Section 2.11. Absent due notice from the Borrower Representative of conversion or prepayment, such Loan shall automatically be converted to an ABR Loan otherwise available with respect to such Loan (which shall be, with respect to Loans denominated in an Alternative Currency, in an amount equal to the Dollar Amount of such Alternative Currency) upon such specified date.

(d) Benchmark Replacement Setting.

(i) Benchmark Replacement.

(1) Notwithstanding anything to the contrary herein or in any other Loan Document (and any agreement executed in connection with an Interest Rate Hedge shall be deemed not to be a "Loan Document" for purposes of this Section titled "Benchmark Replacement Setting"), if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to any setting of the then-current Benchmark for any Currency, then (A) if a Benchmark Replacement is determined in accordance with clause (1) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of such Benchmark setting and subsequent Benchmark settings without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document and (B) if a Benchmark Replacement is determined in accordance with clause (2), (3), or

(4) of the definition of "Benchmark Replacement" for such Benchmark Replacement Date, such Benchmark Replacement will replace such Benchmark for all purposes hereunder and under any Loan Document in respect of any Benchmark setting at or after 5:00 p.m. (New York City time) on the fifth (5th) Business Day after the date notice of such Benchmark Replacement is provided to the Lenders without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document so long as the Administrative Agent has not received, by such time, written notice from Lenders comprising the Required Lenders of objection to (i) with respect to a Benchmark Replacement determined in accordance with clause (2) or (3) of the definition of "Benchmark Replacement", the related Benchmark Replacement Adjustment and (ii) with respect to a Benchmark Replacement determined in accordance with clause (4) of the definition of "Benchmark Replacement", such Benchmark Replacement.

(2) Notwithstanding anything to the contrary herein or in any other Loan Document and subject to the proviso below in this paragraph, if a Term RFR Transition Date has occurred prior to the Reference Time in respect of any setting of the then-current Benchmark consisting of a Daily Simple RFR for the applicable Currency, then the applicable Benchmark Replacement will replace such Benchmark for all purposes hereunder or under any Loan Document in respect of such Benchmark for the applicable Currency setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Loan Document; provided that this clause (2) shall not be effective unless the Administrative Agent has delivered to the Lenders and the Borrowers a Term RFR Notice with respect to the applicable Term RFR Transition Event. For the avoidance of doubt, the Administrative Agent shall not be required to deliver a Term RFR Notice after a Term RFR Transition Event and may elect or not elect to do so in its sole discretion.

(ii) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Administrative Agent may make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Conforming Changes will become effective without any further action or consent of any other party to this Agreement or any other Loan Document.

(iii) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrowers and the Lenders of (A) the implementation of any Benchmark Replacement, and (B) the effectiveness of any Conforming Changes in connection with the use, administration, adoption, or implementation of a Benchmark Replacement. The Administrative Agent will notify the Borrowers of (x) the removal or reinstatement of any tenor of a Benchmark pursuant to paragraph (iv) below and (y) the commencement of any Benchmark Unavailability Period. Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this Section, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non- occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its or their sole discretion and without consent from any other party to this Agreement or any other Loan Document except, in each case, as expressly required pursuant to this Section.

(iv) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Loan Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if the then-current Benchmark is a term rate and

either (I) any tenor for such Benchmark is not displayed on a screen or other information service that publishes such rate from time to time as selected by the Administrative Agent in its reasonable discretion or (II) the regulatory supervisor for the administrator of such Benchmark has provided a public statement or publication of information announcing that any tenor for such Benchmark is not or will not be representative, then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such unavailable or non-representative tenor; and (B) if a tenor that was removed pursuant to clause (A) above either (I) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (II) is not, or is no longer, subject to an announcement that it is not or will not be representative for a Benchmark (including a Benchmark Replacement), then the Administrative Agent may modify the definition of "Interest Period" (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(v) Benchmark Unavailability Period. Upon the Borrower Representative's receipt of notice of the commencement of a Benchmark Unavailability Period, the Borrower Representative may revoke any pending request for a Loan bearing interest based on the Term SOFR Rate, Daily Simple SOFR, Eurocurrency Rate or RFR, conversion to or continuation of Loans bearing interest based on such Interest Rate Option to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower Representative will be deemed to have converted any such request into a request for a Loan of or conversion to Loans bearing interest under for ABR Loans. During a Benchmark Unavailability Period or at any time that a tenor for the then-current Benchmark is not an Available Tenor, the component of the Alternate Base Rate based upon the then-current Benchmark or such tenor for such Benchmark, as applicable, will not be used in any determination of the Alternate Base Rate.

(vi) Definitions. As used in this Section:

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark for any Currency, as applicable, (x) if such Benchmark for such Currency is a term rate or is based on a term rate, any tenor for such Benchmark (or component thereof) that is or may be used for determining the length of an interest period pursuant to this Agreement or (y) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) for such Currency that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark pursuant to this Agreement, in each case, as of such date and not including, for the avoidance of doubt, any tenor of such Benchmark that is then- removed from the definition of "Interest Period" pursuant to clause (iv) of this Section. For the avoidance of doubt, the Available Tenor for Daily Simple RFR is one month.

"Benchmark" means, initially, with respect to Obligations, interest, fees, commissions, or other amounts denominated in, or calculated with respect to, (a) U.S. Dollars, the Term SOFR Rate, (b) Euros, the Daily Simple RFR applicable for such Currency, or (c) Canadian Dollars, the Eurocurrency Rate applicable for such Currency; provided that if a Benchmark Transition Event has occurred with respect to the then-current Benchmark or upon the occurrence of a Term RFR Transition Event, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to this Section.

"Benchmark Replacement" means, with respect to any Benchmark Transition Event, the first applicable alternative set forth in the order below that can be determined by the Administrative Agent for the applicable Benchmark Replacement Date:

(1) Where the Benchmark is Term SOFR, the sum of: (A) Daily Simple SOFR and (B) the SOFR Adjustment for a 1-month Interest Period; and

(2) Where the Benchmark is EURIBOR,

(i) the sum of (A) Term RFR for €STR and (B) the related Benchmark Replacement Adjustment; and

(ii) the sum of: (A) Daily Simple RFR for €STR and (B) the related Benchmark Replacement Adjustment;

(3) [Reserved];

(4) the sum of (A) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower, giving due consideration to (x) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (y) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to the then-current Benchmark for syndicated credit facilities denominated in the applicable Currency at such time and (B) the related Benchmark Replacement Adjustment;

provided, that if the Benchmark Replacement as determined pursuant to clause (2) or (4) above would be less than the Floor, the Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Loan Documents; and provided further, that any Benchmark Replacement shall be administratively feasible as determined by the Administrative Agent in its sole discretion.

"Benchmark Replacement Adjustment" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero) that has been selected by the Administrative Agent and the Borrower, giving due consideration to (A) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body or (B) any evolving or then- prevailing market convention for determining a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for syndicated credit facilities denominated in the applicable Currency at such time.

"Benchmark Replacement Date" means a date and time determined by the Administrative Agent, which date shall be no later than the earliest to occur of the following events with respect to the then-current Benchmark for any Currency:

(1) in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (A) the date of the public statement or publication of information referenced therein and (B) the date on which the administrator of such

Benchmark (or the published component used in the calculation thereof) permanently or indefinitely ceases to provide all Available Tenors of such Benchmark (or such component thereof); or

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the date determined by the Administrative Agent, which date shall promptly follow the date of the public statement or publication of information referenced therein;

For the avoidance of doubt, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (1) or (2) with respect to any Benchmark upon the occurrence of the applicable event or events set forth therein with respect to all then-current Available Tenors of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Transition Event" means, the occurrence of one or more of the following events, with respect to the then-current Benchmark for any Currency:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark (or the published component used in the calculation thereof) announcing that such administrator has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof), permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof);

(2) a public statement or publication of information by a Governmental Authority having jurisdiction over the Administrative Agent, the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof), the Board, the Federal Reserve Bank of New York, the central bank for the Currency applicable to such Benchmark, an insolvency official with jurisdiction over the administrator for such Benchmark (or such component), a resolution authority with jurisdiction over the administrator for such Benchmark (or such component) or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark (or such component), which states that the administrator of such Benchmark (or such component) has ceased or will cease to provide all Available Tenors of such Benchmark (or such component thereof) permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide any Available Tenor of such Benchmark (or such component thereof); or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark (or the published component used in the calculation thereof) or a Governmental Authority having jurisdiction over the Administrative Agent announcing that all Available Tenors of such Benchmark (or such component thereof) are not, or as of a specified future date will not be, representative.

For the avoidance of doubt, a "Benchmark Transition Event" will be deemed to have occurred with respect to any Benchmark if a public statement or publication of information set forth above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Unavailability Period" means the period (if any) (x) beginning at the time that a Benchmark Replacement Date has occurred if, at such time, no Benchmark Replacement has replaced the then-current Benchmark for any Currency for all purposes hereunder and under any Loan Document in accordance with this Section 2.14(d), and (y) ending at the time that a Benchmark Replacement has replaced the then-current Benchmark for such Currency for all purposes hereunder and under any Loan Document in accordance with this Section 2.14(d).

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

SECTION 2.15 Increased Costs.

(a) If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, or similar requirement (including any compulsory loan requirement, insurance charge or other assessment) against assets of, deposits with or for the account of, or credit extended by, any Lender or the Issuing Bank;

(ii) impose on any Lender or the Issuing Bank or the London interbank market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein; or

(iii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) 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;

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

(b) If any Lender or the Issuing Bank determines that any Change in Law regarding capital or liquidity requirements has or would have the effect of reducing the rate of return on such Lender's or 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 Commitment of, or the Loans made by, or participations in Letters of Credit or Swingline Loans 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 and liquidity), then from time to time the Borrowers will 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) 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 paragraph (a) or (b) of this Section shall be delivered to the Borrower Representative accompanied by a certificate setting forth in reasonable detail any amount or amounts and upon such delivery of such items, shall be conclusive absent manifest error. The Borrowers shall pay such Lender or the Issuing Bank, as the case may be, the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender or the Issuing Bank to demand compensation pursuant to this Section 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 this Section for any increased costs or reductions incurred more than nine (9) months prior to the date that such Lender or the Issuing Bank, as the case may be, notifies the Borrower Representative 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; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 9-month period referred to above shall be extended to include the period of retroactive effect thereof.

(e) Without duplication of any such reserves which have been compensated as a result of the Overnight Bank Funding Rate, the Borrowers shall 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, additional interest on the unpaid principal amount of each such Loan equal to the actual costs of such reserves allocated to such Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), and (ii) as long as such Lender shall be required to comply with any reserve ratio requirement under Regulation D or under any similar, successor or analogous requirement of the Board (or any successor) or any other central banking or financial regulatory authority imposed in respect of the maintenance of the Commitments or the funding of such Loans, 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 Loan by such Lender (as determined by such Lender in good faith, which determination shall be conclusive absent manifest error), which in each case shall be due and payable on each date on which interest is payable on such Loan; provided that in each case the Borrower Representative shall have received at least ten days' prior notice (with a copy to the Administrative Agent) of such additional interest or costs from such Lender.

SECTION 2.16 Break Funding Payments. In the event of (a) the payment of any principal of any Term Rate Loan other than on the last day of an Interest Period applicable thereto or any Daily Rate Loan on a day other than the Interest Payment Date therefor (in all cases including as a result of an Event of Default or as a result of any prepayment pursuant to Section 2.11), (b) the conversion of any Term Rate Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Term Rate Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.09(d) and is revoked in accordance therewith), or (d) the assignment of any Term Rate Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower Representative pursuant to Section 2.19 or 9.02(d), then, in any such event, the Borrowers shall compensate each Lender for the loss, cost and expense (excluding any loss of margin or profit therefrom) attributable to such event which in the reasonable judgment of such Lender, such Lender incurred. Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) with respect to a Term Rate Loan, the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the SOFR Rate or Term RFR, as applicable, that would have been applicable to such Loan (but not including the Applicable Rate, margin or profit applicable thereto), for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over

(ii) the amount of interest that would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for deposits in the applicable currency of a comparable amount and period from other banks in the London, European or Canadian interbank market. A certificate of any Lender setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower Representative and upon delivery of such items shall be conclusive absent manifest error. The Borrowers shall pay such Lender the amount shown as due on any such certificate within 30 days after receipt thereof.

SECTION 2.17 Withholding of Taxes; Gross-Up.

(a) Payments Free of Taxes. Any and all payments by or on account of any obligation of any Loan Party under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law (as determined in the good faith discretion of an applicable withholding agent) requires the deduction or withholding of any Tax from any such payment by a withholding agent, then the applicable withholding agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Loan Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 2.17) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) Payment of Other Taxes by the Loan Parties. The Loan Parties shall timely pay to the relevant Governmental Authority in accordance with applicable law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) Evidence of Payment. As soon as practicable after any payment of Taxes by any Loan Party to a Governmental Authority pursuant to this Section 2.17, such Loan Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(d) Indemnification by the Loan Parties. The Loan Parties shall jointly and severally indemnify each Recipient, within 10 days after 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) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient and any 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 setting forth in reasonable detail the calculation of the amount of such payment or liability delivered to the Borrower Representative by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(e) Indemnification by the Lenders. Each Lender shall severally indemnify the Administrative Agent, within ten (10) days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Loan Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Loan Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 9.04(c) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent 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 setting forth in reasonable

detail the calculation of the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to such Lender from any other source against any amount due to the Administrative Agent under this paragraph (e).

(f) Status of Lenders. (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 Borrower Representative and the Administrative Agent, at the time or times reasonably requested by the Borrower Representative or the Administrative Agent and at the time or times prescribed by applicable law, such properly completed and executed documentation reasonably requested by the Borrower Representative or the Administrative Agent or prescribed by applicable law 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 Borrower Representative or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrower Representative or the Administrative Agent as will enable the Borrowers or the Administrative 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 2.17(f)(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 any Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to the Borrower Representative and the Administrative 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 Borrower Representative or the Administrative Agent), executed copies of IRS Form W-9 (or successor form) 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 Borrower Representative and the Administrative 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 Borrower Representative or the Administrative 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 or W- 8BEN-E, as applicable (or successor form), 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 or W-8BEN-E, as applicable (or successor form), 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) in the case of a Foreign Lender claiming that its extension of credit will generate U.S. effectively connected income, executed copies of IRS Form W- 8ECI (or successor form);

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

(4) to the extent a Foreign Lender is not the Beneficial Owner, executed copies of IRS Form W-8IMY (or successor form), accompanied by IRS Form W-8ECI (or successor form), IRS Form W- 8BEN or W-8BEN-E, as applicable (or successor form), a U.S. Tax Compliance Certificate substantially in the form of Exhibit G-2 or Exhibit G-3, IRS Form W-9 (or successor form), 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 G-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 Borrower Representative and the Administrative 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 Borrower Representative or the Administrative Agent), executed copies 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 Administrative 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 Code, as applicable), such Lender shall deliver to the Borrower Representative and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrower Representative or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrower Representative or the Administrative Agent as may be necessary for the Borrowers and the Administrative 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.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrower Representative and the Administrative Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. If any party 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 pursuant to this Section 2.17 (including by the payment of additional amounts pursuant to this Section 2.17), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 2.17 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party 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 giving rise to such refund had never been paid. This paragraph (g) shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Survival. Each party's obligations under this Section 2.17 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

(i) Defined Terms. For purposes of this Section 2.17, the term "Lender" includes any Issuing Bank and the term "applicable law" includes FATCA.

SECTION 2.18 Payments Generally; Allocation of Proceeds; Sharing of Set-offs.

(a) The Borrowers shall make each payment required to be made by them hereunder (whether of principal, interest, fees or reimbursement of LC Disbursements, or of amounts payable under Sections 2.15, 2.16 or 2.17, or otherwise) prior to 3:00 p.m., New York time, on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at the Administrative Agent's Payment Office, or as otherwise directed by the Administrative Agent, except payments to be made directly to an Issuing Bank or Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.15, 2.16, 2.17 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest, interest thereon shall be payable for the period of such extension. All payments hereunder of principal or interest in respect of any Loan, and all payments in respect of LC Disbursements and all other payments hereunder and under each other Loan Document, shall be made in U.S. Dollars.

(b) Any proceeds of Collateral received by the Administrative Agent (i) not constituting either (A) a specific payment of principal, interest, fees or other sum payable under the Loan Documents (which shall be applied as specified by the Borrowers) or (B) amounts to be applied from a Concentration Account during a Dominion Period (which shall be applied in accordance with Section 2.10(b)) or (ii) after an Event of Default has occurred and is continuing and the Administrative Agent so elects or the Required Lenders so direct, shall be applied ratably first, to pay any fees, indemnities, or expense reimbursements including amounts then due to the Administrative Agent and the Issuing Banks from the Borrowers (other than in connection with Banking Services Obligations, Swap Agreement Obligations, Supply Chain Financing or the Synthetic Lease Agreement), second, to pay any fees or expense reimbursements then due to the Lenders from the Borrowers (other than in connection with Banking Services Obligations or Swap Agreement Obligations), third, to pay interest due in respect of the Overadvances and Protective Advances, fourth, to pay the principal of the Overadvances and Protective Advances, fifth, to pay interest then due and payable on the Loans (other than the Overadvances and Protective Advances) ratably, sixth, to prepay principal on the Loans (other than the Overadvances and Protective Advances) and unreimbursed LC Disbursements ratably, seventh, to Cash Collateralize all outstanding Letters of Credit, eighth, ratably to the payment of any amounts owing with respect to (y) Banking Services Obligations arising from Banking Services (other than those described in clauses (ii), (iii) and (iv) of the definition of Banking Services) and Swap Agreement Obligations, in each case under this sub-clause (y), for which Banking Services/Swap Reserves have been established but only up to the amount of such Banking Services/Swap Reserves, and (z) the Synthetic Lease Agreement and Supply Chain Financing Agreement, ninth, ratably to payment of any amounts owing with respect Banking Services Obligations arising from Banking Services described in clauses (ii), (iii) and (iv) of the definition of Banking Services, tenth, to Banking Services Obligations and Swap Agreement Obligations not paid pursuant to clauses eighth and ninth above up to and including the amount most recently provided to the Administrative Agent pursuant to Section 2.22, and eleventh, to the payment of any other Secured Obligation. Notwithstanding the foregoing, amounts received from any Loan Party shall not be applied to any Excluded Swap Obligation of such Loan Party. Notwithstanding anything to the contrary contained in this Agreement, unless so directed by the Borrower Representative, or unless an Event of Default is in existence, neither the Administrative Agent nor any Lender shall apply any payment which it receives to any Loan with a Term Rate Loan Option, except (a) on the expiration date of the Interest Period applicable thereto or (b) in the event, and only to the extent, that there are no outstanding ABR Loans or Daily Rate Loans and, in any such event, the Borrowers shall pay the break funding payment required in accordance with Section 2.16. The Administrative Agent and the Lenders shall have the continuing and exclusive right to apply and reverse and reapply any and all such proceeds and payments to any portion of the Secured Obligations.

(c) At the election of the Administrative Agent, all payments of principal, interest, LC Disbursements, fees, premiums, reasonable and documented reimbursable expenses (including, without limitation, all reimbursement for fees, costs and expenses pursuant to Section 9.03), and other sums payable under the Loan Documents, may be paid from the proceeds of Borrowings made hereunder whether made following a request by the Borrower Representative pursuant to Section 2.03 or a deemed request as provided in this Section, provided that, in the case of any deemed request (other than a payment of principal, interest, LC Disbursements, and fees due under this Agreement), the Administrative Agent shall have provided the Borrower Representative prior written notice that such sums are due and payable, the amount thereof and the date payment is requested to be made. Each Borrower hereby irrevocably authorizes the Administrative Agent to make a Borrowing for the purpose of paying each payment referred to in the preceding sentence on or after the date any of the same becomes due and payable and agrees that all such amounts charged shall constitute Loans (including Swingline Loans and Overadvances, but such a Borrowing may only constitute a Protective Advance if it is to reimburse costs, fees and expenses as described in Section 2.04 and Section 9.03) and that all such Borrowings shall be deemed to have been requested pursuant to Section 2.03, 2.04 or 2.05, as applicable.

(d) If, except as otherwise expressly provided herein, any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or participations in LC Disbursements resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and participations in LC Disbursements and Swingline Loans and accrued interest thereon than its applicable proportion as provided herein, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans and participations in LC Disbursements and Swingline Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by all such Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and participations in LC Disbursements and Swingline Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender or a Disqualified Institution), or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements or Swingline Loans to any assignee or participant, other than to the Borrowers or any Subsidiary or Affiliate thereof (as to which the provisions of this paragraph shall apply). Each Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may, subject to Section 9.08, exercise against such Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Borrower in the amount of such participation.

(e) Unless the Administrative Agent shall have received notice from the Borrower Representative prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or the Issuing Bank hereunder that the Borrowers will not make such payment, the Administrative Agent may assume that the Borrowers have made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or the Issuing Bank, as the case may be, the amount due. In such event, if the Borrowers have not in fact made such payment, then each of the Lenders or the Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or Issuing Bank with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) If any Lender shall fail to make any payment required to be made by it hereunder, then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), (i) apply any amounts thereafter received by the Administrative Agent for the account of such Lender to satisfy such Lender's obligations hereunder until all such unsatisfied obligations are fully paid and/or (ii) hold any such amounts in a segregated account as cash collateral for, and application to, any future funding obligations of such Lender hereunder. Application of amounts pursuant to (i) and (ii) above shall be made in any order determined by the Administrative Agent in its discretion.

(g) The Administrative Agent may from time to time provide the Borrowers with billing statements or invoices with respect to any of the Secured Obligations (the "Billing Statements"). The Administrative Agent is under no duty or obligation to provide Billing Statements, which, if provided, will be solely for the Borrowers' convenience. The Billing Statements may contain estimates of the amounts owed during the relevant billing period, whether of principal, interest, fees or other Secured Obligations. If the Borrowers pay the full amount indicated on a Billing Statement on or before the due date indicated on such Billing Statement, the Borrowers shall not be in default; provided, that acceptance by the Administrative Agent, on behalf of the Lenders, of any payment that is less than the payment due at that

time shall not constitute a waiver of the Administrative Agent's or the Lenders' right to receive payment in full at another time.

SECTION 2.19 Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.15, or if the Borrowers are 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 2.17, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the reasonable judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.15 or 2.17, as the case may be, in the future and (ii) would not subject such Lender to any material unreimbursed cost or expense and would not otherwise be materially disadvantageous to such Lender.

(b) If any Lender requests compensation under Section 2.15, or if the Borrowers are 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 2.17, and, in each case, such Lender has declined or is unable to designate a different lending office in accordance with paragraph (a) of this Section, or if any Lender becomes a Defaulting Lender, then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04), all its interests, rights (other than its existing rights to payments pursuant to Section 2.15 or 2.17) and obligations under this Agreement and other Loan Documents to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) if the assignee is not already a Lender, an Affiliate of a Lender or an Approved Fund, the Borrowers shall have received the prior written consent of the Administrative Agent (and in circumstances where its consent would be required under Section 9.04, the Issuing Bank and the Swingline Lender), which consent shall not unreasonably be withheld or delayed, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and funded participations in LC Disbursements and Swingline Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.15 or payments required to be made pursuant to Section 2.17, such assignment will result in a reduction in such compensation or payments. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

SECTION 2.20 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the unfunded portion of the Commitment of such Defaulting Lender pursuant to Section 2.12(a);

(b) such Defaulting Lender shall not have the right to vote on any issue on which voting is required (other than to the extent expressly provided in Section 9.02(b)) and the Commitment and Revolving Exposure of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment, waiver or other modification pursuant to Section 9.02) or under any other Loan Document; provided, that, except as otherwise provided in Section 9.02, this clause (b) shall not apply to the vote of a Defaulting Lender in the

case of an amendment, waiver or other modification requiring the consent of such Lender or each Lender directly affected thereby;

(c) if any Swingline Exposure or LC Exposure exists at the time a Lender becomes a Defaulting Lender then:

(i) all or any part of the Swingline Exposure and LC Exposure of such Defaulting Lender shall be reallocated among the non-Defaulting Lenders in accordance with their respective Applicable Percentages (calculated without regard to such Defaulting Lender's Commitment) but only to the extent that (x) the conditions set forth in Section 4.02 are satisfied at the time of such reallocation and (y) the sum of all non-Defaulting Lenders' Revolving Exposures plus such Defaulting Lender's Swingline Exposure and LC Exposure does not exceed the total of all non- Defaulting Lenders' Commitments;

(ii) if the reallocation described in clause (i) above cannot, or can only partially, be effected, then within one (1) Business Day following notice by the Administrative Agent (x) first, the Borrowers shall prepay such Swingline Exposure, and (y) second, the Borrowers shall Cash Collateralize, for the benefit of the Issuing Bank, the Borrowers' obligations corresponding to such Defaulting Lender's LC Exposure (after giving effect to any partial reallocation pursuant to clause (i) above) for so long as such LC Exposure is outstanding;

(iii) if the Borrowers Cash Collateralize any portion of such Defaulting Lender's LC Exposure pursuant to clause (ii) above, the Borrowers shall not be required to pay any fees to such Defaulting Lender pursuant to Section 2.12(b) with respect to such Defaulting Lender's LC Exposure during the period such Defaulting Lender's LC Exposure is Cash Collateralized;

(iv) if the LC Exposure of the non-Defaulting Lenders is reallocated pursuant to clause (i) above, then the fees payable to the Lenders pursuant to Sections 2.12(a) and 2.12(b) shall be adjusted in accordance with such non-Defaulting Lenders' Applicable Percentages; and

(v) if all or any portion of such Defaulting Lender's LC Exposure is neither reallocated nor Cash Collateralized pursuant to clause (i) or (ii) above, then, without prejudice to any rights or remedies of the Issuing Bank or any other Lender hereunder, all letter of credit fees payable under Section 2.12(b) with respect to such Defaulting Lender's LC Exposure shall be payable to the Issuing Bank until and to the extent that such LC Exposure is reallocated and/or Cash Collateralized; and

(d) so long as such Lender is a Defaulting Lender, the Swingline Lender shall not be required to fund any Swingline Loan and no Issuing Bank shall be required to issue, amend, renew, extend or increase any Letter of Credit, unless it is satisfied that the related exposure and such Defaulting Lender's then outstanding LC Exposure will be 100% covered by the Commitments of the non-Defaulting Lenders and/or cash collateral will be provided by the Borrowers in accordance with Section 2.20(c), and participating interests in any such newly made Swingline Loan or newly issued or increased Letter of Credit shall be allocated among non-Defaulting Lenders in a manner consistent with Section 2.20(c)(i) (and such Defaulting Lender shall not participate therein).

(e) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of any Defaulting Lender or received by the Administrative Agent from a Defaulting Lender pursuant to Section 9.08 shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by

such Defaulting Lender to the Issuing Bank or Swingline Lender hereunder; third, to Cash Collateralize the Issuing Bank's LC Exposure with respect to such Defaulting Lender in accordance with Section 2.20(c), fourth, as the Borrower Representative may request (so long as no Default or Event of Default exists), to the funding of any Revolving Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrower, to be held in a deposit account and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Banks' future LC Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement; 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 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 the Borrower Representative as a result of any judgment of a court of competent jurisdiction obtained by the Borrower Representative or any other Loan Party against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; and eighth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided that if (x) such payment is a payment of the principal amount of any Revolving Loans or LC Disbursements in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Revolving Loans were made or the related Letters of Credit were issued at a time when the conditions set forth in Section 4.02 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and LC Disbursements owed to, all non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Revolving Loans of, or LC Disbursements owed to, such Defaulting Lender until such time as all Revolving Loans and funded and unfunded participations in LC Disbursements and Swingline Loans are held by the Lenders pro rata in accordance with the Commitments without giving effect to sub-section (c) above. 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 2.20(e) shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

In the event that each of the Administrative Agent, the Borrowers, the Issuing Bank and the Swingline Lender agrees in writing that a Defaulting Lender has adequately remedied all matters that caused such Lender to be a Defaulting Lender, then the Swingline Exposure and LC Exposure of the Lenders shall be readjusted to reflect the inclusion of such Lender's Commitment and on the date of such readjustment such Lender shall purchase at par such of the Loans of the other Lenders (other than Swingline Loans) as the Administrative Agent shall determine may be necessary in order for such Lender to hold such Loans in accordance with its Applicable Percentage; 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.

SECTION 2.21 Returned Payments. If after receipt of any payment which is applied to the payment of all or any part of the Obligations (including a payment effected through exercise of a right of setoff), the Administrative Agent or any Lender is for any reason compelled to surrender such payment or proceeds to any Person because such payment or application of proceeds is invalidated, declared fraudulent, set aside, determined to be void or voidable as a preference, impermissible setoff, or a diversion of trust funds, or for any other reason (including pursuant to any settlement entered into by the Administrative Agent or such Lender in its discretion), then the Obligations or part thereof intended to be satisfied shall be revived and continued and this Agreement shall continue in full force as if such payment or proceeds had not been received by the Administrative Agent or such Lender. The provisions of this Section 2.21 shall be and

remain effective notwithstanding any contrary action which may have been taken by the Administrative Agent or any Lender in reliance upon such payment or application of proceeds. The provisions of this Section 2.21 shall survive the termination of this Agreement.

SECTION 2.22 Banking Services and Swap Agreements. Each Lender or Affiliate (other than Lenders that are Affiliates of the Administrative Agent) thereof providing Banking Services for, or having Swap Agreements with, any Loan Party or any Restricted Subsidiary shall deliver to the Administrative Agent, promptly after entering into such Banking Services or Swap Agreements, written notice setting forth the aggregate amount (to the extent quantifiable) of all Banking Services Obligations and the notional amount and the current mark-to-market value of the Swap Agreement Obligations of such Loan Party or Restricted Subsidiary to such Lender or Affiliate (whether matured or unmatured, absolute or contingent). In addition, each such Lender or Affiliate thereof shall deliver to the Administrative Agent, from time to time after a significant change therein or upon a request therefor, a summary of the amounts due or to become due (to the extent quantifiable) in respect of such Banking Services Obligations and Swap Agreement Obligations. The most recent information provided to the Administrative Agent shall be used in determining the amounts to be applied in respect of such Banking Services Obligations and/or Swap Agreement Obligations pursuant to Section 2.18(b).

ARTICLE III.

REPRESENTATIONS AND WARRANTIES

Each Loan Party represents and warrants to the Lenders that:

SECTION 3.01 Organization and Qualification; Power and Authority; Compliance With Laws; Event of Default. Each Loan Party and each Restricted Subsidiary of each Loan Party (i) is a corporation, partnership, limited liability company or unlimited liability company duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, (ii) has the lawful power to own or lease its properties and to engage in the business it presently conducts or proposes to conduct, (iii) is duly licensed or qualified and in good standing in each jurisdiction where the property owned or leased by it or the nature of the business transacted by it or both makes such licensing or qualification necessary, except where the failure to be so licensed or qualified and in good standing would not constitute a Material Adverse Effect, (iv) has full power to enter into, execute, deliver and carry out this Agreement and the other Loan Documents to which it is a party, to incur the Indebtedness contemplated by the Loan Documents and to perform its Obligations under the Loan Documents to which it is a party, and all such actions have been duly authorized by all necessary proceedings on its part, and (v) is in compliance with all applicable Requirements of Law (other than Environmental Laws which are specifically addressed in Section 3.13 and Anti-Terrorism Laws which are specifically addressed in Section 3.16) in all jurisdictions in which any Loan Party or Restricted Subsidiary of any Loan Party is presently or will be doing business except where the failure to do so would not constitute a Material Adverse Effect. No Event of Default or Default exists or is continuing. No Loan Party is a Covered Entity.

SECTION 3.02 Capitalization; Subsidiaries and Joint Ventures; Investment Companies. Schedule 3.02 states (i) the name of each of the Company's Subsidiaries, its jurisdiction of organization and the amount, percentage and type of equity interests in such Subsidiary (the "Subsidiary Equity Interests"), (ii) all Joint Ventures in which the Company or any Restricted Subsidiary owns any Equity Interests (the "Joint Venture Equity Interests") and (iii) any options, warrants or other rights outstanding to purchase any such Subsidiary Equity Interests or Joint Venture Equity Interests. The Company and each Restricted Subsidiary of the Company has good and marketable title to all of the Subsidiary Equity Interests and Joint Venture Equity Interests it purports to own, free and clear in each case of any Lien (other than Permitted Liens) and all such Subsidiary Equity Interests and Joint Venture Equity Interests have been

validly issued and fully paid and are nonassessable (if applicable). None of the Loan Parties or Subsidiaries of any Loan Party is an "investment company" registered or required to be registered under the Investment Company Act of 1940 or under the "control" of an "investment company" as such terms are defined in the Investment Company Act of 1940 and shall not become such an "investment company" or under such "control."

SECTION 3.03 Validity and Binding Effect. This Agreement and each of the other Loan Documents (i) has been duly and validly executed and delivered by each Loan Party that is a party thereto and (ii) constitutes, or will constitute, legal, valid and binding obligations of each Loan Party that is a party thereto, enforceable against such Loan Party in accordance with its terms, except to the extent that enforceability of this Agreement or any other Loan Document may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforceability of creditors' rights generally or limiting the right of specific performance or by general principles of equity.

SECTION 3.04 No Conflict; Material Agreements; Consents. Neither the execution and delivery of this Agreement or the other Loan Documents by any Loan Party nor the consummation of the transactions herein or therein contemplated or compliance with the terms and provisions hereof or thereof by any of them will conflict with, constitute a default under or result in any breach of (i) the terms and conditions of the articles or certificate of incorporation, code of regulations, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, operating agreement, limited liability company agreement or other organizational documents of any Loan Party, (ii) any Requirement of Law or any agreement or instrument or order, writ, judgment, injunction or decree to which any Loan Party or any of its Restricted Subsidiaries is a party or by which it or any of its Restricted Subsidiaries is bound or to which it is subject, in each case under clause (ii), except as would not result in a Material Adverse Effect, or (iii) result in the creation or enforcement of any Lien, charge or encumbrance whatsoever upon any property (now or hereafter acquired) of any Loan Party or any of its Restricted Subsidiaries (except Liens created pursuant to the Loan Documents). None of the Loan Parties or their Restricted Subsidiaries is bound by any contractual obligation, or subject to any restriction in any organization document, or any Requirement of Law which results in a Material Adverse Effect. No consent, approval, exemption, order or authorization of, or a registration or filing with, any Governmental Authority or any other Person is required by any Requirement of Law or any agreement in connection with the execution, delivery and carrying out of this Agreement and the other Loan Documents other than those which have been obtained or made and are in full force and effect and except for filings necessary to perfect Liens created pursuant to the Loan Documents.

SECTION 3.05 Litigation. There are no actions, suits, proceedings or investigations pending or, to the knowledge of any Loan Party, threatened against such Loan Party or any Restricted Subsidiary of such Loan Party at law or in equity before any arbitrator or any Governmental Authority which (i) involve any Loan Document or the Transactions or (ii) individually or in the aggregate would reasonably be expected to result in a Material Adverse Effect. None of the Loan Parties or any Restricted Subsidiaries of any Loan Party is in violation of any order, writ, injunction or any decree of any Governmental Authority which constitutes a Material Adverse Effect.

SECTION 3.06 Financial Statements; No Material Adverse Effect; Beneficial Ownership Certification.

(a) Historical Statements. The Loan Parties have delivered or caused to be delivered to the Administrative Agent copies of the (i) audited consolidated year-end financial statements of the Company and its Subsidiaries for and as of the end of the fiscal year ended January 29, 2022 and (ii) unaudited consolidated interim financial statements of the Company and its Subsidiaries for and as of the fiscal quarter ended on July 30, 2022 (such annual and interim statements being collectively referred to as the

"Statements"). The Statements were compiled from the books and records maintained by the Loan Parties' management, are correct and complete in all material respects and fairly represent in all material respects the consolidated financial condition of the Company and its Subsidiaries as of the respective dates thereof and the results of operations for the fiscal periods then ended and have been prepared in accordance with GAAP consistently applied, subject (in the case of the interim statements) to normal year-end audit adjustments.

(b) Financial Projections. The Loan Parties have delivered to the Administrative Agent summary projected financial statements (including, without limitation, balance sheets, income statements, statements of cash flow and projected Borrowing Base, together with a detailed explanation of the assumptions used in preparing such projected financial statements) of the Company and its Subsidiaries on a quarterly basis for the first four (4) fiscal quarters following the Closing Date and may be on an annual basis thereafter through fiscal year 2026 derived from various assumptions of the Loan Parties' management (the "Projections"). The Projections have been prepared in good faith based on assumptions believed by the Company to be reasonable at the time such Projections were prepared and information believed by the Company to have been accurate based upon the information available to the Company at the time such Projections were furnished to the Lenders, and the Company is not be aware of any facts or information that would lead it to believe that such Projections are incorrect or misleading in any material respect; it being understood that (a) the Projections represent a reasonable range of possible results in light of the history of the business, present and foreseeable conditions and the intentions of the Loan Parties' management, it being understood that such Projections (i) are as to future events and not to be viewed as facts, (ii) are subject to significant uncertainties and contingencies, many of which are beyond the control of the Loan Parties and their Subsidiaries, and (iii) no assurance can be given that the Projections will be realized, (b) actual results may significantly vary from the Projections and such variations may be adverse and material and (c) the Projections should not be regarded as a representation by the Loan Parties or its management that the projected results or financial condition of the Loan Parties will be achieved.

(c) Accuracy of Financial Statements; No Material Adverse Effect. As of the respective dates of the Statements, no Loan Party nor any Subsidiary thereof has any liabilities, contingent or otherwise, or forward or long-term commitments that are not disclosed in the Statements or in the notes thereto, and except as disclosed therein there are no unrealized or anticipated losses from any commitments of any Loan Party or any Subsidiary thereof and, in each case, which constitutes a Material Adverse Effect. Since July 30, 2022, no Material Adverse Effect has occurred.

(d) Beneficial Ownership. As of the date hereof, the information included in the Beneficial Ownership Certification is true and correct in all material respects.

SECTION 3.07 Margin Stock. None of the Loan Parties or any Subsidiaries of any Loan Party engages or intends to engage principally, or as one of its important activities, in the business of extending credit for the purpose, immediately, incidentally or ultimately, of purchasing or carrying margin stock (within the meaning of Regulation U, T or X as promulgated by the Board). No part of the proceeds of any Loan or Letter of Credit has been or will be used, immediately, incidentally or ultimately, to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or which is inconsistent with the provisions of the regulations of the Board. None of the Loan Parties or any Subsidiary of any Loan Party holds or intends to hold or, after giving effect to the use of proceeds of any Loan or drawing of any Letter of Credit, will hold, margin stock in such amounts that more than twenty-five (25%) of the reasonable value of the assets of any Loan Party or Subsidiary of any Loan Party are or will be represented by margin stock. As of the Closing Date, none of the Loan Parties holds any margin stock.

SECTION 3.08 Full Disclosure. Neither this Agreement nor any other Loan Document, nor any certificate, statement, agreement or other documents furnished to the Administrative Agent or any Lender in connection herewith or therewith, taken as a whole, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which they were made, not misleading. There is no fact known to any Loan Party which would reasonably be expected to constitute a Material Adverse Effect which has not been set forth in this Agreement or in the certificates, statements, agreements or other documents furnished in writing to the Administrative Agent and the Lenders prior to or at the date hereof in connection with the transactions contemplated hereby.

SECTION 3.09 Taxes. All federal and other material Tax returns required to have been filed with respect to each Loan Party and each Restricted Subsidiary of each Loan Party have been filed, and payment or adequate provision has been made for the payment of all Taxes, fees, assessments and other governmental charges which have or may become due pursuant to said returns or to assessments received, except to the extent that (a) the amount thereof is not individually or in the aggregate material or (b) such Taxes, fees, assessments and other charges are being contested in good faith by appropriate proceedings diligently conducted and for which such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made. Each Loan Party and each of its respective Restricted Subsidiaries has withheld all employee withholdings and has made all employer contributions to be withheld and made by it pursuant to applicable law on account of employment insurance and employee income Taxes, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.10 Properties, Patents, Trademarks, Copyrights, Licenses, Etc.

(a) As of the date hereof, Schedule 3.10(a) hereto sets forth the address of each parcel of real property that is owned or leased by any Loan Party. Except as set forth on Schedule 3.10(a), (i) each of such leases and subleases of each Loan Party is valid and enforceable in accordance with its terms and is in full force and effect, except to the extent that enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforceability of creditors' rights generally or limiting the right of specific performance or by general principles of equity, (ii) no default by any party to any such lease or sublease exists, and (iii) each of the Loan Parties and each of its Restricted Subsidiaries has good and indefeasible title to, or valid leasehold interests in, all of its material real and personal property, free of all Liens other than Permitted Liens except, in the case of (i), (ii) or (iii), to the extent that the failure of the foregoing to be true would result in a Material Adverse Effect.

(b) Each Loan Party and each Restricted Subsidiary of each Loan Party owns or possesses all the material patents, trademarks, service marks, trade names, copyrights, licenses, registrations, franchises, permits and rights necessary to own and operate its properties and to carry on its business as presently conducted and planned to be conducted by such Loan Party or Restricted Subsidiary, without known possible, alleged or actual conflict with the rights of others, except with respect to any conflict that does not, individually or in the aggregate, result in a Material Adverse Effect. Except as set forth on Schedule 3.10(b), each Loan Party's and each Restricted Subsidiary's rights with respect to such material patents, trademarks, service marks, trade names, copyrights, and other Intellectual Property necessary to own and operate its properties and to carry on its business as presently conducted and planned to be conducted are not subject to any licensing agreement or similar arrangement (other than (A) restrictions relating to software licenses that may limit such Loan Party's ability to transfer or assign any such agreement to a third party and (B) licensing agreements or similar agreements that do not materially impair the ability of the Administrative Agent or the Lenders to avail themselves of their rights of disposal and other rights granted under the Collateral Documents in respect of Inventory).

SECTION 3.11 Insurance. Schedule 3.11 hereto sets forth a description of all insurance maintained by or on behalf of the Loan Parties as of the date hereof. As of the date hereof, no premiums in respect of such insurance are overdue. The properties of each Loan Party and each of its Restricted Subsidiaries are insured pursuant to policies and other bonds which are valid and in full force and effect and which provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of each such Loan Party and Restricted Subsidiary in accordance with prudent business practice in the industry of such Loan Parties and Restricted Subsidiaries.

SECTION 3.12 ERISA Compliance.

(i) Each Plan is in compliance in all respects with the applicable provisions of ERISA, the Code and other federal or state law, except where the failure to comply does not result in a Material Adverse Effect. Each Plan that is intended to qualify under Section 401(a) of the Code has received from the IRS a favorable determination or opinion letter, which has not by its terms expired, that such Plan is so qualified, or such Plan is entitled to rely on an IRS advisory or opinion letter with respect to an IRS-approved master and prototype or volume submitter plan, or a timely application for such a determination or opinion letter is currently being processed by the IRS with respect thereto; and, to the best knowledge of the Company, nothing has occurred which would prevent, or cause the loss of, such qualification. Except as would not result in a Material Adverse Effect, (a) the Company and each ERISA Affiliate have made all required contributions to each Plan subject to Sections 412 or 430 of the Code, and (b) no application for a funding waiver or an extension of any amortization period pursuant to Sections 412 or 430 of the Code has been made with respect to any Plan.

(ii) Except as would not, either individually or in the aggregate, result in a Material Adverse Effect, (a) no ERISA Event has occurred or is reasonably expected to occur; (b) no Plan has any unfunded pension liability (i.e., excess of benefit liabilities over the current value of that Plan's assets, determined pursuant to the assumptions used for funding the Plan for the applicable plan year in accordance with Section 430 of the Code); (c) neither the Company nor any of its ERISA Affiliates has incurred, or reasonably expects to incur, any liability under Title IV of ERISA with respect to any Plan (other than premiums due and not delinquent under Section 4007 of ERISA); (d) neither the Company nor any of its ERISA Affiliates has incurred, or reasonably expects to incur, any liability (and no event has occurred which, with the giving of notice under Section 4219 of ERISA, would result in such liability) under Section 4201 of ERISA, with respect to a Multiemployer Plan; (e) neither the Company nor any of its ERISA Affiliates has received notice that a Multiemployer Plan is insolvent or in critical or endangered status and that additional contributions are due to the Multiemployer Plan; and (f) neither the Company nor any of its ERISA Affiliates has engaged in a transaction that could be subject to Sections 4069 or 4212(c) of ERISA.

SECTION 3.13 Environmental Matters. Each Loan Party and each Restricted Subsidiary of each Loan Party is and has been in compliance with applicable Environmental Laws except to the extent that any non-compliance would not in the aggregate constitute a Material Adverse Effect. No Loan Party or any Restricted Subsidiary (i) has incurred an Environmental Liability, (ii) has received notice of any claim with respect to any Environmental Liability or (iii) has knowledge of any Environmental Liability except, in any case of (i), (ii) or (iii), where such failure or liability, as the case may be, would not reasonably be expected to result in a Material Adverse Effect.

SECTION 3.14 Labor Matters. Except as would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect, (i) there are no strikes, lockouts, slowdowns or any other labor disputes against Company or any Restricted Subsidiary pending or, to the knowledge of Company, threatened, (ii) the hours worked by and payments made to employees of Company and the Restricted

Subsidiaries have not been in violation of the Fair Labor Standards Act of 1938 or any other applicable federal, state, provincial, territorial, local or foreign law dealing with such matters and (iii) all payments due from Company or any Restricted Subsidiary, or for which any claim may be made against Company or any Restricted Subsidiary, on account of wages and employee health and welfare insurance and other benefits, have been paid or accrued as a liability on the books of Company or such Restricted Subsidiary to the extent required by GAAP. The consummation of the Transactions do not give rise to any right of termination or right of renegotiation on the part of any union under any collective bargaining agreement to which Company or any Restricted Subsidiary is bound.

SECTION 3.15 Solvency. Before and after giving effect to the transactions contemplated by this Agreement and the other Loan Documents, including all Indebtedness incurred thereby and the payment of all fees related thereto, the Loan Parties, taken as a whole are Solvent.

SECTION 3.16 Anti-Terrorism Laws and Sanctions. Each Loan Party has implemented and maintains in effect policies and procedures designed to ensure compliance by such Loan Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Terrorism Laws and applicable Sanctions, and such Loan Party, its Subsidiaries and their respective officers and directors and, to the knowledge of such Loan Party, its employees and agents, are in compliance with Anti-Terrorism Laws and applicable Sanctions in all material respects and are not knowingly engaged in any activity that would reasonably be expected to result in any Loan Party being designated as a Sanctioned Person. None of (a) any Loan Party, any Subsidiary or any of their respective directors, officers or, to the knowledge of any such Loan Party or Subsidiary, employees, or (b) to the knowledge of any such Loan Party or Subsidiary, any agent of such Loan Party or any Subsidiary that will act in any capacity in connection with or benefit from the credit facility established hereby, is a Sanctioned Person. No Borrowing or Letter of Credit, use of proceeds, Transaction or other transaction contemplated by this Agreement or the other Loan Documents will violate Anti-Terrorism Laws or applicable Sanctions.

SECTION 3.17 EEA Financial Institutions. No Loan Party is an EEA Financial Institution.

SECTION 3.18 Security Interest in Collateral. The provisions of the Security Agreements create legal, valid and enforceable (except to the extent that enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforceability of creditors' rights generally or limiting the right of specific performance or by general principles of equity) Liens on the Collateral granted by the Loan Parties in favor of the Administrative Agent (for the benefit of the Secured Parties), securing the Secured Obligations.

SECTION 3.19 Credit Card Agreements. All Credit Card Agreements relating to Eligible Credit Card Accounts are in full force and effect, currently binding upon each Loan Party that is a party thereto and, to the knowledge of the Loan Parties, binding upon other parties thereto in accordance with their terms (except to the extent that enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforceability of creditors' rights generally or limiting the right of specific performance or by general principles of equity). The Loan Parties are in compliance in all material respects with each such Credit Card Agreement. Annexed hereto as Schedule 3.19 is a list describing all arrangements as of the date hereof to which any Loan Party is a party with respect to the processing and/or payment to such Loan Party of the proceeds of any credit card charges, debit card charges, and other e-commerce charges contemplated by the definition of "Credit Card Accounts" for sales made by such Loan Party.

SECTION 3.20 Plan Assets; Prohibited Transactions. No Loan Party or any of its Subsidiaries is an entity deemed to hold "plan assets" (within the meaning of the Plan Asset Regulations), and neither the execution, delivery or performance of the transactions contemplated under this Agreement, including the

making of any Loan and the issuance of any Letter of Credit hereunder, will give rise to a non-exempt prohibited transaction under Section 406 of ERISA or Section 4975 of the Code.

Should any of the information or disclosures provided on any of the Schedules attached hereto become outdated or incorrect in any material respect, the Company shall promptly provide the Administrative Agent in writing with such revisions or updates to such Schedule as may be necessary or appropriate to update or correct same. No Schedule shall be deemed to have been amended, modified or superseded by any such correction or update, nor shall any breach of warranty or representation resulting from the inaccuracy or incompleteness of any such Schedule be deemed to have been cured thereby, unless and until the Required Lenders, in their sole and absolute discretion, shall have accepted in writing such revisions or updates to such Schedule; provided however, that the Company may update Schedule 3.02 without any Lender approval in connection with any transaction permitted under Sections 6.04 and Section 6.08.

ARTICLE IV.

CONDITIONS

SECTION 4.01 Closing Date. This Agreement shall not become effective, and the obligations of the Lenders to make Loans and of the Issuing Bank to issue Letters of Credit hereunder shall not become effective, until the date on which each of the following conditions is satisfied:

(a) Credit Agreement; Fee Letter. The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include facsimile or other electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement. The Administrative Agent (or its counsel) shall have received from each person party to the Fee Letter either (A) a counterpart of the Fee Letter signed on behalf of such party or (B) written evidence satisfactory to the Administrative Agent (which may include facsimile or other electronic transmission of a signed signature page of this Agreement) that such party has signed a counterpart of the Fee Letter.

(b) Other Loan Documents. The Administrative Agent (or its counsel) shall have received either (A) a counterpart of each Collateral Document, the Intercompany Subordination Agreement, and any promissory notes request pursuant to Section 2.10(f), in each case, signed on behalf of each party thereto or (B) written evidence satisfactory to the Administrative Agent (which may include facsimile or other electronic transmission of a signed signature page thereof) that each such party has signed a counterpart of each such Collateral Document, the Intercompany Subordination Agreement, and promissory note.

(c) Lien Searches. The Administrative Agent shall have received the results of a recent lien search (1) in each jurisdiction where the Loan Parties are organized and (2) in the jurisdiction of each such entity's principal place of business, and such searches shall reveal no Liens on any of the assets of the Loan Parties except for Permitted Liens or subject to satisfactory estoppel letters discharged on or prior to the Closing Date pursuant to a pay-off letter or other documentation satisfactory to the Administrative Agent.

(d) Corporate Structure. The corporate structure, capital structure and other material debt instruments, material accounts and governing documents of the Borrowers and their Subsidiaries shall be reasonably acceptable to the Administrative Agent in its Permitted Discretion.

(e) Tax Withholding. The Administrative Agent shall have received a properly completed and signed IRS Form W-8 or W-9, as applicable, for each Loan Party.

(f) Legal Due Diligence. The Administrative Agent and its counsel shall have completed all legal due diligence, the results of which shall be satisfactory to Administrative Agent in its Permitted Discretion.

(g) USA PATRIOT Act, Etc. The Administrative Agent and the Lenders shall have received (i) all documentation and other information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act, for each Loan Party, and (ii) to the extent requested by any Lender or the Administrative Agent from the Borrower Representative directly at least five (5) Business Days prior to the date hereof, each Borrower, to the extent qualifying as a "legal entity customer" under the Beneficial Ownership Regulation, shall deliver to each such Lender or Administrative Agent a Beneficial Ownership Certification at least three (3) Business Days prior to the date hereof.

(h) Opinions. The Administrative Agent shall have received a written opinion of (a) Vorys, Sater, Seymour and Pease LLP, counsel to the Loan Parties, (b) Morgan, Lewis & Bockius LLC, California counsel to the Loan Parties, (c) Bradley, Arant, Boult Cummings LLP, Alabama counsel to the Loan Parties, and (d) Nevada counsel to the Loan Parties, in each case, addressed to the Administrative Agent, the Issuing Bank and the Lenders and in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(i) Financial Statements and Projections. The Lenders shall have received the Statements and the Projections.

(j) Closing Certificates; Certified Certificate of Incorporation; Good Standing Certificates. The Administrative Agent shall have received (i) a certificate of each Loan Party, dated as of the Closing Date and executed by its Secretary or Assistant Secretary, which shall (A) certify the resolutions of its Board of Directors, members or other body authorizing the execution, delivery and performance of the Loan Documents to which it is a party, (B) identify by name and title and bear the signatures of the Responsible Officers of such Loan Party authorized to sign the Loan Documents to which it is a party, and (C) contain appropriate attachments, including the certificate or articles of incorporation or organization of each Loan Party certified by the relevant authority of the jurisdiction of organization of such Loan Party and a true and correct copy of its by-laws or operating, management or partnership agreement, and (ii) a good standing certificate for each Loan Party from its jurisdiction of organization or the substantive equivalent available in the jurisdiction of organization for each Loan Party from the appropriate governmental officer in such jurisdiction.

(k) Collateral and Guaranty Requirement; Perfection Certificate. Subject to Section 5.16, the Collateral and Guaranty Requirement shall have been satisfied with respect to all Loan Parties as of the Closing Date and the Administrative Agent shall have received a completed perfection certificate, in form and substance reasonably satisfactory to the Administrative Agent, dated as of the Closing Date and signed by a Responsible Officer of the Borrower, together with all attachments contemplated thereby.

(l) Officer's Certificate. The Administrative Agent shall have received a certificate, signed by a Responsible Officer of the Borrower Representative, dated as of the Closing Date (i) stating that no Default has occurred and is continuing, (ii) stating that the representations and warranties contained in the Loan Documents are true and correct in all material respects as of such date (it being understood and agreed that any representation or warranty which is subject to any materiality qualifier shall be required to be true and correct in all respects), (iii) certifying any other factual matters as may be reasonably requested by the Administrative Agent, (iv) certifying that all regulatory approvals, licenses and consents required for the delivery and performance by any Loan Party of any Loan Document and the enforceability of any Loan Document against such Loan Party is in full force and effect and none other is so required or necessary, (v)

certifying that each Loan Party is in material compliance with all applicable federal, state, local or territorial regulations, and (vi) certifying that no default or event of default exists, or will arise after giving effect to the Transactions on the Closing Date, under the Synthetic Lease Agreement, the Supply Chain Financing Agreement or the sale leaseback arrangement among the Company and certain of its Subsidiaries and Affiliates of Oak Street, a division of Blue Owl Capital Inc.

(m) Fees and Expenses. The Lenders and the Administrative Agent shall have received all fees required to be paid, and all expenses for which invoices have been presented at least one (1) Business Day prior to the Closing Date (including the reasonable and documented fees and expenses of legal counsel), on or before the Closing Date.

(n) Payoff. The Administrative Agent shall have received a payoff letter from PNC Bank, National Association, as administrative agent under the Existing Credit Agreement, reasonably satisfactory in form and substance to the Administrative Agent evidencing that the Existing Credit Agreement has been or concurrently with the Closing Date is being terminated, all obligations thereunder are being paid in full (other than the Existing Letters of Credit).

(o) Control Agreements. Subject to Section 5.16, the Administrative Agent shall have received each deposit account control agreement and securities account control agreement, in form and substance reasonably satisfactory to the Administrative Agent, required to be provided pursuant to the Security Agreements.

(p) Credit Card Notifications. Subject to Section 5.16, the Administrative Agent shall have received copies of the Credit Card Notifications duly executed by the applicable Loan Parties with respect to all Eligible Credit Card Accounts.

(q) Solvency. The Administrative Agent shall have received a solvency certificate from a Financial Officer of the Company.

(r) Borrowing Base Certificate. The Administrative Agent shall have received a Borrowing Base Certificate which calculates the Borrowing Base as of September 21, 2022.

(s) Closing Availability. After giving effect to all Borrowings to be made on the Closing Date, the issuance (or deemed issuance) of any Letters of Credit on the Closing Date and the payment of all fees and expenses due hereunder, the Administrative Agent shall be reasonably satisfied that Availability shall not be less than $400,000,000.

(t) Filings, Registrations and Recordings. Each document (including any UCC financing statement) required by the Collateral Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of itself, the Lenders and the other Secured Parties, a perfected Lien on the Collateral described therein, prior and superior in right to any other Person (other than with respect to Permitted Liens), shall be in proper form for filing, registration or recordation.

(u) Insurance. The Administrative Agent shall have received evidence of insurance coverage in form, scope, and substance reasonably satisfactory to the Administrative Agent and otherwise in compliance with the terms of Section 5.05 hereof.

(v) [Reserved]

(w) No Proceedings. There shall not be any action, suit, investigation or proceeding pending or, to the knowledge of the Loan Parties, threatened in any court or before any arbitrator or Governmental Authority that is reasonably likely to be adversely determined, and if, adversely determined would reasonably be expected to have a Material Adverse Effect.

(x) Material Adverse Effect. No Material Adverse Effect shall have occurred since January 29, 2022.

(y) Synthetic Lease. The Administrative Agent shall have received a duly executed copy of an amendment to the Synthetic Lease Agreement (including a waiver or forbearance of all existing events of default thereunder (if any)), which shall be in full force and effect as of the Closing Date, and in form and substance reasonably acceptable to the Administrative Agent.

(z) Business Diligence. The Administrative Agent shall have received the final results of a field examination and inventory appraisal of the Loan Parties' inventory prepared by third parties satisfactory to the Administrative Agent, which final reports shall be in form and substance reasonably satisfactory to the Administrative Agent.

For purposes of determining compliance with the conditions specified in this Section 4.01, each Lender and Issuing Bank 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 or Issuing Bank, as applicable, unless the Administrative Agent shall have received notice from such Lender or Issuing Bank prior to the proposed Closing Date specifying its objection thereto. The Administrative Agent shall notify the Borrowers, the Lenders and the Issuing Bank of the Closing Date, and such notice shall be conclusive and binding.

SECTION 4.02 Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of the Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) at the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, the representations and warranties of the Loan Parties set forth in the Loan Documents shall be true and correct in all material respects with the same effect as though made on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable (it being understood and agreed that any representation or warranty which by its terms is made as of a specified date shall be required to be true and correct in all material respects only as of such specified date, and that any representation or warranty which is subject to any materiality qualifier shall be required to be true and correct in all respects);

(b) at the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default or Event of Default shall have occurred and be continuing;

(c) after giving effect to any Borrowing or the issuance, amendment, renewal or extension of any Letter of Credit, the Borrowers shall be in compliance with the Revolving Exposure Limitations; and

(d) the Administrative Agent shall have received any Borrowing requests for such Borrowing in accordance with the terms and conditions of this Agreement.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrowers on the date thereof as to the matters specified in paragraphs (a), (b), and (c) of this Section.

Notwithstanding the failure to satisfy the conditions precedent set forth in paragraphs (a) or (b) of this Section, unless otherwise directed by the Required Lenders, the Administrative Agent may, but shall have no obligation to, continue to make Loans, and an Issuing Bank may, but shall have no obligation to, issue, amend, renew or extend, or cause to be issued, amended, renewed or extended, any Letter of Credit for the ratable account and risk of the Lenders from time to time if the Administrative Agent believes that making such Loans or issuing, amending, renewing or extending, or causing the issuance, amendment, renewal or extension of, any such Letter of Credit is in the best interests of the Lenders.

ARTICLE V.

AFFIRMATIVE COVENANTS

Until the Commitments shall have expired or been terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document or Secured Obligation (other than contingent or indemnity obligations for which no claim has been made by the Person entitled thereto) shall have been paid in full and all Letters of Credit shall have expired or have been Cash Collateralized pursuant to the terms hereof, or terminated, in each case without any pending draw, and all LC Disbursements shall have been reimbursed, each Loan Party executing this Agreement covenants and agrees, jointly and severally with all of the other Loan Parties, with the Lenders that:

SECTION 5.01 Financial Statements; Borrowing Base and Other Information. The Borrower Representative will furnish to the Administrative Agent, for distribution to each Lender:

(a) Within ninety (90) calendar days after the end of each fiscal year, financial statements of the Company and its Subsidiaries consisting of an audited consolidated balance sheet as of the end of such fiscal year, and related consolidated statements of income, shareholders' equity and cash flows for the fiscal year then ended, all in reasonable detail and setting forth in comparative form the financial statements as of the end of and for the preceding fiscal year, and certified by independent certified public accountants of nationally recognized standing reasonably satisfactory to the Administrative Agent. The certificate or report of accountants shall be free of qualifications (other than any consistency qualification that may result from a change in the method used to prepare the financial statements as to which such accountants concur) and shall not indicate the occurrence or existence of any event, condition or contingency which would materially impair the prospect of payment or performance of any covenant, agreement or duty of any Loan Party under any of the Loan Documents.

(b) For each of the first three fiscal quarters of each fiscal year of the Company, within forty- five (45) calendar days after the end of any such fiscal quarter, financial statements of the Company and its Subsidiaries, consisting of a consolidated balance sheet as of the end of such fiscal quarter and related consolidated statements of income, shareholders' equity and cash flows for the fiscal quarter then ended and the fiscal year through that date, all in reasonable detail and certified (subject to normal year-end audit adjustments and the absence of footnotes) by a Financial Officer of the Company as presenting fairly in all material respects the financial condition and results of operations of the Company and its Subsidiaries on a consolidated basis in accordance with GAAP, consistently applied, and setting forth in comparative form the respective financial statements for the corresponding date and period in the previous fiscal year.

(c) [Reserved].

(d) Concurrently with any delivery of financial statements under clause (a) or (b) above, a Compliance Certificate, which shall (i) when delivered concurrently with the delivery of the financial statements delivered under clause (b), certify that such financial statements present fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes, (ii) certify as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (iii) state whether any change in GAAP or in the application thereof has occurred since the date of the audited financial statements referred to in Section 3.06 and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate, (iv) describe whether, since the later of the date hereof and the date of the last Compliance Certificate, any Loan Party shall have (A) changed its name as it appears in official filings in the state or province of incorporation or organization, (B) changed its chief executive office, (C) changed the type of entity that it is, (D) changed its organization identification number, if any, issued by its state or province of incorporation or other organization, or (E) changed its state of incorporation or organization, (v) certifying a list of names of all Immaterial Subsidiaries, that each Subsidiary set forth on such list individually qualifies as an Immaterial Subsidiary and that all such Subsidiaries in the aggregate do not exceed the limitation set forth in clause (b) of the definition of the term "Immaterial Subsidiary" and (vi) solely during a Covenant Compliance Event, certify as to, and contain a calculation of, the Fixed Charge Coverage Ratio for the applicable measurement period required by Section 6.12.

(e) On or before each Borrowing Base Reporting Date, a Borrowing Base Certificate setting forth a computation of the Borrowing Base as of the most recently ended fiscal quarter, month or week, as applicable, to which such Borrowing Base Reporting Date relates, together with supporting information and any additional reports with respect to the Borrowing Base that the Administrative Agent may reasonably request.

(f) On or before each Borrowing Base Reporting Date, the following information as of the most recently ended fiscal month or week, as applicable, to which such Borrowing Base Reporting Date relates, all delivered electronically in a text formatted file in form reasonably acceptable to the Administrative Agent:

(i) a reasonably detailed aging of the Loan Parties' Credit Card Accounts;

(ii) a schedule detailing the Loan Parties' Inventory;

(iii) a worksheet of calculations prepared by the Loan Parties to determine Eligible Credit Card Accounts, Eligible Inventory, and Eligible In-Transit Inventory, such worksheets detailing the Credit Card Accounts and Inventory excluded from Eligible Credit Card Accounts, Eligible Inventory, and Eligible In-Transit Inventory and the reason for such exclusion;

(iv) a reconciliation of the Loan Parties' Credit Card Accounts and Inventory between (A) the amounts shown in the Loan Parties' general ledger and financial statements and the reports delivered pursuant to clauses (i) and (ii) above and (B) the amounts and dates shown in the reports delivered pursuant to clauses (i) and (ii) above and the Borrowing Base Certificate delivered pursuant to clause (e) above as of such date; and

(v) such other information regarding the Collateral or Loan Parties as the Administrative Agent may from time to time reasonably request.

(g) Concurrent with any field exam permitted under Section 5.07 (or at such other times as agreed upon by the Administrative Agent and the Company), the Borrower Representative shall provide notice to the Administrative Agent of any removal or addition of any credit card issuer or credit card processor to the extent that (i) in the case of a removal, Credit Card Accounts of such credit card issuer or credit card processor were included in any previous Borrowing Base or (ii) in the case of an addition, the Borrower Representative desires to include the Credit Card Accounts of such credit card issuer or credit card processor in the Borrowing Base, and concurrently with any such notice of an addition, the Company shall provide to the Administrative Agent (A) evidence reasonably satisfactory to the Administrative Agent that a Credit Card Notification shall have been delivered to such credit card issuer or credit card processor, (B) a true and complete copy of each Credit Card Agreement with respect thereto, together with all material amendments, waivers and other modifications thereto, and (C) such other information with respect thereto as may be reasonably requested by the Administrative Agent; for the avoidance of doubt, unless otherwise agreed by the Administrative Agent, no Credit Card Accounts of an added credit card issuer or credit card processor may be included in the Borrowing Base until a field exam with respect thereto has been completed.

(h) Concurrent with delivery thereof to an Other Secured Debt Agent, any additional (or more frequent) information or reports provided to an Other Secured Debt Agent pursuant to an Other Secured Debt Loan Agreement (without duplication of reports delivered under this Agreement).

The Borrower Representative shall be deemed to have furnished to the Administrative Agent the financial statements and certificates required to be delivered pursuant to Sections 5.01(a) and (b) and the reports and other material required by Section 5.02(p)(iv) upon the filing of such financial statements or material by the Company through the SEC's EDGAR system (or any successor electronic gathering system) or the publication by the Company of such financial statements on its website, so long as such system or website is publicly available; provided that, the Borrower Representative shall, at the reasonable request of the Administrative Agent or any Lender, promptly deliver electronic or paper copies of such filings together all accompanying exhibits, attachments, calculations, or other supporting documentation included with such filing.

SECTION 5.02 Notices of Material Events and Delivery of Other Reports. The Borrower Representative will furnish to the Administrative Agent (for distribution to each Lender) prompt (but in any event within any time period after such Responsible Officer has such knowledge that may be specified below) written notice of the following:

(a) Promptly after any Responsible Officer of any Loan Party has learned of the occurrence of an Event of Default or a Default (and in any event within five (5) Business Days after knowledge thereof), a certificate signed by a Responsible Officer setting forth the details of such Event of Default or Default and the action which such Loan Party proposes to take with respect thereto.

(b) Promptly after the commencement thereof (and in any event within five (5) Business Days after knowledge by a Responsible Officer of the Borrower Representative thereof), notice of all actions, suits, proceedings or investigations before or by any Governmental Authority or any other Person against any Loan Party or any Restricted Subsidiary which involve a claim or series of claims that, individually or in the aggregate would reasonably be expected to have a Material Adverse Effect.

(c) Promptly in the event that any Loan Party or its accountants conclude or advise that any previously issued financial statement, audit report or interim review should no longer be relied upon or that disclosure should be made or action should be taken to prevent future reliance.

(d) Promptly upon the occurrence of any ERISA Event.

(e) Promptly after any request therefor by the Administrative Agent or any Lender, copies of (i) any documents described in Section 101(k)(1) of ERISA that any Loan Party or any ERISA Affiliate may request with respect to any Multiemployer Plan and (ii) any notices described in Section 101(l)(1) of ERISA that any Loan Party or any ERISA Affiliate may request with respect to any Multiemployer Plan; provided that if a Loan Party or any ERISA Affiliate has not requested such documents or notices from the administrator or sponsor of the applicable Multiemployer Plan and is eligible to request such documents or notices, the applicable Loan Party or the applicable ERISA Affiliate shall promptly make a request for such documents and notices from such administrator or sponsor and shall provide copies of such documents and notices promptly after receipt thereof.

(f) Within five (5) Business Days after knowledge by a Responsible Officer of the Borrower Representative of the occurrence of any Casualty with respect to Collateral having a value in the amount of $22,500,000 or more, whether or not covered by insurance.

(g) Within ten (10) Business Days after knowledge by a Responsible Officer of the Borrower Representative of the receipt by any Loan Party or any Restricted Subsidiary thereof, any default notice received under or with respect to any leased location or public warehouse where Collateral in the amount of $22,500,000 or more is located.

(h) Within five (5) Business Days after knowledge by a Responsible Officer of the Borrower Representative of any dispute, litigation, investigation, proceeding or suspension between any Loan Party or any Restricted Subsidiary thereof and any Governmental Authority or the commencement of, or any material development in, any litigation or proceeding affecting any Loan Party or any Subsidiary thereof, including pursuant to any applicable Environmental Laws, in any case, which would reasonably be expected to have a Material Adverse Effect;

(i) Within five (5) Business Days after knowledge by a Responsible Officer of the Borrower Representative of the occurrence of any default or event of default under an Other Secured Debt Loan Agreement (if any), or receipt of any notice asserting a default or event of default thereunder (together with a copy of such notice), as well as copies of any amendments to the documents related to such Other Secured Debt Loan Agreement, as applicable.

(j) (A) Within five (5) Business Days after knowledge by a Responsible Officer of the Borrower Representative (1) of the occurrence of any default or event of default by any Person under any Credit Card Agreement relating to Credit Cards Accounts contained in the Borrowing Base, (2) the establishment of, or receipt by any Loan Party of a notice of any proposed establishment of, a reserve or reserve account (or similar concept), whether in the form of an actual deposit account, book entry or otherwise, in connection with any Credit Card Agreement for the purposes of securing all or any portion of any Loan Party's existing or potential obligations to the applicable credit card issuer or processor under such Credit Card Agreement, or (3) that any credit card issuer, credit card processor or debit card issuer or provider with respect to Credit Card Accounts ceases to meet the requirements of clause (f) of the definition of "Eligible Credit Card Accounts" and (B) on and at the time of submission to the Administrative Agent of the Borrowing Base Certificate after a Responsible Officer of the Borrower Representative has knowledge that any Loan Party has entered into a material amendment, waiver or other modification of a Credit Card Agreement applicable to any Credit Card Account included in the Borrowing Base.

(k) Within five (5) Business Days after knowledge by a Responsible Officer of the Borrower Representative of the filing of any Lien against any Loan Party with respect to any delinquent Taxes in excess of $4,500,000.

(l) Within five (5) Business Days after knowledge by a Responsible Officer of the Borrower Representative of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of the beneficial owners identified in parts (c) or (d) of such certification.

(m) Promptly after knowledge by a Responsible Officer of the Borrower Representative of any other development that results, or would reasonably be expected to result in, a Material Adverse Effect.

(n) Promptly after knowledge by a Responsible Officer of a Loan Party, report to Administrative Agent all matters materially affecting the value, enforceability or collectability of any portion of the Collateral, including any Loan Parties' reclamation or repossession of, or the return to any Loan Party of, a material amount of goods or claims or disputes asserted by any customer or other obligor.

(o) (i) Concurrently with the delivery of each Compliance Certificate pursuant to Section 5.01(d), an up-to-date report summarizing the Loan Parties' stores, offices and other places of business that have been (x) closed during the most recently ended fiscal quarter and (y) opened during the most recently ended fiscal quarter, (ii) if the Loan Parties close a net amount (taking into account new store openings in the applicable calendar quarter) of ten (10) or more stores in any fiscal quarter as part of a single transaction or series of related transactions, prompt notice thereof and (iii) promptly after knowledge by a Responsible Officer of a Loan Party, notice of any labor dispute to which any Loan Party may become a party, any strikes or walkouts relating to any of its plants or other facilities, and the expiration of any labor contract to which any Loan Party is a party or by which any Loan Party is bound.

(p) No later than sixty (60) days after the first day of each fiscal year, the annual budget and a copy of the plan and forecast (including monthly projected consolidated balance sheets, income statements and cash flow statements) of the Company and its Subsidiaries for each quarter of such fiscal year.

(q) Promptly upon their becoming available to the Loan Parties:

(i) Any reports including management letters submitted to any Loan Party by independent accountants in connection with any annual or interim audit of financial statements; and

(ii) Reports, including Forms 10-K, 10-Q and 8-K, registration statements and prospectuses and other shareholder communications, filed by any Loan Party with the SEC, or with any national securities exchange, or distributed by the Company to its shareholders generally, as the case may be.

(r) Promptly following any request therefor, information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT Act and the Beneficial Ownership Regulation.

(s) Promptly upon receipt thereof, the receipt of any notice from a supplier, seller, or agent pursuant to PACA.

(t) [Reserved].

(u) Promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of any Loan Party or any Restricted Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender may reasonably request.

SECTION 5.03 Preservation of Existence, Etc. Each Loan Party shall, and shall cause each of its Restricted Subsidiaries to, maintain its legal existence as a corporation, limited partnership, limited liability company or unlimited liability company, as applicable, and its license or qualification and good standing (a) in its jurisdiction of incorporation or organization, and (b) in each jurisdiction in which its ownership or lease of property or the nature of its business makes such license or qualification necessary, except with respect to clause (b), except where the failure to so maintain any license or qualification would not reasonably be expected to result in a Material Adverse Effect; provided that the foregoing shall not prohibit any merger, amalgamation, consolidation, liquidation, dissolution, disposition or other transaction permitted under Section 6.04 or Section 6.08.

SECTION 5.04 Payment of Liabilities, Including Taxes, Etc. Each Loan Party shall, and shall cause each of its Restricted Subsidiaries to, duly pay and discharge all liabilities to which it is subject or which are asserted against it, promptly as and when the same shall become due and payable, including all Taxes and governmental charges upon it or any of its properties, assets, income or profits, prior to the date on which penalties attach thereto, unless such liabilities, including Taxes or similar charges, are being contested in good faith and by appropriate and lawful proceedings diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made, except to the extent that the failure to pay or discharge any such liabilities would not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.05 Maintenance of Insurance. Each Loan Party shall, and shall cause each of its Restricted Subsidiaries to, insure its properties and assets against loss or damage by fire and such other insurable hazards as such assets are commonly insured (including fire, extended coverage, property damage, workers' compensation, public liability and business interruption insurance) and against other risks (including errors and omissions) in such amounts as similar properties and assets are insured by prudent companies in similar circumstances carrying on similar businesses, and with reputable and financially sound insurers having a financial strength rating of at least A- by A.M. Best Company (or otherwise reasonably satisfactory to the Administrative Agent) and including self-insurance to the extent customary (but not with respect to insurance on the ABL Priority Collateral), all as reasonably acceptable by the Administrative Agent and as may be required pursuant to the terms of the Collateral Documents. At the request of the Administrative Agent, the Loan Parties shall deliver to the Administrative Agent (x) annually a certificate of insurance signed by the Loan Parties' independent insurance broker describing and certifying as to the existence of the insurance on the Collateral required to be maintained by this Agreement and the other Loan Documents, (y) copies of the endorsements described in the next two (2) sentences attached to such certificate, and (z) from time to time a summary schedule indicating all insurance then in force with respect to each of the Loan Parties. All insurance policies required in this clause shall name the Administrative Agent (for the benefit of the Administrative Agent and the Secured Parties) as an additional insured, as applicable, and with respect to casualty policies covering Collateral, as mortgagee or as lender's loss payee, as applicable, and shall contain lender loss payable clauses or mortgagee clauses, as applicable, through endorsements in form and substance reasonably satisfactory to the Administrative Agent. Additionally, such policies of insurance shall provide that it shall not be canceled, modified or not renewed (i) by reason of nonpayment of premium except upon not less than ten (10) days' prior written notice thereof by the insurer to the Administrative Agent or (ii) for any other reason except upon not less than thirty (30) days' prior written notice thereof by the insurer to the Administrative Agent. The applicable Loan Parties shall notify the Administrative Agent promptly of any occurrence causing a material loss or decline in value of the Collateral and the estimated (or actual, if available) amount of such loss or decline. Subject in all cases to the provisions of this Agreement (including, without limitation, Section 5.12), any monies received by the Administrative Agent constituting insurance proceeds may, at the option of the Administrative Agent, be applied by the Administrative Agent to the payment of the Obligations in accordance with the terms of this Agreement.

SECTION 5.06 Maintenance of Properties. Each Loan Party shall, and shall cause each of its Restricted Subsidiaries to, maintain in good repair, working order and condition (ordinary wear and tear excepted) in accordance with the general practice of other businesses of similar character and size, all of those properties useful or necessary to its business, and from time to time, such Loan Party will make or cause to be made all appropriate repairs, renewals or replacements thereof, except where the failure to do so would not reasonably be expected to have a Material Adverse Effect.

SECTION 5.07 Inspection Rights; Appraisals.

(a) Each Loan Party shall, and shall cause each of its Restricted Subsidiaries to, permit any of the officers or authorized employees or representatives of the Administrative Agent (including any consultants, accountants, and agents retained by the Administrative Agent), as and when determined by the Administrative Agent in its Permitted Discretion, upon reasonable prior notice and during normal business hours of the Loan Parties, to visit and inspect its properties, to conduct at such Loan Party's premises field examinations of such Loan Party's assets, liabilities, books and records, including examining and making extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested. So long as Availability is greater than seventy-five percent (75%) of the Maximum Credit Amount (and no Event of Default has occurred and is continuing), the Administrative Agent may not conduct any such field examinations pursuant to this Section 5.07(a); provided, however, if, at any time during any twelve (12) month period, Availability is less than or equal to seventy-five percent (75%) of the Maximum Credit Amount for a period of five (5) consecutive Business Days, the field examinations contemplated by this Section 5.07(a) shall be limited to one per such twelve (12) month period (excluding the field examination conducted prior to the Closing Date) unless (1) an Event of Default has occurred and is continuing (during which time there shall be no limit on the number of field examinations) or (2) Availability is at any time during such twelve (12) month period is less than the greater of (a) $112,500,000 and (b) 15% of the Maximum Credit Amount for five (5) consecutive Business Days, in which case of clause (2), one additional field examination per such twelve (12) month period (excluding the field examination conducted prior to the Closing Date) may be done at the expense of the Loan Parties. For the avoidance of doubt, all such examinations and evaluations conducted during an Event of Default shall be at the expense of the Loan Parties. Each Loan Party acknowledges that the Administrative Agent, after exercising its rights of inspection, may prepare and distribute to the Lenders certain Reports pertaining to such Loan Party's assets for internal use by the Administrative Agent and the Lenders.

(b) At the Administrative Agent's request in its Permitted Discretion, the Borrower Representative will provide the Administrative Agent (for distribution to each Lender) with appraisals or updates thereof of the Loan Parties' Inventory from an appraiser engaged by Administrative Agent, and prepared on a basis reasonably satisfactory to the Administrative Agent, such appraisals and updates to include, without limitation, information required by any applicable Requirement of Law. So long as Availability is greater than seventy-five percent (75%) of the Maximum Credit Amount (and no Event of Default has occurred and is continuing), the Administrative Agent may not conduct any such inventory appraisals pursuant to this Section 5.07(b); provided, however, if, at any time during any twelve (12) month period, Availability is less than or equal to seventy-five percent (75%) of the Maximum Credit Amount for a period of five (5) consecutive Business Days, the inventory appraisals contemplated by this Section 5.07(b) shall be limited to one per such twelve (12) month period (excluding the inventory appraisal conducted prior to the Closing Date) unless (1) an Event of Default has occurred and is continuing (during which time there shall be no limit on the number of inventory appraisal) or (2) Availability is at any time during such twelve (12) month period is less than the greater of (a) $112,500,000 and (b) 15% of the Maximum Credit Amount for five (5) consecutive Business Days, in which case of clause (2), one additional inventory appraisal per such twelve (12) month period (excluding the inventory appraisal conducted prior to the Closing Date) may be done at the expense of the Loan Parties. For the avoidance of doubt, all such

appraisals commenced during the existence of an Event of Default shall be at the expense of the Loan Parties.

SECTION 5.08 Keeping of Records and Books of Account. Each Loan Party shall, and shall cause each Restricted Subsidiary of such Loan Party to, maintain and keep proper books of record and account which enable such Loan Party and its Restricted Subsidiaries to issue financial statements in accordance with GAAP and as otherwise required by applicable Laws of any Governmental Authority having jurisdiction over such Loan Party or any Restricted Subsidiary of such Loan Party, and in which full, true and correct entries shall be made in all material respects of all its dealings and business and financial affairs.

SECTION 5.09 Compliance with Laws and Material Contractual Obligations. Each Loan Party shall, and shall cause each of its Restricted Subsidiaries to, comply with all applicable Requirements of Law, including all Environmental Laws, in all respects, except, where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect (except in the case of Anti-Terrorism Laws and Sanctions, with respect to which compliance shall be governed by Section 5.11). Each Loan Party will, and will cause each Restricted Subsidiary to perform in all material respects its obligations under material agreements to which it is a party, except (A) where the validity or amount thereof is being contested in good faith by appropriate proceedings, or (B) where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. The Company will maintain in effect and enforce policies and procedures designed to ensure compliance by the Company, its Restricted Subsidiaries and their respective directors, officers, employees and agents with Anti-Terrorism Laws and applicable Sanctions.

SECTION 5.10 Use of Proceeds. The Loan Parties will use the Letters of Credit and the proceeds of the Loans to (a) refinance existing Indebtedness on the Closing Date and to pay fees and expenses incurred in connection with the Transactions, (b) provide working capital to the Borrowers, and (c) for general corporate purposes of the Borrowers, in each case to the extent not prohibited under the terms of this Agreement or any other Loan Document. No part of the proceeds of any Loan and no Letter of Credit will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations T, U and X.

SECTION 5.11 Anti-Terrorism Laws; International Trade Law Compliance. (a) No Relevant Entity will become a Sanctioned Person, (b) no Relevant Entity, either in its own right or through any third party, will (i) have any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law; (ii) do business in or with, or directly derive any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; (iii) engage in any dealings or transactions prohibited by any Anti- Terrorism Law; or (iv) use the Loans or Letters of Credit or any proceeds therefrom to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law or would otherwise result in any violation of any Anti- Terrorism Laws or Sanctions; (c) the funds used to repay the Obligations will not be derived from any unlawful activity or in any manner that would cause a party to this Agreement to be in breach of any Anti- Terrorism Laws or Sanctions, (d) each Relevant Entity shall comply with all Anti-Terrorism Laws, and (e) the Company shall promptly notify the Administrative Agent in writing upon the occurrence of a Reportable Compliance Event.

SECTION 5.12 Casualty. In respect of any loss or damage to the Collateral resulting from fire, vandalism, malicious mischief or any other casualty or physical harm (a "Casualty") which affects a material portion of the Inventory included in the Borrowing Base, the Borrower Representative will and will cause each applicable Loan Party to comply in all respects with the provisions of this Section 5.12. The Borrower Representative shall comply with its notice obligations in respect of Casualties relating to

Inventory pursuant to Section 5.02(f). Except during the existence of an Event of Default, the Company or such Loan Party may adjust, settle and compromise any such insurance claim or any proposed condemnation award and shall collect the Net Proceeds thereof and have the right to repair, refurbish, restore, replace or rebuild any asset affected by such Casualty (for the avoidance of doubt, without the obligation to make any mandatory prepayment of the Revolving Loans under Section 2.11(b) as a result thereof during the period beginning on the day of such Casualty and ending on the date that any such repair, refurbishment, restoration, replacement or rebuilding is complete). The Company and such Loan Party will in good faith file and prosecute all claims necessary to obtain any such Net Proceeds. If an Event of Default exists and is continuing, then the Administrative Agent may appear in any such proceedings and negotiations and effect such settlement and such collection of any Net Proceeds, and the Borrower Representative and the applicable Loan Party each hereby authorizes the Administrative Agent, at its option, to adjust, settle, compromise and collect any Net Proceeds under any insurance with respect to such Collateral and any Net Proceeds pursuant to any Casualty with respect to such Collateral, and, until such time as such Event of Default no longer exists, each such Loan Party hereby irrevocably appoints the Administrative Agent as its attorney-in-fact, coupled with an interest, for such purposes.

SECTION 5.13 [Reserved].

SECTION 5.14 Additional Collateral; Further Assurances.

(a) Subject to applicable law, each Loan Party will cause each Restricted Subsidiary that is formed or acquired after the date of this Agreement (and is not an Excluded Subsidiary), that becomes a Restricted Subsidiary after the date hereof (and is not an Excluded Subsidiary) or that ceases to be an Excluded Subsidiary after the date hereof in accordance with the terms of this Agreement within sixty (60) days (in each case, as such time may be extended in the Administrative Agent's sole discretion) to become a Borrower or a Guarantor pursuant to a Joinder Agreement and take all such further actions (including authorizing the filing and recording of financing statements, fixture filings, and other documents) that are required under the Collateral Documents or this Agreement to cause the Collateral and Guaranty Requirement to be satisfied with respect to such Subsidiary. Upon execution and delivery thereof, each such Person (i) shall automatically become a Borrower or Guarantor, as applicable hereunder and thereupon shall have all of the rights, benefits, duties, and obligations in such capacity under the Loan Documents and (ii) will grant Liens to the Administrative Agent, for the benefit of the Administrative Agent and the Secured Parties, in any property of such Loan Party which constitutes Collateral, under the Security Agreement. With respect to any Excluded Subsidiary formed or acquired after the date of this Agreement and the Equity Interests of which are directly owned by a Loan Party and required to be pledged to the Administrative Agent pursuant to the Security Agreement, the applicable Loan Party shall, within sixty (60) days (in each case, as such time may be extended in the Administrative Agent's sole discretion) of the formation or acquisition of such Excluded Subsidiary notify the Administrative Agent thereof.

(b) The Loan Parties will execute any and all further documents, agreements and instruments, and take all such further actions (including authorizing the filing and recording of financing statements, fixture filings, and other documents) which may be required by any Requirement of Law or which the Administrative Agent may, from time to time, reasonably request, to cause the Collateral and Guaranty Requirement to be and remain satisfied at all times.

SECTION 5.15 Environmental Laws. Except where the failure to do so would not reasonably be expected to have Material Adverse Effect, the Company and each Restricted Subsidiary shall (i) conduct its operations and keep and maintain all of its real property in compliance with all Environmental Laws; (ii) obtain and renew all environmental permits necessary for its operations and properties; and (iii) implement any and all investigation, remediation, removal and response actions that are necessary to comply with Environmental Laws pertaining to the presence, generation, treatment, storage, use, disposal,

transportation or Release of any Hazardous Materials into, on, at, under, above or from any of its Real Estate, provided, however, that neither a Loan Party nor any of its Restricted Subsidiaries shall be required to undertake any such cleanup, removal, remedial or other action to the extent that its obligation to do so is being contested in good faith and by proper proceedings and adequate reserves have been set aside and are being maintained by the Loan Parties with respect to such circumstances in accordance with GAAP.

SECTION 5.16 Post-Closing Covenants. The Loan Parties will execute and deliver the documents and complete the tasks set forth on Schedule 5.16, in each case within the time limits specified on such schedule (or such longer period as the Administrative Agent may agree in its sole discretion).

ARTICLE VI.

NEGATIVE COVENANTS

Until the Commitments shall have expired or been terminated and the principal of and interest on each Loan and all fees, expenses and other amounts payable under any Loan Document or Secured Obligation (other than contingent or indemnity obligations for which no claim has been made by the Person entitled thereto) shall have been paid in full and all Letters of Credit shall have expired or have been Cash Collateralized pursuant to the terms hereof, or terminated, in each case without any pending draw, and all LC Disbursements shall have been reimbursed, each Loan Party executing this Agreement covenants and agrees, jointly and severally with all of the other Loan Parties, with the Lenders that:

SECTION 6.01 Indebtedness. No Loan Party will, nor will it permit any Restricted Subsidiary to, directly or indirectly, Incur any Indebtedness (including Acquired Indebtedness) or issue any shares of Disqualified Stock; and the Company shall not permit any of the Restricted Subsidiaries (other than any Loan Party) to issue any shares of Preferred Stock, except:

(a) the Incurrence by the Company or any Restricted Subsidiary of Indebtedness pursuant to any Loan Document;

(b) Indebtedness under any secured loan agreement, indenture, note purchase agreement or other facility ("Other Secured Debt Loan Agreement") and related documentation, in each case, such documentation acceptable to the Administrative Agent in its Permitted Discretion (the documents under this clause (b) and solely to the extent the applicable Indebtedness thereunder is incurred in reliance on this clause (b), collectively, the "Other Secured Debt Documents"), in an aggregate original principal amount under this clause (b) not to exceed $600,000,000 (collectively, the "Other Secured Debt"); provided that, in the case of any Other Secured Debt, (1) any Lien on the ABL Priority Collateral shall be junior to the Liens on the ABL Priority Collateral securing the Secured Obligations and (2) the Collateral Documents shall be amended and/or supplemented, in any such case in a form reasonably satisfactory to the Administrative Agent, to provide for a Lien in favor of the Administrative Agent on any additional assets (other than Real Estate) used to secure the Other Secured Debt Obligations, which Lien shall be junior to the Lien of the agent under any Other Secured Debt Documents on such assets, in all cases, pursuant to any ABL Intercreditor Agreement and/or a junior lien intercreditor agreement or collateral trust agreement reasonably satisfactory to the Administrative Agent and the Required Lenders reflecting the junior-lien status of the Liens securing such Indebtedness as it relates to ABL Priority Collateral;

(c) Indebtedness, Preferred Stock and Disqualified Stock existing on the date hereof (other than Indebtedness described in clauses (a) and (b) above) and, if such Indebtedness is for borrowed money and is in excess of $22,500,000, individually or in the aggregate, in such amounts outstanding on the date hereof and set forth in Schedule 6.01;

(d) Indebtedness (including Finance Lease Obligations) Incurred by any Loan Party or any Restricted Subsidiary, Disqualified Stock issued by any Loan Party or any Restricted Subsidiary and Preferred Stock issued by any Restricted Subsidiary to finance (whether prior to or within 180 days after) the acquisition, lease, construction, repair, replacement or improvement of property (real or personal) or equipment (whether through the direct purchase of assets or the Equity Interests of any Person owning such assets); provided that, (x) the principal amount of such Indebtedness does not exceed the cost of acquiring, constructing or improving such property (real or personal) or equipment and (y) the principal amount of such Indebtedness, Disqualified Stock and Preferred Stock, when aggregated with the principal amount or liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and Incurred or issued pursuant to this clause (d), together with any Refinancing Indebtedness in respect thereof Incurred pursuant to clause (n) below, does not exceed at any one time outstanding the greater of $35,000,000 and 14% of Consolidated EBITDA, calculated on a pro forma basis giving effect to such Indebtedness, Disqualified Stock, or Preferred Stock, as applicable, and based on the most recently completed Test Period (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(e) Indebtedness Incurred by any Loan Party or any Restricted Subsidiary constituting reimbursement obligations with respect to letters of credit and bank guarantees issued in the ordinary course of business, including, without limitation, letters of credit in respect of workers' compensation claims, health, disability or other benefits to employees or former employees or their families or property, casualty or liability insurance or self-insurance and letters of credit in connection with the maintenance of, or pursuant to the requirements of, Environmental Law, and other Indebtedness with respect to reimbursement type obligations regarding workers' compensation claims;

(f) unsecured Indebtedness arising from agreements of a Loan Party or any Restricted Subsidiary providing for indemnification, adjustment of acquisition or purchase price or similar obligations (including earn-outs), in each case, Incurred or assumed in connection with the any Investments or any acquisition or disposition of any business, assets or a Subsidiary not prohibited by this Agreement, other than guarantees of Indebtedness Incurred by any Person acquiring all or any portion of such business, assets or Subsidiary for the purpose of financing such acquisition;

(g) shares of Preferred Stock of a Restricted Subsidiary issued to the Company or another Restricted Subsidiary; provided that any subsequent issuance or transfer of any Equity Interests or any other event which results in any Restricted Subsidiary that holds such shares of Preferred Stock of another Restricted Subsidiary ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such shares of Preferred Stock (except to the Company or another Restricted Subsidiary) shall be deemed, in each case, to be an issuance of shares of Preferred Stock not permitted by this clause (g);

(h) without in any way limiting the applicability of Section 6.02, Indebtedness of the Company or a Restricted Subsidiary to the Company or a Restricted Subsidiary; provided that if a Loan Party incurs such Indebtedness to a Restricted Subsidiary that is not a Loan Party (except in respect of intercompany current liabilities incurred in the ordinary course of business in connection with the cash management, tax and accounting operations of the Company and its Subsidiaries), such Indebtedness is subordinated in right of payment to the Secured Obligations pursuant to the Intercompany Subordination Agreement; provided, further, that any subsequent issuance or transfer of any Equity Interests or any other event which results in any Restricted Subsidiary holding such Indebtedness ceasing to be a Restricted Subsidiary or any other subsequent transfer of any such Indebtedness (except to the Company or another Restricted Subsidiary or any pledge of such Indebtedness constituting a Permitted Lien but not the transfer thereof upon foreclosure) shall be deemed, in each case, to be an Incurrence of such Indebtedness not permitted by this clause (h);

(i) [Reserved];

(j) Swap Agreement Obligations that are not incurred for speculative purposes but (A) for the purpose of fixing or hedging interest rate risk with respect to any Indebtedness that is permitted by the terms of this Agreement to be outstanding; (B) for the purpose of fixing or hedging currency exchange rate risk with respect to any currency exchanges; or (C) for the purpose of fixing or hedging commodity price risk with respect to any commodity purchases or sales and, in each case, extensions or replacements thereof;

(k) obligations (including reimbursement obligations with respect to letters of credit, bank guarantees, warehouse receipts and similar instruments) in respect of indemnities, warranties, statutory obligations, performance, bid, appeal and surety bonds, completion guarantees and similar obligations provided by a Loan Party or any Restricted Subsidiary, in each case incurred in the ordinary course of business or consistent with past practice or industry practice;

(l) Indebtedness or Disqualified Stock of the Company or Indebtedness, Disqualified Stock or Preferred Stock of any Restricted Subsidiary in an aggregate principal amount or liquidation preference, which when aggregated with the principal amount and liquidation preference of all other Indebtedness, Disqualified Stock and Preferred Stock then outstanding and Incurred pursuant to this clause (l), together with any Refinancing Indebtedness in respect thereof incurred pursuant to clause (n) below, does not exceed at any one time outstanding the greater of $100,000,000 and 40% of Consolidated EBITDA, calculated on a pro forma basis giving effect to such Indebtedness, Disqualified Stock or Preferred Stock, as applicable, and based on the most recently completed Test Period (plus, in the case of any Refinancing Indebtedness, the Additional Refinancing Amount);

(m) any guarantee by a Loan Party or any Restricted Subsidiary of Indebtedness or other obligations of a Loan Party or any Restricted Subsidiary so long as the Incurrence of such Indebtedness Incurred by such Loan Party or such Restricted Subsidiary is not prohibited under the terms of this Agreement; provided that (A) if such Indebtedness is by its express terms subordinated in right of payment to the Secured Obligations by such Restricted Subsidiary, as applicable, any such guarantee with respect to such Indebtedness shall be subordinated in right of payment to the Secured Obligations, substantially to the same extent as such Indebtedness is subordinated to the Secured Obligations, and (B) the aggregate principal amount of Indebtedness or other obligations of a Restricted Subsidiary that is not a Loan Party guaranteed by a Loan Party in reliance on this clause (m) shall not exceed at any one time outstanding the greater of $25,000,000 and 10% of Consolidated EBITDA, calculated on a pro forma basis giving effect to such Indebtedness and based on the most recently completed Test Period;

(n) the Incurrence by a Loan Party or any Restricted Subsidiary of Indebtedness or Disqualified Stock, or by any Restricted Subsidiary of Preferred Stock, that serves to refund, refinance or defease any Indebtedness Incurred or Disqualified Stock or Preferred Stock issued as permitted under clauses (b), (c), (d), (l) and (n) of this Section 6.01 up to the outstanding principal amount (or, if applicable, the liquidation preference, face amount, or the like) or, if greater, committed amount (only to the extent the committed amount could have been Incurred on the date of initial Incurrence and was deemed Incurred at such time for the purposes of this Section 6.01) of such Indebtedness, Disqualified Stock or Preferred Stock, in each case at the time such Indebtedness was Incurred or Disqualified Stock or Preferred Stock was issued pursuant to clauses (b), (c), (d), (l) and (n) of this Section 6.01, or any Indebtedness, Disqualified Stock or Preferred Stock Incurred or issued to so refund or refinance such Indebtedness, Disqualified Stock or Preferred Stock plus any additional Indebtedness, Disqualified Stock or Preferred Stock Incurred or issued to pay premiums (including tender premiums), accrued and unpaid interest, expenses, defeasance costs and fees in connection therewith (subject to the following proviso, "Refinancing Indebtedness") prior to its respective maturity; provided, however, that:

(i) such Refinancing Indebtedness has a Weighted Average Life to Maturity at the time such Refinancing Indebtedness is Incurred which is not less than the shorter of (x) the

remaining Weighted Average Life to Maturity of the Indebtedness, Disqualified Stock or Preferred Stock being refunded, refinanced or defeased and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the Indebtedness, Disqualified Stock or Preferred Stock being refunded or refinanced that were due on or after the date that is one year following the Maturity Date were instead due on such date;

(ii) to the extent such Refinancing Indebtedness refinances (a) Indebtedness junior in right of payment to the Secured Obligations, such Refinancing Indebtedness is junior in right of payment to the Secured Obligations, (b) Disqualified Stock or Preferred Stock, such Refinancing Indebtedness is Disqualified Stock or Preferred Stock, (c) Indebtedness secured by a Lien on the Collateral that is *pari passu* with or junior to the Lien on the Collateral securing the Secured Obligations, such Refinancing Indebtedness (if secured) is secured by a Lien on the Collateral that is, as applicable, *pari passu* with or junior to the Lien on the Collateral securing the Secured Obligations to the same extent as such Indebtedness being refinanced (or that is junior thereto), and a Senior Representative of such Refinancing Indebtedness acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of any ABL Intercreditor Agreement and/or a junior lien intercreditor agreement or collateral trust agreement reasonably satisfactory to the Administrative Agent and the Required Lenders reflecting the junior- lien status of the Liens securing such Indebtedness as it relates to Collateral, or (d) obligations under an Other Secured Debt Loan Agreement (if any), the Lien on the Collateral securing such Indebtedness shall have the priorities contemplated by, as applicable, any ABL Intercreditor Agreement (or priorities junior thereto), and a Senior Representative of such Refinancing Indebtedness acting on behalf of the holders of such Indebtedness shall have become party to or otherwise subject to the provisions of any ABL Intercreditor Agreement; and

(iii) such Refinancing Indebtedness shall not include Indebtedness of a Restricted Subsidiary that is not a Loan Party that refinances Indebtedness of the Company or another Loan Party or (y) Indebtedness of the Company or a Restricted Subsidiary that refinances Indebtedness of an Unrestricted Subsidiary;

(o) unsecured Indebtedness of the Company that is equity-linked (including, without limitation, Indebtedness that is convertible into Equity Interests of the Company) and not guaranteed by any Subsidiary of the Company in an amount not to exceed $225,000,000 at any time outstanding;

(p) [Reserved];

(q) Indebtedness arising from the honoring by a bank or other financial institution of a check, draft or similar instrument drawn against insufficient funds in the ordinary course of business; provided that such Indebtedness is extinguished within five (5) Business Days of its Incurrence;

(r) Indebtedness of a Loan Party or any Restricted Subsidiary supported by a Letter of Credit, in a principal amount not in excess of the stated amount of such Letter of Credit;

(s) [Reserved];

(t) Indebtedness of any Loan Party or any Restricted Subsidiary consisting of (A) the financing of insurance premiums or (B) take-or-pay obligations contained in supply arrangements, in each case, in the ordinary course of business;

(u) Indebtedness consisting of Indebtedness of the Company or a Restricted Subsidiary to current or former officers, directors and employees thereof or any direct or indirect parent thereof, their

respective estates, spouses or former spouses, in each case to finance the purchase or redemption of Equity Interests of the Company or any direct or indirect parent of the Company to the extent described in Section 6.02(b)(iv);

(v) Indebtedness in respect of obligations of the Company or any Restricted Subsidiary to pay the deferred purchase price of goods or services or progress payments in connection with such goods and services; provided that such obligations are incurred in connection with open accounts extended by suppliers on customary trade terms in the ordinary course of business and not in connection with the borrowing of money or any Swap Agreement Obligations;

(w) [Reserved];

(x) [Reserved];

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

(z) Indebtedness in respect of the financing of insurance premiums in the ordinary course of business or consistent with past practice or industry practice;

(aa) Indebtedness to customs brokers, freight forwarders, common carriers, landlords and similar Persons, in each case incurred in the ordinary course of business or consistent with past practice;

(bb) [Reserved];

(cc) Indebtedness owed on a short-term basis to banks and other financial institutions incurred in the ordinary course of business of the Company and its Restricted Subsidiaries with such banks or financial institutions that arises in connection with ordinary banking arrangements, including cash management, cash pooling arrangements and related activities to manage cash balances of the Company and its Subsidiaries, including treasury, depository, overdraft, credit, purchasing or debit card, electronic funds transfer and other cash management arrangements and Indebtedness in respect of netting services, overdraft protection, credit card programs, automatic clearinghouse arrangements and similar arrangements.

For purposes of determining compliance with this Section 6.01, at the time of incurrence, the Company will be entitled to divide and classify an item of Indebtedness in more than one of the categories of Indebtedness described above (or any portion thereof) (other than clause (b) with respect to Other Secured Debt Obligations) without giving pro forma effect to the Indebtedness Incurred pursuant to any other clause or paragraph of this Section (or any portion thereof) when calculating the amount of Indebtedness that may be Incurred pursuant to any such clause or paragraph (or any portion thereof).

Accrual of interest, the accretion of accreted value, the payment of interest or dividends in the form of additional Indebtedness, Disqualified Stock or Preferred Stock, as applicable, amortization of original issue discount, the accretion of liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies will not be deemed to be an Incurrence of Indebtedness, Disqualified Stock or Preferred Stock for purposes of this Section 6.01. In addition, Guaranties of, or obligations in respect of letters of credit relating to, Indebtedness which is otherwise included in the determination of a particular amount of Indebtedness shall not be included in the determination of such amount of Indebtedness; provided that the Incurrence of the Indebtedness represented by such guarantee or letter of credit, as the case may be, was in compliance with this Section 6.01.

For purposes of determining compliance with any U.S. Dollar-denominated restriction on the Incurrence of Indebtedness, the Dollar-equivalent principal amount of Indebtedness denominated in a foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term debt, or first committed or first Incurred (whichever yields the lower U.S. Dollar equivalent), in the case of revolving credit debt. However, if the Indebtedness is Incurred to refinance other Indebtedness denominated in a foreign currency, and the refinancing would cause the applicable U.S. Dollar-denominated restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of the refinancing, the U.S. Dollar-denominated restriction will be deemed not to have been exceeded so long as the principal amount of the refinancing Indebtedness does not exceed the principal amount of the Indebtedness being refinanced.

Notwithstanding any other provision of this Section 6.01, the maximum amount of Indebtedness that the Loan Parties and Restricted Subsidiaries may Incur pursuant to this Section 6.01 shall not be deemed to be exceeded, with respect to any outstanding Indebtedness, solely as a result of fluctuations in the exchange rate of currencies. The principal amount of any Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, will be calculated based on the currency exchange rate applicable to the currencies in which the respective Indebtedness is denominated that is in effect on the date of the refinancing.

SECTION 6.02 Restricted Payments.

(a) No Loan Party shall, and no Loan Party shall permit any of the Restricted Subsidiaries to, directly or indirectly:

(i) declare or pay any dividend or make any distribution on account of any Loan Party's or any of the Restricted Subsidiaries' Equity Interests, including any payment made in connection with any merger, amalgamation or consolidation involving the Company (other than (A) dividends or distributions payable solely in Equity Interests (other than Disqualified Stock) of the Company; or (B) dividends or distributions by a Restricted Subsidiary so long as, in the case of any dividend or distribution payable on or in respect of any class or series of securities issued by a Restricted Subsidiary that is not a Wholly Owned Subsidiary, a Loan Party or the Restricted Subsidiary which owns the equity interests of such non-Wholly Owned Subsidiary receives at least its pro rata share of such dividend or distribution in accordance with its Equity Interests in such class or series of securities));

(ii) purchase or otherwise acquire or retire for value any Equity Interests of the Company or any direct or indirect parent of the Company;

(iii) make any principal payment on, or redeem, repurchase, defease or otherwise acquire or retire for value, in each case prior to any scheduled repayment or scheduled maturity, any Junior Indebtedness of the Company or any Loan Party (other than the payment, redemption, repurchase, defeasance, acquisition or retirement of (A) Junior Indebtedness in anticipation of satisfying a sinking fund obligation or principal installment to the extent not prohibited by the terms of any applicable subordination provisions and (B) Indebtedness permitted under clause (h) of Section 6.01) or (y) in the case of Junior Indebtedness of the type described in clause (c) of the definition of Junior Indebtedness, make any payment on such Indebtedness;

(iv) make any payment on, or redeem, repurchase, defease or otherwise acquire or retire for value any Other Secured Debt Obligations; or

(v) make any Restricted Investment;

(all such payments and other actions set forth in subclauses (i) through (v) above being collectively referred to as "Restricted Payments").

(b) The provisions of Section 6.02(a) shall not prohibit:

(i) the payment of any dividend or distribution or the consummation of any irrevocable redemption within sixty (60) days after the date of declaration thereof, if at the date of declaration or the giving of notice of such irrevocable redemption, as applicable, such payment would have complied with the provisions of this Agreement; provided that if such dividend, distribution or redemption is being made pursuant to Section 6.02(b)(xx), a Reserve shall be established by the Administrative Agent in an amount equal to the Restricted Payment so declared;

(ii) (A) the redemption, repurchase, retirement or other acquisition of any Equity Interests ("Retired Capital Stock"), Other Secured Debt Obligations or Junior Indebtedness of the Company or any Loan Party solely in exchange for, or solely out of the proceeds of, the substantially concurrent sale of, Equity Interests of the Company or contributions to the equity capital of the Company (other than any Disqualified Stock or any Equity Interests sold to a Subsidiary of the Company) (collectively, including any such contributions, "Refunding Capital Stock"); and

(B) the declaration and payment of dividends on the Retired Capital Stock solely out of the proceeds of the substantially concurrent sale (other than to a Subsidiary of the Company) of Refunding Capital Stock;

(iii) the redemption, repurchase, defeasance, or other acquisition or retirement of any Other Secured Debt Obligations or any Junior Indebtedness of any Loan Party made by exchange for, or out of the proceeds of the substantially concurrent sale of, new Indebtedness of a Loan Party, which is Incurred in accordance with Section 6.01 so long as:

(A) the principal amount (or accreted value, if applicable) of such new Indebtedness does not exceed the principal amount (or accreted value, if applicable), plus any accrued and unpaid interest, of any Other Secured Debt Obligations or Junior Indebtedness being so redeemed, repurchased, defeased, acquired or retired for value (plus the amount of any premium required to be paid under the terms of the instrument governing any Other Secured Debt Obligations or Junior Indebtedness being so redeemed, repurchased, acquired or retired, plus any tender premiums, plus any defeasance or other costs, fees and expenses incurred in connection therewith);

(B) such Indebtedness is subordinated as to right of payment and lien priority to the Secured Obligations or the related Guarantee of such Loan Party, as the case may be, at least to the same extent as the applicable Other Secured Debt Obligations or Junior Indebtedness so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value (it being understood that if the Junior Indebtedness so purchased, exchanged, redeemed, repurchased, defeased, acquired or retired for value is unsecured, such Indebtedness shall be unsecured);

(C) such Indebtedness has a final scheduled maturity date equal to or later than the earlier of (x) the final scheduled maturity date of the applicable Other Secured Debt Obligations or Junior Indebtedness being so redeemed, repurchased, acquired or retired and (y) ninety-one (91) days following the Maturity Date; and

(D) such Indebtedness has a Weighted Average Life to Maturity at the time Incurred which is not less than the shorter of (x) the remaining Weighted Average Life to Maturity of the applicable Other Secured Debt Obligations or Junior Indebtedness being so redeemed, repurchased, defeased, acquired or retired and (y) the Weighted Average Life to Maturity that would result if all payments of principal on the applicable Other Secured Debt Obligations or Junior Indebtedness being redeemed, repurchased, defeased, acquired or retired that were due on or after the date that is one year following the Maturity Date;

(iv) so long as no Dominion Period is continuing immediately before or after the making of such Restricted Payment and so long as no Event of Default is continuing immediately before or after the making of such Restricted Payment, a Restricted Payment to pay for the repurchase, retirement or other acquisition for value of Equity Interests of the Company or any direct or indirect parent of the Company held by any future, present or former employee, director, officer or consultant of the Company or any Restricted Subsidiary of the Company or any direct or indirect parent of the Company pursuant to any management equity plan or stock option plan or any other management or employee benefit plan or other agreement or arrangement; provided, however, that the aggregate Restricted Payments made under this clause (iv) do not exceed in any calendar year an amount equal to (x) $11,250,000 plus (y) the value of any shares surrendered by any such employee, director, officer or consultant, or otherwise withheld by the Company, in connection with any tax obligation of such employee, director, officer or consultant (or the payment thereof by the Company or any Restricted Subsidiary) in an amount not to exceed $4,500,000, with unused amounts in any calendar year being permitted to be carried over to the next succeeding calendar year; provided further, however, that such amount in any calendar year may be increased by an amount not to exceed:

(A) the cash proceeds received by the Company or any of the Restricted Subsidiaries from the sale of Equity Interests (other than Disqualified Stock) of the Company or any direct or indirect parent of the Company (to the extent contributed to the Company) to employees, directors, officers or consultants of the Company and the Restricted Subsidiaries or any direct or indirect parent of the Company that occurs after the date hereof and during such calendar year; plus

(B) the cash proceeds of key man life insurance policies received by the Company or any direct or indirect parent of the Company (to the extent contributed to the Company) or the Restricted Subsidiaries after the date hereof and during such calendar year;

(v) [Reserved];

(vi) [Reserved];

(vii) [Reserved];

(viii) other Restricted Payments that, when taken together with all other Restricted Payments made pursuant to this clause (viii), would not exceed $30,000,000 after the date hereof; provided, that no Dominion Period exists, in each case, after giving pro forma effect to such Restricted Payment;

(ix) the distribution, as a dividend or otherwise, of shares of Equity Interests of Unrestricted Subsidiaries;

(x) [Reserved]:

(xi) with respect to any Other Secured Debt Obligations (if any):

(A) the making of regularly scheduled payments of interest in accordance with the terms of the applicable Other Secured Loan Agreement at a rate not prohibited by the terms of the applicable ABL Intercreditor Agreement;

(B) the making of regularly scheduled amortization payments, mandatory prepayments and other mandatory payments in accordance with the terms of the applicable Other Secured Debt Loan Agreement to the extent not prohibited by the terms of the applicable ABL Intercreditor Agreement; or

(C) the making of voluntary prepayments or voluntary redemptions of Indebtedness under the applicable Other Secured Debt Loan Agreement (including, without limitation, pursuant to any loan buyback or repurchase mechanisms) so long as the Payment Conditions have been satisfied at the time of such prepayment or redemption;

(xii) payment of Indebtedness created under the Loan Documents;

(xiii) payment of regularly scheduled interest and principal payments or reimbursement obligations under letters of credit, in each case, as and when due in respect of any Indebtedness permitted by this Agreement, other than payments in respect of the Subordinated Indebtedness prohibited by the subordination provisions thereof;

(xiv) payments constituting the refinancings of Indebtedness to the extent such refinanced Indebtedness is permitted by Section 6.01;

(xv) payment of secured Indebtedness (other than Other Secured Debt Obligations) that becomes due as a result of (A) any voluntary sale or transfer of any assets (other than assets included in any Borrowing Base) securing such Indebtedness or (B) any casualty or condemnation proceeding (including a disposition in lieu thereof) of any assets (other than assets included in any Borrowing Base) securing such Indebtedness;

(xvi) subject to the terms of the Intercompany Subordination Agreement, payments of intercompany Indebtedness permitted under Section 6.01 and owed to any Loan Party;

(xvii) repurchases of Equity Interests that occur or are deemed to occur upon exercise of stock options or warrants if such Equity Interests represent a portion of the exercise price of such options or warrants;

(xviii) Restricted Payments by the Company or any Restricted Subsidiary to allow the payment of cash in lieu of the issuance of fractional shares upon the exercise of options or warrants or upon the conversion or exchange of Equity Interests of any such Person;

(xix) payments or distributions to dissenting stockholders pursuant to applicable law, pursuant to or in connection with a consolidation, amalgamation, merger or transfer of all or substantially all of the assets of the Company and the Restricted Subsidiaries, taken as a whole, that complies with Section 6.08; provided that if such consolidation, amalgamation, merger or transfer of assets constitutes a Change in Control, all Secured Obligations shall have been repaid in full (or the Event of Default specified in Section 7.01(g) shall have been waived); and

(xx) any Loan Party or their Restricted Subsidiaries may make Restricted Payments so long as the Borrowers are in Pro Forma Compliance with the Payment Conditions.

Notwithstanding anything herein to the contrary, nothing in this Agreement shall prohibit the Loan Parties from paying the indebtedness and obligations under the Existing Credit Agreement on the Closing Date.

Notwithstanding anything else set forth in this Section 6.02 or the definition of "Permitted Investments" to the contrary, no Restricted Payment or Investment (other than an Investment in another Loan Party) of any Material Intellectual Property owned by the Company or another Loan Party shall be permitted under this Agreement unless such Material Intellectual Property is subject to a non-exclusive, irrevocable (until the Secured Obligations (other than contingent or indemnity obligations for which no claim has been made by the Person entitled thereof) have been paid in full and all Commitments have terminated), royalty-free license of such Material Intellectual Property in favor of the Administrative Agent for use in connection with the exercise of rights and remedies of the Secured Parties under the Loan Documents with respect to the ABL Priority Collateral, which license shall be substantially similar to the license described in Section 8(c) of the Security Agreement (or otherwise reasonably satisfactory to the Administrative Agent).

As of the date hereof, all of the Subsidiaries of the Company will be Restricted Subsidiaries. For purposes of designating any Restricted Subsidiary as an Unrestricted Subsidiary, all outstanding Investments by the Company and the Restricted Subsidiaries (except to the extent repaid) in the Subsidiary so designated will be deemed to be Investments in an amount determined as set forth in the last sentence of the definition of "Investments." Such designation will only be permitted if a Restricted Payment or Permitted Investment in such amount would be permitted at such time and if such Subsidiary otherwise meets the definition of an Unrestricted Subsidiary.

SECTION 6.03 Limitations on Restrictive Agreements. No Loan Party shall, or shall permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or suffer to exist any consensual encumbrance or consensual restriction which prohibits or limits the ability of:

(a) any Loan Party or Restricted Subsidiary to pay dividends or make any other distributions to the Company or any Restricted Subsidiary (1) on its Equity Interests; or (2) with respect to any other interest or participation in, or measured by, its profits;

(b) any Loan Party or Restricted Subsidiary to make loans or advances to the Company or any Restricted Subsidiary that is a direct or indirect parent of such Subsidiary;

(c) any Loan Party to create, incur or permit to exist any Lien in favor of the Administrative Agent upon the Collateral;

except in each case for such encumbrances or restrictions existing under or by reason of:

(i) (A) contractual encumbrances or restrictions in effect on the date hereof and, with respect to any such encumbrances in described in Section 6.03(c) which are in a Material Agreement, as set forth on Schedule 6.03 and (B) contractual encumbrances or restrictions pursuant to this Agreement, the other Loan Documents, and, in each case, similar contractual encumbrances effected by any amendments, modifications, restatements, renewals, supplements, refundings, replacements or refinancings of such agreements or instruments;

(ii) (A) this Agreement, (B) if applicable, an Other Secured Debt Loan Agreement and the other relevant Other Secured Debt Documents, and (C) if applicable, any ABL Intercreditor Agreement;

(iii) applicable law or any applicable rule, regulation or order;

(iv) any agreement or other instrument of a Person acquired by a Loan Party or any Restricted Subsidiary which was in existence at the time of such acquisition (but not created in contemplation thereof or to provide all or any portion of the funds or credit support utilized to consummate such acquisition), which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person and its Subsidiaries, or the property or assets of the Person and its Subsidiaries, so acquired;

(v) contracts or agreements for the sale of assets to the extent such sale is not prohibited pursuant to the terms hereof, including any restriction with respect to a Restricted Subsidiary imposed pursuant to an agreement entered into for the sale or disposition of the Equity Interests or assets of such Restricted Subsidiary;

(vi) (A) secured Indebtedness otherwise permitted to be Incurred pursuant to Section 6.01 and Section 6.07 that limits the right of the debtor to dispose of or grant Liens on the assets securing such Indebtedness and (B) contractual encumbrances or restrictions under any agreement governing any Indebtedness existing as of the Closing Date;

(vii) customary net worth provisions contained in real property leases entered into by any Loan Party or Restricted Subsidiary, so long as the Company has determined in good faith that such net worth provisions would not reasonably be expected to impair the ability of the Company and its Restricted Subsidiaries to meet their ongoing obligations;

(viii) customary provisions in joint venture agreements and other similar agreements entered into in the ordinary course of business and relating solely to the applicable Joint Venture;

(ix) purchase money obligations to the extent not prohibited hereunder for property acquired and Finance Lease Obligations in the ordinary course of business;

(x) customary provisions contained in leases, licenses and other similar agreements entered into in the ordinary course of business;

(xi) any encumbrance or restriction that restricts in a customary manner the subletting, assignment or transfer of any property or asset that is subject to a lease, license or similar contract, or the assignment or transfer of any such lease, license (including without limitation, licenses of intellectual property) or other contracts;

(xii) other Indebtedness, Disqualified Stock or Preferred Stock of the Company or any Restricted Subsidiary, in each case, so long as such encumbrances and restrictions contained in any agreement or instrument will not materially affect any Loan Party's ability to make anticipated principal or interest payments on the Loans (as determined in good faith by the Company), provided that such Indebtedness, Disqualified Stock or Preferred Stock is permitted pursuant to Section 6.01;

(xiii) any Investment not prohibited by Section 6.02;

(xiv) customary restrictions and conditions contained in the document relating to any Lien, so long as (1) such Lien is a Permitted Lien and such restrictions or conditions relate only to the specific asset subject to such Lien, and (2) such restrictions and conditions are not created for the purpose of avoiding the restrictions imposed by this Section 6.03;

(xv) [Reserved];

(xvi) any encumbrances or restrictions of the type referred to in Section 6.03(a), (b), or (c) above imposed by any amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings of the contracts, instruments or obligations referred to in clauses (i) through (xiv) above; provided that such amendments, modifications, restatements, renewals, increases, supplements, refundings, replacements or refinancings are, in the good faith judgment of the Company, no more restrictive with respect to such dividend and other payment restrictions than those contained in the dividend or other payment restrictions prior to such amendment, modification, restatement, renewal, increase, supplement, refunding, replacement or refinancing.

For purposes of determining compliance with this Section 6.03, (i) the priority of any Preferred Stock in receiving dividends or liquidating distributions prior to dividends or liquidating distributions being paid on common stock shall not be deemed a restriction on the ability to make distributions on Equity Interests and (ii) the subordination of loans or advances made to the Company or a Restricted Subsidiary to other Indebtedness Incurred by the Company or any such Restricted Subsidiary shall not be deemed a restriction on the ability to make loans or advances.

SECTION 6.04 Sale of Equity Interests and Assets. Except as set forth herein, no Loan Party shall, or shall permit any of its Restricted Subsidiaries to, sell, transfer, convey, assign or otherwise Dispose of any of its properties or other assets, including the Equity Interests of any of its Subsidiaries (whether in a public or a private offering or otherwise), other than:

(a) (x) the Disposition of obsolete, no longer used or useful, surplus, uneconomic, negligible or worn out machinery, equipment or other fixed assets; and (y) the Disposition of Intellectual Property (including the abandonment thereof or surrender or transfer for no consideration), in each case under this clause (y): (i) in the ordinary course of business, including pursuant to non-exclusive licenses of Intellectual Property or otherwise as may be required pursuant to the terms of any lease, sublease, license or sublicense, or (ii) which, in the reasonable judgment of the Company or any Subsidiary, are determined to be no longer used or useful, surplus, uneconomical, negligible or obsolete in the conduct of business;

(b) (x) the sale of inventory and other assets in the ordinary course of business and (y) in addition to sales of Inventory under the preceding clause (x), the sale of slow moving inventory outside of the ordinary course (including in respect of a liquidation thereof); provided that the amount of inventory Disposed of pursuant to this clause (y) shall be capped in an amount not to exceed $56,250,000 during any fiscal year; provided, further that, with respect to any such sale pursuant to this clause (y) which (in a single transaction or a series of related transactions) decreases the Borrowing Base by $5,625,000 or more (after giving effect thereto), the Borrower Representative shall have first delivered an updated Borrowing Base Certificate to the Administrative Agent giving pro forma effect to such sale and demonstrating pro forma compliance with Section 6.12;

(c) Dispositions permitted by Sections 6.02, 6.07 (solely to the extent such Liens constitute "Dispositions" as a result of the applicable security interest), and 6.08;

(d) (1) the sale or issuance of any Subsidiary's Equity Interests to the Company or any Restricted Subsidiary; provided, however, with respect to any such sale, such Investment shall not be prohibited by Section 6.02 and (2) the sale or issuance of Equity Interests of the Company to any employee (and, where required by law, to any officer or director) under any employment or compensation plans or to qualify such officers and directors;

(e) the sale of assets that do not constitute Eligible Inventory, Eligible In-Transit Inventory, or Eligible Credit Card Accounts subsequent to the date hereof, so long as (1) no Default or Event of Default then exists or would result therefrom, (2) each such sale or other disposition is in an arm's-length transaction and the respective Borrower or Restricted Subsidiary receives at least fair market value, and (3) the consideration received by such Borrower or such Restricted Subsidiary consists of at least 75% cash and is paid at the time of the closing of such sale; provided, however, that the following shall be deemed to be cash in respect of assets that are not ABL Priority Collateral: (A) the assumption by the transferee of Indebtedness or other liabilities contingent or otherwise of the Company or any of its Restricted Subsidiaries (other than Junior Indebtedness and Other Secured Debt Obligations) and the valid release of the Company or such Restricted Subsidiary, by all applicable creditors in writing, from all liability on such Indebtedness or other liability in connection with such Disposition, (B) Indebtedness (other than Junior Indebtedness and Other Secured Debt Obligations) of any Restricted Subsidiary that is no longer a Restricted Subsidiary as a result of such Disposition, to the extent that the Company and each other Restricted Subsidiary are released from any guarantee of payment of such Indebtedness in connection with such Disposition, and (C) any Designated Non-cash Consideration received by the Company or any Restricted Subsidiary in such asset sale having an aggregate Fair Market Value (as determined in good faith by the Company), taken together with all other Designated Non-cash Consideration received pursuant to this clause (e) that is at that time outstanding, not to exceed the greater of $25,000,000 and 10% of Consolidated EBITDA, calculated on a pro forma basis giving effect to such asset disposition and Designated Non-cash Consideration and based on the most recently completed Test Period (with the Fair Market Value of each item of Designated Non-cash Consideration being measured at the time received and without giving effect to subsequent changes in value); provided, however, with respect a Disposition (in a single transaction or a series of related transactions) consisting of assets constituting ABL Priority Collateral of the type eligible to be included in the Borrowing Base that decreases the Borrowing Base by $5,625,000 or more (after giving effect thereto), the Borrower Representative shall have first delivered an updated Borrowing Base Certificate to the Administrative Agent giving pro forma effect to such Disposition and demonstrating pro forma compliance with Section 6.12;

(f) subject to compliance with Payment Conditions, the sale of assets that constitute Eligible Inventory, Eligible In-Transit Inventory or Eligible Credit Card Accounts subsequent to the date hereof, so long as (1) each such sale or other disposition is in an arm's-length transaction and the respective Borrower or Restricted Subsidiary receives at least fair market value, and (2) the consideration received by the Company and its Restricted Subsidiaries in connection with such sale consists of at least 75% cash and is paid at the time of the closing of such sale; provided that, with respect to any such sale (in a single transaction or a series of related transactions) consisting of assets constituting ABL Priority Collateral of the type eligible to be included in the Borrowing Base that decreases the Borrowing Base by $5,625,000 or more (after giving effect thereto), the Borrower Representative shall have first delivered an updated Borrowing Base Certificate to the Administrative Agent giving pro forma effect to such sale and demonstrating pro forma compliance with Section 6.12;

(g) the Disposition of cash and Cash Equivalents in connection with the Company's and its Restricted Subsidiaries' business needs, as determined in the reasonable business judgment of the Company or the applicable Restricted Subsidiary;

(h) Dispositions of Accounts in connection with compromise, write down or collection thereof in the ordinary course of business and consistent with past practice;

(i) leases, subleases, licenses or sublicenses of property which do not materially interfere with the business of Borrowers and their Restricted Subsidiaries and the termination of such leases, subleases, licenses or sublicenses in the ordinary course of business;

(j) Dispositions of Equity Interests to directors where required by applicable Requirements of Law or to satisfy other requirements of applicable Requirements of Law with respect to the ownership of Equity Interests of Foreign Subsidiaries;

(k) Dispositions of Equity Interests of any Joint Venture to the extent required by the terms of customary buy/sell type arrangements entered into in connection with the formation of such Joint Venture;

(l) transfer or disposition of property subject to or as a result of a casualty or condemnation (or agreement in lieu of condemnation) (1) upon receipt of net cash proceeds of such casualty or (2) to a Governmental Authority as a result of condemnation (or agreement in lieu of condemnation);

(m) bulk sales or other Dispositions of inventory of a Restricted Subsidiary not in the ordinary course of business in connection with store closings, at arm's length; provided, that the Loan Parties and their Restricted Subsidiaries shall not close a net amount (taking into account new store openings after the Closing Date) of more than one hundred fifty (150) stores during the term of this Agreement;

(n) (1) any Loan Party may Dispose of its property to another Loan Party, (2) any Restricted Subsidiary that is not a Loan Party may Dispose of its property to the Company or any other Restricted Subsidiary; provided that any Disposition to a Loan Party in reliance of this clause (2) shall be for no more than Fair Market Value (as determined in good faith by the Company), and (3) any Loan Party may Dispose of its property to a Restricted Subsidiary that is not a Loan Party; provided that any Disposition in reliance on this clause (3) for less than Fair Market Value (as determined in good faith by the Company) shall be deemed an Investment and must be made in compliance with clause (1) of the definition of Permitted Investments; provided, however, with respect a Disposition (in a single transaction or a series of related transactions) consisting of assets constituting ABL Priority Collateral of the type eligible to be included in the Borrowing Base that decreases the Borrowing Base by $5,625,000 or more (after giving effect thereto), the Borrower Representative shall have first delivered an updated Borrowing Base Certificate to the Administrative Agent giving pro forma effect to such Disposition and demonstrating pro forma compliance with Section 6.12;

(o) Dispositions of any property to the extent that (1) (x) such property is exchanged for credit against the purchase price of similar replacement property or (y) such Disposition represents an exchange of assets (including a combination of Cash Equivalents and assets) for assets related to a Similar Business of comparable or greater market value or usefulness to the business of the Company and the Restricted Subsidiaries as a whole, as determined in good faith by the Company or (z) such Disposition represents a swap of assets or lease, assignment or sublease of any real of personal property in exchange for services (including in connection with any outsourcing arrangements) or comparable or greater value or usefulness to the business of the Company and its Restricted Subsidiaries as a whole, as determined in good faith by the Company, or (2) the proceeds of such Disposition are reasonably promptly applied to the purchase price of such replacement property;

(p) Dispositions of assets which constitute Investments or Restricted Payments, in each case, not prohibited by Section 6.02;

(q) Dispositions of property (other than ABL Priority Collateral) in connection with (i) Sale/Leaseback Transactions for fair value (as determined at the time of the consummation thereof in good faith by the applicable Loan Party or Restricted Subsidiary) so long as 75% of the consideration received by such Loan Party or Restricted Subsidiary from such Sale/Leaseback Transaction is in the form of cash and (ii) any Sale/Leaseback Transactions between Excluded Subsidiaries;

(r) [Reserved];

(s) Dispositions of assets or issuances of the Company or any Restricted Subsidiary or sale of Equity Interests of the Company or any Restricted Subsidiary which assets or Equity Interests so Disposed or issued, in any single transaction or related series of transactions, have a fair market value (as determined in good faith by the Company) of less than $11,250,000 per fiscal year;

(t) Dispositions arising from foreclosure or any similar action with respect to any property or other asset of the Company or any of its Restricted Subsidiaries;

(u) any Disposition of Equity Interests in, or Indebtedness or other securities of, an Unrestricted Subsidiary;

(v) any Disposition of Equity Interests of a Restricted Subsidiary pursuant to an agreement or other obligation with or to a Person (other than the Company or a Restricted Subsidiary) from whom such Restricted Subsidiary was acquired or from whom such Restricted Subsidiary acquired its business and assets (having been newly formed in connection with such acquisition), in each case following the date hereof, made as part of such acquisition and in each case comprising all or a portion of the consideration in respect of such sale or acquisition;

(w) Dispositions of receivables in connection with the compromise, settlement or collection thereof in the ordinary course of business or in bankruptcy or similar proceedings and exclusive of factoring or similar arrangements;

(x) to the extent constituting a Disposition, any surrender, expiration or waiver of contract rights or the settlement, release, recovery on or surrender of contract, tort or other claims of any kind;

(y) Dispositions of owned real property on an arm's length basis;

(z) any Disposition of assets (other than Eligible Inventory, Eligible In-Transit Inventory, or Eligible Credit Card Accounts) in the ordinary course of business to the extent replaced by substitute assets;

provided, that any Disposition of Material Intellectual Property of the Loan Parties to any Person that is not a Loan Party shall be made expressly subject to a non-exclusive, irrevocable (until the Secured Obligations (other than contingent or indemnity obligations for which no claim has been made by the Person entitled thereto) have been paid in full and all Commitments have terminated), royalty-free license of such Material Intellectual Property in favor of the Administrative Agent for use in connection with the exercise of rights and remedies of the Secured Parties under the Loan Documents with respect to the ABL Priority Collateral, which license shall be substantially similar to the license described in Section 8(c) of the Security Agreement (or otherwise reasonably satisfactory to the Administrative Agent).

SECTION 6.05 Affiliate Transactions. No Loan Party shall, and no Loan Party shall permit any of the Restricted Subsidiaries to, directly or indirectly, make any payment to, or sell, lease, transfer or otherwise dispose of any of its properties or assets to, or purchase any property or assets from, or enter into or make or amend any transaction or series of transactions, contract, agreement, understanding, loan, advance or guarantee with, or for the benefit of, any Affiliate of the Company (each of the foregoing, an "Affiliate Transaction") involving aggregate consideration in excess of $11,250,000 or services and goods with a market value (as determined in good faith by the Company) in excess of $11,250,000, provided that, the foregoing shall not apply to the following:

(a) Affiliate Transactions on terms that are not materially less favorable to the relevant Loan Party or the Restricted Subsidiary than those that could have been obtained in a comparable transaction by the relevant Loan Party or such Restricted Subsidiary with an unrelated Person;

(b) transactions between or among the Company and/or any of the Restricted Subsidiaries (or any entity that becomes a Restricted Subsidiary as a result of such transaction);

(c) Restricted Payments permitted by Section 6.02 and Permitted Investments;

(d) the payment of reasonable and customary fees and reimbursement of out-of-pocket expenses paid to, and indemnity provided on behalf of, officers, directors, employees or consultants of the Company, any Restricted Subsidiary, or any direct or indirect parent of the Company;

(e) transactions in which the Company or any Restricted Subsidiary, as the case may be, delivers to the Administrative Agent a letter from an Independent Financial Advisor stating that such transaction is fair to the Company or such Restricted Subsidiary from a financial point of view or meets the requirements of clause (a) of this Section 6.05;

(f) payments or loans (or cancellation of loans) to officers, directors, employees or consultants which are approved by a majority of the Board of Directors of the Company in good faith;

(g) any agreements or transactions disclosed on Schedule 6.05 hereto and any amendment thereto (so long as any such agreement together with all amendments thereto, taken as a whole, is not more disadvantageous to the Lenders in any material respect than the original agreement as in effect on the date hereof) or any transaction contemplated thereby as determined in good faith by the Company;

(h) the issuance of Equity Interests (other than Disqualified Stock) of the Company to any Person;

(i) (A) transactions with customers, clients, suppliers or purchasers or sellers of goods or services, or transactions otherwise relating to the purchase or sale of goods or services, in each case in the ordinary course of business and otherwise in compliance with the terms of this Agreement, which are fair to the Company and the Restricted Subsidiaries in the reasonable determination of the Board of Directors or the senior management of the Company, or are on terms at least as favorable as might reasonably have been obtained at such time from an unaffiliated party or (B) transactions with Joint Ventures or Unrestricted Subsidiaries entered into in the ordinary course of business and consistent with past practice; provided, however, with respect to any consideration made to a Loan Party or its Restricted Subsidiaries by Joint Ventures, the applicable Loan Party or Restricted Subsidiary shall receive at least Fair Market Value for the goods or services of such transaction;

(j) the issuances of securities or other payments, awards or grants in cash, securities or otherwise pursuant to, or the funding of, employment arrangements, management equity plans, stock option and stock ownership plans or similar employee benefit plans approved by the Board of Directors of the Company, or the Board of Directors of a Restricted Subsidiary, as applicable, in good faith;

(k) any contribution to the capital of the Company;

(l) transactions permitted by, and complying with, Section 6.08;

(m) transactions between the Company or any Restricted Subsidiary and any Person, a director of which is also a director of the Company or any direct or indirect parent of Company; provided, however, that such director abstains from voting as a director of the Company or such direct or indirect parent of the Company, as the case may be, on any matter involving such other Person;

(n) pledges of Equity Interests of Unrestricted Subsidiaries;

(o) the formation and maintenance of any consolidated group or subgroup for tax, accounting or cash pooling or management purposes in the ordinary course of business and not for the purpose of circumventing any covenant set forth in this Agreement;

(p) any employment agreements entered into by the Company or any Restricted Subsidiary and their respective officers and employees in the ordinary course of business;

(q) transactions undertaken in good faith (as certified by a responsible financial or accounting officer of the Company in an Officer's Certificate) for the purpose of improving the consolidated tax efficiency of the Company and its Subsidiaries and not for the purpose of circumventing any covenant set forth in this Agreement;

(r) non-exclusive licenses of Intellectual Property to or among Borrowers, their respective Subsidiaries and their Affiliates; and

(s) advances for commissions, travel and similar purposes in the ordinary course of business to directors, officers and employees.

SECTION 6.06 Amendments of Certain Documents; Line of Business. No Loan Party shall amend its charter, bylaws or other organizational documents in any manner materially adverse to the interest of the Lenders or such Loan Party's duty or ability to repay the Obligations. No Loan Party shall amend any Other Secured Debt Documents (if applicable) in a manner prohibited by the applicable ABL Intercreditor. No Loan Party shall amend the Synthetic Lease Agreement or Supply Chain Finance Agreement if such amendment, modification or waiver would have an adverse effect on the Lenders' or Secured Parties' rights hereunder. No Loan Party shall engage in any business other than the distribution of, and the wholesale and retail sale of, general merchandise and ancillary or value-added activities and functions in support of or as an enhancement to the foregoing businesses, substantially as conducted and operated by such Loan Party during the present fiscal year as of the Closing Date ("Similar Business").

SECTION 6.07 Liens. No Loan Party shall, and no Loan Party shall permit any of its Restricted Subsidiaries to, directly or indirectly, create, Incur or suffer to exist any Lien securing Indebtedness of such Loan Party or any Restricted Subsidiary, other than Permitted Liens, on any asset or property of such Loan Party or Restricted Subsidiary.

With respect to any Lien securing Indebtedness that was permitted to secure such Indebtedness at the time of the Incurrence of such Indebtedness, such Lien shall also be permitted to secure any Increased Amount of such Indebtedness. The "Increased Amount" of any Indebtedness shall mean any increase in the amount of such Indebtedness in connection with any accrual of interest, the accretion of accreted value, the amortization of original issue discount, the payment of interest in the form of additional Indebtedness with the same terms or in the form of common stock of the Company, the payment of dividends on Preferred Stock in the form of additional shares of Preferred Stock of the same class, accretion of original issue discount or liquidation preference and increases in the amount of Indebtedness outstanding solely as a result of fluctuations in the exchange rate of currencies or increases in the value of property securing Indebtedness described in clause (3) of the definition of "Indebtedness."

SECTION 6.08 Mergers, Amalgamations, Fundamental Changes, Etc.

(a) No Loan Party shall, or shall permit any of its Restricted Subsidiaries to, directly or indirectly, by operation of law or otherwise, enter into any merger, consolidation or amalgamation, or liquidate, wind up or dissolve itself (or suffer any liquidation or dissolution), or Dispose of all or substantially all of its property or business, except that:

(i) any Loan Party may consolidate, amalgamate or merge into (x) another Loan Party (y) a Subsidiary that is not a Loan Party, or (z) another Person pursuant to a Permitted Acquisition; provided that, in the case of the foregoing clauses (y) and (z), no Event of Default has occurred or would result therefrom and such Subsidiary or other Person, as applicable, becomes a Loan Party and provides the Administrative Agent and Lenders with the applicable documentation described in Section 5.02(r) (provided, however, with respect to any such consolidation, amalgamation or merger involving the Company, the Company shall be the surviving person);

(ii) any Domestic Subsidiary may be merged, amalgamated or consolidated with or into a Borrower (provided that a Borrower shall be the continuing or surviving entity) or with or into any Guarantor (provided that a Borrower or Guarantor shall be the continuing or surviving entity);

(iii) any Subsidiary that is not a Loan Party may be merged, amalgamated or consolidated with or into any other Subsidiary that is not a Loan Party; provided that if one Subsidiary to such merger, amalgamation or consolidation is a Wholly Owned Subsidiary, the Wholly Owned Subsidiary shall be the continuing or surviving entity;

(iv) (x) any Loan Party may Dispose of any or all of its assets to another Loan Party, and (y) any Subsidiary which is not a Loan Party may Dispose of any or all of its assets to, or enter into any merger, amalgamation or consolidation with, (1) a Borrower or any Guarantor (upon voluntary liquidation or otherwise); provided in the case of a Disposition by a non-Loan Party to a Loan Party of assets that is not a part of a liquidation, such sale shall be for no more than Fair Market Value (as determined by the Company), or (2) a Subsidiary that is not a Guarantor if the Subsidiary making the Disposition is not a Guarantor; provided that any such Disposition by a Wholly Owned Subsidiary must be to a Wholly Owned Subsidiary;

(v) any Investment not prohibited by Section 6.02 may be structured as a merger, consolidation or amalgamation;

(vi) any Subsidiary may be dissolved or liquidated so long the Dispositions of assets of such Person in connection with such liquidation or dissolution are to Persons entitled to receive such assets in accordance with Section 6.04;

(vii) any Subsidiary may enter into any merger, amalgamation or consolidation in connection with, or to effectuate, a Disposition not otherwise prohibited by Section 6.04; and

(viii) any Restricted Subsidiary may Dispose of any or all of its assets in connection with, or to effectuate, a Disposition not otherwise prohibited by Section 6.04.

(b) No Loan Party shall (a) change its name as it appears in official filings in the state or province of incorporation or organization, (b) change its chief executive office, (c) change the type of entity that it is, (d) change its organization identification number, if any, issued by its state or province of incorporation or other organization, or (e) change its state or province of incorporation or organization, in each case, unless the Administrative Agent shall have received written notice of such change within 10 days (or such longer period as the Administrative Agent may agree in its sole discretion) following such change and any reasonable action requested by the Administrative Agent in connection with such change to continue at all times following such change for the Administrative Agent to have a valid, legal and perfected security interest in all the Collateral in which a security interest may be perfected by a filing under the UCC (or its equivalent in any applicable jurisdiction), for the benefit of the Secured Parties have been

made or will have been made within 10 days (or such longer period as the Administrative Agent may agree in its sole discretion) following such change.

(c) No Loan Party shall change its fiscal year from the basis in effect on the date hereof without having first provided to the Administrative Agent and each Lender thirty (30) days' prior written notice thereof.

(d) No Loan Party will change the basis of accounting upon which its financial statements are prepared for purposes of this Agreement, other than changes to comply with changes in GAAP, without providing to the Administrative Agent and each Lender prompt notice thereof; it being acknowledged that with respect to calculations of the applicable Borrowing Base pursuant to this Agreement (but not for any other purpose, including any financial reporting pursuant to any Requirement of Law) such change must be approved in writing by the Administrative Agent (and, solely to the extent such change shall result in the amounts available to be borrowed by the Borrowers would be increased, each Lender), not to be unreasonably withheld.

SECTION 6.09 Sanctions; Anti-Terrorism Laws. No Loan Party shall, directly or indirectly, nor shall any Loan Party permit any Subsidiary to directly or indirectly, use the proceeds of any Loans or Letters of Credit, or lend, contribute or otherwise make available such proceeds to any Subsidiary, (i) to fund, finance or facilitate any activities of or business with any individual or entity, or in any Sanctioned Country, that, at the time of such funding, is the subject of Sanctions except (A) as otherwise permitted pursuant to a license granted by the Office of Foreign Assets Control of the U.S. Department of the Treasury or (B) otherwise to the extent permissible for a Person required to comply with Sanctions, or (ii) in any other manner that will result in a violation of Sanctions by any party hereto. No Loan Party shall, directly or indirectly, nor shall any Loan Party permit any Subsidiary to directly or indirectly, use the proceeds of any Loans or Letters of Credit for any purpose which would breach any Anti-Terrorism Laws applicable to any Loan Party or Subsidiary, including the United States Foreign Corrupt Practices Act of 1977, the Corruption of Foreign Public Officials Act (Canada), the UK Bribery Act 2010, and other similar anti-corruption legislation in any jurisdiction in which any Loan Party or any of its Subsidiaries is located or is doing material business.

SECTION 6.10 [Reserved]

SECTION 6.11 [Reserved]

SECTION 6.12 Fixed Charge Coverage Ratio. At all times during a Covenant Compliance Event, the Company will not permit the Fixed Charge Coverage Ratio, as of the end of any fiscal quarter, calculated on a trailing four (4) fiscal quarter basis, to be less than 1.0 to 1.0.

ARTICLE VII.

EVENTS OF DEFAULT

If any of the following events shall occur and shall not have been waived in accordance with Section 9.02, it shall constitute an "Event of Default" (it being understood and agreed that such events shall give effect to the grace period, if any, explicitly provided for such event as set forth below):

(a) any Loan Party (i) shall fail to pay any principal of any Loan or any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, and in the currency required hereunder or (ii) shall fail to pay any interest on any Loan, fees or any other amounts

hereunder or under any other Loan Document within three (3) Business Days after the same become due and payable by it; or

(b) any representation or warranty made or deemed made by or on behalf of any Loan Party in any Loan Document (whether made on behalf of itself or otherwise) or by any Loan Party (or any of its officers) in connection with any Loan Document, or in any certificate, other instrument or statement furnished pursuant to the provisions hereof or thereof (including, without limitation, any representation made in any Borrowing Base Certificate), shall prove to have been incorrect in any material respect when made or deemed made (other than a representation, warranty, certification or statement qualified by materiality or reference to the absence of a Material Adverse Effect, in which event such representation, warranty, certification or statement shall prove to have been false or misleading in any respect); or

(c) (i) any Loan Party shall fail to perform or observe any covenant contained in Section 5.01, 5.02(a), 5.03 (solely as to the existence of each Borrower), 5.07, 5.10, 5.11, 5.16, Article VI, Section 6(j) of the Security Agreement, (ii) any Loan Party shall fail to perform or observe any covenant contained in Section 5.02 (other than 5.02(a)), 5.05 or 5.15 if the failure to perform or observe such covenant shall continue unremedied for five (5) Business Days; and (iii) any Loan Party shall fail to perform or observe such other term, covenant or agreement contained in any other Section of this Agreement or any Loan Document on its part to be performed or observed if the failure to perform or observe such other term, covenant or agreement shall remain unremedied for 30 days after the earlier to occur of (x) the Administrative Agent's (given at the request of any Lender) notifying a Responsible Officer of the Borrower Representative of such default, or (y) the obtaining of knowledge of such default by any Responsible Officer of any Loan Party; or

(d) a default or breach shall occur under any (i) Other Secured Debt Document, (ii) the Synthetic Lease Agreement, or (iii) other agreement, document or instrument to which any Loan Party is a party that is not cured within any applicable grace period therefor, and such default or breach (A) involves the failure to make any payment when due in respect of any Indebtedness (other than the Obligations) of any Loan Party in an aggregate amount of not less than $67,500,000, or (B) causes or permits any holder of such Indebtedness or a trustee thereof, with the giving of notice, if required, to cause such Indebtedness or a portion thereof in excess of $67,500,000 in the aggregate outstanding principal amount to become due prior to its stated maturity, or cash collateral in respect thereof (in excess of $67,500,000) is demanded as a result of any such breach or default, in each case, regardless of whether such right is exercised, by such holder or trustee; provided that this clause (d)(iii)(B) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, if such sale or transfer is permitted hereunder and under the documents providing for such Indebtedness; or as a result of damage destruction or taking by fire, casualty or eminent domain or agreement in lieu thereof; or

(e) any Loan Party shall generally not pay its debts as such debts become due, or shall admit in writing its inability to pay its debts generally, or shall make a general assignment for the benefit of creditors; or any proceeding shall be instituted by or against any Loan Party seeking to adjudicate it bankrupt or insolvent, or seeking receivership, interim receivership, liquidation, winding up, reorganization, arrangement, adjustment, rescheduling, protection, relief, or composition, of it or its debts under any Insolvency Laws, or seeking the entry of an order for relief or the appointment of a receiver, interim receiver, monitor, trustee, custodian, sequestrator, conservator or other similar official for it or for any substantial part of its property and, in the case of any such proceeding instituted against it (but not instituted by it), either such proceeding shall remain undismissed or unstayed for a period of sixty (60) days, or any of the actions sought in such proceeding (including, without limitation, the entry of an order for relief against, or the appointment of a receiver, interim receiver, monitor, trustee, custodian or other similar official for, it or for any substantial part of its property) shall occur; or any Loan Party shall take any corporate action to authorize any of the actions set forth above in this subsection (e); or

(f) one or more judgments or orders for the payment of money in excess of $67,500,000 in the aggregate shall be rendered against any Loan Party and either (i) enforcement proceedings shall have been commenced by any creditor upon such judgment or order or (ii) there shall be any period of forty-five (45) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; provided, however, that any such judgment or order shall not give rise to an Event of Default under this subsection (f) if and so long as (A) the amount of such judgment or order which remains unsatisfied is covered by a valid and binding policy of insurance between the respective Loan Party and a third-party insurer covering full payment of such unsatisfied amount and (B) such insurer has been notified, and has not disputed the claim made for payment, of the amount of such judgment or order; or

(g) a Change in Control shall have occurred; or

(h) any of the following events or conditions shall have occurred and such event or condition, when aggregated with any and all other such events or conditions set forth in this subsection (h), has resulted or is reasonably expected to result in liabilities of the Loan Parties and/or the ERISA Affiliates in an aggregate amount that would have a Material Adverse Effect:

(i) any ERISA Event shall have occurred with respect to a Plan; or

(ii) any of the Loan Parties or any of the ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred Withdrawal Liability to such Multiemployer Plan; or

(iii) any of the Loan Parties or any of the ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that such Multiemployer Plan is insolvent or is being terminated, within the meaning of Title IV of ERISA, or has been determined to be in "endangered" or "critical" status within the meaning of Section 432 of the Code or Section 305 of ERISA and, as a result of such insolvency, termination or determination, the aggregate annual contributions of the Loan Parties and the ERISA Affiliates to all of the Multiemployer Plans that are insolvent, being terminated or in endangered or critical status at such time have been or will be increased over the amounts contributed to such Multiemployer Plans for the plan years of such Multiemployer Plans immediately preceding the plan year in which such reorganization, insolvency or termination occurs; or

(iv) any failure to satisfy the applicable minimum funding standards under Section 412(a) of the Code or Section 302(a) of ERISA, whether or not waived, shall exist with respect to one or more of the Plans; or

(v) any Lien shall exist on the property and assets of any of the Loan Parties or any of the ERISA Affiliates in favor of the PBGC;

(i) (i) any provision of any Loan Document, at any time after its execution and delivery and for any reason, ceases to be in full force and effect (other than as a result of the gross negligence or willful misconduct of the Administrative Agent); or any Loan Party or any Affiliate thereof contests in writing the validity or enforceability of any provision of any Loan Document; or any Loan Party denies in writing that it has any or further liability or obligation under any provision of any Loan Document, or purports to revoke, terminate or rescind in writing any provision of any Loan Document or seeks to avoid or limit any Lien purported to be created under any Collateral Document; or (ii) any Lien purported to be created under any Collateral Document shall cease to be, or shall be asserted by any Loan Party or any Affiliate thereof not to be, a valid and perfected Lien on a material portion of the Collateral, with the priority required by the

applicable Collateral Document (other than as a result of the gross negligence or willful misconduct of the Administrative Agent); or

(j) there shall occur any material uninsured damage (for the avoidance of doubt, for purposes hereof, any loss insured by self-insurance or subject to a deductible or combination of deductibles not in excess of $5,625,000 with respect to any otherwise insured occurrence shall not constitute uninsured damage) to or loss, theft or destruction of any of the Collateral with a book value (determined in accordance with GAAP) in excess of $22,500,000 in the aggregate, as to which the Loan Parties do not repair, restore or replace the damaged or destroyed property within 180 days after the occurrence of such damaged or destruction, or any of the Loan Parties' assets with a book value (determined in accordance with GAAP) in excess of $22,500,000 in the aggregate are attached, seized, levied upon or subjected to a writ or distress warrant; or such come within the possession of any receiver, manager, receiver and manager, trustee, custodian or assignee for the benefit of creditors and the same is not cured within forty-five (45) days thereafter;

then, and in every such Event of Default (other than an Event of Default with respect to the Loan Parties described in clause (e) of this Article), and at any time thereafter during the continuance of such Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower Representative, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, whereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole, whereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Loan Parties accrued hereunder, shall become due and payable immediately, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties; and in the case of any event with respect to the Loan Parties described in clause (e) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Loan Parties accrued hereunder, shall automatically become due and payable, in each case without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Loan Parties. Upon the occurrence and during the continuance of an Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, increase the rate of interest applicable to the Loans and other Obligations to the extent set forth in this Agreement and exercise any rights and remedies provided to the Administrative Agent under the Loan Documents or at law or equity, including all remedies provided under the UCC.

ARTICLE VIII.

THE ADMINISTRATIVE AGENT

SECTION 8.01 Appointment. Each of the Lenders, on behalf of itself and any of its Affiliates that are Secured Parties and the Issuing Bank hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf, including execution of the other Loan Documents, and to exercise such powers as are delegated to the Administrative Agent by the terms of the Loan Documents, together with such actions and powers as are reasonably incidental thereto. In addition, to the extent required under the laws of any jurisdiction other than the U.S., each of the Lenders and the Issuing Bank hereby grants to the Administrative Agent any required powers of attorney to execute any Collateral Document governed by the laws of such jurisdiction on such Lender's or Issuing Bank's behalf. The provisions of this Article are solely for the benefit of the Administrative Agent and the Lenders (including the Swingline Lender and the Issuing Bank), and the Loan Parties shall not have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" as used herein or in any other Loan Documents (or any similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency

doctrine of any applicable law. Instead, such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties.

The Lenders and the other Secured Parties hereby irrevocably authorize and instruct the Administrative Agent to, without any further consent of any Lender or any other Secured Party, enter into any ABL Intercreditor Agreement and any other intercreditor agreement with the collateral agent or other representatives of the holders of Indebtedness that is permitted to be secured by a Lien on the Collateral that is permitted (including with respect to priority) under this Agreement and to subject the Liens on the Collateral securing the Obligations to the provisions thereof (any of the foregoing, an "Intercreditor Agreement"). The Lenders and the other Secured Parties irrevocably agree that (x) the Administrative Agent may rely exclusively on a certificate of a Responsible Officer of the Borrower Representative as to whether any such other Liens are permitted and (y) any ABL Intercreditor Agreement or any other Intercreditor Agreement referred to in the foregoing sentence, entered into by the Administrative Agent, shall be binding on the Secured Parties, and each Lender and other Secured Party hereby agrees that it will take no actions contrary to the provisions of, if entered into and if applicable, any ABL Intercreditor Agreement or other Intercreditor Agreement.

SECTION 8.02 Rights as a Lender. The bank serving as the Administrative 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 Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with any Loan Party or any Subsidiary or any Affiliate thereof as if it were not the Administrative Agent hereunder.

SECTION 8.03 Duties and Obligations. The Administrative Agent shall not have any duties or obligations except those expressly set forth in the Loan Documents. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated by the Loan Documents that the Administrative 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 necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Loan Party or any Subsidiary that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or willful misconduct as determined by a final nonappealable judgment of a court of competent jurisdiction. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower Representative or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with any Loan Document, (ii) the contents of any certificate, report or other document delivered hereunder or in connection with any Loan Document, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth in any Loan Document, (iv) the validity, enforceability, effectiveness or genuineness of any Loan Document or any other agreement, instrument or document, (v) the creation, perfection or priority of Liens on the Collateral or the existence of the Collateral, or (vi) the satisfaction of any condition set forth in Article IV or elsewhere in any Loan Document, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent. The Administrative Agent shall not be responsible or have any liability for, or have any duty to ascertain, inquire into, monitor or enforce, compliance with the provisions hereof relating to Disqualified Institutions. Without limiting the generality of the foregoing,

the Administrative Agent shall not (x) be obligated to ascertain, monitor or inquire as to whether any Lender or Participant or prospective Lender or Participant is a Disqualified Institution or (y) have any liability with respect to or arising out of any assignment or participation of Loans, or disclosure of confidential information, to any Disqualified Institution.

SECTION 8.04 Reliance. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative 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.

SECTION 8.05 Actions through Sub-Agents. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Loan Documents by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as the Administrative Agent.

SECTION 8.06 Resignation. Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders, the Issuing Bank and the Borrower Representative. Upon receipt of any such resignation, the Required Lenders shall have the right, in consultation with the Borrower Representative and with the consent of the Borrower Representative (unless an Event of Default shall have occurred and be continuing), to appoint a successor; provided, however, in no event shall any successor Administrative Agent be a Disqualified Institution without the prior written consent of the Borrower Representative. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders and the Issuing Bank, appoint a successor Administrative Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent hereunder by its successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents. The fees payable by the Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor, unless otherwise agreed by the Borrowers and such successor. Notwithstanding the foregoing, in the event no successor Administrative Agent shall have been so appointed and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its intent to resign, the retiring Administrative Agent may give notice of the effectiveness of its resignation to the Lenders, the Issuing Banks and the Borrowers, whereupon, on the date of effectiveness of such resignation stated in such notice, (a) the retiring Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Loan Documents, provided that, solely for purposes of maintaining any security interest granted to the Administrative Agent under any Collateral Document for the benefit of the Secured Parties, the retiring Administrative Agent shall continue to be vested with such security interest as collateral agent for the benefit of the Secured Parties and, in the case of any Collateral in the possession of the Administrative Agent, shall continue to hold such Collateral, in each case until such time as a successor Administrative Agent is appointed and accepts such appointment in accordance with this paragraph (it being understood

and agreed that the retiring Administrative Agent shall have no duty or obligation to take any further action under any Collateral Document, including any action required to maintain the perfection of any such security interest) and (b) the Required Lenders shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, provided that until the time the Required Lenders appoint a successor Administrative Agent as provided herein, (i) all payments required to be made hereunder or under any other Loan Document to the Administrative Agent for the account of any Person other than the Administrative Agent shall be made directly to such Person and (ii) all notices and other communications required or contemplated to be given or made to the Administrative Agent shall also directly be given or made to each Lender and each Issuing Bank. Following the effectiveness of the Administrative Agent's resignation from its capacity as such, the provisions of this Article, Section 2.17(d) and Section 9.03, as well as any exculpatory, reimbursement and indemnification provisions set forth in any other Loan Document, shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent and in respect of the matters referred to in the proviso under clause (a) above.

SECTION 8.07 Non-Reliance.

(a) Each Lender acknowledges and agrees that the extensions of credit made hereunder are commercial loans and letters of credit and not investments in a business enterprise or securities. Each Lender further represents that it is engaged in making, acquiring or holding commercial loans in the ordinary course of its business and has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement as a Lender, and to make, acquire or hold Loans hereunder. Each Lender shall, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information (which may contain material, non-public information within the meaning of the United States securities laws concerning the Borrowers and their Affiliates) as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Loan Document, any related agreement or any document furnished hereunder or thereunder and in deciding whether or to the extent to which it will continue as a Lender or assign or otherwise transfer its rights, interests and obligations hereunder.

(b) Each Lender hereby agrees that (i) it has requested a copy of each Report prepared by or on behalf of the Administrative Agent; (ii) the Administrative Agent (A) makes no representation or warranty, express or implied, as to the completeness or accuracy of any Report or any of the information contained therein or any inaccuracy or omission contained in or relating to a Report and (B) shall not be liable for any information contained in any Report; (iii) the Reports are not comprehensive audits or examinations, and that any Person performing any field examination will inspect only specific information regarding the Loan Parties and will rely significantly upon the Loan Parties' books and records, as well as on representations of the Loan Parties' personnel and that the Administrative Agent undertakes no obligation to update, correct or supplement the Reports; (iv) it will keep all Reports confidential and strictly for its internal use and it will not share the Report with any Loan Party or any other Person except as otherwise permitted pursuant to this Agreement; and (v) without limiting the generality of any other indemnification provision contained in this Agreement, (A) it will hold the Administrative Agent and any such other Person preparing a Report harmless from any action the indemnifying Lender may take or conclusion the indemnifying Lender may reach or draw from any Report in connection with any extension of credit that the indemnifying Lender has made or may make to the Borrower, or the indemnifying Lender's participation in, or the indemnifying Lender's purchase of, a Loan or Loans; and (B) it will pay and protect, and indemnify, defend, and hold the Administrative Agent and any such other Person preparing a Report harmless from and against, the claims, actions, proceedings, damages, costs, expenses, and other amounts (including reasonable attorneys' fees) incurred by the Administrative Agent or any such other Person as the

direct or indirect result of any third parties who might obtain all or part of any Report through the indemnifying Lender.

SECTION 8.08 Other Agency Titles. The joint bookrunners and joint lead arrangers, syndication agent(s), and co-documentation agents shall not have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of such Lenders shall have or be deemed to have a fiduciary relationship with any Lender. Each Lender hereby makes the same acknowledgments with respect to the relevant Lenders in their respective capacities as joint bookrunners and joint lead arrangers, syndication agent(s), and co- documentation agents, as applicable, as it makes with respect to the Administrative Agent in the preceding paragraph.

SECTION 8.09 Not Partners or Co-Venturers; Administrative Agent as Representative of the Secured Parties.

(a) The Lenders are not partners or co-venturers, and no Lender shall be liable for the acts or omissions of, or (except as otherwise set forth herein in case of the Administrative Agent) authorized to act for, any other Lender. The Administrative Agent shall have the exclusive right on behalf of the Lenders to enforce the payment of the principal of and interest on any Loan after the date such principal or interest has become due and payable pursuant to the terms of this Agreement.

(b) In its capacity, the Administrative Agent is a "representative" of the Secured Parties within the meaning of the term "secured party" as defined in the Ohio Uniform Commercial Code. Each Lender authorizes the Administrative Agent to enter into each of the Collateral Documents to which it is a party and to take all action contemplated by such documents. Each Lender agrees that no Secured Party (other than the Administrative Agent) shall have the right individually to seek to realize upon the security granted by any Collateral Document, it being understood and agreed that such rights and remedies may be exercised solely by the Administrative Agent for the benefit of the Secured Parties upon the terms of the Collateral Documents. In the event that any Collateral is hereafter pledged by any Person as collateral security for the Secured Obligations, the Administrative Agent is hereby authorized, and hereby granted a power of attorney, to execute and deliver on behalf of the Secured Parties any Loan Documents necessary or appropriate to grant and perfect a Lien on such Collateral in favor of the Administrative Agent on behalf of the Secured Parties.

SECTION 8.10 Flood Laws. PNC has adopted internal policies and procedures that address requirements placed on federally regulated lenders under (i) the National Flood Insurance Reform Act of 1994 (which comprehensively revised the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973) as now or hereafter in effect or any successor statute thereto, (ii) the Flood Disaster Reform Act of 2004 as now or hereafter in effect or any successor statute thereto, (iii) the Biggert-Waters Flood Insurance Reform Act of 2012 as now or hereafter in effect or any successor statute thereto, and (iv) related legislation (collectively, the "Flood Laws"). PNC, as administrative agent or collateral agent on a syndicated facility, will post on the applicable electronic platform (or otherwise distribute to each Lender in the syndicate) documents that it receives in connection with the Flood Laws. However, PNC reminds each Lender and Participant in the facility that, pursuant to the Flood Laws, each federally regulated Lender (whether acting as a Lender or Participant in the facility) is responsible for assuring its own compliance with the flood insurance requirements.

SECTION 8.11 No Reliance on Administrative Agent's Customer Identification Program. Each Lender acknowledges and agrees that neither such Lender, nor any of its Affiliates, participants or assignees, may rely on Administrative Agent to carry out such Lender's, Affiliate's, participant's or assignee's customer identification program, or other obligations required or imposed under or pursuant to

the USA PATRIOT Act or the regulations thereunder, including the regulations contained in 31 CFR 103.121 (as hereafter amended or replaced, the "CIP Regulations"), or any Sanctions or other Anti- Terrorism Law, including any programs involving any of the following items relating to or in connection with any of their Borrowers, their Affiliates or their agents, the other Loan Documents or the transactions hereunder or contemplated hereby: (i) any identity verification procedures, (ii) any recordkeeping, (iii) comparisons with government lists, (iv) customer notices or (v) other procedures required under the CIP Regulations or such Sanctions or Anti-Terrorism Laws.

SECTION 8.12 Erroneous Payments.

(a) If the Administrative Agent notifies a Lender, Issuing Bank or Secured Party, or any Person who has received funds on behalf of a Lender, Issuing Bank or Secured Party such Lender or Issuing Bank (any such Lender, Issuing Bank, Secured Party or other recipient, a "Payment Recipient") that the Administrative Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Administrative Agent or any of its Affiliates were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Issuing Bank, Secured Party or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "Erroneous Payment") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Lender, Issuing Bank or Secured Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two (2) Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Administrative Agent in same day funds at the greater of the Overnight Bank Funding Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Administrative Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lender, Issuing Bank or Secured Party, or any Person who has received funds on behalf of a Lender, Issuing Bank or Secured Party such Lender or Issuing Bank, hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (z) that such Lender, Issuing Bank or Secured Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the

contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lender, Issuing Bank or Secured Party shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this Section 8.12(b).

(c) Each Lender, Issuing Bank or Secured Party hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender, Issuing Bank or Secured Party under any Loan Document, or otherwise payable or distributable by the Administrative Agent to such Lender, Issuing Bank or Secured Party from any source, against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with immediately preceding clause (a), from any Lender or Issuing Bank that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "Erroneous Payment Return Deficiency"), upon the Administrative Agent's notice to such Lender or Issuing Bank at any time, (i) such Lender or Issuing Bank shall be deemed to have assigned its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the "Erroneous Payment Impacted Class") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of the Loans (but not Commitments) of the Erroneous Payment Impacted Class, the "Erroneous Payment Deficiency Assignment") at par plus any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and is hereby (together with the Borrowers) deemed to execute and deliver an Assignment and Assumption with respect to such Erroneous Payment Deficiency Assignment, and such Lender or Issuing Bank shall deliver any Notes evidencing such Loans to the Borrowers or the Administrative Agent, (ii) the Administrative Agent as the assignee Lender shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Administrative Agent as the assignee Lender shall become a Lender or Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment and the assigning Lender or assigning Issuing Bank shall cease to be a Lender or Issuing Bank, as applicable, hereunder with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of this Agreement and its applicable Commitments which shall survive as to such assigning Lender or assigning Issuing Bank and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender or Issuing Bank shall be reduced by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender or Issuing Bank (and/or against any recipient that receives funds on its respective behalf). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender or Issuing Bank and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion

thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all the rights and interests of the applicable Lender, Issuing Bank or Secured Party under the Loan Documents with respect to each Erroneous Payment Return Deficiency (the "Erroneous Payment Subrogation Rights").

(e) The parties hereto agree that an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Borrower or any other Loan Party, except, in each case, to the extent such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrowers or any other Loan Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable Law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine.

(g) Each party's obligations, agreements and waivers under this Section 8.12 shall survive the resignation or replacement of the Administrative Agent, the termination of the Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Loan Document.

ARTICLE IX.

MISCELLANEOUS

SECTION 9.01 Notices.

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

(i) if to any Loan Party, to the Borrower Representative at:

Big Lots, Inc.
4900 E. Dublin-Granville Road
Columbus, OH 43081
Attention: Rocky Robins, General Counsel
Email: rrobins@biglots.com

with a copy to (which shall not constitute notice):

Vorys, Sater, Seymour and Pease LLP
52 E. Gay Street
Columbus, Ohio 43215
Attention: Nici Workman, Esq.
Email: nnworkman@vorys.com

(ii) if to the Administrative Agent, the Swingline Lender, or PNC Bank, National Association as Issuing Bank, at:

For Borrowing Requests, Interest Election Requests: and Notices to Issuing Bank:	PNC Bank, National Association PNC Business Credit, Retail Finance 7121 Fairway Drive Suite 300 Palm Beach Gardens, FL Attention: Paul Starman Email: paul.starman@pnc.com
For All Other Notices:	PNC Bank, National Association PNC Business Credit, Retail Finance 7121 Fairway Drive Suite 300 Palm Beach Gardens, FL Attention: Paul Starman Email: paul.starman@pnc.com with a copy to (which shall not constitute notice): Choate, Hall & Stewart LLP Two International Place, 34th Floor Boston, MA 02110 Attention: John F. Ventola Office No: 617-248-5085 Facsimile: 617-502-5085 Email: jventola@choate.com

(iii) if to any other Lender, to it at its address or facsimile number set forth in its Administrative Questionnaire.

All such notices and other communications (i) sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received, (ii) sent by facsimile shall be deemed to have been given when sent, provided that if not given during normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day of the recipient, or (iii) delivered through Electronic Systems to the extent provided in paragraph (b) below shall be effective as provided in such paragraph.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by Electronic Systems pursuant to procedures approved by the Administrative Agent. Each of the Administrative Agent and the Borrower Representative (on behalf of the Loan Parties) may, in its discretion, agree to accept notices and other communications to it hereunder by Electronic Systems pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications. In the case of notices from the Borrower Representative to the Administrative Agent, such acceptable and approved Electronic Systems include email to the Administrative Agent at the email addresses identified above or as otherwise designated in writing pursuant to Section 9.01(c) below. All such notices and other communications (i) sent to an email address shall be deemed received upon the sender's

receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return email or other written acknowledgement), and (ii) posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient, at its email address as described in the foregoing clause (i), of notification that such notice or communication is available and identifying the website address therefor; provided that, for both clauses (i) and (ii) above, if such notice, email or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next Business Day of the recipient.

(c) Any party hereto may change its address, facsimile number or email address for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

(d) Electronic Systems.

(i) Each Loan Party agrees that the Administrative Agent may, but shall not be obligated to, make Communications (as defined below) available to the Issuing Bank and the other Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak, ClearPar or a substantially similar Electronic System.

(ii) Any Electronic System used by the Administrative Agent is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of such Electronic Systems and expressly disclaim liability for errors or omissions in the Communications. 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 Communications or any Electronic System. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrowers or the other Loan Parties, any Lender, the Issuing Bank or any other Person or entity for damages of any kind, including direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Borrower's, any Loan Party's or the Administrative Agent's transmission of communications through an Electronic System (other than for direct or actual damages resulting from the gross negligence, bad faith or willful misconduct of, or the material breach of the Loan Documents by, such Person, in each case, as determined by a final and non- appealable judgment of a court of competent jurisdiction). "Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Loan Party pursuant to any Loan Document or the transactions contemplated therein which is distributed by the Administrative Agent, any Lender or the Issuing Bank by means of electronic communications pursuant to this Section, including through an Electronic System.

SECTION 9.02 Waivers; Amendments.

(a) No failure or delay by the Administrative Agent, the Issuing Bank or any Lender in exercising any right or power hereunder or under any other Loan Document shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent, the Issuing Bank and the Lenders hereunder and under any other Loan Document are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of any Loan Document or consent to any departure by any Loan Party therefrom shall in any event be effective unless

the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or the Issuing Bank may have had notice or knowledge of such Default at the time.

(b) Except as provided in the first sentence of Section 2.09(f) (with respect to any commitment increase), neither this Agreement nor any other Loan Document nor any provision hereof or thereof may be waived, amended or modified except (x) in the case of this Agreement, pursuant to an agreement or agreements in writing entered into by the Borrowers and the Required Lenders (or the Administrative Agent acting at the direction of the Required Lenders) or (y) in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the Administrative Agent and the Loan Party or Loan Parties that are parties thereto, with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender (including any such Lender that is a Defaulting Lender), (ii) reduce or forgive the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce or forgive any interest or fees payable hereunder, without the written consent of each Lender (including any such Lender that is a Defaulting Lender) directly affected thereby (except (1) in connection with the waiver of applicability of any post- default increase in interest rates, which waiver shall be effective with the consent of the Required Lenders and (2) that any amendment or modification of defined terms used in the determination of the Borrowing Base shall not constitute a reduction in the rate of interest or fees for purposes of this clause (ii)), (iii) postpone any scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any date for the payment of any interest, fees or other Obligations payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender (including any such Lender that is a Defaulting Lender) directly affected thereby (except (1) in connection with the waiver of applicability of any post-default increase in interest rates, which waiver shall be effective with the consent of the Required Lenders and (2) that any amendment or modification of defined terms used in the determination of the Borrowing Base shall not constitute a reduction in the rate of interest or fees for purposes of this clause (iii)), (iv) change Section 2.10(b), 2.18(b) or 2.18(d) in a manner that would alter the manner in which payments are shared or the order of payments, without the written consent of each Lender (other than any Defaulting Lender), (v) increase the advance rates set forth in the definition of either Borrowing Base or change the definition of the term "Borrowing Base" or any component definition thereof if as a result thereof the amounts available to be borrowed by the Borrowers would be increased without the written consent of each of the Lenders, *provided that* the foregoing shall not limit the discretion of the Administrative Agent to change, establish or eliminate any Reserves, (vi) change any of the provisions of this Section or the definition of "Required Lenders" or any other provision of any Loan Document specifying the number or percentage of Lenders required to waive, amend or modify any rights thereunder or make any determination or grant any consent thereunder, without the written consent of each Lender (other than any Defaulting Lender) directly affected thereby, (vii) change Section 2.20, without the consent of each Lender (other than any Defaulting Lender), (viii) release any Borrower from the Obligations or Loan Party from its obligation under its Loan Guaranty (except as otherwise permitted herein or in the other Loan Documents), without the written consent of each Lender (other than any Defaulting Lender), or (ix) except as provided in clause (c) of this Section or in any Collateral Document, release or subordinate any Liens granted to the Administrative Agent for the benefit of the Secured Parties on all or substantially all of the Collateral or subordinate the Obligations without the written consent of each Lender (other than any Defaulting Lender); provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, any Issuing Bank or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, such Issuing Bank or the Swingline Lender, as the case may be (it being understood that any amendment to Section 2.20 shall require the consent of the Administrative Agent, the Issuing Banks and the Swingline Lender). The Administrative Agent may also amend the Commitment Schedule to reflect

assignments entered into pursuant to Section 9.04, and this Agreement may be amended without any additional consents to provide for increased or additional Commitments in the manner contemplated by Section 2.09 and in connection with a successor Benchmark Replacement in the manner contemplated by Section 2.14(d). Additionally, without the consent of any Lender or any Issuing Bank, the Loan Parties and the Administrative Agent may (in their respective sole discretion, or shall, to the extent required by any Loan Document) enter into any amendment, modification or waiver of any Loan Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the Secured Parties, or as required by local law to give effect to, or protect any security interest for the benefit of the Secured Parties, in any property or so that the security interests therein comply with applicable law or this Agreement or in each case to otherwise enhance the rights or benefits of any Lender under any Loan Document. Notwithstanding the foregoing, the Fee Letter and any other fee letters entered into after the date hereof may be amended in accordance with the terms thereof.

(c) The Secured Parties hereby irrevocably authorize the Administrative Agent, without any further consent of the Secured Parties, (i) to release any Liens granted to the Administrative Agent by the Loan Parties on any Collateral (A) upon the termination of all the Commitments, payment and satisfaction in full in cash of all Secured Obligations (other than Unliquidated Obligations) and the Cash Collateralization (or, at the discretion of the Administrative Agent, the providing of a backup standby letter of credit satisfactory to the Administrative Agent and the Issuing Banks) of all outstanding Letters of Credit, (B) constituting property being sold or disposed of to a Person that is not (and is not required to become) a Loan Party in a transaction permitted by this Agreement (and the Administrative Agent may rely conclusively on any certificate to that effect, without further inquiry), and, to the extent that the property being sold or disposed of constitutes 100% of the Equity Interest of a Subsidiary, the Administrative Agent is authorized to release any Loan Guaranty provided by such Subsidiary, (C) constituting property leased to a Loan Party under a lease which has expired or been terminated in a transaction not prohibited under this Agreement, (D) as required to effect any sale or other disposition of such Collateral in connection with any exercise of remedies of the Administrative Agent and the Lenders pursuant to Article VII, (E) constituting property of a Loan Party that is being released as a Loan Party as provided below, and (F) constituting property which is or becomes an Excluded Asset, and (ii) to release any Loan Guaranty provided by any Loan Party (A) that is dissolved as permitted under Section 6.08 in connection with a voluntary liquidation or dissolution thereof permitted by such Section, (B) upon the disposition of all of the outstanding Equity Interests of a Subsidiary of the Company to a Person other than a Borrower or a Subsidiary in a transaction permitted by Section 6.05 (and the Administrative Agent may rely conclusively on any such certificate to that effect provided by any Loan Party without further inquiry), or (C) that becomes an Excluded Subsidiary, so long as such Person becomes an Excluded Subsidiary pursuant to transaction or series of related transactions permitted hereunder consummated for a bona fide business purpose and not in contemplation of adversely affecting the Secured Parties' interests in the Guarantees and Collateral (and the Administrative Agent may rely conclusively on any such certificate to that effect provided by any Loan Party without further inquiry). Any such release shall not in any manner discharge, affect, or impair the Obligations or any Liens (other than those expressly being released) upon (or obligations of the Loan Parties in respect of) all interests retained by the Loan Parties, including the proceeds of any sale, all of which shall continue to constitute part of the Collateral. In connection with the foregoing, the Lenders, the Issuing Banks and the other Secured Parties hereby authorize the Administrative Agent to execute and deliver any instruments, documents, and agreements necessary or desirable to evidence and confirm the release of any Loan Party or Collateral pursuant to the foregoing provisions of this Section 9.02(c), all without the further consent or joinder of any Lender, any Issuing Bank or any other Secured Party. In connection with any release hereunder, the Administrative Agent shall promptly (and the Lenders, the Issuing Banks and the Secured Parties hereby authorize the Administrative Agent to) take such action and execute any such documents as may be reasonably requested by the Loan Parties and at the Loan Parties' expense in connection with the release of any Liens created by any Loan Document in respect of

such Subsidiary, property or asset, as applicable; provided, that the Administrative Agent shall have received a certificate of a Responsible Officer of the Borrower Representative containing such certifications as the Administrative Agent shall reasonably request

(d) If, in connection with any proposed amendment, waiver or consent requiring the consent of "each Lender" or "each Lender affected thereby," the consent of the Required Lenders is obtained, but the consent of other necessary Lenders is not obtained (any such Lender whose consent is necessary but has not been obtained being referred to herein as a "Non-Consenting Lender"), then the Borrowers may elect to replace a Non-Consenting Lender as a Lender party to this Agreement, provided that, concurrently with such replacement, (i) another bank or other entity which is reasonably satisfactory to the Borrowers, the Administrative Agent and the Issuing Bank shall agree, as of such date, to purchase for cash the Loans and other Obligations due to the Non-Consenting Lender pursuant to an Assignment and Assumption and to become a Lender for all purposes under this Agreement and to assume all obligations of the Non-Consenting Lender to be terminated as of such date and to comply with the requirements of clause (b) of Section 9.04, and (ii) the Borrowers shall pay to such Non-Consenting Lender in same day funds on the day of such replacement (1) all interest, fees and other amounts then accrued but unpaid to such Non- Consenting Lender by the Borrowers hereunder to and including the date of termination, including without limitation payments due to such Non-Consenting Lender under Sections 2.15 and 2.17, and (2) an amount, if any, equal to the payment which would have been due to such Lender on the day of such replacement under Section 2.16 had the Loans of such Non-Consenting Lender been prepaid on such date rather than sold to the replacement Lender.

(e) Notwithstanding anything to the contrary herein the Administrative Agent may, with the consent of the Borrower Representative only, amend, modify or supplement this Agreement or any of the other Loan Documents to cure any ambiguity, omission, mistake, defect or inconsistency.

(f) Notwithstanding anything to the contrary herein, after the Closing Date, the Company, in consultation with the Sustainability Structuring Agent, shall be entitled to either (a) establish specified Key Performance Indicators ("KPIs") with respect to certain Environmental, Social and Governance ("ESG") targets of the Company and its Subsidiaries or (b) establish external ESG ratings ("ESG Ratings") targets to be mutually and reasonably agreed between the Company and the Sustainability Structuring Agent. The Sustainability Structuring Agent, the Administrative Agent and the Company may amend this Agreement (such amendment, the "ESG Amendment") solely for the purpose of incorporating either the KPIs or ESG Ratings and other related provisions (the "ESG Pricing Provisions") into this Agreement; provided that such amendment shall become effective upon the written consent of the Required Lenders. Upon effectiveness of any such ESG Amendment, based on either the Borrower's performance against the KPIs or its obtainment of the target ESG Ratings, certain adjustments to the Applicable Commitment Fee and Applicable Rate may be made; provided that the amount of any such adjustments made pursuant to an ESG Amendment shall not result in a decrease or increase of more than (a) 1.00 basis point in the Commitment Fee and/or (b) 5.00 basis points in the Applicable Rate; provided that neither the Commitment Fee nor the Applicable Rate shall be less than zero in any event. If KPIs are utilized, the pricing adjustments will require, among other things, reporting and validation of the measurement of the KPIs in a manner that is aligned with the Sustainability Linked Loan Principles (as published and maintained by the Loan Market Association, Asia Pacific Loan Market Association and Loan Syndications & Trading Association) and is to be agreed between the Company and the Sustainability Structuring Agent (each acting reasonably). Following the effectiveness of the ESG Amendment, any modification agreed to by the Sustainability Structuring Agent, the Administrative Agent and the Company to the ESG Pricing Provisions which does not have the effect of reducing the Commitment Fee or Applicable Rate to a level not otherwise permitted by this paragraph shall become effective upon the written consent of the Required Lenders. The Sustainability Structuring Agent will (i) assist the Company in determining the ESG Pricing Provisions in

connection with the ESG Amendment and (ii) assist the Borrower in preparing informational materials focused on ESG to be used in connection with the ESG Amendment.

SECTION 9.03 Expenses; Indemnity; Damage Waiver.

(a) Except as otherwise provided in this Agreement, the Loan Parties shall, jointly and severally, pay all (i) reasonable and documented out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable and documented fees, charges and disbursements of counsel (in each case limited to one primary law firm in the U.S. and one law firm in any other relevant jurisdiction, except in the case of actual or perceived conflicts of interest, in which case, such additional counsel for the affected persons) for the Administrative Agent, in connection with the syndication and distribution (including, without limitation, via the internet or through an Electronic System) of the credit facilities provided for herein, the preparation and administration of the Loan Documents and any amendments, modifications or waivers of the provisions of the Loan Documents (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) reasonable and documented 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) reasonable and documented out-of-pocket expenses incurred by the Administrative Agent, the Issuing Bank or any Lender, including the reasonable fees, charges and disbursements of any counsel (in each case limited to one primary law firm in the U.S., one primary law firm in Canada, and one law firm in any other relevant jurisdiction, except in the case of actual or perceived conflicts of interest, in which case, such additional counsel for the affected persons) for the Administrative Agent, the Issuing Bank or any Lender, in connection with the enforcement, collection or protection of its rights in connection with the Loan Documents, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such reasonable and documented out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit (in each case limited to one primary law firm in the U.S., one primary law firm in Canada, and one law firm in any other relevant jurisdiction, except in the case of actual or perceived conflicts of interest, in which case, such additional counsel for the affected persons). Subject to Section 5.07, such reasonable and documented out- of-pocket expenses being reimbursed by the Loan Parties under this Section may include, without limiting the generality of the foregoing, fees, costs and expenses incurred in connection with:

(i) appraisals and insurance reviews;

(ii) field examinations and the preparation of Reports based on the fees charged by a third party retained by the Administrative Agent or the reasonable and documented internally allocated fees for each Person employed by the Administrative Agent with respect to each field examination;

(iii) fees and other charges for lien and title searches, filing financing statements and continuations, and other actions to perfect, protect, and continue the Administrative Agent's Liens;

(iv) sums paid or incurred to take any action required of any Loan Party under the Loan Documents that such Loan Party fails to pay or take; and

(v) forwarding loan proceeds, collecting checks and other items of payment, and establishing and maintaining the accounts and lock boxes, and costs and expenses of preserving and protecting the Collateral.

All of the foregoing fees, costs and expenses may be charged to the Borrowers as Revolving Loans or to another deposit account, all as described in Section 2.18(c).

(b) The Loan Parties shall, jointly and severally, indemnify the Administrative Agent, the Issuing Bank and each Lender, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses, including the reasonable and documented fees, charges and disbursements of any outside counsel for any Indemnitee (in each case limited to one primary law firm in the U.S. and one law firm in any other relevant jurisdiction, except in the case of actual or perceived conflicts of interest, in which case, such additional counsel for the affected persons), incurred by any Indemnitee or asserted against any Indemnitee by any Person arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement and the other Loan Documents 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 or any other transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the 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 Hazardous Materials on or from any property owned or operated by a Loan Party or a Subsidiary, or any Environmental Liability related in any way to a Loan Party or a Subsidiary, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether or not such claim, litigation, investigation or proceeding is brought by the Loan Parties or their respective equity holders, Affiliates, creditors or any other third Person and whether based on contract, tort or any other theory and regardless of whether any Indemnitee is a party thereto; provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence, bad faith, or willful misconduct of such Indemnitee or (y) arise from any claim, litigation, investigation, arbitration or proceeding (a "Proceeding") that does not directly or primarily involve an act or omission of the Company or any of its Affiliates and that is brought by an Indemnitee against any other Indemnitee (other than any Proceeding against any Indemnitee solely in its capacity or in fulfilling its role as the Administrative Agent, Swingline Lender, Issuing Bank, bookrunner, arranger or any similar role hereunder). This Section 9.03(b) shall not apply with respect to Taxes other than any Taxes that represent losses or damages arising from any non-Tax claim.

(c) To the extent that any Loan Party fails to pay any amount required to be paid by it to the Administrative Agent (or any sub-agent thereof), the Swingline Lender or the Issuing Bank (or any Related Party of any of the foregoing) under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, the Swingline Lender or the Issuing Bank (or any Related Party of any of the foregoing), as the case may be, such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount (it being understood that the Loan Parties' failure to pay any such unpaid amount shall not relieve any Loan Party of any default in the payment thereof); provided 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 Administrative Agent, the Swingline Lender or the Issuing Bank in its capacity as such or against any Related Party of any of the foregoing acting for the Administrative Agent, the Swingline Lender or the Issuing Bank in connection with such capacity.

(d) To the extent permitted by applicable law, no Loan Party shall assert, and each Loan Party hereby waives, any claim against any Indemnitee (i) for any damages arising from the use by others of information or other materials obtained through telecommunications, electronic or other information transmission systems (including the Internet) (other than for direct or actual damages resulting from the gross negligence, bad faith or willful misconduct of, or the material breach of the Loan Documents by, such Indemnitee, in each case, as determined by a final and non-appealable judgment of a court of competent jurisdiction) or (ii) 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 or thereby, the Transactions, any Loan or Letter of Credit or the use of the proceeds thereof; provided that, nothing in this paragraph (d) shall relieve any Loan Party of any obligation it may have to indemnify an Indemnitee against special, indirect, consequential or punitive damages asserted against such Indemnitee by a third party.

(e) All amounts due under this Section shall be payable not later than ten (10) days after written demand therefor.

SECTION 9.04 Successors and Assigns.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), except that (i) no Loan Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by any Loan Party without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby (including any Affiliate of the Issuing Bank that issues any Letter of Credit), Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent, the Issuing Bank and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more Persons (other than an Ineligible Institution) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (in each case, such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower Representative, provided that the Borrower Representative shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within ten (10) Business Days after having received notice thereof, and provided further that no consent of the Borrower Representative shall be required for an assignment to a Lender, an Affiliate of a Lender, an Approved Fund or, if an Event of Default has occurred and is continuing, any other assignee;

(B) the Administrative Agent shall be required for assignments in respect of the Revolving Loan if such assignment is to a Person that is not a Lender with a Commitment in respect of such Revolving Loan, an Affiliate of such Lender or an Approved Fund with respect to such Lender;

(C) each Issuing Bank; and

(D) the Swingline Lender.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund or an assignment of the entire remaining amount of the assigning Lender's Commitment or Loans of any Class, the amount of the Commitment or Loans 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 Administrative Agent) shall not be less than $5,000,000 unless each of the Borrower Representative and the Administrative Agent otherwise consent, provided that no such consent of the Borrower Representative shall be required if an Event of Default has occurred and is continuing;

(B) 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;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of $3,500 and the tax forms required by Section 2.17(f); and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Company, the other Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws.

For the purposes of this Section 9.04(b), the terms "Approved Fund" and "Ineligible Institution" have the following meanings:

"Approved Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business 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.

"Ineligible Institution" means a (a) natural person, (b) Defaulting Lender, (c) holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural person or relative(s) thereof; provided that, such holding company, investment vehicle or trust shall not constitute an Ineligible Institution if it (x) has not been established for the primary purpose of acquiring any Loans or Commitments, (y) is managed by a professional advisor, who is not such natural person or a relative thereof, having significant experience in the business of making or purchasing commercial loans, and (z) has assets greater than $25,000,000 and a significant part of its activities consist of making or purchasing commercial loans and similar extensions of credit in the ordinary course of its business, (d) a Loan Party or a Subsidiary or other Affiliate of a Loan Party, or (e) subject to Section 9.04(e) below, a Disqualified Institution.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption, the assignee thereunder shall be a party hereto 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 2.15, 2.16, 2.17 and 9.03 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 part hereunder arising from that Lender's having been a Defaulting Lender). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting solely for this purpose as a non-fiduciary agent of the Borrowers, shall maintain at one of its U.S. offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of and stated interest on the Loans and LC Disbursements 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 Administrative Agent, the Issuing Bank and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrowers, the Issuing Bank and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.05, 2.06(d) or (e), 2.07(b), 2.18(d) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) Any Lender may, without the consent of the Borrowers, the Administrative Agent, the Issuing Bank or the Swingline Lender, sell participations to one or more banks or other entities (a "Participant") other than an Ineligible Institution in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged; (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations; and (C) the Borrowers, the Administrative Agent, the Issuing Bank and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement 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, modification or waiver described in the first proviso to Section 9.02(b) that affects such Participant. The Borrowers agree that each Participant shall be entitled to the benefits of Sections 2.15, 2.16 and 2.17 (subject to the requirements and limitations therein, including the requirements under Section 2.17(f) and (g)(it being understood that the documentation required under Section 2.17(f) shall be delivered to the participating Lender)) 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 2.18 and 2.19 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Section 2.15 or 2.17, with respect to any

participation, than its participating Lender 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 2.19(b) with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.18(c) 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 of (and stated interest on) each Participant's interest in the Loans or other obligations under this Agreement or any other Loan Document (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 Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

(e) Without limiting the foregoing, with respect to Disqualified Institutions:

(i) No assignment or participation shall be made to any Person that was a Disqualified Institution as of the date (the "Trade Date") on which the assigning Lender entered into a binding agreement to sell and assign all or a portion of its rights and obligations under this Agreement to such Person (unless the Company has consented to such assignment in writing in its sole and absolute discretion, in which case such Person will not be considered a Disqualified Institution for the purpose of such assignment or participation). For the avoidance of doubt, with respect to any assignee that becomes a Disqualified Institution after the applicable Trade Date (including as a result of the delivery of a notice pursuant to, and/or the expiration of the notice period referred to in, the definition of "Disqualified Institution"), (x) such assignee shall not retroactively be disqualified from becoming a Lender and (y) the execution by the Borrowers of an Assignment and Assumption with respect to such assignee will not by itself result in such assignee no longer being considered a Disqualified Institution. Any assignment in violation of this Section 9.04(e) shall not be void, but the other provisions of this Section 9.04(e) shall apply.

(ii) If any assignment or participation is made to any Disqualified Institution without the Company's prior written consent in violation of clause (i) above, or if any Person becomes a Disqualified Institution after the applicable Trade Date, the Borrowers may, at their sole expense and effort, upon notice to the applicable Disqualified Institution and the Administrative Agent,

(A) terminate any Commitment of such Disqualified Institution and repay all obligations of the

Borrowers owing to such Disqualified Institution in connection with such Commitment, and/or (B) require such Disqualified Institution to assign, without recourse (in accordance with and subject to the restrictions contained in this Section 9.04), all of its interest, rights and obligations under this Agreement to one or more assignees permitted under this Section 9.04 at the lesser of (x) the principal amount thereof and (y) the amount that such Disqualified Institution paid to acquire such interests, rights and obligations, in each case plus accrued interest, accrued fees and all other amounts (other than principal amounts) payable to it hereunder.

(iii) Notwithstanding anything to the contrary contained in this Agreement, Disqualified Institutions (A) will not (x) have the right to receive information, reports or other materials provided to the Lenders by the Borrowers, the Administrative Agent or any other Lender, (y) attend or participate in meetings attended by the Lenders and the Administrative Agent, or (z) access any electronic site established for the Lenders or confidential communications from counsel to or financial advisors of the Administrative Agent or the Lenders and (B) (x) for purposes of any consent to any amendment, waiver or modification of, or any action under, and for the purpose of any direction to the Administrative Agent or any Lender to undertake any action (or refrain from taking any action) under this Agreement or any other Loan Document, each Disqualified Institution will be deemed to have consented in the same proportion as the Lenders that are not Disqualified Institutions consented to such matter, and (y) for purposes of voting any plan of reorganization or plan of liquidation pursuant to any Insolvency Laws (a "Relevant Plan"), each Disqualified Institution party hereto hereby agrees (1) not to vote on such Relevant Plan, (2) if such Disqualified Institution does vote on such Relevant Plan notwithstanding the restriction in the foregoing clause (1), such vote will be deemed not to be in good faith and shall be "designated" pursuant to Section 1126(e) of the U.S. Bankruptcy Code (or any similar provision in any other Insolvency Laws), and such vote shall not be counted in determining whether the applicable class has accepted or rejected such Relevant Plan in accordance with Section 1126(c) of the U.S. Bankruptcy Code (or any similar provision in any other Insolvency Laws) and (3) not to contest any request by any party for a determination by the applicable bankruptcy court (or other applicable court of competent jurisdiction) effectuating the foregoing clause (2).

(iv) The Administrative Agent shall have the right, and the Company hereby expressly authorizes the Administrative Agent, to (A) post the list of Disqualified Institutions provided by the Company and any updates thereto from time to time (collectively, the "DQ List") on Syndtrak or a substantially similar electronic transmission system, including that portion of such electronic transmission system that is designated for "public side" Lenders and/or (B) provide the DQ List to each Lender requesting the same.

SECTION 9.05 Survival. All covenants, agreements, representations and warranties made by the Loan Parties in the Loan Documents and in the certificates or other instruments delivered in connection with or pursuant to this Agreement or any other Loan Document shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of the Loan Documents and the making of any Loans and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, the Issuing Bank or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.15, 2.16, 2.17 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any other Loan Document or any provision hereof or thereof.

SECTION 9.06 Counterparts; Integration; Effectiveness; Electronic Execution.

(a) This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement, the other Loan Documents and any separate letter agreements with respect to fees payable to the Administrative Agent 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. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement. The words "execution," "signed," "signature," "delivery," and words of like import in or relating to any document to be signed in connection with this Agreement and the transactions contemplated hereby or thereby shall be deemed to include Electronic Signatures, deliveries or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature, physical delivery thereof or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

SECTION 9.07 Severability. Any provision of any Loan Document held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

SECTION 9.08 Right of Setoff. If an Event of Default shall have occurred and be continuing, each Lender and each of its 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 obligations at any time owing by such Lender or Affiliate to or for the credit or the account of any Loan Party against any of and all the Secured Obligations held by such Lender, irrespective of whether or not such Lender shall have made any demand under the Loan Documents and although such obligations may be unmatured; provided that the foregoing authorization shall not entitle any Lender to apply any deposits to the extent that such deposit constitutes an Excluded Asset. The applicable Lender shall notify the Borrower Representative and the Administrative Agent promptly after any such set- off or application, provided that any failure to give or any delay in giving such notice shall not affect the validity of any such set-off or application under this Section. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have. In the event that any Defaulting Lender shall exercise any right of setoff under this Section, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions in Section 2.20 and pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Bank, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent and Borrower Representative a statement describing in reasonable detail the Secured Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. NOTWITHSTANDING THE FOREGOING, NO LENDER, NO ISSUING BANK AND NO PARTICIPANT SHALL EXERCISE ANY

RIGHT OF SETOFF, BANKER'S LIEN, OR THE LIKE AGAINST ANY DEPOSIT ACCOUNT OR PROPERTY OF ANY LOAN PARTY HELD OR MAINTAINED BY SUCH LENDER WITHOUT THE WRITTEN CONSENT OF THE ADMINISTRATIVE AGENT.

SECTION 9.09 Governing Law; Jurisdiction; Consent to Service of Process.

(a) The Loan Documents (other than those containing a contrary express choice of law provision) shall be governed by and construed in accordance with the internal laws (and not the law of conflicts) of the State of Ohio, but giving effect to federal laws applicable to national banks; provided, however, that if the laws of any jurisdiction other than Ohio shall govern in regard to the validity, perfection or effect of perfection of any lien or in regard to procedural matters affecting enforcement of any liens in collateral, such laws of such other jurisdictions shall continue to apply to that extent.

(b) Each Loan Party hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of any U.S. Federal or Ohio State court sitting in Franklin County, Ohio and of the United States District Court for the Southern District of Ohio in any action or proceeding arising out of or relating to any Loan Documents, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such Ohio State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action 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 any other Loan Document shall affect any right that the Administrative Agent, the Issuing Bank or any Lender may otherwise have to bring any action or proceeding relating to this Agreement or any other Loan Document against any Loan Party or its properties in the courts of any jurisdiction.

(c) Each Loan Party hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement or any other Loan Document in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement or any other Loan Document will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

SECTION 9.10 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, 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, OTHER AGENT (INCLUDING ANY ATTORNEY) OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

SECTION 9.11 Headings. Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

SECTION 9.12 Confidentiality. Each of the Administrative Agent, the Issuing Bank and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (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), (b) to the extent requested by any regulatory authority purporting to have jurisdiction over such Person (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by any Requirement of Law or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) in connection with the exercise of any remedies under this Agreement or any other Loan Document or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Loan Parties and their obligations, (g) with the consent of the Borrower Representative or (h) to the extent such Information (i) becomes publicly available other than as a result of a breach of this Section or (ii) becomes available to the Administrative Agent, the Issuing Bank or any Lender on a non-confidential basis from a source other than any Loan Party and, as far as such recipient is aware, has not been made available as a result of a breach of any obligation of confidentiality of such source with respect to such information; provided that, in the case of clause (c), the party disclosing such information shall provide to the Borrower Representative prior written notice (except where prohibited by applicable law or where not reasonably commercially practicable, in which case, prompt written notice shall be provided) of such disclosure to the extent permitted by applicable law and, in the case of a subpoena, the applicable Governmental Authority has not otherwise requested that the disclosing party refrain from disclosing to the Borrower Representative the existence of such subpoena, and, in each case if requested by the Borrower Representative in writing, such disclosing party shall cooperate with the Borrower Representative to the extent commercially reasonable with respect to a protective order for, or other confidential treatment of, such disclosure. For the purposes of this Section, "Information" means all information received from the Loan Parties relating to the Loan Parties or their business, other than any such information that is available to the Administrative Agent, the Issuing Bank or any Lender on a non- confidential basis prior to disclosure by the Loan Parties under circumstances in which, as far as such recipient is aware, such information has not been made available as a result of a breach of any obligation of confidentiality of such source with respect to such information. 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.

EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12 FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON- PUBLIC INFORMATION CONCERNING THE COMPANY, AND ITS AFFILIATES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON- PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE LOAN PARTIES OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE COMPANY, THE LOAN PARTIES AND THEIR RELATED PARTIES OR THEIR RESPECTIVE SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE LOAN PARTIES AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.

SECTION 9.13 Several Obligations; Nonreliance; Violation of Law. The respective obligations of the Lenders hereunder are several and not joint and the failure of any Lender to make any Loan or perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder. Each Lender hereby represents that it is not relying on or looking to any margin stock (as defined in Regulation U of the Board) for the repayment of the Borrowings provided for herein. Anything contained in this Agreement to the contrary notwithstanding, neither the Issuing Bank nor any Lender shall be obligated to extend credit to the Borrowers in violation of any Requirement of Law.

SECTION 9.14 USA PATRIOT Act. Each Lender that is subject to the requirements of the USA PATRIOT Act hereby notifies each Loan Party that pursuant to the requirements of the USA PATRIOT Act, it is required to obtain, verify and record information that identifies such Loan Party, which information includes the name and address of such Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the USA PATRIOT Act.

SECTION 9.15 Reserved.

SECTION 9.16 Disclosure. Each Loan Party, each Lender and the Issuing Bank hereby acknowledges and agrees that the Administrative Agent and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with any of the Loan Parties and their respective Affiliates.

SECTION 9.17 Appointment for Perfection. Each Lender hereby appoints each other Lender as its agent for the purpose of perfecting Liens, for the benefit of the Administrative Agent and the other Secured Parties, in assets which, in accordance with Article 9 of the UCC or any other applicable law can be perfected only by possession or control. Should any Lender (other than the Administrative Agent) obtain possession or control of any such Collateral, such Lender shall notify the Administrative Agent thereof, and, promptly upon the Administrative Agent's request therefor shall deliver such Collateral to the Administrative Agent or otherwise deal with such Collateral in accordance with the Administrative Agent's instructions.

SECTION 9.18 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not

above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Overnight Bank Funding Rate to the date of repayment, shall have been received by such Lender.

SECTION 9.19 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 Loan Party acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Lenders are arm's-length commercial transactions between such Borrower and its Affiliates, on the one hand, and the Lenders and their Affiliates, on the other hand, (B) such Loan Party has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) such Loan Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Lenders and their Affiliates 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 such Loan Party or any of its Affiliates, or any other Person and (B) no Lender or any of its Affiliates has any obligation to such Loan Party or any of its Affiliates with respect to the transactions contemplated hereby except, in the case of a Lender, those obligations expressly set forth herein and in the other Loan Documents; and (iii) each of the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of such Loan Party and its Affiliates, and no Lender or any of its Affiliates has any obligation to disclose any of such interests to such Loan Party or its Affiliates. To the fullest extent permitted by law, each Loan Party hereby waives and releases any claims that it may have against each of the Lenders and their Affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

SECTION 9.20 Authorization to Distribute Certain Materials to Public-Siders. The Borrowers hereby acknowledge that (a) the Administrative Agent will make available to the Lenders and each Issuing Bank materials and/or information provided by or on behalf of the Borrowers hereunder (collectively, "Borrower Materials") and (b) Public-Siders may have personnel who do not wish to receive material non- public information with respect to the 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. The Loan Parties shall be deemed to have authorized the Administrative Agent and its Affiliates and the Lenders to treat Borrower Materials marked by an authorized representative of the Borrower Representative as "PUBLIC" or otherwise at any time filed with the SEC as not containing any material non-public information with respect to the Loan Parties or their securities for purposes of United States federal and state securities laws. All Borrower Materials marked "PUBLIC" are permitted to be made available by the Administrative Agent or its Affiliates on Syndtrak or a substantially similar electronic transmission system, including that portion of such electronic transmission system that is designated for Public-Siders. The Administrative Agent and its Affiliates and the Lenders shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" or that are not at any time filed with the SEC as being suitable only for posting on a portion of Syndtrak or a substantially similar electronic transmission system which is not marked as being available for "Public Investors" or "Public-Siders" (or such other similar terms). Notwithstanding the foregoing, the Borrower shall be under no obligation to mark any Borrower Materials "PUBLIC."

SECTION 9.21 Obligations of Non-Loan Party Excluded Domestic Subsidiaries and Foreign Subsidiaries. Notwithstanding anything in this Agreement or any other Loan Document to the contrary, none of any Excluded Domestic Subsidiary nor any Foreign Subsidiary of the Company (which entities, for the avoidance of doubt, shall not be Loan Parties) shall be liable or in any manner responsible for, or be deemed to have guaranteed, directly or indirectly, whether as a primary obligor, guarantor, indemnitor, or otherwise, and none of their assets shall secure, directly or indirectly, any obligations (including principal, interest, fees, penalties, premiums, expenses, charges, reimbursements, indemnities or any other

Obligations) in respect of any Loan Party under this Agreement, any other Loan Document, any document with respect to Banking Services Obligations or Swap Agreement Obligations or any other agreement executed and/or delivered in connection with any of the foregoing.

SECTION 9.22 Judgment Currency. If for the purpose of obtaining judgment in any court it is necessary to convert an amount due hereunder in the currency in which it is due (the "Original Currency") into another currency (the "Second Currency"), the rate of exchange applied shall be that at which, in accordance with normal banking procedures, the Administrative Agent could purchase the Original Currency with the Second Currency at the Dollar Amount or Alternative Currency Equivalent, as applicable, on the date two Business Days preceding that on which judgment is given. Each Loan Party agrees that its obligation in respect of any Original Currency due from it hereunder shall, notwithstanding any judgment or payment in such other currency, be discharged only to the extent that, on the Business Day following the date the Administrative Agent receives payment of any sum so adjudged to be due hereunder in the Second Currency, the Administrative Agent may, in accordance with normal banking procedures, purchase, in the New York foreign exchange market, the Original Currency with the amount of the Second Currency so paid; and if the amount of the Original Currency so purchased or could have been so purchased is less than the amount originally due in the Original Currency as a result of such judgment, each Loan Party agrees as a separate obligation and notwithstanding any such payment or judgment to indemnify the Administrative Agent against such loss. The term "rate of exchange" in this Section means the Dollar Amount or Alternative Currency Equivalent, as applicable, on the relevant date, and shall include any premium and costs of exchange payable in connection with such purchase.

SECTION 9.23 Waiver of Immunity. To the extent that any Loan Party has, or hereafter may be entitled to claim or may acquire, for itself, any Collateral or other assets of the Loan Parties, any immunity (whether sovereign or otherwise) from suit, jurisdiction of any court or from any legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution or otherwise) with respect to itself, any Collateral or any other assets of the Loan Parties, such Loan Party hereby waives such immunity in respect of its obligations hereunder and under any promissory notes evidencing the Loans hereunder and any other Loan Document to the fullest extent permitted by applicable law and, without limiting the generality of the foregoing, agrees that the waivers set forth in this Section shall be effective to the fullest extent now or hereafter permitted under the Foreign Sovereign Immunities Act of 1976 (as amended, and together with any successor legislation) and are, and are intended to be, irrevocable for purposes thereof.

SECTION 9.24 [Reserved].

SECTION 9.25 Termination and Release of Collateral.

(a) Liens in Collateral will be released, and applicable Loan Parties shall be released of their obligations under the Loan Documents, in accordance with the terms of Section 9.02(c) hereof.

(b) In connection with the termination of all Commitments, payment and satisfaction in full in cash of all Secured Obligations (other than Unliquidated Obligations) and the Cash Collateralization (or, at the discretion of the Administrative Agent, the providing of a backup standby letter of credit satisfactory to the Administrative Agent and the Issuing Banks) of all outstanding Letters of Credit, the Administrative Agent, on behalf of the Lenders, agrees to negotiate in good faith with the Borrower Representative, and to execute and deliver, a customary payoff letter in form and substance reasonably satisfactory to the Administrative Agent and the Borrower Representative, which payoff letter shall provide for, among other things, (i) an acknowledgment of the termination of all Loan Documents, other than any terms thereunder that expressly survive termination, (ii) delivery to the Borrower Representative or its designee of all property pledged to the Administrative Agent or any Lender (including without limitation stock or other

certificates, notes receivable, certificates of title, change of address forms and other instruments) or, if applicable, lost collateral affidavits with respect thereto, (iii) delivery to the Borrower Representative of the original promissory notes executed in connection with the Obligations marked "CANCELLED", (iv) delivery to the Borrower Representative or its designee of mortgage or deed of trust releases against any real property of any Loan Party or property subject to any title laws and other like releases, revocations of direct pay notices to account debtors, Credit Card Notifications, releases of deposit account control agreements, Collateral Access Agreements and similar instruments or documents, (v) delivery to the Borrower Representative or its designee of UCC-3 termination statements with respect to the UCC discharge filings made by the Administrative Agent in respect of each Loan Party, as applicable, and (vi) a release of liability from the Loan Parties in favor of the Secured Parties.

SECTION 9.26 Publicity. Each Loan Party and each Lender hereby authorizes the Administrative Agent, at its sole expense, after providing prior notice thereof to the Borrower Representative, to reference this Agreement and the syndication and arrangement of the loan facility contemplated herein (but not the individual Lenders, bookrunners or arrangers) in connection with marketing, press release or other transactional announcements or updates; provided that the content of any such marketing, press release or other transactional announcements or updates shall be reasonably acceptable to the Borrower Representative (it being understood that tombstones used in pitchbooks by Administrative Agent (as opposed to public announcements) referencing the syndication and arrangement of this Agreement and the loan facility contemplated herein, or inclusion of same on lists or in other formats (other than public announcements), in each case providing the same information as is typically included on tombstones, shall not require prior notice thereof to, or acceptance by, the Borrower Representative).

SECTION 9.27 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Loan Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Loan Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of an Affected Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable (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 Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Loan Document or (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

SECTION 9.28 Certain ERISA Matters. Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, to and for the benefit of the Administrative Agent and its Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Loan Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of the Plan Asset Regulations) of one or more U.S. Benefit Plans in connection with the Loans, the Letters of Credit or the Commitments,

(ii) the transaction exemption set forth in one or more prohibited transaction exceptions (or "PTEs"), such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, and the conditions for exemptive relief thereunder are and will continue to be satisfied in connection therewith,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

SECTION 9.29 Acknowledgement Regarding Any Supported QFCs. To the extent that the Loan Documents provide support, through a guarantee or otherwise, for Swap Agreement Obligations or any other agreement or instrument that is a QFC (such support, "QFC Credit Support" and each such QFC a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Loan Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

(a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Loan Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be

exercised under the U.S. Special Resolution Regime if the Supported QFC and the Loan Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 9.29, the following terms have the following meanings:

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

"Covered Entity" means any of the following:

a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §252.82(b);

a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §47.3(b); or

a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §382.2(b).

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

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

ARTICLE X.

LOAN GUARANTY

SECTION 10.01 Guaranty. Each Loan Party hereby agrees that it is jointly and severally liable for, and, as a primary obligor and not merely as surety, absolutely, unconditionally and irrevocably guarantees to the Secured Parties, the prompt payment and performance when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, of the Secured Obligations and all reasonable and documented costs and expenses, including, without limitation, all court costs and attorneys' and paralegals' fees (subject to the limitations set forth in Section 9.03) and expenses paid or incurred by the Administrative Agent, the Issuing Bank and the Lenders in endeavoring to collect all or any part of the Secured Obligations from, or in prosecuting any action against, any Borrower, any Loan Party or any other guarantor of all or any part of the Secured Obligations (such costs and expenses, together with the Secured Obligations, collectively the "Guaranteed Obligations"; provided, however, that the definition of "Guaranteed Obligations" shall not create any guarantee by any Loan Party of (or grant of security interest by any Loan Party to support, as applicable) any Excluded Swap Obligations of such Loan Party for purposes of determining any obligations of any Loan Party). Each Loan Party further agrees that the Guaranteed Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal. All terms of this Guaranty apply to and may be enforced by or on behalf of any domestic or foreign branch or Affiliate of any Lender or Issuing Bank that extended any portion of the Guaranteed Obligations.

SECTION 10.02 Guaranty of Payment. This Guaranty is a guaranty of payment and not of collection. Each Loan Party waives any right to require the Administrative Agent, the Issuing Bank or any Lender to sue any other Loan Party, any other guarantor of, or any other Person obligated for, all or any part of the Guaranteed Obligations (each, an "Obligated Party"), or to enforce its rights against any collateral securing all or any part of the U.S. Guaranteed Obligations.

SECTION 10.03 No Discharge or Diminishment of Loan Guaranty. Except as otherwise provided for herein, the obligations of each Loan Party hereunder are unconditional and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than the indefeasible payment in full in cash of the Guaranteed Obligations), including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration or compromise of any of the Guaranteed Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of any Loan Party or any other Obligated Party liable for any of the Guaranteed Obligations; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Obligated Party or their assets or any resulting release or discharge of any obligation of any Obligated Party; or (iv) the existence of any claim, setoff or other rights which any Loan Party may have at any time against any Obligated Party, the Administrative Agent, the Issuing Bank, any Lender or any other Person, whether in connection herewith or in any unrelated transaction.

(a) The obligations of each Loan Party hereunder are not subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of any of the Guaranteed Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Obligated Party, of the Guaranteed Obligations or any part thereof.

(b) Further, the obligations of any Loan Party hereunder are not discharged or impaired or otherwise affected by: (i) the failure of the Administrative Agent, the Issuing Bank or any Lender to assert any claim or demand or to enforce any remedy with respect to all or any part of the Guaranteed Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Guaranteed Obligations; (iii) any release, non- perfection or invalidity of any indirect or direct security for the obligations of any Loan Party for all or any part of the Guaranteed Obligations or any obligations of any other Obligated Party liable for any of the Guaranteed Obligations; (iv) any action or failure to act by the Administrative Agent, the Issuing Bank or any Lender with respect to any collateral securing any part of the Guaranteed Obligations; or (v) any default, failure or delay, willful or otherwise, in the payment or performance of any of the Guaranteed Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Loan Party or that would otherwise operate as a discharge of any Loan Party as a matter of law or equity (other than the indefeasible payment in full in cash of the Guaranteed Obligations).

SECTION 10.04 Defenses Waived. To the fullest extent permitted by applicable law, each Loan Party hereby waives any defense based on or arising out of any defense of any Loan Party or the unenforceability of all or any part of the Guaranteed Obligations from any cause, or the cessation from any cause of the liability of any Loan Party or any other Obligated Party, other than the indefeasible payment in full in cash of the Guaranteed Obligations. Without limiting the generality of the foregoing, each Loan Party irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against any Obligated Party or any other Person. Each Loan Party confirms that it is not a surety under any state law and shall not raise any such law as a defense to its obligations hereunder. The Administrative Agent may, at its election, foreclose on any Collateral securing all or a part of the Guaranteed Obligations and held by it by one or more judicial or nonjudicial sales, accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any such Collateral,

compromise or adjust any part of the Guaranteed Obligations, make any other accommodation with any Obligated Party or exercise any other right or remedy available to it against any Obligated Party, without affecting or impairing in any way the liability of such Loan Party under this Guaranty except to the extent the Guaranteed Obligations have been fully and indefeasibly paid in cash. To the fullest extent permitted by applicable law, each Loan Party waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Loan Party against any Obligated Party or any security.

SECTION 10.05 Rights of Subrogation. No Loan Party will assert any right, claim or cause of action, including, without limitation, a claim of subrogation, contribution or indemnification, that it has against any Obligated Party or any Collateral, until the Loan Parties have fully performed all their obligations to the Administrative Agent, the Issuing Bank, the Lenders, and the other Secured Parties.

SECTION 10.06 Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Guaranteed Obligations (including a payment effected through exercise of a right of setoff) is rescinded, or must otherwise be restored or returned upon the insolvency, bankruptcy or reorganization of any Loan Party or otherwise (including pursuant to any settlement entered into by a Secured Party in its discretion), each Loan Party's obligations under this Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made and whether or not the Administrative Agent, the Issuing Bank, the Lenders, or the other Secured Parties are in possession of this Guaranty. If acceleration of the time for payment of any of the Guaranteed Obligations is stayed upon the insolvency, bankruptcy or reorganization of any Loan Party, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Guaranteed Obligations shall nonetheless be payable by the Loan Parties forthwith on demand by the Administrative Agent.

SECTION 10.07 Information. Each Loan Party assumes all responsibility for being and keeping itself informed of each Loan Party's financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Guaranteed Obligations and the nature, scope and extent of the risks that each Loan Party assumes and incurs under this Guaranty, and agrees that none of the Administrative Agent, the Issuing Bank or any Lender shall have any duty to advise any Loan Party of information known to it regarding those circumstances or risks.

SECTION 10.08 [Reserved.]

SECTION 10.09 [Reserved.]

SECTION 10.10 Maximum Liability. The provisions of this Guaranty are severable, and in any action or proceeding involving any state corporate law, or any state, federal or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Loan Party under this Guaranty would otherwise be held or determined to be avoidable, invalid or unenforceable on account of the amount of Loan Party's liability under this Guaranty, then, notwithstanding any other provision of this Guaranty to the contrary, the amount of such liability shall, without any further action by the Loan Party or the Lenders, be automatically limited and reduced to the highest amount that is valid and enforceable as determined in such action or proceeding (such highest amount determined hereunder being the relevant Loan Party's "Maximum Liability"). This Section with respect to the Maximum Liability of each Loan Party is intended solely to preserve the rights of the Lenders to the maximum extent not subject to avoidance under applicable law, and no Loan Party nor any other Person or entity shall have any right or claim under this Section with respect to such Maximum Liability, except to the extent necessary so that the obligations of any Loan Party hereunder shall not be rendered voidable under applicable law. Each Loan Party agrees that the Guaranteed Obligations may at any time and from time to time exceed the Maximum Liability of each Loan Party without impairing this Guaranty or affecting

the rights and remedies of the Lenders hereunder; provided that nothing in this sentence shall be construed to increase any Loan Party's obligations hereunder beyond its Maximum Liability.

SECTION 10.11 Contribution. In the event any Loan Party (a "Paying Loan Party") shall make any payment or payments under this U.S. Guaranty or shall suffer any loss as a result of any realization upon any collateral granted by it to secure its obligations under this U.S. Guaranty, each other Loan Party (each a "Non-Paying Loan Party") shall contribute to such Paying Loan Party an amount equal to such Non-Paying Loan Party's Applicable Share of such payment or payments made, or losses suffered, by such Paying Loan Party. For purposes of this Section, each Non-Paying Loan Party's "Applicable Share" with respect to any such payment or loss by a Paying Loan Party shall be determined as of the date on which such payment or loss was made by reference to the ratio of (a) such Non-Paying Loan Party's Maximum Liability as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder) or, if such Non-Paying Loan Party's Maximum Liability has not been determined, the aggregate amount of all monies received by such Non-Paying Loan Party from the other Loan Parties after the date hereof (whether by loan, capital infusion or by other means) to (b) the aggregate Maximum Liability of all Loan Party hereunder (including such Paying Loan Party) as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder), or to the extent that a Maximum Liability has not been determined for any Loan Party, the aggregate amount of all monies received by such Loan Parties from the other Loan Parties after the date hereof (whether by loan, capital infusion or by other means). Nothing in this provision shall affect any Loan Party's several liability for the entire amount of the Guaranteed Obligations (up to such Loan Party's Maximum Liability). Each of the Loan Parties covenants and agrees that its right to receive any contribution under this Guaranty from a Non- Paying Loan Party shall be subordinate and junior in right of payment to the payment in full in cash of the Guaranteed Obligations. This provision is for the benefit of both the Administrative Agent, the Issuing Banks, the Lenders and Loan Parties and may be enforced by any one, or more, or all of them in accordance with the terms hereof.

SECTION 10.12 Liability Cumulative. The liability of each Loan Party under this Article X is in addition to and shall be cumulative with all liabilities of each Loan Party to the Administrative Agent, the Issuing Bank and the Lenders under this Agreement and the other Loan Documents to which such Loan Party is a party or in respect of any obligations or liabilities of the other Loan Parties, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

SECTION 10.13 Keepwell. Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each other Loan Party to honor all of its obligations under this Guaranty in respect of a Swap Obligation (provided, however, that each such Qualified ECP Guarantor shall only be liable under this Section 10.13 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 10.13 or otherwise under this Guaranty voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). Except as otherwise provided herein, the obligations of each such Qualified ECP Guarantor under this Section 10.13 shall remain in full force and effect until the termination of all Swap Obligations. Each such Qualified ECP Guarantor intends that this Section 10.13 constitute, and this Section 10.13 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Loan Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

SECTION 10.14 Common Enterprise. Each Loan Party represents and warrants that the successful operation and condition of each of the Loan Parties is dependent on the continued successful performance of the functions of the group of the Loan Parties as a whole and the successful operation of each of the Loan Parties is dependent on the successful performance and operation of each other Loan Party.

Each Loan Party expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from (i) successful operations of each of the other Loan Parties and (ii) the credit extended by the Lenders to the Borrowers hereunder, both in their separate capacities and as members of the group of companies. Each Loan Party has determined that execution, delivery, and performance of this Agreement and any other Loan Documents to be executed by such Loan Party is within its purpose, in furtherance of its direct and/or indirect business interests, will be of direct and/or indirect benefit to such Loan Party, and is in its best interest.

ARTICLE XI.

[RESERVED]

ARTICLE XII.

THE BORROWER REPRESENTATIVE

SECTION 12.01 Appointment; Nature of Relationship. The Company is hereby appointed by each of the Borrowers as its contractual representative (herein referred to as the "Borrower Representative") hereunder and under each other Loan Document, and each of the Borrowers irrevocably authorizes the Borrower Representative to act as the contractual representative of such Borrower with the rights and duties expressly set forth herein and in the other Loan Documents. The Borrower Representative agrees to act as such contractual representative upon the express conditions contained in this Article XII. Additionally, the Borrowers hereby appoint the Borrower Representative as their agent to receive all of the proceeds of the Loans in the Funding Account(s), at which time the Borrower Representative shall promptly disburse such Loans to the appropriate Borrower(s), provided that, in the case of a Revolving Loan, such amount shall not result in a violation of the Revolving Exposure Limitations. The Administrative Agent and the Lenders, and their respective officers, directors, agents or employees, shall not be liable to the Borrower Representative or any Borrower for any action taken or omitted to be taken by the Borrower Representative or the Borrowers pursuant to this Section 12.01.

SECTION 12.02 Powers. The Borrower Representative shall have and may exercise such powers under the Loan Documents as are specifically delegated to the Borrower Representative by the terms of each thereof, together with such powers as are reasonably incidental thereto. The Borrower Representative shall have no implied duties to the Borrowers, or any obligation to the Lenders to take any action thereunder except any action specifically provided by the Loan Documents to be taken by the Borrower Representative.

SECTION 12.03 Employment of Agents. The Borrower Representative may execute any of its duties as the Borrower Representative hereunder and under any other Loan Document by or through Responsible Officers.

SECTION 12.04 Notices. Each Loan Party shall promptly notify the Borrower Representative of the occurrence of any Default or Event of Default hereunder referring to this Agreement describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Borrower Representative receives such a notice, the Borrower Representative shall give notice thereof to the Administrative Agent and the Lenders pursuant to Section 5.02.

SECTION 12.05 Successor Borrower Representative. Upon the prior written consent of the Administrative Agent, the Borrower Representative may resign at any time, such resignation to be effective upon the appointment of a successor Borrower Representative (it being understood that such successor must

be a Borrower). The Administrative Agent shall give prompt written notice of such resignation to the Lenders.

SECTION 12.06 Execution of Loan Documents; Borrowing Base Certificate. The Borrowers hereby empower and authorize the Borrower Representative, on behalf of the Borrowers, to execute and deliver to the Administrative Agent and the Lenders the Loan Documents and all related agreements, certificates, documents, or instruments as shall be necessary or appropriate to effect the purposes of the Loan Documents, including, without limitation, the Borrowing Base Certificates and the Compliance Certificates. Each Borrower agrees that any action taken by the Borrower Representative or the Borrowers in accordance with the terms of this Agreement or the other Loan Documents, and the exercise by the Borrower Representative of its powers set forth therein or herein, together with such other powers that are reasonably incidental thereto, shall be binding upon all of the Borrowers.

SECTION 12.07 Reporting. Each Borrower hereby agrees that such Borrower shall furnish promptly after each fiscal month to the Borrower Representative a copy of its Borrowing Base Certificate and any other certificate or report required hereunder or requested by the Borrower Representative on which the Borrower Representative shall rely to prepare the Borrowing Base Certificates and Compliance Certificate required pursuant to the provisions of this Agreement.

(Signature Pages Follow)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

BORROWERS:

BIG LOTS, INC., an Ohio corporation

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS STORES, LLC,
an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

OTHER LOAN PARTIES:

CONSOLIDATED PROPERTY
HOLDINGS, INC., a Nevada corporation

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: President

BROYHILL, LLC,
an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS MANAGEMENT, LLC, an Ohio
limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS STORES – PNS, LLC, a California
limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS STORES – CSR, LLC, an Ohio
limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

CSC DISTRIBUTION LLC, an Alabama limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

CLOSEOUT DISTRIBUTION, LLC, a Pennsylvania limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

DURANT DC, LLC, an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

GAFDC LLC, an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

PAFDC LLC, an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

INFDC, LLC, an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

GREAT BASIN LLC, a Delaware limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS ECOMMERCE LLC, an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS F&S, LLC, an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

AVDC, LLC, an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

WAFDC, LLC, an Ohio limited liability company

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

PNC BANK, NATIONAL ASSOCIATION,
Individually as a Lender and as Administrative Agent, an Issuing Bank and Swingline Lender

By: /s/ Jeffrey Penno
Name: Jeffrey Penno
Title: Senior Vice President

HUNTINGTON NATIONAL BANK, as a Lender

By: /s/ Patricia Scudder
Name: Patricia Scudder
Title: ABL Relationship Manager/Vice President

[Signature Page to Credit Agreement]

TRUIST BANK, as a Lender

By: /s/ Scott Wheeler
Name: Scott Wheeler
Title: Vice President

[Signature Page to Credit Agreement]

U.S. BANK NATIONAL ASSOCIATION, as a Lender and as an Issuing Bank

By: /s/ Daniel Yu
Name: Daniel Yu
Title: Senior Vice President

[Signature Page to Credit Agreement]

WELLS FARGO BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Cory Loftus
Name: Cory Loftus
Title: Managing Director

[Signature Page to Credit Agreement]

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

By: /s/ Nicholas J Balta
Name: Nicholas J Balta
Title: Vice President

[Signature Page to Credit Agreement]

FIFTH THIRD BANK, NATIONAL ASSOCIATION, as a Lender

By: /s/ Mark Pienkos
Name: Mark Pienkos
Title: Managing Director

MUFG BANK, LTD., as a Lender

By: /s/ Edward Dridge
Name: Edward Dridge
Title: Director

[Signature Page to Credit Agreement]

SCHEDULE 1.01(A)
COMMITMENT SCHEDULE

Lender	Commitment	Applicable Percentage
PNC Bank, National Association	$250,000,000.00	27.77777778%
Huntington National Bank	$125,000,000.00	13.88888889%
Truist Bank	$125,000,000.00	13.88888889%
U.S. Bank National Association	$125,000,000.00	13.88888889%
Wells Fargo Bank, National Association	$125,000,000.00	13.88888889%
Bank of America, N.A.	$50,000,000.00	5.55555556%
Fifth Third Bank, National Association	$50,000,000.00	5.55555556%
MUFG Bank, Ltd.	$50,000,000.00	5.55555556%
Total:	$900,000,000.00	100.00000000%

LC INDIVIDUAL SUBLIMITS

Issuing Bank	LC Individual Sublimit
PNC Bank, National Association	No LC Individual Sublimit applies for PNC Bank, National Association as Issuing Bank
U.S. Bank National Association	$15,000,000.00

SCHEDULE 1.01(B)
EXISTING LETTERS OF CREDIT

SCHEDULE 1.01(C)
IMMATERIAL SUBSIDIARIES

SCHEDULE 3.02
CAPITALIZATION; SUBSIDIARIES; JOINT VENTURES

SCHEDULE 3.10(A)
REAL PROPERTY

SCHEDULE 3.10(B)
INTELLECTUAL PROPERTY

SCHEDULE 3.11
INSURANCE

SCHEDULE 3.19
CREDIT CARD ARRANGEMENTS

SCHEDULE 5.16
POST-CLOSING COVENANTS

1. On or before the date that is ten (10) Business Days after the Closing Date, the Loan Parties shall deliver, or cause to be delivered, to the Administrative Agent each original promissory note dated as of the date hereof.

2. On or before the date that is ten (10) Business Days after the Closing Date, the Loan Parties shall deliver, or cause to be delivered, to the Administrative Agent a favorable written opinion from the counsel of Consolidated Property Holdings, Inc., in form and substance reasonably acceptable to the Administrative Agent.

3. On or before the date that is sixty (60) days after the Closing Date, the Loan Parties shall deliver, or cause to be delivered, to the Administrative Agent (i) a lender's loss payable endorsement and notice of cancellation endorsement in favor of the Administrative Agent with respect to the Loan Parties' property insurance policy, (ii) an additional insured endorsement and notice of cancellation endorsement in favor of the Administrative Agent with respect to the Loan Parties' liability insurance policy and (iii) a banker's endorsement and notice of cancellation endorsement in favor of the Administrative Agent with respect to the Loan Parties' marine cargo insurance policy, in each case, in form and substance reasonably acceptable to the Administrative Agent.

4. On or before the date that is ninety (90) days after the Closing Date, the Loan Parties shall deliver, or cause to be delivered, to the Administrative Agent duly executed Deposit Account Control Agreements (as defined in the Security Agreement) and Securities Account Control Agreements (as defined in the Security Agreement), as applicable, for each Deposit Account and Securities Account as requested by the Administrative Agent.

5. Inventory that is in-transit from a foreign location as of the Closing Date that does not satisfy all of the criteria for the definition of "Eligible In-Transit Inventory" may be included in the Borrowing Base for a period of ninety (90) days after the Closing Date, which may be extended in the Administrative Agent's sole discretion; provided, however, nothing shall be deemed to limit the Administrative Agent's right to impose Reserves with respect to such Inventory in accordance with the terms of this Agreement, whether before or after the expiration of such ninety (90) day period, which may be extended in the Administrative Agent's sole discretion.

6. On or before the date that is ninety (90) days after the Closing Date, the Loan Parties shall use commercially reasonable efforts to deliver, or cause to be delivered, to the Administrative Agent duly executed Collateral Access Agreements for each location with eligible inventory in accordance with the definition of "Eligible Inventory".

Notwithstanding anything in this Schedule 5.16 or Section 5.16 of the Agreement to the contrary, the Administrative Agent shall not extend any of the above listed deadlines more than an additional sixty (60) days without the consent of the Required Lenders.

SCHEDULE 6.01
EXISTING INDEBTEDNESS

SCHEDULE 6.02
EXISTING INVESTMENTS

SCHEDULE 6.03
EXISTING CONTRACTUAL ENCUMBRANCES AND RESTRICTIONS[1]

SCHEDULE 6.05
EXISTING AFFILIATE TRANSACTIONS

SCHEDULE 6.07
EXISTING LIENS

EXECUTION

EXHIBIT A

[FORM OF] ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "Assignor") and [*Insert name of Assignee*] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex I attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any Letters of Credit, guarantees, Swingline Loans, Protective Advances and Overadvances included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and other rights of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

Assignor:	_____
Assignee:	_____ [and is a Lender, an Affiliate/Approved Fund of [*identify Lender*]][1]
Borrower Representative:	Big Lots, Inc.
Administrative Agent:	PNC Bank, National Association, as the administrative agent under the Credit Agreement

[1] Select as applicable.

Credit Agreement: The Credit Agreement dated as of September 21, 2022 among Big Lots, Inc., the other Loan Parties from time to time party thereto, the Lenders from time to time party thereto, and PNC Bank, National Association, as Administrative Agent

Assigned Interest:

Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned[2]	Percentage Assigned of Commitment/Loans[3]	CUSIP Number
$	$	%	
$	$	%	
$	$	%	

[Trade Date: [_____, 20___][4]

Effective Date: [_____, 20___][5]

The Assignee agrees to deliver to the Administrative Agent a completed Administrative Questionnaire in which the Assignee designates one or more credit contacts to whom all syndicate- level information (which may contain material non-public information about the Company, the other Loan Parties and their Related Parties or their respective securities) will be made available and who may receive such information in accordance with the Assignee's compliance procedures and applicable laws, including federal and state securities laws.

[2] Amounts in this column and in the column immediately to the right to be adjusted to take into account any payments or prepayments made between the Trade Date and the Effective Date.
[3] Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.
[4] To be completed as the Assignor and Assignee intend that the minimum assignment amount is to be determined as of the Trade Date.
[5] To be inserted by Administrative Agent and which shall be the effective date of recordation of transfer in the register therefor.

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Name:
Title:

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Name:
Title:

Consented to and Accepted:

PNC BANK, NATIONAL ASSOCIATION, as
Administrative Agent, Issuing Bank and Swingline Lender

By: _____
Name:
Title:

Consented to:

[_____][6]

By: _____
Name:
Title:

[Consented to:][7]

BIG LOTS, INC.

By: _____
Name:
Title:

.

[6] Add additional Issuing Banks, as applicable.
[7] To be added only if the consent of the Borrower Representatives required by the terms of the Credit Agreement.

ANNEX I

ASSIGNMENT AND ASSUMPTION

STANDARD TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

Representations and Warranties.

Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of any Borrower, any Subsidiaries of the Borrowers or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by any Borrower, any Subsidiaries of the Borrowers or Affiliates or any other Person of any of their respective obligations under any Loan Document.

Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and

other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Acceptance of the terms of this Assignment and Assumption by the Assignee and the Assignor by Electronic Signature or delivery of an executed counterpart of a signature page of this Assignment and Assumption by any Electronic System shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with the internal laws (and not the law of conflicts) of the State of Ohio, but giving effect to federal laws applicable to national banks.

EXHIBIT B

[FORM OF] BORROWING BASE CERTIFICATE

EXHIBIT C

[FORM OF] BORROWING REQUEST

BIG LOTS, INC.

Borrowing Request Date:

PNC Bank, National Association
PNC Business Credit
7121 Fairway Drive
Palm Beach Gardens, FL 33418-3766
Attention: Paul Starman
Email: paul.starman@pnc.com

Ladies and Gentlemen:

This Borrowing Request is furnished pursuant to Section 2.03 of that certain Credit Agreement dated as of September 21, 2022 (as amended, restated, supplemented, modified, renewed or extended from time to time, the "Credit Agreement") among (i) Big Lots, Inc. and each Subsidiary Borrower from time to time party thereto (each a "Borrower" and collectively, the "Borrowers"), (ii) the other Loan Parties from time to time party thereto, (iii) the Lenders from time to time party thereto, and (iv) PNC Bank, National Association as Administrative Agent. Unless otherwise defined herein, capitalized terms used in this Borrowing Request have the meanings ascribed thereto in the Credit Agreement. The Borrower represents that, as of this date, the conditions precedent set forth in Section 4.01[8] or 4.02 (as applicable) of the Credit Agreement are satisfied.

The Borrower Representative hereby notifies the Administrative Agent of its request for the following Borrowing:

1. On (a Business Day) _____

2. On behalf of _____

3. In the following Currency[9], for the following amount and of the following Type:

☐ Revolving Loans in U.S. Dollars bearing interest based on the Term SOFR Rate with an Interest Period of [one][three][six] months in the amount of $[_____].

☐ Revolving Loans in U.S. Dollars bearing interest based on the Alternate Base Rate in the amount of $[_____].

[8] To be added for any Borrowings to be made on the Closing Date.
[9] If an Alternative Currency has been approved by the Administrative Agent and all of the Lenders, this form of Borrowing Request will need to be updated accordingly.

☐ Swingline Borrowings in U.S. Dollars bearing interest based on Daily Simple SOFR in the amount of $[_____].

☐ Revolving Loans in Euros bearing interest based on Daily Simple RFR in the amount of [_____] Euros.[10]

☐ Revolving Loans in Euros bearing interest based on Term RFR with an Interest Period of [one] [three][six] months in the amount of [_____] Euros.

☐ Revolving Loans in Canadian Dollars bearing interest based on the Eurocurrency Rate with an Interest Period of [one][three][six] months in the amount of [_____] Canadian Dollars.

4. The Borrowing shall be directed to the account(s) set forth in Exhibit A attached hereto.

[10] Only available prior to the Term RFR Transition Date.

BIG LOTS, INC.

By: _____
Name:
Title:

EXHIBIT A

WIRE BREAKDOWN

[See Attached]

EXHIBIT D

[FORM OF] COMPLIANCE CERTIFICATE[11] [_____], 20[___]

To: The Administrative Agent and Lenders party to the Credit Agreement described below

This Compliance Certificate is furnished pursuant to that certain Credit Agreement dated as of September 21, 2022 (as amended, modified, renewed or extended from time to time, the "Credit Agreement") among (i) Big Lots, Inc. and each Subsidiary Borrower from time to time party thereto (each a "Borrower" and collectively, the "Borrowers"), (ii) the other Loan Parties from time to time party thereto, (iii) the Lenders from time to time party thereto and (iv) PNC Bank, National Association, as Administrative Agent. Unless otherwise defined herein, capitalized terms used in this Compliance Certificate have the meanings ascribed thereto in the Credit Agreement.

The undersigned hereby certifies, on his/her behalf as an officer of the Borrower Representative and not in his/her individual capacity, and on behalf of the Loan Parties, that:

1. I am the duly elected [_____][12] of the Borrower Representative;

[2. The financial statements of the Company and its Subsidiaries delivered concurrently herewith for the quarterly accounting period ending on [_____] [__], 20[___] present fairly in all material respects the financial condition and results of operations of the Company and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP, consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;][13]

[2./3.] I have no knowledge of, in each case except as set forth on Schedule I attached hereto, (i) the occurrence of any Default during or at the end of the accounting period covered by the financial statements delivered concurrently herewith or as of the date of this Compliance Certificate or (ii) any change in GAAP or in the application thereof that has occurred since the date of the audited financial statements referred to in Section 3.06 of the Credit Agreement;

[3./4.] Except as set forth on Schedule II attached hereto, since the later of the Closing Date and the date of the last Compliance Certificate, no Loan Party has (i) changed its name as it appears in official filings in the state or province of incorporation or organization, (ii) changed its chief executive office, (iii) changed the type of entity that it is, (iv) changed its organization identification number, if any, issued by its state or province of incorporation or other organization, or (v) changed its state of incorporation or organization; and

---

[11] This form of Compliance Certificate has been prepared for convenience only, and is not to affect, or to be taken into consideration in interpreting, the terms of the Credit Agreement referred to below. The obligations of the Loan Parties under the Credit Agreement are as set forth in the Credit Agreement, and nothing in this form of Compliance Certificate shall modify such obligations or constitute a waiver of compliance therewith in accordance with the terms of the Credit Agreement. In the event of any conflict between the terms of this form of Compliance Certificate and the terms of the Credit Agreement, the terms of the Credit Agreement shall govern and control, and the terms of this form of Compliance Certificate are to be modified accordingly.

[12] To be completed by a Financial Officer.

[13] For certificate accompanying quarterly financial statements only.

[4./5.] [There has been no change in the list of Immaterial Subsidiaries since the later of the Closing Date and the date of the last Compliance Certificate.][Schedule III attached hereto lists and describes each Immaterial Subsidiary.] Each of the Immaterial Subsidiaries qualifies as an Immaterial Subsidiary and all such Subsidiaries in the aggregate do not exceed the limitation set forth in clause (b) of the definition of the term "Immaterial Subsidiary" in the Credit Agreement. [In regards to Subsidiaries which were previously Immaterial Subsidiaries and which no longer qualify as Immaterial Subsidiaries and are not otherwise Excluded Subsidiaries, the Borrower Representative certifies that it has or will take the actions required under Section 5.14(a) of the Credit Agreement to cause such Immaterial Subsidiary to be a Loan Party.]

[5./6.] [Schedule [III/IV] attached hereto is a calculation of the Fixed Charge Coverage Ratio for the four (4) quarter period ending on [_____] [__], 20[___].][14]

[[5./6./7.] Schedule [III/IV/V] attached hereto is an up-to-date report summarizing the Loan Parties' stores, offices and other places of business that have been (i) closed during the most recently ended fiscal quarter and (ii) opened during the most recently ended fiscal quarter as required by Section 5.02(o) of the Credit Agreement.][15]

[Signature Page Follows]

[14] To be included only during the continuance of a Covenant Compliance Event.
[15] For certificate accompanying quarterly financial statements only.

The foregoing certifications are made and delivered as of the date first written above.

BIG LOTS, INC.

By: _____
Name:
Title:

SCHEDULE I

Defaults and Changes to GAAP

Described below are the exceptions, if any, to paragraph [2/3] by listing, in detail, the (i) nature of the occurrence of any Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate and the action which the Borrowers have taken, are taking, or propose to take with respect to the occurrence of such Default or (ii) the change in GAAP or the application thereof and the effect of such change on the attached financial statements:

[*Borrower Representative to list exceptions or state "None"*]

SCHEDULE II

Changes to Loan Parties

[*Borrower Representative to describe the exceptions, if any, to paragraph [3/4]*]

SCHEDULE III

Immaterial Subsidiaries

[*Borrower Representative to describe any changes to Immaterial Subsidiaries*]

SCHEDULE III/IV[16]

Fixed Charge Coverage Ratio

Fixed Charge Coverage Ratio for the trailing four (4) fiscal quarters ending on [_____] [__], 20[___] (the "period")

(1)	Consolidated EBITDA17			
	(a)	Company's consolidated net income on a Consolidated Basis:	$	_____
	(b)	plus (to the extent deducted from the calculation of the Company's consolidated net income for the period (without duplication)):		
		(i) depreciation:	$	_____
		(ii) amortization:	$	_____
		(iii) non-cash expenses related to stock based compensation:	$	_____
		(iv) other non-cash charges, non-cash expenses, or non-cash losses to net income (provided, however that cash payments made in the period or in any future period in respect of such non-cash charges, expenses or losses shall be subtracted from consolidated net income in calculating Consolidated EBITDA):	$	_____
		(v) interest expense:	$	_____
		(vi) income tax expense	$	_____
		(vii) restructuring charges or expenses (including integration costs, restructuring costs and severance costs related to acquisitions and to closure or consolidation of plants, facilities or locations and any expense related to any reconstruction, recommissioning or reconfiguration of fixed assets for alternate use) incurred prior to September 21, 2022 not to exceed $50,000,000 in the aggregate:	$	_____
	(c)	minus:		
		(i) non-cash credits or non-cash gains (to the extent included in such calculation of consolidated net income), in each case determined and consolidated for the Company and its Restricted Subsidiaries in accordance with GAAP:	$	_____

[16] To be included only during the continuance of a Covenant Compliance Event.

[17] Consolidated EBITDA to exclude the income (or deficit) of any Person (other than a Restricted Subsidiary) in which the Company or any of its Restricted Subsidiaries has an ownership interest, except to the extent that any such income is actually received by the Company or such Restricted Subsidiary in the form of dividends or similar distributions.

	(d)	Consolidated EBITDA ((x) Line (1)(a) plus (y) the sum of Lines (1)(b)(i) through (vii) minus (z) Line (1)(c)(i)):	$		
(2)		Unfinanced Capital Expenditures (i.e., Capital Expenditures of the Company and its Restricted Subsidiaries made in cash during the period, except to the extent financed with the proceeds of Finance Lease Obligations or other Indebtedness (other than Loans incurred under the Credit Agreement), common Equity Interests or Disqualified Stock, or casualty proceeds, condemnation proceeds, or other proceeds that would not be included in Consolidated EBITDA, less cash received from the sale of any fixed assets of the Company and its Restricted Subsidiaries (including, without limitation, equipment) during the period (which amount, in aggregate, may not be less than $0 for the period)):	$		
(3)		the portion of taxes based on income actually paid in cash and provisions for cash income taxes:	$		
(4)		Fixed Charges for the period:			
	(a)	all scheduled amortization payments paid or payable during the period on all Indebtedness of the Company and its Restricted Subsidiaries (including the principal component of all obligations in respect of all Finance Lease Obligations):	$		
	(b)	consolidated cash Interest Expense of the Company and its Restricted Subsidiaries for the period:	$		
	(c)	Fixed Charges (the sum of Lines (4)(a) and (4)(b)):	$		
Fixed Charge Coverage Ratio:					
	(w)	Numerator: (a) Line (1)(d) minus (b) the sum of Lines (2) and (3)	$		
	(x)	Denominator: Line (4)(c)	$		
	(y)	FCCR: Line (w) divided by Line (x)		:	**1.00**
	(z)	**Minimum Required:**	**1.00**	:	**1.00**

SCHEDULE [III/IV/V]

Real Estate Status Report

[*Borrower Representative to attach.*]

EXHIBIT E

[FORM OF] INTEREST ELECTION REQUEST

[_____], 20[___]

PNC Bank, National Association
PNC Business Credit
7121 Fairway Drive
Palm Beach Gardens, FL 33418-3766
Attention: Paul Starman
Email: paul.starman@pnc.com

Ladies and Gentlemen:

Reference is made to that certain Credit Agreement dated as of September 21, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), among (i) Big Lots, Inc. and each Subsidiary Borrower from time to time party thereto (each a "Borrower" and collectively, the "Borrowers"), (ii) the other Loan Parties party from time to time thereto, (iii) the Lenders from time to time party thereto, and (iv) PNC Bank, National Association, as Administrative Agent. Capitalized terms used but not otherwise defined herein shall have the meanings specified in the Credit Agreement.

This notice constitutes an Interest Election Request and the Borrower Representative hereby gives you notice, pursuant to Section 2.08 of the Credit Agreement, that it requests the [conversion to][renewal of] a Term Rate Loan Option under the Credit Agreement, and in connection therewith the Borrower Representative specifies the following information with respect to such Borrowing and each resulting Borrowing:

(1) This Interest Election Request is being made on behalf of the Borrowers.

(2) Existing Borrowing to which this Interest Election Request applies[18, 19 20]:

☐ Revolving Loans in U.S. Dollars bearing interest based on Term SOFR with an Interest Period of [one] [three][six] months in the amount of $[_____].

☐ Revolving Loans in U.S. Dollars bearing interest based on the Alternate Base Rate in the amount of $[_____].

☐ Revolving Loans in Euros bearing interest based on Term RFR with an Interest Period of [one][three] [six] months in the amount of [_____] Euros.

---

[18] If Term Rate Loan is converted other than on the last day of an Interest Period applicable thereto, Section 2.16 (Break Fund Payments) will apply.
[19] If an Alternative Currency has been approved by the Administrative Agent and all of the Lenders, this form of Interest Election Request will need to be updated accordingly.
[20] No Loan denominated in any Currency may be converted into a Loan denominated in a different Currency, except as otherwise expressly provided in the Credit Agreement.

☐ Revolving Loans in Canadian Dollars bearing interest based on the Eurocurrency Rate with an Interest Period of [one][three][six] months in the amount of [_____] Canadian Dollars.

(3) Multiple interest elections being made with respect hereto: [Yes][No][21]

(4) Effective date of this election(s) (must be a Business Day): _____

(5) Resulting Borrowing(s):

☐ Revolving Loans in U.S. Dollars bearing interest based on Term SOFR with an Interest Period of [one] [three][six] months in the amount of $[_____].

☐ Revolving Loans in U.S. Dollars bearing interest based on the Alternate Base Rate in the amount of $[_____].

☐ Revolving Loans in Euros bearing interest based on Term RFR with an Interest Period of [one][three] [six] months in the amount of [_____] Euros.

☐ Revolving Loans in Canadian Dollars bearing interest based on the Eurocurrency Rate with an Interest Period of [one][three][six] months in the amount of [_____] Canadian Dollars.

[Signature Page Follows]

[21] If multiple interest elections are being requested hereto, resulting Borrowings in line (5) below to specify such multiple interest election requests.

BIG LOTS, INC.

By: _____
Name:
Title:

EXHIBIT F

[FORM OF] JOINDER AGREEMENT

THIS JOINDER AGREEMENT (this "Agreement"), dated as of [_____], 20[___], is entered into between [_____], a [_____] (the "New Subsidiary") and PNC Bank, National Association, in its capacity as administrative agent (the "Administrative Agent") under that certain Credit Agreement dated as of September 21, 2022 (as the same may be amended, restated, supplemented, modified, extended or restated from time to time, the "Credit Agreement") among (i) Big Lots, Inc. and each Subsidiary Borrower from time to time party thereto (each a "Borrower" and collectively, the "Borrowers"), (ii) the other Loan Parties from time to time party thereto, (iii) the Lenders from time to time party thereto and (iv) the Administrative Agent. All capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Credit Agreement or, if not defined in the Credit Agreement, then in the Security Agreement.

The New Subsidiary and the Administrative Agent, for the benefit of the Lenders, hereby agree as follows:

1. The New Subsidiary hereby acknowledges, agrees and confirms that, by its execution of this Agreement, the New Subsidiary will be deemed to be a Loan Party under the Credit Agreement and shall have all of the obligations of a [Borrower][Guarantor] thereunder as if it had executed the Credit Agreement. The New Subsidiary hereby ratifies, as of the date hereof, and agrees to be bound by, all of the applicable terms, provisions and conditions contained in the Credit Agreement, including without limitation (a) all of the applicable representations and warranties of the Loan Parties set forth in Article III of the Credit Agreement, (b) all of the applicable covenants set forth in Articles V and VI of the Credit Agreement, and (c) all of the applicable guaranty obligations set forth in Article X of the Credit Agreement. Without limiting the generality of the foregoing terms of this paragraph 1, the New Subsidiary, subject to the limitations set forth in Sections 10.10 and 10.13 of the Credit Agreement, hereby guarantees, jointly and severally with the other Loan Parties, to the Administrative Agent and the Lenders, as provided in Article X of the Credit Agreement, the prompt payment and performance of the Guaranteed Obligations in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise) strictly in accordance with the terms thereof and agrees that if any of the Guaranteed Obligations are not paid or performed in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration or otherwise), the New Subsidiary will, jointly and severally together with the other Loan Parties, promptly pay and perform the same, without any demand or notice whatsoever, and that in the case of any extension of time of payment or renewal of any of the Guaranteed Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration or otherwise) in accordance with the terms of such extension or renewal.

2. Effective as of the date of this Agreement:

a. The New Subsidiary hereby:

i. acknowledges and agrees that it has received and reviewed a copy of the Credit Agreement, the Security Agreement, and each of the other Loan Documents;

ii. in addition to joining in the execution of, and becoming a party to the Credit Agreement, joins in the execution of, and becomes a party to the Security Agreement, the Intercompany Subordination Agreement, and each of the other Loan Documents to which the [Borrowers][Guarantors] are party (and in the same capacities and to the same extent as the [Borrowers][Guarantors]); and

iii. assumes and agrees to perform all applicable duties and Obligations of a [Borrower][Guarantor] and Loan Party under the Credit Agreement, the Security Agreement, and each of the other Loan Documents to which the [Borrowers][Guarantors] are a party.

b. Without in any manner limiting the generality of clause (a) above, the New Subsidiary hereby covenants and agrees that to secure the prompt and complete payment, performance and observance of all of the Secured Obligations, and in accordance with the Security Agreement, the New Subsidiary hereby pledges and grants to the Administrative Agent for the benefit of the Secured Parties, a continuing security interest in, all of the rights, title and interest in personal property of the New Subsidiary, wherever located and whether now or hereafter existing and whether now owned or hereafter acquired, of every kind and description, tangible or intangible, specifically limited to and solely to the extent as follows: (a) all Accounts (including all Credit Card Accounts); (b) all Inventory; (c) all Deposit Accounts, Commodity Accounts, and Securities Accounts, and all cash and all other property from time to time deposited therein or otherwise credited thereto, and all lockboxes associated with any of the foregoing and the monies and property in the possession or under the control of the Agent or any Lender; (d) all of the following, solely to the extent arising from the Specified Collateral (as defined in the Security Agreement): (i) all Chattel Paper (whether tangible or electronic); (ii) the Commercial Tort Claims, including, without limitation, those specified on Schedule IV to the Security Agreement (as supplemented pursuant to Schedule A hereof); (iii) all Documents; (iv) all General Intangibles (including, without limitation, all Payment Intangibles but excluding Intellectual Property) (v) all Instruments (including, without limitation, Promissory Notes) and Goods (but excluding Equipment and Fixtures) (vi) all Investment Property (vii) all Letter-of-Credit Rights (viii) all Supporting Obligations (ix) all other tangible and intangible personal property of the New Subsidiary arising from, or related to, the foregoing (whether or not subject to the UCC), including, without limitation, all bank and other accounts and all cash and all investments therein, all proceeds, products, offspring, accessions, rents, profits, income, benefits, substitutions and replacements of and to any of the property of the New Subsidiary described in the preceding clauses of this sentence (including, without limitation, any proceeds of insurance thereon and all causes of action, claims and warranties now or hereafter held by the New Subsidiary in respect of any of the items listed above), and all books, correspondence, files and other Records arising from, or related to, the foregoing, including, without limitation, all tapes, disks, cards, Software, data and computer programs in the possession or under the control of the New Subsidiary or any other Person from time to time acting for the New Subsidiary that at any time evidence or contain information relating to any of the property described in the preceding clauses of this sentence or are otherwise necessary or helpful in the collection or realization thereof; and (x) all Proceeds arising from the foregoing, including all Cash Proceeds and Noncash Proceeds, and products of any and all of the foregoing Collateral; in each case howsoever the New Subsidiary's interest therein may arise or appear (whether by ownership, security interest, claim or otherwise). Notwithstanding anything herein to the contrary, the Collateral shall not include, and the New Subsidiary is not pledging, nor granting a security interest hereunder in, any Excluded Assets. The New Subsidiary hereby authorizes the Administrative Agent and/or its representatives to file such

UCC financing statements necessary or advisable to perfect the security interest granted in this paragraph by the New Subsidiary in accordance with the Security Agreement.

3. To the extent that any changes in any representations, warranties, and covenants (other than representations, warranties, and covenants that relate solely to an earlier date) require any amendments to the Schedules to the Credit Agreement or any of the other Loan Documents to reflect the joinder of the New Subsidiary, such Schedules are hereby amended or supplemented as set forth in the Schedules annexed to this Agreement at Schedule A.

4. If required, the New Subsidiary is, simultaneously with the execution of this Agreement, executing and delivering such Collateral Documents (and such other documents and instruments) as requested by the Administrative Agent in accordance with the Credit Agreement.

5. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Delivery of an executed counterpart of a signature page of this Agreement by telecopy, emailed pdf or any other electronic means that reproduces an image of the actual executed signature page shall be effective as delivery of a manually executed counterpart of this Agreement.

6. This Agreement is a "Loan Document". Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the remaining provisions thereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

7. This Agreement shall be governed by and construed in accordance with the internal laws (and not the law of conflicts) of the State of Ohio, but giving effect to federal laws applicable to national banks.

[Signature Page Follows]

IN WITNESS WHEREOF, the New Subsidiary has caused this Agreement to be duly executed by its authorized officer, and the Administrative Agent, for the benefit of the Lenders, has caused the same to be accepted by its authorized officer, as of the day and year first above written.

[NEW SUBSIDIARY]

By: _____
Name:
Title:

Acknowledged and accepted:

PNC BANK, NATIONAL ASSOCIATION, as Administrative Agent

By: _____
Name:
Title:

Schedule A

[See attached][22]

[22] Amendments or supplements to Schedules (if any).

EXHIBIT G-1

[FORM OF]
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to that certain Credit Agreement dated as of September 21, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement") among Big Lots, Inc. and certain of its subsidiaries from time to time party thereto (collectively, the "Borrowers"), the other Loan Parties from time to time party thereto, the Lenders from time to time party thereto, and PNC Bank, National Association, in its capacity as Administrative Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of any Borrower within the meaning of Section 871(h)(3)(B) of the Code and (iv) it is not a controlled foreign corporation related to any Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower Representative with a certificate of its non-U.S. Person status on IRS Form W-8BEN or W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower Representative and the Administrative Agent, and (2) the undersigned shall have at all times furnished the Borrower Representative and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name:
Title:

Date: [_____], 20[__]

EXHIBIT G-2

[FORM OF]
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Not Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to that certain Credit Agreement dated as of September 21, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement") among Big Lots, Inc. and certain of its subsidiaries from time to time party thereto (collectively, the "Borrowers"), the other Loan Parties from time to time party thereto, the Lenders from time to time party thereto, and PNC Bank, National Association, in its capacity as Administrative Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Code, (iii) it is not a ten percent shareholder of any Borrower within the meaning of Section 871(h)(3)(B) of the Code, and (iv) it is not a controlled foreign corporation related to any Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. Person status on IRS Form W-8BEN or W-8BEN-E, as applicable. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing, and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: [_____], 20[__]

EXHIBIT G-3

[FORM OF]
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Participants That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to that certain Credit Agreement dated as of September 21, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement") among Big Lots, Inc. and certain of its subsidiaries from time to time party thereto (collectively, the "Borrowers"), the other Loan Parties from time to time party thereto, the Lenders from time to time party thereto, and PNC Bank, National Association, in its capacity as Administrative Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of any Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to any Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished its participating Lender with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as applicable or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as applicable from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF PARTICIPANT]

By: _____
Name:
Title:

Date: [_____], 20[__]

EXHIBIT G-4

[FORM OF]
U.S. TAX COMPLIANCE CERTIFICATE

(For Foreign Lenders That Are Partnerships For U.S. Federal Income Tax Purposes)

Reference is hereby made to that certain Credit Agreement dated as of September 21, 2022 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement") among Big Lots, Inc. and certain of its subsidiaries from time to time party thereto (collectively, the "Borrowers"), the other Loan Parties from time to time party thereto, the Lenders from time to time party thereto, and PNC Bank, National Association, in its capacity as Administrative Agent.

Pursuant to the provisions of Section 2.17 of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its direct or indirect partners/members are the sole beneficial owners of such Loan(s) (as well as any note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to the Credit Agreement or any other Loan Document, neither the undersigned nor any of its direct or indirect partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Code, (iv) none of its direct or indirect partners/members is a ten percent shareholder of any Borrower within the meaning of Section 871(h)(3)(B) of the Code and (v) none of its direct or indirect partners/members is a controlled foreign corporation related to any Borrower as described in Section 881(c)(3)(C) of the Code.

The undersigned has furnished the Administrative Agent and the Borrower Representative with IRS Form W-8IMY accompanied by one of the following forms from each of its partners/members that is claiming the portfolio interest exemption: (i) an IRS Form W-8BEN or W-8BEN-E, as applicable or (ii) an IRS Form W-8IMY accompanied by an IRS Form W-8BEN or W-8BEN-E, as applicable from each of such partner's/member's beneficial owners that is claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower Representative and the Administrative Agent, and
(2) the undersigned shall have at all times furnished the Borrower Representative and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

[NAME OF LENDER]

By: _____
Name:
Title:

Date: [_____], 20[__]

FOURTH AMENDMENT TO CERTAIN OPERATIVE AGREEMENTS

THIS FOURTH AMENDMENT TO CERTAIN OPERATIVE AGREEMENTS (this "Amendment") dated as of September 21, 2022 is by and among AVDC, LLC (formerly, AVDC, Inc.), an Ohio limited liability company (the "Construction Agent" or "Lessee"); the various entities which are parties to the Participation Agreement (hereinafter defined) from time to time as guarantors (individually, a "Guarantor" and collectively, the "Guarantors"); WACHOVIA SERVICE CORPORATION, a Delaware corporation (the "Lessor"); the various banks and other lending institutions which are parties to the Participation Agreement from time to time as lease participants (individually, a "Lease Participant" and collectively, the "Lease Participants"); and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as the agent for the Lessor Parties and, respecting the Security Documents, as the agent for the Secured Parties (in such capacity, the "Agent").

W I T N E S S E T H

WHEREAS, the Lessee, the Guarantors party thereto, the Lessor, the Lease Participants party thereto and the Agent are party to that certain Participation Agreement dated as of November 30, 2017, as amended by that certain First Amendment to Certain Operative Agreements dated as of August 31, 2018, as further amended by that certain Second Amendment to Certain Operative Agreements dated as of August 2, 2019, as further amended by that certain Third Amendment to Certain Operative Agreements dated as of September 22, 2021, and subject to that certain Letter Agreement dated July 27, 2022 (as amended, modified, extended, supplemented, restated and/or replaced from time to time, the "Participation Agreement");

WHEREAS, various of the parties to this Amendment are parties to certain other Operative Agreements, other than the Participation Agreement;

WHEREAS, the Lessee has requested that the Lessor Parties and the Agent approve certain amendments and modifications to the Participation Agreement and the other Operative Agreements; and

WHEREAS, the Lessor Parties and the Agent have approved the amendments and modifications to the Participation Agreement and the other Operative Agreements requested by the Lessee on the terms and conditions set forth herein.

NOW, THEREFORE, IN CONSIDERATION of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Defined Terms. Capitalized terms used herein but not otherwise defined herein shall have the meanings provided to such terms in Appendix A to the Participation Agreement.

2. Amendments to Participation Agreement and Lease. Subject to the satisfaction of the condition set forth in Section 3:

(a) the Participation Agreement, the Exhibits thereto, the Schedules thereto and Appendix A thereto are hereby amended in their entirety and replaced by Exhibit A hereto, the Exhibits thereto, the Schedules thereto and Appendix A thereto, and all Advances thereunder accruing interest based on the London interbank offered rate shall begin to accrue interest based on the Adjusted Term SOFR Rate for the first Lessor Yield Period which begins immediately following the date hereof; and

(b) the Lease is hereby amended by:

(i) deleting Section 2.2 thereto and replacing such section with the following:

"**2.2 Lease Term**.

The basic term of this Lease with respect to the Property (the "Basic Term") shall begin upon the Property Closing Date (the "Commencement Date") and shall end on June 1, 2023 (the "Basic Term Expiration Date"), unless the Basic Term is earlier terminated in accordance with the provisions of this Lease and the other Operative Agreements. Notwithstanding the foregoing, Lessee shall not be obligated to pay Basic Rent until the Rent Commencement Date.";

(ii) deleting the parenthetical phrase from the first sentence of Section 3.4 thereto and replacing such phrase with "(except to the extent Basic Rent is then being calculated based on the Adjusted Term SOFR Rate and such next succeeding Business Day falls in the next succeeding calendar month, then on the next preceding Business Day)"; and

(ii) deleting Section 17.1(c) and replacing such section with the following:

"(c) Any Credit Party shall default in the observance or performance of any covenant, acknowledgement or agreement contained in Article XIV of this Lease (other than the requirement to deliver annual certificates), Sections 8.3A(c), 8.3A(f), 8.3B or the third paragraph of Section 12.4 of the Participation Agreement;";

(iii) (A) deleting the reference to "Revolving Credit Agreement" contained therein and replacing it with a reference to "ABL Credit Agreement", (B) deleting the reference to "Revolving Credit Agreement Permitted Lien" contained therein and replacing it with a reference to "Additional Permitted Lien", and (C) deleting the references to "Revolving Credit Agreement US Borrowers" contained therein and replacing them with references to "ABL Credit Agreement Loan Parties"; and

(iv) deleting Section 20.1 thereto and replacing such section with the following:

"**20.1 Purchase Option or Sale Option- General Provisions.**

Not less than 210 days prior to the Expiration Date (or, respecting the Purchase Option only with respect to a purchase by Lessee (or its designee) prior to the Expiration Date, not less than 30 days prior to the applicable Payment Date or such later date prior to the applicable Payment Date as agreed by Lessor) (such Expiration Date or, respecting the Purchase Option only, any such applicable Payment Date being hereinafter referred to as the "Election Date"), Lessee may give Lessor irrevocable written notice (the "Election Notice") that Lessee is electing to exercise either (a) (i) in the case of the Expiration Date, the option for Lessee (or any designee of Lessee) to purchase the Property on the Expiration Date or (ii) in the case of any Payment Date, the option for Lessee (or any designee of Lessee), subject to Section 5.13 of the Participation

Agreement, to purchase the Property on the applicable Payment Date (each of (a)(i) and (ii), the "Purchase Option") or (b) with respect to an Election Notice given in connection with the Expiration Date only, the option to remarket the Property to a Person other than Lessee or any Affiliate of Lessee and cause a sale of the Property to occur on the Expiration Date pursuant to the terms of Section 21.1 (the "Sale Option"). If Lessee does not give an Election Notice indicating the Purchase Option or the Sale Option at least 210 days prior to the Expiration Date, then Lessee shall be deemed to have elected for the Purchase Option to apply, and for the purchase of the Property to occur, on the Expiration Date. If Lessee shall elect (or be deemed to have elected) to exercise the Purchase Option then Lessee shall pay, or cause to be paid, to Lessor on the date on which such purchase is scheduled to occur an amount equal to the Termination Value for the Property and, upon receipt of such amounts and satisfaction of such obligations, Lessor shall transfer to Lessee (or any designee of Lessee) all of Lessor's right, title and interest in and to the Property in accordance with Section 20.2.

The designation of another Person to purchase the Property on behalf of Lessee pursuant to the Purchase Option shall be subject to the provisions of the second sentence of the first paragraph of Section 20.2."

3. Conditions Precedent. The provisions of Section 2 of this Amendment shall not become effective until the Agent shall have received the following items, each in form and substance acceptable to the Agent and its counsel:

(a) this Amendment, duly executed by the Lessee, the Construction Agent, each Guarantor and the Majority Secured Parties;

(b) the Intercompany Subordination Agreement, duly executed by the Credit Parties;

(c) payment by the Credit Parties of all fees and expenses owed to the Agent and its counsel in connection with this Amendment;

(d) written or oral confirmation or other evidence regarding the prior or concurrent effectiveness of that certain Credit Agreement dated as of or about the date hereof by and among the Parent, BLS, the other ABL Credit Agreement Loan Parties party thereto, the ABL Credit Agreement Banks party thereto and the ABL Credit Agreement Administrative Agent; and

(e) such other documents as may be reasonably requested by the Agent.

4. Post-Closing Amendment Fee. If on or prior to the date ninety (90) days immediately following the date of this Amendment (the "Amendment Fee Payment Date") the Lessee has not (a) exercised the Purchase Option, (b) purchased the Property or caused the Property to be purchased by a designee of the Lessee pursuant to the Purchase Option (in either case, by payment of the Termination Value to the Agent and otherwise in accordance with Article XX of the Lease) and (c) satisfied (or caused to be satisfied) all other obligations of the Credit Parties pursuant to the Operative Agreements as of such purchase date, then on the Amendment Fee Payment Date the Lessee shall pay an amendment fee for the ratable benefit of the Lessor Parties (which fee shall be paid to the Agent for subsequent distribution to such parties) in an amount equal to 0.05% (5 basis points) of the outstanding Lessor Advances as of the effective date of this Amendment.

5. Amendment is an "Operative Agreement". This Amendment is an Operative Agreement and all references to an "Operative Agreement" in the Participation Agreement and the other Operative Agreements (including, without limitation, all such references in the representations and warranties in the Participation Agreement (as amended by this Amendment) and the other Operative Agreements) shall be deemed to include this Amendment.

6. Reaffirmation of Representations and Warranties. Each Credit Party represents and warrants as of the effective date of this Amendment that (a) each of the representations and warranties set forth in the Operative Agreements as amended by this Amendment are true and correct in all material respects as of the effective date of this Amendment (except representations and warranties which (x) expressly relate solely to an earlier date or time, in which case such representations and warranties were true and correct as of such earlier date or time or (y) are qualified by materiality or references to Material Adverse Effect, in which case such representations and warranties shall be true and correct in all respects as of the effective date of this Amendment) and (b) both before and immediately following the consummation of the transactions contemplated by this Amendment, no Lease Default or Lease Event of Default has occurred and is continuing.

7. Reaffirmation of Obligations. Each Credit Party (a) acknowledges and consents to all of the terms and conditions of this Amendment, (b) affirms all of its obligations, including, without limitation, all applicable guaranty obligations, under the Operative Agreements and (c) agrees that this Amendment and all documents executed in connection herewith do not operate to reduce or discharge such Credit Party's obligations under the Operative Agreements.

8. Additional Representations and Warranties. Each Credit Party hereby represents and warrants to the Lessor Parties and the Agent that (a) it has the legal power and authority to execute and deliver this Amendment, (b) the officer of such Credit Party executing this Amendment has been duly authorized to execute and deliver the same and bind such Credit Party with respect to the provisions hereof, (c) the execution and delivery hereof by the Credit Parties and the performance and observance by the Credit Parties of the provisions hereof and of the Operative Agreements (as amended hereby), do not violate or conflict with (i) the terms and conditions of the certificate or articles of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents of any Credit Party or (ii) any material Law or any material agreement or instrument or order, writ, judgment, injunction or decree to which any Credit Party is a party or by which it is bound or to which it is subject, or result in the creation or enforcement of any Lien, charge or encumbrance, whatsoever upon any property (now or hereafter acquired) of any Credit Party, and (d) this Amendment and the documents executed or to be executed by any Credit Party in connection herewith or therewith constitute valid and binding obligations of such Credit Party which is or will be a party thereto on and after its date of delivery thereof, enforceable in accordance with their respective terms, except to the extent that enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforceability of creditors' rights generally or limiting the right of specific performance and general concepts of equity.

9. Reaffirmation of Security Interests. Each Credit Party (a) affirms that each of the Liens granted in or pursuant to the Operative Agreements are valid and subsisting and (b) agrees that this Amendment shall in no manner impair or otherwise adversely affect any of the Liens granted in or pursuant to the Operative Agreements.

10. No Other Changes. Except as modified by this Amendment, all of the terms and provisions of the Operative Agreements shall remain in full force and effect. The execution, delivery and performance of this Amendment shall not constitute a waiver of any provision of, or operate as a waiver of any right, power or remedy of any Financing Party under any of the Operative Agreements.

11. Counterparts; Delivery. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all of which shall constitute one and the same instrument. It shall not be necessary in making proof of this Amendment to produce or account for more than one such counterpart for each of the parties hereto. Delivery by facsimile or other electronic imaging means by any of the parties hereto of an executed counterpart of this Amendment shall be as effective as an original executed counterpart hereof and shall be deemed a representation that an original executed counterpart hereof will be delivered.

12. Governing Law. This Amendment shall be a contract under the internal Laws of the State of New York and for all purposes shall be construed in accordance with the internal Laws of the State of New York without giving effect to its principles of conflict of laws, except to the extent that local law is properly applicable for matters of real property.

[Signature Pages Follow]

IN WITNESS WHEREOF, each of the parties hereto has caused a counterpart of this Amendment to be duly executed and delivered as of the date first above written.

CONSTRUCTION AGENT AND LESSEE:

AVDC, LLC (formerly, AVDC, Inc.), as the Construction Agent and the Lessee

By: /s/ Jonathan E. Ramsden

Name: Jonathan E. Ramsden

Title: Executive Vice President, Chief Financial and Administrative Officer

(signature pages continue)

GUARANTORS:

BIG LOTS STORES, LLC (formerly, Big Lots Stores, Inc.), as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS, INC., as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS ECOMMERCE LLC, as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS F&S, LLC (formerly, Big Lots F&S, Inc.), as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS MANAGEMENT, LLC (formerly, BLHQ LLC), as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

(signature pages continue)

BROYHILL, LLC, as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

CLOSEOUT DISTRIBUTION, LLC (formerly, Closeout Distribution, Inc.), as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

CONSOLIDATED PROPERTY HOLDINGS, INC., as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: President

CSC DISTRIBUTION LLC (formerly, CSC Distribution, Inc.), as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS STORES – CSR, LLC (formerly, C.S. Ross Company), as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

(signature pages continue)

DURANT DC, LLC, as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

GAFDC LLC, as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

GREAT BASIN LLC, as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

PAFDC LLC, as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

BIG LOTS STORES – PNS, LLC (formerly, PNS Stores, Inc.), as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

(signature pages continue)

WAFDC, LLC, as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

INFDC, LLC, as a Guarantor

By: /s/ Jonathan E. Ramsden
Name: Jonathan E. Ramsden
Title: Executive Vice President, Chief Financial and Administrative Officer

(signature pages continue)

LESSOR PARTIES:

WACHOVIA SERVICE CORPORATION, as the Lessor

By: /s/ John G McGowan
Name: John G McGowan
Title: Vice President

(signature pages continue)

BANKERS COMMERCIAL CORPORATION, as a Lease Participant

By: /s/ Manuel Gonzalez
Name: Manuel Gonzalez
Title: Vice President

(signature pages continue)

PNC BANK, NATIONAL ASSOCIATION (successor-by-merger to PNC Equipment Finance, LLC), as a Lease Participant

By: /s/ Craig A Zimmerman
Name: Craig A Zimmerman
Title: Senior Vice President

(signature pages continue)

AGENT:

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as the Agent

By: /s/ Andre Hester
Name: Andre Hester
Title: Director

(signature pages end)

EXHIBIT A

PARTICIPATION AGREEMENT

Dated as of November 30, 2017

among

AVDC, LLC (formerly, AVDC, Inc.), as
the Construction Agent and the Lessee,

THE VARIOUS ENTITIES WHICH ARE PARTIES HERETO FROM TIME TO TIME,
as the Guarantors,

WACHOVIA SERVICE CORPORATION,
as the Lessor,

THE VARIOUS BANKS AND OTHER LENDING INSTITUTIONS
WHICH ARE PARTIES HERETO FROM TIME TO TIME,
as the Lease Participants,

and

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as the Agent

TABLE OF CONTENTS

EXHIBITS

A	Form of Requisition - Section 4.2
B	Form of Officer's Certificate - Section 5.3(t)
C	Form of Secretary's Certificate - Section 5.3(u)
D	Form of Officer's Certificate - Section 5.3(v)
E	Form of Secretary's Certificate - Section 5.3(w)
F-1	Form of Officer's Certificate (Completion - First Certification) – Section 5.5
F-2	Form of Officer's Certificate (Completion - Second Certification) – Section 5.5
G	Form of Construction Agent Certificate – Section 5.17(b)(i)(A)
H	Form of Guarantor Joinder and Assumption Agreement – Section 6B.9
I	Form of Officer's Certificate (Permitted Acquisition) – Section 8.3B(e)(iii)(E)
J	Form of Officer's Certificate (Compliance) – Section 8.3C(c)
K	Form of Intercompany Subordination Agreement – Appendix A definition of "Intercompany Subordination Agreement"

SCHEDULES

APPENDICES

Appendix A - Rules of Usage and Definitions

PARTICIPATION AGREEMENT

THIS PARTICIPATION AGREEMENT dated as of November 30, 2017 (as amended, modified, extended, supplemented, restated and/or replaced from time to time, this "Agreement") is by and among AVDC, LLC (formerly, AVDC, Inc.), an Ohio limited liability company (the "Construction Agent" or "Lessee"); the various entities which are parties hereto from time to time as guarantors (individually, a "Guarantor" and collectively, the "Guarantors"); WACHOVIA SERVICE CORPORATION, a Delaware corporation (the "Lessor"); the various banks and other lending institutions which are parties hereto from time to time as lease participants (individually, a "Lease Participant" and collectively, the "Lease Participants"); and WELLS FARGO BANK, NATIONAL ASSOCIATION, a national banking association, as the agent for the Lessor Parties and, respecting the Security Documents, as the agent for the Secured Parties (in such capacity, the "Agent"). Capitalized terms used but not otherwise defined in this Agreement shall have the meanings set forth in Appendix A hereto.

WITNESSETH:

A. WHEREAS, subject to the terms and conditions of the Lessor Assignment Agreement (which agreement is effective concurrent with the effectiveness of this Agreement) and the other Operative Agreements, the Lessor shall irrevocably sell and assign to each Lease Participant, and each Lease Participant shall irrevocably purchase and assume from the Lessor, its Lessor Parties Interest;

B. WHEREAS, subject to the terms and conditions of this Agreement, the Agency Agreement and the other Operative Agreements, (i) the Lessor shall purchase a parcel of real property, which will (or may) have existing Improvements thereon, from one (1) or more third parties designated by the Construction Agent and (ii) the Lessor Parties shall fund the acquisition, installation, testing, use, development, construction, operation, maintenance, repair, refurbishment and restoration of the Property by the Construction Agent; and

C. WHEREAS, the Lessor desires to lease to the Lessee, and the Lessee desires to lease from the Lessor, the Property pursuant to this Agreement, the Lease and the other Operative Agreements;

NOW, THEREFORE, in consideration of the mutual agreements herein contained and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

SECTION 1.
THE FINANCING.

1.1 General.

Subject to the terms and conditions of the Lessor Assignment Agreement (which agreement is effective concurrent with the effectiveness of this Agreement) and the other Operative Agreements, the Lessor shall irrevocably sell and assign to each Lease Participant, and each Lease Participant shall irrevocably purchase and assume from the Lessor, its Lessor Parties Interest; provided, after the effectiveness of the Lessor Assignment Agreement, the Lessor shall still retain its own Lessor Parties Interest. Subject to the terms and conditions of this Agreement and the other Operative Agreements and in reliance on the representations and warranties of each of the parties hereto contained herein or made pursuant hereto, (x) each Lessor Party has agreed, respectively, to make its Lessor Advances from time to time in an aggregate amount of up to its Lessor Parties Commitment to permit the Lessor to acquire and develop the Property and (y) each Lessor Party has acquired (or in the case of the Lessor, has retained),

respectively, its Percentage Share in the aggregate Lessor Parties Ownership Interests of all the Lessor Parties.

1.2 Absolute and True Sale; No Fiduciary Duty of the Lessor.

The sale by the Lessor to the Lease Participants of the respective Lessor Parties Interests shall be an absolute and true sale. The obligations of the Lessor Parties are several obligations, not joint obligations. As a clarification and not in limitation of the foregoing, the Credit Parties shall have no recourse to any Lessor Party which funds its Lessor Advances and otherwise performs it obligations pursuant to the Operative Agreements regarding the failure by any other Lessor Party to fund its Lessor Advances or otherwise to perform its obligations pursuant to the Operative Agreements. Further, the Lease Participants shall have (a) no recourse to the Lessor in the event of failure of any Credit Party to pay Rent or any other amounts of any kind or type pursuant to any of the Operative Agreements and (b) no right to require the Lessor to repurchase any Lessor Parties Interest in any event.

Notwithstanding any provision to the contrary in any of the Operative Agreements and notwithstanding that the Lessor is a party to various of the Operative Agreements as the "Lessor" and is the holder of legal title to the Property, the Lessor shall not have any duties or responsibilities, except those expressly set forth in the Operative Agreements, or any fiduciary relationship with any Lease Participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities of the Lessor shall be read into this Agreement or any of the other Operative Agreements, or shall otherwise exist against the Lessor.

Each Lessor Party hereby appoints and authorizes the Lessor to take such action on its behalf and to exercise such powers under the Operative Agreements as are delegated to the Lessor by the terms hereof and thereof, together with such powers as are reasonably incidental thereto. As to any matters not expressly provided for by the Operative Agreements (including, without limitation, enforcement of the Operative Agreements), the Lessor shall not be required to exercise any discretion or take any action, but shall be required to act or to refrain from acting (and shall be fully protected in so acting or refraining from acting) upon the instructions of the Majority Secured Parties, and such instructions shall be binding upon all Lessor Parties; provided, however, that the Lessor shall not be required to take any action which exposes the Lessor to personal liability or which is contrary to the Operative Agreements or Applicable Law.

Regarding its Lessor Parties Ownership Interests, the Lessor shall have the same rights and powers as the other Lessor Parties have regarding their respective Lessor Parties Ownership Interests.

SECTION 2.
[Reserved].

SECTION 3.
SUMMARY OF TRANSACTIONS.

3.1 Operative Agreements.

On the date hereof, each of the respective parties hereto and thereto shall execute and deliver this Agreement, the Agency Agreement, the Lease, the Lessor Assignment Agreement, each applicable Mortgage Instrument and such other documents, instruments, certificates and opinions of counsel as agreed to by the parties hereto.

3.2 Property Purchase.

On the Property Closing Date and subject to the terms and conditions of this Agreement (a) each Lessor Party will make its Lessor Advance in accordance with Sections 1 and 5 of this Agreement, (b) the Lessor will purchase (to the extent not already owned by the Lessor) and acquire good and marketable title to a fee interest in the Property, pursuant to a Deed or Bill of Sale, as the case may be, (c) the Lessee and the Lessor shall execute and deliver the Lease and (d) the Term shall commence with respect to the Property.

3.3 Construction of Improvements; Commencement of Basic Rent.

Construction Advances will be made with respect to particular Improvements to be constructed and with respect to ongoing Work regarding the Equipment and construction of particular Improvements, in each case, pursuant to the terms and conditions of this Agreement, the Lessor Assignment Agreement and the Agency Agreement. The Construction Agent will act as a construction agent on behalf of the Lessor respecting the Work regarding the Equipment, the construction of such Improvements and the expenditures of the Construction Advances related to the foregoing. During the Construction Period, the Construction Agent shall have sole management responsibility over, and shall be solely responsible for, the construction, means, methods, sequences and procedures with respect to the Property. The Construction Agent shall promptly notify the Lessor upon Completion of the Improvements and the Lessee shall commence to pay Basic Rent as of the Rent Commencement Date.

3.4 Title to the Property.

For the avoidance of doubt, the title of the Lessor in and to the Property shall be held by and in the name of the Lessor and not as trustee or as agent for the Lessor Parties; provided, however, in the event of any sale or other disposition of the Property (including to the Lessee, its designee or a third party, including pursuant to any exercise of remedies pursuant to the Operative Agreements), the Lessor shall provide the proceeds from such sale or other disposition received by the Lessor to the Agent and the Agent shall apply such proceeds in accordance with the applicable provisions of Section 8.7 of the Participation Agreement.

SECTION 4.
THE CLOSINGS.

4.1 Initial Closing Date.

All documents and instruments required to be delivered on the Initial Closing Date shall be delivered at the offices of Moore & Van Allen, PLLC, Charlotte, North Carolina, or at such other location as may be determined by the Lessor, the Agent and the Lessee.

4.2 Initial Closing Date; Property Closing Date; Acquisition Advances; Construction Advances.

The Construction Agent shall deliver to the Agent a requisition (a "Requisition"), in the form attached hereto as EXHIBIT A or in such other form as is satisfactory to the Agent, in its reasonable discretion, no later than 12:00 noon (Charlotte, North Carolina time) (a) as of the Initial Closing Date regarding the Initial Closing Date Advance, (b) at least three (3) Business Days prior to the date of any proposed Lessor Advance in connection with each Acquisition Advance pursuant to Section 5.3 (except with respect to any Acquisition Advance made as of the Initial Closing Date, as such shall be subject to the consent of the Lessor Parties, in their reasonable discretion (as such consent from each Lessor Party shall be evidenced by its funding of its portion of the Acquisition Advance on the Initial Closing Date), in which

case such Requisition shall be delivered as of the Initial Closing Date) and (c) at least ten (10) days prior to the proposed Lessor Advance, in each case in connection with each Construction Advance pursuant to Section 5.4, including the Punchlist Advance pursuant to Section 5.11 (and in any event the delivery date for such Requisition shall be concurrent with or after the date as of which the Construction Agent has complied with the other delivery requirements of Section 5.17(b)(i)); provided, notwithstanding the foregoing provisions of this subsection (c) or any other provision of the Operative Agreements, (x) the Construction Agent shall not submit any Requisition for any Construction Advance until such time as (i) the Construction Consultant shall have completed its review of the initial Plans and Specifications and found the budget and the construction timeline contained in such Plans and Specifications to be satisfactory, as determined in the reasonable discretion of the Construction Consultant, and (ii) the Lessor Parties shall have completed their review of the initial Plans and Specifications, such that the Majority Secured Parties shall have found the budget and the construction timeline contained in such Plans and Specifications to be satisfactory, as determined in the reasonable discretion of the Majority Secured Parties, and (y) any Requisition for a Construction Advance submitted prior to the approval by the Construction Consultant and the Majority Secured Parties of the budget and the construction timeline contained in the initial Plans and Specifications (as referenced in the foregoing subsection (x)) shall be null and void and of no force or effect and the Lessor Parties shall have no obligation to fund any such Construction Advance as so requested pursuant to such a Requisition. Each Requisition shall (i) specify the desired amount of such Lessor Advance which in the aggregate must be in a minimum amount of $500,000 and (ii) specify the date of such Lessor Advance. Delivery of a Requisition shall be deemed to be a certification by the Lessee that all applicable conditions precedent (except those relating to performance by the Financing Parties) under Sections 5.3 and/or 5.4 of this Agreement shall have been satisfied by the date of the particular Lessor Advance, unless waived by the Agent (pursuant to instructions from the Majority Secured Parties). No Requisition shall be required for the funding by the Lessor Parties of Lessor Advances to pay Transaction Expenses or for the increase of Lessor Advances described in Section 5.1(b). As a clarification of the foregoing and not in limitation thereof, the Construction Agent shall be permitted to submit Requisitions (and the Lessor Parties shall fund Lessor Advances therefor, subject to the terms of the Operative Agreements) during the Construction Period for Property Costs, including with regard to (w) the costs and expenses required for construction of the Improvements in accordance with the Construction Documents, (x) certain amounts of Supplemental Rent (including, regarding the Property, for Taxes, utilities, insurance premiums, Casualty occurrences and Condemnation occurrences), (y) capitalized Lessor Yield on the Lessor Advances and (z) the Transaction Expenses. The Credit Parties shall ensure that no Requisition shall request any Lessor Advance for the acquisition of, or otherwise in any manner regarding, any Excluded Equipment.

SECTION 5.
FUNDING OF LESSOR ADVANCES; CONDITIONS PRECEDENT; REPORTING REQUIREMENTS ON COMPLETION DATE; THE LESSEE'S DELIVERY OF NOTICES; RESTRICTIONS ON LIENS.

5.1 General.

(a) When the Lessor Parties fund their respective Lessor Advances to the Agent pursuant to this Section 5 and Section 5A or if Agent elects to make such Lessor Advances available to the Construction Agent under Section 5A.8(b)(i), then, subject to the final sentence of this Section 5.1(a), the Agent shall distribute the Lessor Advances to the Construction Agent for application by the Construction Agent, in accordance with the Operative Agreements, as follows: (i) from time to time at the direction of the Construction Agent to allow the Lessor to acquire the Property, (ii) to permit the acquisition, testing, engineering, installation, development, construction, modification, design, and renovation, as applicable, of the Property (or components thereof) (including construction of the Improvements and acquisition and installation of the

Equipment), (iii) to pay Transaction Expenses and (iv) otherwise to pay such other amounts payable pursuant to the terms of the Operative Agreements. Notwithstanding the foregoing, if Lessor Advances have been made to the Agent to pay Transaction Expenses (including pursuant to Section 4.2 at a time when no Requisition has been submitted for such items), then (without funding such amounts to the Construction Agent) the Agent may pay such Transaction Expenses as the Agent shall reasonably determine or, if the Agent so desires, as directed by the Majority Secured Parties.

(b) On each Payment Date during the period prior to the Rent Commencement Date, and as long as no Event of Default shall have occurred and be continuing the Lessor Parties' Lessor Advances shall automatically be increased by the amount of Lessor Yield accrued and unpaid on the Lessor Advances for such period (except to the extent that at any time such increase would cause the Lessor Advances to exceed the Lessor Parties Commitment, in which case the Lessee shall pay such excess amount to the Lessor Parties in immediately available funds on the date the Lessor Parties Commitment was exceeded), and the Property Cost shall be automatically increased by such amount (for the avoidance of doubt, there shall be no such increase in the Property Cost regarding any such amounts otherwise paid by the Lessee in accordance with the foregoing).

5.2 Procedures for Funding.

(a) The Construction Agent shall designate the date for Lessor Advances hereunder in accordance with the terms and provisions hereof; provided, however, it is understood and agreed that no more than one (1) Lessor Advance (excluding any conversion and/or continuation of any Lessor Advances) may be requested during any calendar month and that no such designation shall be required for the funding of Transaction Expenses or for the increase of Lessor Advances described in Section 5.1(b); provided, further, except with respect to the Initial Closing Date Advance and any Acquisition Advance concurrent therewith, if any, the funding of Transaction Expenses or the increase of Lessor Advances described in Section 5.1(b), no Lessor Advance shall be requested on a date that is not a Payment Date; provided, further, the Initial Closing Date Advance and any concurrent Acquisition Advance must be approved by the Agent, in its reasonable discretion. The Construction Agent shall deliver a Requisition to the Agent in connection with each Lessor Advance, as specified in more detail in Section 4.2.

(b) Each Requisition shall: (i) be irrevocable, (ii) request funds in an amount that is not in excess of the total aggregate of the Available Lessor Parties Commitment at such time, and (iii) request that the Lessor Parties make Lessor Advances for the payment of Property Costs that (except with respect to the Punchlist Advance (as defined in Section 5.11)), have previously been incurred or are to be incurred on the date of such Lessor Advances to the extent such were not subject to a prior Requisition, in each case as specified in the Requisition.

(c) (i) Subject to the satisfaction of the conditions precedent set forth in Section 5.3 or 5.4, as applicable, unless waived by the Agent (pursuant to instructions from the Majority Secured Parties), and subject to Section 5.16 hereof with respect to the funding of Uninsured Force Majeure Losses, on the Initial Closing Date and on the Property Closing Date or the date on which the Construction Advance (other than as specified in Section 5.2(c)(ii) or, for the avoidance of doubt, such later date as is requested by the Agent pursuant to Section 5A.8(b)(i)) is to be made, as applicable, (A) each Lessor Party shall make a Lessor Advance to the Agent based on its Lessor Party Commitment in an amount such that the aggregate of all Lessor Advances at such time shall be one hundred percent (100%) of the Requested Funds specified in such Requisition plus (to the extent not so specified) any additional amount of Transaction Expenses, and (B) the total amount of the Lessor Advances made on such date shall (x) be advanced by the Agent to the Construction Agent and used to pay Property Costs (including Transaction Expenses)

within three (3) Business Days of the receipt by the Construction Agent of such Lessor Advance, (y) be advanced by the Agent on the date of such Lessor Advances to the Construction Agent to pay Property Costs (including Transaction Expenses), as applicable, previously incurred by the Construction Agent or the Lessee or (z) be applied by the Agent in accordance with the last sentence of Section 5.1(a).

(ii) Notwithstanding the foregoing, with respect to the final Construction Advance regarding the Construction Period Property only and subject to the satisfaction of the conditions precedent set forth in Section 5.4, each Lessor Party shall make a Lessor Advance such that the aggregate of its funded Property Cost following such final Construction Advance shall be an amount equal to its Commitment Percentage multiplied by one hundred percent (100%) of the aggregate Property Cost (exclusive of any amount of Property Cost attributable to any Lessor Advance for Transaction Expenses to the extent the funding of such Transaction Expenses was effected pursuant to the increase by any Lessor Party of its Lessor Parties Commitment pursuant to Section 5.8) for the Property, up to an aggregate advance amount equal to the aggregate of the Lessor Parties Commitments (exclusive of any amount of Property Cost attributable to any Lessor Advance for Transaction Expenses to the extent the funding of such Transaction Expenses was effected pursuant to the increase by any Lessor Party of its Lessor Parties Commitment pursuant to Section 5.8); provided, in the event that any Lessor Party shall have previously funded an amount in excess of the amount otherwise required to be funded by such Lessor Party under this Section 5.2(c)(ii) (any such amount, an "Overfunded Amount"), the Construction Agent shall pay (from amounts received in connection with such final Construction Advance) to such Lessor Party an amount equal to such Overfunded Amount.

(d) With respect to a Lessor Advance made to the Construction Agent to pay for Property Costs and not expended for such purpose on the date such Lessor Advance was made by the Lessor Parties to the Agent, such amounts shall be held by the Construction Agent until the applicable Property Closing Date or, if such Property Closing Date does not occur within three (3) Business Days of the date of the Construction Agent's receipt of such Lessor Advance, the Construction Agent shall return such amounts (together with Breakage Costs, if not returned on the applicable Payment Date) to the Agent and such amounts then shall be applied regarding the applicable Lessor Advances to repay the Lessor Parties and, subject to the terms hereof, thereafter such amounts so returned shall remain available for future Lessor Advances. Any such Lessor Advances held by the Construction Agent shall be subject to the Lien of the Lease and shall accrue Lessor Yield as a Lessor Advance from the date advanced to the Construction Agent until such amounts are repaid to the Lessor Parties. With respect to that portion of the purchase price for the Property constituting the Holdback Amount that is initially funded by Lessor Advances and thereafter disbursed by the escrow holder from time to time to reimburse the Construction Agent for amounts paid by the Construction Agent for ordnance-related matters (as more specifically described in Section 10(b) of the Purchase Agreement), the Construction Agent shall return such amounts (together with Breakage Costs, if not returned on the applicable Payment Date) to the Agent and such amounts then shall be applied regarding the applicable Lessor Advances to repay the Lessor Parties. Thereafter such amounts so returned shall remain available for future Lessor Advances in accordance with the terms of the Operative Agreements. Any such Lessor Advances held by the Construction Agent shall be subject to the Lien of the Lease and shall accrue Lessor Yield as a Lessor Advance from the date advanced to the Construction Agent until such amounts are repaid to the Lessor Parties. The foregoing provisions of this Section 5.2(d) shall not impair the right of the Construction Agent, in its final Requisition, to request the Punchlist Advance, as more particularly described in Section 5.11.

(e) All Operative Agreements which are to be delivered to any Lessor Party or the Agent shall be delivered to the Agent, on behalf of the Lessor Parties and the Agent, and such items (except for Bills of Sale, Deeds and chattel paper originals, with respect to which in each case there shall be only one original) shall be delivered with originals sufficient for the Lessor Parties and the Agent. All other items which are to be delivered to any Lessor Party or the Agent shall be delivered to the Agent, on behalf of the Lessor Parties and the Agent, and such other items shall be held by the Agent. To the extent any such other items are requested in writing from time to time by any Lessor Party, the Agent shall provide a copy of such item to the party requesting it.

(f) Notwithstanding the completion of any closing under this Agreement pursuant to Section 5.3 or 5.4, each condition precedent in connection with any such closing may be subsequently enforced by the Agent (unless such has been expressly waived in writing by the Agent (pursuant to instructions from the Majority Secured Parties)).

5.3 Conditions Precedent for the Lessor Parties and the Agent Relating to the Initial Closing Date and the Lessor Advances of Funds for the Acquisition of the Property.

The obligations (i) on the Initial Closing Date of the Lessor Parties and the Agent to enter into the transactions contemplated by this Agreement, including the obligation to execute and deliver the applicable Operative Agreements to which each is a party on the Initial Closing Date, (ii) on the Initial Closing Date of the Lessor Parties to make Lessor Advances in order to pay Property Costs constituted as Transaction Expenses (individually, an "Initial Closing Date Advance") and (iii) on the Property Closing Date of the Lessor Parties to make Lessor Advances in order to pay (or reimburse the Construction Agent or the Lessee for the payment of) the Property Acquisition Cost of the Property (individually, an "Acquisition Advance"), in each case (with regard to the foregoing Sections 5.3(i), (ii) and (iii)) are subject to the satisfaction or waiver by the Agent (pursuant to instructions from the Majority Secured Parties) of the following conditions precedent on or prior to the Initial Closing Date or the Property Closing Date, as the case may be (to the extent such conditions precedent require the delivery of any agreement, certificate, instrument, memorandum, legal or other opinion, appraisal, commitment, title insurance commitment, Lien report or any other document of any kind or type, such shall be in form and substance satisfactory to the Agent, in its reasonable discretion; notwithstanding the foregoing, the obligations of each party shall not be subject to any conditions contained in this Section 5.3 which are required to be performed by such party) (The parties to this Agreement acknowledge and agree that the conditions precedent described in this Section 5.3 pertaining to the Initial Closing Date were satisfied or waived as of the Initial Closing Date.):

(a) the correctness in all material respects of the representations and warranties of the parties to this Agreement contained herein, in each of the other Operative Agreements and in each certificate delivered pursuant to any Operative Agreement on each such date (except representations and warranties which (i) expressly relate solely to an earlier date or time, in which case such representations and warranties were true and correct as of such earlier date or time or (ii) are qualified by materiality or references to Material Adverse Effect, which such representations and warranties shall be true and correct in all respects as of such date);

(b) the performance by the parties to this Agreement of their respective agreements contained herein and in the other Operative Agreements to be performed by them on or prior to each such date;

(c) the Agent shall have received a fully executed counterpart copy of the Requisition, appropriately completed;

(d) with respect to the Property Closing Date only, title to the Property shall conform to the representations and warranties set forth in Section 6.1(ii) hereof;

(e) with respect to the Property Closing Date only, the Construction Agent or the Lessee shall have delivered to the Lessor a copy of the Deed respecting the Land and existing Improvements (if any) as are being acquired on each such date with the proceeds of the Lessor Advances;

(f) there shall not have occurred and be continuing any Default or Event of Default and no Default or Event of Default will have occurred after giving effect to the Lessor Advances requested by each such Requisition;

(g) with respect to the Property Closing Date only, the Construction Agent or the Lessee shall have delivered to the Agent title insurance commitments to issue policies respecting the Property in an amount no less than the Property Cost, with such endorsements as the Agent deems necessary, in its reasonable discretion, and which are customary for transactions of this type and in the applicable state, in favor of the Lessor and the Agent from a title insurance company selected by the Construction Agent or the Lessee and acceptable to the Agent, in its reasonable discretion, but only with such title exceptions thereto that are Permitted Liens, and the Construction Agent or the Lessee shall have delivered to the Agent a current title report;

(h) with respect to the Property Closing Date only, the Construction Agent or the Lessee shall have delivered to the Agent a Phase I environmental site assessment (conducted pursuant to ASTM E1527-13) respecting the Property certified to the Agent and prepared by an independent recognized professional selected by the Construction Agent or the Lessee and acceptable to the Agent, in its reasonable discretion, and evidencing no Environmental Condition with respect to which there is more than a remote risk of loss;

(i) with respect to the Property Closing Date only, (i) the Construction Agent or the Lessee shall have delivered to the Agent an ALTA survey (with a flood hazard certification) respecting the Property certified to the Agent and the Lessor prepared by (A) an independent recognized professional selected by the Construction Agent or the Lessee and acceptable to each of the Agent and the Lessor, in its reasonable discretion, and (B) in a manner and including such information as is required by the Agent and (ii) the Agent shall have obtained the necessary documentation concerning flood hazard certification;

(j) with respect to the Property Closing Date only, counsel for the Lessee or the Construction Agent admitted in the state where the Property is located and otherwise acceptable to the Agent shall have issued to the Lessor Parties and the Agent its legal opinion addressing such issues as identified by the Agent, in such form as is reasonably acceptable to the Agent, with respect to local law real property issues respecting the law where the Property is located;

(k) with respect to the Property Closing Date only, the Lessee shall have caused to be delivered to the Agent a Mortgage Instrument in respect of the Property (in such form as is acceptable to the Agent, with revisions as necessary to conform to statutory recording requirements and customary practice under applicable state law) and UCC Financing Statements respecting the Property, all in recordable form;

(l) with respect to the Property Closing Date only, the Lessee shall have delivered to the Agent the Lease and a memorandum thereof (or short form lease), such memorandum or short form lease to be in the form attached to the Lease as Exhibit B or in such other form as is acceptable

to the Agent, with modifications as necessary to conform to applicable state law, and in form suitable for recording;

(m) immediately after and giving effect to the applicable Lessor Advances contemplated hereby, the aggregate outstanding Lessor Advances do not exceed the aggregate Lessor Parties Commitment;

(n) [Reserved];

(o) the Available Lessor Parties Commitment shall be sufficient for Completion of the Construction Period Property on or before the Construction Period Termination Date;

(p) with respect to the Property Closing Date only, the Construction Agent or the Lessee shall have provided to the Agent a certificate of insurance evidencing the insurance with respect to the Property as required by the Lease or the Agency Agreement, as the case may be;

(q) the Agent shall have received (i) Uniform Commercial Code Lien searches regarding the Lessee and Tax Lien searches and judgment Lien searches regarding each of the Credit Parties in such jurisdictions as determined by the Agent by a nationally recognized search company acceptable to the Agent, in its reasonable discretion, (ii) the Liens referenced in such Lien searches which are objectionable to the Agent shall have been either removed or otherwise handled in a manner satisfactory to the Agent, in its reasonable discretion, and (iii) a good standing certificate (or local equivalent) regarding the Lessee from the appropriate office of the respective state where the Property is located;

(r) all Taxes, fees and other charges in connection with the execution, delivery, recording, filing and registration of the Operative Agreements and/or documents related thereto as the parties have agreed to record or file (and in any event all such Taxes, fees and other charges in connection with any and all UCC financing statements and fixture filings) and the payment of the title insurance premiums shall have been paid or provisions for such payment shall have been made to the satisfaction of the Agent, in its reasonable discretion;

(s) each of the Operative Agreements to be entered into on such date shall have been duly authorized, executed and delivered by the parties thereto, enforceable against such parties, and shall be in full force and effect, and the Agent shall have received a fully executed copy of each of the Operative Agreements;

(t) as of the Initial Closing Date only, the Agent shall have received an Officer's Certificate, dated as of the Initial Closing Date, of the Lessee in the form attached hereto as EXHIBIT B or in such other form as is acceptable to the Agent, in its reasonable discretion, stating that (i) each and every representation and warranty of each Credit Party contained in the Operative Agreements to which it is a party is true and correct in all material respects on and as of the Initial Closing Date; (ii) no Default or Event of Default has occurred and is continuing; (iii) each Operative Agreement to which any Credit Party is a party is in full force and effect with respect to it; and (iv) each Credit Party has duly performed and complied with all covenants, agreements and conditions contained herein or in any Operative Agreement required to be performed or complied with by it on or prior to the Initial Closing Date;

(u) as of the Initial Closing Date only, the Agent shall have received (i) a certificate of the Secretary or an Assistant Secretary of each Credit Party, dated as of the Initial Closing Date, in the form attached hereto as EXHIBIT C or in such other form as is acceptable to the Agent, in its

reasonable discretion, attaching and certifying as to (A) its articles of incorporation or other charter documents, certified as of a recent date by the Secretary of State of its state of formation, (B) its by-laws or other similar document, certified as of a recent date by an appropriate officer of the Credit Party, (C) the resolutions duly authorizing the execution, delivery and performance by it of each of the Operative Agreements to which it is or will be a party and (D) the incumbency and signature of persons authorized to execute and deliver on its behalf the Operative Agreements to which it is or will be a party and (ii) a good standing certificate (or local equivalent) from the appropriate office of the respective states where such Credit Party is formed and where the principal place of business of such Credit Party is located as to its good standing in each such state;

(v) as of the Initial Closing Date only, the Agent shall have received an Officer's Certificate of the Lessor dated as of the Initial Closing Date in the form attached hereto as EXHIBIT D or in such other form as is acceptable to the Agent, stating that (A) each and every representation and warranty of the Lessor contained in the Operative Agreements to which it is a party is true and correct in all material respects on and as of the Initial Closing Date, (B) each Operative Agreement to which the Lessor is a party is in full force and effect with respect to it and (C) the Lessor has duly performed and complied with all covenants, agreements and conditions contained herein or in any Operative Agreement required to be performed or complied with by it on or prior to the Initial Closing Date;

(w) as of the Initial Closing Date only, the Agent shall have received (i) a certificate of the Secretary or an Assistant Secretary of the Lessor in the form attached hereto as EXHIBIT E or in such other form as is acceptable to the Agent, attaching and certifying as to (A) its articles of incorporation or other equivalent charter documents certified as of a recent date by the Secretary of State of its state of formation, (B) its by-laws or other similar document, certified as of a recent date by an appropriate officer of the Lessor, (C) the resolutions duly authorizing the execution, delivery and performance by the Lessor of each of the Operative Agreements to which it is or will be a party, and (D) the incumbency and signature of persons authorized to execute and deliver on its behalf the Operative Agreements to which it is a party and (ii) a good standing certificate (or local equivalent) from the appropriate office of the state where the Lessor is incorporated and where the principal place of business of the Lessor is located as to good standing in each such state;

(x) as of the Initial Closing Date only, counsel for the Lessor acceptable to the Agent shall have issued (i) to the Lessee, the Guarantors, the Lessor Parties and the Agent its legal opinion addressing such issues as identified by the Agent, in such form as is reasonably acceptable to the Agent and (ii) to the Lessor its legal opinion addressing such true sale issues as identified by the Lessor, in such form as is reasonably acceptable to the Lessor;

(y) as of the Initial Closing Date only, counsel for the Credit Parties acceptable to the Agent shall have issued to the Lessor Parties and the Agent their legal opinion, addressing such issues as identified by the Agent, in such form as is reasonably acceptable to the Agent;

(z) no law or regulation shall prohibit, and no order, judgment or decree of any court or governmental body, agency or instrumentality shall prohibit or enjoin any Lessor Party from making the Lessor Advances;

(aa) immediately after and giving effect to the applicable Lessor Advances contemplated hereby, the aggregate outstanding Lessor Advances do not exceed the Lessor Parties Commitment;

(bb) with respect to the Property Closing Date only, the Lessor shall have arranged to have an RVI Policy issued with respect to the Property from an insurer selected by the Lessor; provided, the premium for such RVI Policy shall not exceed a reasonable and customary amount;

(cc) with respect to the Property Closing Date only, the Agent shall have received an Appraisal regarding the Property certified to the Agent and the Lessor prepared by (i) an independent recognized professional selected by the Agent and (ii) in a manner and including such information as is required by the Agent;

(dd) the Construction Agent shall have delivered to the Agent a copy of the Plans and Specifications for the Improvements respecting the Property, certified by an officer of the Construction Agent; and

(ee) the Construction Agent shall have delivered to the Agent a copy of the Construction Budget respecting the Property, certified by an officer of the Construction Agent.

5.4 Conditions Precedent for the Lessor Parties and the Agent Relating to the Lessor Advances of Funds after the Acquisition Advance.

The obligations of the Lessor Parties to make Lessor Advances to permit the acquisition, testing, engineering, installation, development, construction, modification, design, and renovation, as applicable, of the Property (or components thereof) in accordance with the terms of the Agency Agreement and the other Operative Agreements (including construction of the Improvements and acquisition and installation of the Equipment) and the funding of Off-Site Construction Costs are subject to the satisfaction or waiver of the following conditions precedent (to the extent such conditions precedent require the delivery of any agreement, certificate, instrument, memorandum, legal or other opinion, appraisal, commitment, title insurance commitment, Lien report or any other document of any kind or type, such shall be in form and substance satisfactory to the Agent, in its reasonable discretion; notwithstanding the foregoing, the obligations of each party shall not be subject to any conditions contained in this Section 5.4 which are required to be performed by such party):

(a) the correctness in all material respects on such date (except representations and warranties which (i) expressly relate solely to an earlier date or time, in which case such representations and warranties were true and correct as of such earlier date or time or (ii) are qualified by materiality or references to Material Adverse Effect, which such representations and warranties shall be true and correct in all respects as of such date) of the representations and warranties of the parties to this Agreement contained herein, in each of the other Operative Agreements and in each certificate delivered pursuant to any Operative Agreement;

(b) the performance by the parties to this Agreement of their respective agreements contained herein and in the other Operative Agreements to be performed by them on or prior to each such date unless waived in accordance with Section 12.4 of this Agreement;

(c) the Agent shall have received a fully executed counterpart of the relevant Requisition, appropriately completed;

(d) (i) the Available Lessor Parties Commitment will be sufficient to finalize Completion of the Construction Period Property and (ii) construction of the Property is on track to be completed in accordance with the Construction Documents on or prior to the Construction Period Termination Date;

(e) there shall not have occurred and be continuing any Default or Event of Default, and no Default or Event of Default will have occurred after giving effect to the Construction Advance requested by the applicable Requisition;

(f) the title insurance policy delivered in connection with the requirements of Section 5.3(g) shall provide for (or shall be endorsed to provide for) insurance in an amount at least equal to the maximum total Property Cost indicated by the Construction Budget (as adjusted from time to time, including with regard to any additional Lessor Advances pursuant to Section 5.16) and there shall be no title change or exception objectionable to the Agent;

(g) all Taxes, fees and other charges in connection with the execution, delivery, recording, filing and registration of the Operative Agreements (and in any event all such Taxes, fees and other charges in connection with any and all UCC financing statements and fixtures filings) and the cost of any title endorsement or update shall have been paid or provisions for such payment shall have been made to the satisfaction of the Agent, in its reasonable discretion;

(h) [Reserved];

(i) [Reserved];

(j) immediately after and giving effect to the applicable Lessor Advances contemplated hereby, the aggregate outstanding Lessor Advances do not exceed the aggregate Lessor Parties Commitment;

(k) no law or regulation shall prohibit, and no order, judgment or decree of any court or governmental body, agency or instrumentality shall prohibit or enjoin any Lessor Party from making the Lessor Advances;

(l) the requirements of Section 5.17 shall have been satisfied;

(m) with respect to any Lessor Advances not contemplated in the original Construction Budget, including by the Lessor pursuant to Section 5.16, the Lessee shall have caused to be delivered to the Agent an amendment to the Mortgage Instrument (as is acceptable to the Agent, with revisions as necessary to conform to statutory recording requirements and customary practice under Applicable Law); and

(n) submission of the Requisition shall constitute a certification by the Construction Agent that, in accordance with the Construction Documents, (i) Completion is on schedule to be effected by the Construction Period Termination Date and (ii) Completion is on schedule to be effected with the remaining Available Lessor Parties Commitment.

5.5 Additional Reporting and Delivery Requirements on Completion Date.

(a) As the Property nears Completion, the Construction Agent shall coordinate with the Agent regarding the date to be designated as the Completion Date, and no later than the Completion Date, the Construction Agent shall notify the Agent of the exact date of the Completion Date.

(b) Within three Business Days after the Completion Date, the Construction Agent shall deliver to the Agent an Officer's Certificate in the form attached hereto as EXHIBIT F- 1 or

in such other form as is acceptable to the Agent attaching the temporary certificate of occupancy for the Property and specifying:

(i) the address for the Property;

(ii) the Completion Date;

(iii) the aggregate Property Cost; and

(iv) that all representations and warranties of the Credit Parties in each of the Operative Agreements and each certificate delivered pursuant thereto are true and correct in all material respects as of the Completion Date (except representations and warranties which (i) expressly relate solely to an earlier date or time, in which case such representations and warranties were true and correct as of such earlier date or time or (ii) are qualified by materiality or references to Material Adverse Effect, which such representations and warranties shall be true and correct in all respects as of such date).

(c) Within thirty (30) days after the Completion Date:

(i) the Construction Agent shall deliver to the Agent an Officer's Certificate in the form attached hereto as EXHIBIT F-2 or in such other form as is acceptable to the Agent attaching:

(A) detailed, itemized documentation supporting the asserted Property Cost figures; and

(B) unconditional waivers of Lien covering all work and materials regarding the Property by the applicable general contractor or any subcontractors or suppliers;

(ii) the Construction Agent shall deliver or cause to be delivered to the Agent (unless previously delivered to the Agent) originals of the following relating to the Property, each of which shall be in form and substance acceptable to the Agent, in its reasonable discretion:

(A) a title insurance endorsement regarding the title insurance policy delivered in connection with the requirements of Section 5.3(g), but only to the extent such endorsement is necessary to provide for insurance in an amount at least equal to the maximum total Property Cost and, if endorsed, the endorsement shall not include a title change or exception that has or would reasonably be expected to have a Material Adverse Effect;

(B) an as-built survey for the Property;

(C) insurance certificates respecting the Property as required hereunder and under the Lease;

(D) at the Lessor's prior written request, an Appraisal regarding the Property; and

(E) with respect to any Lessor Advances not contemplated in the original Construction Budget, including by the Lessor pursuant to Section 5.16, the Lessee shall have caused to be delivered to the Agent an amendment to the Mortgage Instrument (as is acceptable to the Agent, with revisions as necessary to conform to statutory recording requirements and customary practice under Applicable Law); and

(iii) the Construction Agent covenants and agrees that the recording fees, documentary stamp taxes or similar amounts required to be paid in connection with the related Mortgage Instrument shall have been paid in an amount required by Applicable Law, subject, however, to the obligations of the Lessor Parties to fund such costs to the extent required pursuant to Section 7.1.

(d) The Agent shall have the right to contest the information contained in either of the foregoing Officer's Certificate (to be delivered pursuant to Sections 5.5(b) and 5.5(c)(i), as applicable), with any such determination made by the Agent in good faith being determinative, absent manifest error; provided that, the Agent and the Construction Agent shall work in good faith to resolve any such contest and, to the extent that the Agent contests the information contained in either such Officer's Certificate and the Credit Parties are diligently working in good faith with the Agent to resolve any such contest, notwithstanding anything contained herein or in any other Operative Agreement to the contrary, no Event of Default shall be created solely by any such contest for a period not to exceed thirty (30) days from the date the Agent provides written notice to the Construction Agent of such contest; provided, further, that notwithstanding that any such particular contest has not been resolved in such period of thirty (30) days, if it is reasonable to expect that such contest may be subsequently resolved with additional diligent effort by the Credit Parties and the Agent, and to the extent the Credit Parties continue to work diligently in good faith with the Agent to resolve such contest, then the Credit Parties may continue to work with the Agent to resolve such contest for a period of an additional fifteen (15) days; provided, further, if such contest has not been resolved in the period of the additional fifteen (15) days, then the contested information shall constitute a breach of the Construction Agent's obligation to have delivered such information to the Agent in accordance with the terms of this Agreement.

5.6 Restrictions on Liens.

On the Property Closing Date, the Construction Agent or the Lessee shall cause the Property acquired by the Lessor to be free and clear of all Liens except those referenced in Section 6.1(cc)(i) and (ii). On the date the Property is either sold to a third party in accordance with the terms of the Operative Agreements or, pursuant to Section 21.1(a) of the Lease, retained by the Lessor, the Lessee shall cause the Property to be free and clear of all Liens (other than Lessor Liens and such other Liens that are expressly set forth as title exceptions on the title commitment issued under Section 5.3(g) with respect to the Property (except to the extent that the Agent, prior to the time of the Property Closing Date, has given written notice to the Lessee that the Agent reasonably believes that any such title exceptions may materially impair the potential resale value of the Property), Liens for Taxes that are not yet due and such other Liens on the Property theretofore approved by the required Financing Parties in accordance with the Operative Agreements).

5.7 Payments.

Subject to Section 5.1(b), all payments of Lessor Advances, Lessor Yield, Fees and other amounts to be made by the Credit Parties under this Agreement or any other Operative Agreements to any of the Financing Parties (excluding Excepted Payments which shall be paid directly to the party to whom such

payments are owed) shall be made to the Agent at the office designated by the Agent from time to time in Dollars and in immediately available funds, without set-off, deduction (except for deduction or withholding of Impositions as required by Applicable Law, but subject to Section 11.2), or counterclaim. Excluding Excepted Payments paid to the party to whom such payments are owed and payments received from the Agent, the Financing Parties agree to pay to the Agent, at the office designated by the Agent from time to time and in the currency received, all other amounts received by any Financing Party from any Credit Party or otherwise with respect to the Property. Subject to the definition of "Lessor Yield Period" in Appendix A attached hereto, whenever any payment under this Agreement or any other Operative Agreements shall be stated to be due on a day that is not a Business Day, such payment may be made on the next succeeding Business Day, and such extension of time in such case shall be included in the computation of Lessor Yield, Fees or other amounts payable pursuant to the Operative Agreements, as applicable and as the case may be.

5.8 Unilateral Right to Increase the Lessor Parties Commitment.

Notwithstanding any other provision of any Operative Agreement or any objection by any Person (including any objection by the Lessee or the Construction Agent), each Lessor Party, in its sole discretion, may unilaterally elect to increase its Lessor Parties Commitment in order to fund Transaction Expenses. The Credit Parties shall promptly cause to be taken, executed, acknowledged or delivered, at the sole expense of the Lessee, all such further acts, conveyances, documents and assurances as the Financing Parties may from time to time reasonably request in order to carry out and effectuate the intent and purposes of this Section 5.8 (including the preparation and execution of a Requisition for amounts funded by any of the Lessor Parties as a result of any increase in the Lessor Parties Commitment pursuant to this Section 5.8).

5.9 Maintenance of the Lessee as a Wholly-Owned Entity.

From the Initial Closing Date and thereafter until such time as all obligations of all Credit Parties under the Operative Agreements have been satisfied and performed in full, the Parent shall, unless otherwise consented to by the Agent and the Lessor Parties, retain the Lessee as a Wholly-Owned Entity, which, for the avoidance of doubt, shall not prohibit any transaction otherwise permitted under Section 8.3B or Section 10.1 so long as, after giving effect thereto, any successor, transferee or assignee which becomes the Lessee in any such transaction is a Wholly-Owned Entity.

5.10 Percentage Share.

The Percentage Share for each Lessor Party shall be determined from time to time by the Agent in good faith, with such determination by the Agent being conclusive and binding on each Lessor Party and the Credit Parties, absent manifest error. The Agent shall maintain records regarding the Percentage Share (which may be set forth in the Register), and promptly upon any such change regarding the Percentage Share of any Lessor Party, the Agent shall provide a report to the Lessor Parties detailing the then current Percentage Shares of all the Lessor Parties.

5.11 Final Advance for Punch List Items.

Prior to the Construction Period Termination Date, the Construction Agent in its Requisition for the final Advance may request amounts to pay for punch list items for the Property that have not been completed at such time and that may not be completed until after the Completion Date (such Advance being referred to herein as the "Punchlist Advance"). With regard to such punch list items, the Construction Agent shall reference in Section 1 of the applicable Requisition under "Party to Whom Amount is Owed" the entry "contractors regarding punch list items for the Property" and under "Amount Owed (in U.S. Dollars)" the requested aggregate amount for such punch list items. Concurrent with delivery of such Requisition for the Punchlist Advance, the Construction Agent shall provide to the Agent (for prompt

delivery to the Lessor Parties) a listing (in reasonable detail) of the anticipated expense items to be paid with the Punchlist Advance. Funding of the Punchlist Advance for punch list items for the Property will be subject to the conditions precedent referenced in Section 5.4. Prior to the Completion Date, the Construction Agent shall use all such Punchlist Advance amounts only for punch list items for the Property. After the Completion Date, the Lessee shall use all such Punchlist Advance amounts only for punch list items for the Property. All punch list items for the Property so completed shall be completed in accordance with the Plans and Specifications. Not less than five (5) Business Days prior to the Payment Date next occurring after the twelve (12) month anniversary of the Completion Date (the "Punchlist Deadline"), the Lessee shall return to the Agent any and all Advance amounts previously funded for such punch list items for the Property to the extent such amounts have not been used at such time to pay for punch list items for the Property; provided, however, that if the Lessee is unable to complete such punchlist items prior to the Punchlist Deadline despite its diligent efforts to do so, the Lessee, may, by written request to the Agent, extend the Punchlist Deadline by up to three (3) additional months upon the Agent's written approval, not to be unreasonably withheld, conditioned or delayed. Within thirty (30) days of the Lessee either (x) spending all of the Punchlist Advance or (y) returning any unspent portion of the Punchlist Advance to the Agent (in the case of both subsections (x) and (y), in accordance with this Section 5.11), the Lessee shall provide to the Agent (for prompt delivery to the Lessor Parties) a listing (in reasonable detail) of the actual expense items paid with the Punchlist Advance. On such Payment Date following the Punchlist Deadline, the Agent shall distribute such returned amounts ratably to the Lessor Parties in accordance with Section 8.7(b)(vi).

5.12 Limitation on Requested Lessor Advances regarding Available Lessor Parties Commitment.

Lessee shall not submit any Requisition or any other request for funding pursuant to the Operative Agreements requesting any Lessor Advance in excess of the Available Lessor Parties Commitment. No Lessor Party shall be obligated to fund any Lessor Advance in excess of its Lessor Parties Commitment.

5.13 Limitation on Purchase Option under the Lease and the Agency Agreement.

The Lessee (or its designee) may purchase the Property from time to time pursuant to the Purchase Option in the Lease to the extent the Lessee (or its designee) pays the Termination Value; provided, that, notwithstanding the foregoing, Lessee may not exercise the Purchase Option to purchase the Property as a Lessee selected cure to an Event of Default while the Property is a Construction Period Property or as a voluntary election by the Lessee while the Property is a Construction Period Property. The limitations imposed pursuant to this Section 5.13 shall also apply with respect to any purchase by the Lessee (or its designee) of the Property while the Property is a Construction Period Property pursuant to Section 17.10 of the Lease or pursuant to the Agency Agreement.

5.14 Environmental Closure Reporting.

On or prior to the Construction Period Termination Date, if the California Department of Toxic Substances Control (the "DTSC") has not issued a determination letter that no further remedial action is required with respect to known environmental conditions at the Property, or has not provided written confirmation that such letter is not required, then the Lessee shall arrange for issuance by an independent environmental consultant (who has not worked for the Lessee in the past and is reasonably acceptable to the Majority Secured Parties) of an opinion that all known environmental conditions on the Property comply with Acceptable Regulatory Standards, which shall be delivered no later than sixty (60) days after the Construction Period Termination Date. The consultant shall issue to the Lessor Parties and the Agent a reliance letter containing the consultant's written opinion regarding this matter.

5.15 Final Certificate of Occupancy.

Within thirty (30) of obtaining the same and in any event within six (6) months of the Rent Commencement Date, the Lessee shall provide to the Agent a true and correct copy of the final certificate of occupancy or its equivalent for the Property.

5.16 Special Provision Regarding the Funding of Uninsured Force Majeure Losses.

Notwithstanding any provision herein or in any other Operative Agreement to the contrary, the parties hereto agree that, upon the occurrence of a Force Majeure Event with respect to the Construction Period Property and subject to the satisfaction of the conditions for a Construction Advance set forth in Section 5.4, the Lessor Parties shall make Lessor Advances (in addition to any Lessor Advances otherwise made pursuant to the provisions of Section 5.2(c)) in an amount sufficient to pay any Uninsured Force Majeure Loss attributable to such Force Majeure Event, and such amount so advanced shall be added to the Property Cost for the Construction Period Property.

5.17 Construction Consultant.

(a) The Agent shall be permitted to hire the Construction Consultant to act as the Agent's agent (i) to review the submissions by or on behalf of the Construction Agent in connection with the Requisitions and (ii) to oversee construction of the Property. The Construction Consultant may itself provide any or all such services or, in its discretion, the Construction Consultant may contract with one or more third parties to provide any or all such services. Promptly after the Initial Closing Date, the Agent shall, or shall cause the Construction Consultant to, provide the notice information for the Construction Consultant to the Construction Agent. Upon submission by the Agent (on behalf of the Construction Consultant) to the Construction Agent of invoices (including payment instructions) for the services of the Construction Consultant from time to time, the Construction Agent shall include all such invoiced amounts in its next Requisition, unless any such invoice is submitted less than three (3) Business Days prior to the date of submission of the Requisition to the Agent in which case such invoiced amounts shall be included in the next following Requisition. Without the need for any further action, all such invoiced amounts from the Construction Consultant shall constitute Transaction Expenses and once those invoiced amounts are paid, they shall be added to the Property Cost. From and after the Initial Closing Date Advance and the Acquisition Advance and as otherwise more fully described below, and not in limitation of the other conditions precedent of Section 5.4, the Lessor Parties shall have no obligation to fund a Requisition unless the Construction Consultant has approved the funding of such Requisition, such approval not to be unreasonably withheld or delayed.

(b) As referenced in Section 5.4(l) and in addition to the other requirements of Section 5.4, the obligations of the Lessor Parties to make Lessor Advances to the Construction Agent to permit the acquisition, testing, engineering, installation, development, construction, modification, design, and renovation, as applicable, of the Property (or components thereof) in accordance with the terms of the Agency Agreement and the other Operative Agreements (including construction of the Improvements and acquisition and installation of the Equipment) are subject to the satisfaction or waiver of the following conditions precedent (to the extent such conditions precedent require the delivery of any agreement, certificate, instrument, memorandum, legal or other opinion, appraisal, commitment, title insurance commitment, Lien report or any other document of any kind or type, such shall be in form and substance satisfactory to the Agent, in its reasonable discretion; notwithstanding the foregoing, the obligations of each party shall not be subject to any conditions contained in this Section 5.17 which are required to be performed by such party):

(i) On or prior to the Monthly Notice Date, the Construction Agent shall furnish or cause to be furnished to the Agent and the Construction Consultant the following documents covering each disbursement included in a Requisition and in each case with regard to the Property, in form and substance satisfactory to the Agent (and for this purpose, it is acknowledged that the Agent may consult with the Construction Consultant to determine what is satisfactory), in its reasonable discretion:

(A) a completed certificate of the Construction Agent in the form attached hereto as EXHIBIT G or in such other form as is satisfactory to the Agent, in its reasonable discretion, (the "Construction Agent Certificate"), and a completed Requisition, each executed by an authorized representative of the Construction Agent;

(B) a completed standard AIA Form G702 and Form G703 signed by the applicable general contractor and the applicable architect, and sworn statements and conditional waivers of Lien covering all work to be paid with the proceeds of the currently contemplated Lessor Advances, which shall become unconditional upon such payment (provided that the foregoing shall not apply to amounts requested in the Punchlist Advance made pursuant to Section 5.11);

(C) fully executed copies of any proposed or executed change orders on standard AIA Form G701 form or, if substantively similar, the form used by the general contractor, or other form acceptable in writing to the Agent, in its reasonable discretion, which have not been previously furnished and which require and are not valid without the signatures of the general contractor and the Construction Agent;

(D) copies of all permits and other Governmental Actions required under Law to be obtained and not delivered to the Agent and the Construction Consultant prior thereto, and in any event copies of all such permits and other Governmental Actions not previously delivered and then needed in connection with the Property;

(E) within ten (10) days of execution, executed copies of all subcontracts and supplier contracts executed to date between the applicable general contractor and a subcontractor or a supplier, as applicable, in each case that provides for an aggregate contract price equal to or greater than $1,000,000;

(F) such other instruments, documents and information as the Construction Consultant may reasonably request, including unconditional waivers of Lien covering all work by the applicable general contractor or any subcontractors or suppliers (to the extent such subcontractor or suppliers meet the $1,000,000 threshold of the foregoing subsection (E)) paid with the proceeds of the prior Lessor Advances;

(G) an updated Construction Budget, showing the sources and uses by cost category in form acceptable to the Agent, in its reasonable discretion and any modification to the Plans and Specifications; and

(H) regarding each requested disbursement of Transaction Expenses, invoices which (1) are in writing, (2) contain the applicable vendor's name and

address, on letterhead if available, (3) contain the Construction Agent's name and the location of the project and (4) contain an invoice number and amount (provided that the foregoing shall not apply to amounts requested in the Punchlist Advance made pursuant to Section 5.11).

(ii) In connection with the review of each requested Lessor Advance under the applicable Requisition, the Agent and the Construction Consultant shall have received a report, satisfactory to each of them, in their reasonable discretion, of an inspection consultant to be hired by the Construction Consultant, reflecting such inspection consultant's periodic site observation and review of the documents substantiating the Property Costs being requested pursuant to the applicable Requisition, including progress and quality of the Improvements, the construction schedule and related Construction Documents.

(iii) On the Business Day next following ten (10) days after receipt by the Agent and the Construction Consultant of all items that the Construction Agent is required to provide pursuant to Section 5.17(b)(i), the Agent shall request the Construction Consultant to provide, respecting a requested Lessor Advance under the applicable Requisition, either a written approval thereof or a written disapproval thereof indicating the reasons for any such disapproval. The Agent shall share, or shall cause the Construction Consultant to share, promptly with the Construction Agent the certificate or other written communication from the Construction Consultant regarding any such approval/disapproval.

5.18 Off-Site Construction Costs.

The Lessor Parties shall fund the Off-Site Construction Costs subject to the inclusion thereof in a Requisition and satisfaction of the other conditions precedent for funding pursuant to the Operative Agreements, including Section 5.4.

5.19 Notices from the Construction Agent/the Lessee.

If the Construction Agent implements any revision, amendment or modification to the Plans and Specifications pursuant to Section 3.2(b) of the Agency Agreement, then the Construction Agent shall provide promptly a copy thereof to the Agent. If the Lessee makes any Modification to the Property, as referenced in Section 11.1 of the Lease, that shall or could reasonably be expected to have a Material Adverse Effect, then the Lessee shall provide prompt notice thereof to the Agent.

5.20 Ratable Reduction of Lessor Parties Commitments.

Any reduction in the Lessor Parties Commitments shall be on a ratable basis among all Lessor Parties.

SECTION 5A.
LESSOR ADVANCE

5A.1 Procedure for Lessor Advance.

(a) Upon receipt from the Construction Agent by the Agent of a Requisition pursuant to Section 4.2, and subject to the terms and conditions of this Agreement, each Lessor Party shall make a Lessor Advance to the Agent under the Lessor Parties Commitment in an amount equal to

its Commitment Percentage of the amount requested in such Requisition on the Initial Closing Date or the Property Closing Date, as applicable, or on the date for any Construction Advance, and, unless retained and applied by the Agent pursuant to Section 5.1(a), the Agent shall distribute the funds to the Construction Agent on the same day it receives such funds from the Lessor Parties; provided, that the outstanding Lessor Advances of a Lessor Party shall not exceed its Lessor Parties Commitment. The Lessor Advances shall accrue yield at the Lessor Yield from time to time from the date of advance to the Agent.

(b) The Lessor Parties Commitment of each Lessor Party to make Lessor Advances shall be pro rata based upon the respective Lessor Parties Commitments of the Lessor Parties. The Lessor Advances by the Lessor Parties may from time to time be (i) SOFR Lessor Advances, (ii) ABR Lessor Advances, or (iii) a combination thereof, as determined by the Construction Agent and notified to the Agent pursuant to the applicable Requisitions; provided, the Construction Agent shall not have the right to select both SOFR Lessor Advances and ABR Lessor Advances in the same Requisition but rather shall be limited under a particular Requisition to select either all SOFR Lessor Advances or all ABR Lessor Advances. In the event the Construction Agent fails to provide notice of the intended Lessor Yield type in a Requisition, the Lessor Advances pursuant to such Requisition shall be ABR Lessor Advances. Further, any Lessor Advances on a given date in an aggregate amount less than $100,000 shall be ABR Lessor Advances, unless the remaining Available Lessor Parties Commitment for the Lessor Parties in the aggregate is less than $100,000, in which case, the Construction Agent may elect a SOFR Lessor Advance for such remaining amount.

(c) Not later than 10:00a.m. (New York time) (i) at least three (3) Business Day(s) prior to the proposed funding date of any SOFR Lessor Advance and (ii) on the proposed funding date of any ABR Lessor Advance, then (in the case of each of the foregoing subsections (i) and (ii)) the Agent shall deliver to the Lessor Parties a copy of the applicable Requisition and a written notification of the amounts to be funded by the Lessor Parties (including, without limitation, the amount of capitalized Lessor Yield and Transaction Expenses to be funded). Each of the Lessor Parties will make the amount of its Pro Rata Share of the Lessor Advances available to the Agent as directed by the Agent and at the office specified by the Agent from time to time by 1:00p.m. (New York time) by wire transfer on the date requested pursuant to the Requisition (or as otherwise requested by the Agent after such date) in funds immediately available to the Agent. Subject to satisfaction of the applicable conditions precedent for the Lessor Advance, such Lessor Advance will then be distributed to the Construction Agent by the Agent crediting an account designated by the Construction Agent or otherwise applying the proceeds of such Lessor Advance in accordance with the requirements of the last sentence of Section 5.1(a).

(d) That portion of Lessor Yield accruing on each Lessor Advance during the Construction Period shall be added to the outstanding Lessor Advances on the relevant Payment Date in accordance with Section 5.1(b). Lessor Yield accruing on the Lessor Advances from the last Payment Date preceding the Rent Commencement Date through the day prior to the Rent Commencement Date shall be added to the outstanding Lessor Advances on the Rent Commencement Date in accordance with Section 5.1(b).

(e) (i) Notwithstanding anything to the contrary contained in this Agreement, if any Lessor Party becomes a Defaulting Lessor Party, then, until such time as that Lessor Party is no longer a Defaulting Lessor Party, to the extent permitted by Applicable Law:

(A) Such Defaulting Lessor Party's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement or any other

Operative Agreement shall be restricted as set forth in the definitions of "Majority Secured Parties" and Section 12.4.

(B) Any payment of advance amounts, yield, fees or other amounts received by the Agent for the account of such Defaulting Lessor Party (whether voluntary or mandatory, at maturity or otherwise) or received by the Agent from a Defaulting Lessor Party pursuant to Section 12.15 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 Lessor Party to the Agent under any Operative Agreement; second, as the Lessee may request (so long as no Default or Event of Default exists), to the funding of any Lessor Advance in respect of which such Defaulting Lessor Party has failed to fund its portion thereof as required by this Agreement, as determined by the Agent; third, if so determined by the Agent and the Lessee, to be held in a deposit account and released pro rata in order to satisfy such Defaulting Lessor Party's potential future funding obligations with respect to Lessor Advances under this Agreement; fourth, to the payment of any amounts owing to the Non-Defaulting Lessor Parties as a result of any judgment of a court of competent jurisdiction obtained by any Non-Defaulting Lessor Party against such Defaulting Lessor Party as a result of such Defaulting Lessor Party's breach of its obligations under this Agreement or any other Operative Agreement; fifth, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Lessee as a result of any judgment of a court of competent jurisdiction obtained by the Lessee against such Defaulting Lessor Party as a result of such Defaulting Lessor Party's breach of its obligations under this Agreement or any other Operative Agreement; and sixth, to such Defaulting Lessor Party or as otherwise as may be required under the Operative Agreements 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 any outstanding Lessor Advances in respect of which such Defaulting Lessor Party has not fully funded its appropriate share, and (2) such Lessor Advances were made at a time when the conditions set forth in Sections 5.3 or 5.4, as applicable, were satisfied or waived, such payment shall be applied solely to pay the Lessor Advances of all Non- Defaulting Lessor Parties on a pro rata basis prior to being applied to the payment of any Lessor Advances of such Defaulting Lessor Party until such time as all Lessor Advances are held by the Lessor Parties pro rata in accordance with the Lessor Parties Commitments. Any payments, repayments, prepayments or other amounts paid or payable to a Defaulting Lessor Party that are applied (or held) to pay amounts owed by a Defaulting Lessor Party shall be deemed paid to and redirected by such Defaulting Lessor Party, and each Lessor Party irrevocably consents hereto.

(C) Unless a replacement Lessor Party has become a party to this Agreement in accordance with the provisions of this Agreement (pursuant to Section 5A.1(e)(iii) or otherwise), all or any part of a Defaulting Lessor Party's subsequent Lessor Advances shall be reallocated among the Non-Defaulting Lessor Parties in accordance with their respective Available Lessor Parties Commitments (calculated without regard to such Defaulting Lessor Party's Lessor Parties Commitment) but only to the extent that such reallocation does not cause the aggregate Lessor Advances of any Non-Defaulting Lessor Party to exceed such Non-Defaulting Lessor Party's Lessor Parties Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder

against a Defaulting Lessor Party arising from that Lessor Party having become a Defaulting Lessor Party, including any claim of a Non-Defaulting Lessor Party as a result of such Non-Defaulting Lessor Party's increased exposure following such reallocation.

(ii) If the Lessee and the Agent agree in writing that a Lessor Party is no longer a Defaulting Lessor Party, 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, that Lessor Party will, to the extent applicable, purchase at par that portion of outstanding Lessor Advances of the other Lessor Parties or take such other actions as the Agent may determine to be necessary to cause the Lessor Advances to be held on a pro rata basis by the Lessor Parties in accordance with their applicable percentages of the Lessor Parties Commitments prior to the Lessor Party having been a Defaulting Lessor Party, whereupon such Lessor Party will cease to be a Defaulting Lessor Party; provided, that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of any Credit Party while that Lessor Party was a Defaulting Lessor Party; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lessor Party to Lessor Party will constitute a waiver or release of any claim of any party hereunder arising from that Lessor Party's having been a Defaulting Lessor Party.

(iii) If any Lessor Party is a Defaulting Lessor Party, then the Lessee may, at its sole expense and effort, upon notice to such Lessor Party and the Agent, require such Lessor Party to assign and delegate, without recourse (in accordance with the requirements of the Operative Agreements), all of its interests, rights and obligations under this Agreement and the related Operative Agreements to an Eligible Assignee pursuant to Section 5A.7.

5A.2 Computation of Lessor Yield; Payment Dates.

(a) The Agent shall as soon as practicable notify the Lessee and the Lessor Parties of each determination of a Term SOFR Reference Rate. Any change in the Lessor Yield on a Lessor Advance to account for a change in any reserve requirement (including, without limitation, supplemental, marginal and emergency reserve requirements) with respect to SOFR funding shall be reflected in the Term SOFR Reference Rate or the ABR (as applicable) and become effective as of the day on which such change becomes effective. The Agent shall as soon as practicable notify the Lessee and the Lessor Parties of the effective date and the amount of each such change in yield rate and shall concurrently furnish a copy of such notification to the Lessee. Lessor Yield and fees shall be calculated on the basis of a year of three hundred sixty (360) days for the actual days elapsed, unless Lessor Yield is calculated on the basis of the ABR. Whenever Lessor Yield is calculated on the basis of the ABR, Lessor Yield shall be calculated on the basis of a year of three hundred sixty-five (365) days (or three hundred sixty-six (366) days, as the case may be) for the actual days elapsed.

(b) Each determination of a yield rate by the Agent pursuant to any provision of this Agreement shall be conclusive and binding on the Lessee and the Lessor Parties in the absence of manifest error.

(c) If the Term SOFR Reference Rate cannot be determined by the Agent in the manner specified in the definition of "Term SOFR", the Agent shall give electronic or telephonic notice thereof to the Lessee and the Lessor Parties as soon as practicable thereafter. Until such

time as the Term SOFR Reference Rate can be determined by the Agent in the manner specified in the definition of "Term SOFR", (i) no further SOFR Lessor Advances shall be made, (ii) no existing SOFR Lessor Advances shall be continued as such at the end of the then current Lessor Yield Period, (iii) the Lessee shall not have the right to convert any ABR Lessor Advances to SOFR Lessor Advances and (iv) all subsequent Lessor Advances shall be ABR Lessor Advances; provided, the foregoing provisions of this paragraph are subject to Section 5A.11.

5A.3 Scheduled Return of Lessor Advance.

Subject to the limitations on the Lessee's payment obligations in connection with an election of the Sale Option under the Lease, the outstanding amount of the Lessor Advance shall be due in full on the Expiration Date. On the Expiration Date, subject to the terms of this Agreement and the Lease, the Agent on behalf of the Lessor shall receive from the Lessee under the Lease the outstanding amount of the Lessor Advance then due, together with all accrued but unpaid Lessor Yield and all other amounts due to Lessor under the Operative Agreements.

5A.4 Early Return of Lessor Advances; Maturity Date Payment of Lessor Advances.

(a) Subject to Sections 11.2(e), 11.3 and 11.4 of this Agreement, the Lessor Advances may at any time and from time to time be repaid or prepaid by the Lessee, in whole or in part, without premium or penalty, upon at least three (3) Business Days' irrevocable notice to the Agent, on behalf of the Lessor Parties, specifying the date and amount of repayment or prepayment of the Lessor Advances. Upon receipt of such notice, the Agent shall promptly notify the Lessor Parties thereof. If such notice is given, the amount of the Lessor Advances specified in such notice shall be due and payable on the date specified therein, together with all accrued but unpaid Lessor Yield and all other amounts due to the Lessor Parties under the Operative Agreements. Amounts of the Lessor Advances repaid or prepaid shall permanently decrease the Lessor Parties Commitment and the Available Lessor Parties Commitment, and such amounts may not be readvanced. Notwithstanding the foregoing, amounts so repaid or prepaid in favor of the Lessor Parties must be distributed in accordance with Section 8.7 of this Agreement.

(b) If on any date any Lessor Party shall receive any payment in respect of the Property or pursuant to the Operative Agreements, then in each case, the Lessor Party shall pay such amount (excluding Excepted Payments which shall be permitted to be retained by the party to whom such payments are owed) to the Agent to be distributed in accordance with Section 8.7 of this Agreement.

(c) Upon the occurrence of any Event of Default (in each case only to the extent arising out of a Lease Event of Default specified in Sections 17.1(n) or (o) of the Lease), the obligation to repay the Lessor Advances shall automatically accelerate and such shall be due and payable in full, together with accrued but unpaid Lessor Yield thereon and all other amounts owing to the Lessor under the Operative Agreements. Upon the occurrence and during the continuance of any other Event of Default, the Majority Secured Parties may determine to accelerate the obligation to repay the Lessor Advances, together with accrued but unpaid Lessor Yield thereon and all other amounts owing to the Secured Parties under the Operative Agreements.

(d) Each repayment or prepayment at the Expiration Date of the Lessor Advances expressly permitted by and effected in accordance with this Agreement shall be allocated to reduce the Property Cost and applied in accordance with Section 8.7.

(e) The outstanding Lessor Advances, the Lessor Yield and all other amounts then due and owing by any of the Credit Parties under this Agreement or any other Operative Agreement shall be due and payable in full on the Expiration Date.

(f) Breakage Costs (payable by the Lessee pursuant to Section 11.4) shall be due and payable in connection with each repayment or prepayment of the Lessor Advances and otherwise in accordance with the Operative Agreements.

5A.5 Lessor Yield Rates and Payment Dates.

(a) The Lessor Advances outstanding hereunder from time to time shall bear interest at a rate per annum equal to either (i) with respect to a SOFR Lessor Advance, the Adjusted Term SOFR Rate determined for the applicable Lessor Yield Period plus the Applicable Percentage or (ii) with respect to an ABR Lessor Advance, the ABR plus the Applicable Percentage, as selected by the Lessee in accordance with the provisions hereof; provided, however, (A) upon delivery by the Agent of the notice described in Section 5A.2(c), the Lessor Advances of each of the Lessor Parties shall bear interest at the ABR plus the Applicable Percentage from and after the dates and during the periods specified in Section 5A.2(c) and (B) upon the delivery by a Lessor Party of the notice described in Section 11.3(d), the Lessor Advances of such Lessor Party shall bear interest at the ABR plus the Applicable Percentage from and after the dates and during the periods specified in Section 11.3(d); provided, the foregoing provisions of this paragraph are subject to Section 5A.11.

(b) If all or a portion of (i) any outstanding Lessor Advance, (ii) any Lessor Yield payable thereon or (iii) any other amount payable hereunder or otherwise pursuant to any Operative Agreement to a Lessor Party shall not be paid when due (whether at the stated maturity, by acceleration or otherwise, but subject to the applicable grace period), such overdue amount shall bear interest at the Overdue Rate, in each case from the date of such non-payment until such amount is paid in full (whether after or before judgment). Upon the occurrence and during the continuance of any Event of Default, Lessor Yield on the Lessor Advances shall, at the option of the Majority Secured Parties, be calculated at the Overdue Rate.

(c) Lessor Yield shall be payable in arrears on the applicable Payment Date, provided, that (i) Lessor Yield accruing pursuant to Section 5A.5(b) shall be payable from time to time on demand and (ii) each repayment or prepayment of the Lessor Advances shall be accompanied by accrued Lessor Yield to the date of such repayment or prepayment on the amount repaid or prepaid (and payment of all Breakage Costs).

(d) [Reserved].

5A.6 Termination or Reduction of Lessor Parties Commitments.

(a) Subject to Section 5.20, the Lessee shall have the right, upon not less than three (3) Business Days' written notice to the Agent, to terminate the Lessor Parties Commitments or, from time to time, to reduce the amount of the Lessor Parties Commitments, provided, that (i) after giving effect to such reduction and any repayment or prepayment of Lessor Advances in connection therewith, the aggregate outstanding Lessor Advances shall not exceed the aggregate Lessor Parties Commitments and (ii) such notice shall be accompanied by a certificate of the Lessee stating that the amount equal to the remaining aggregate unfunded Budgeted Total Property Costs not funded by Lessor Advances as of the date of such reduction does not exceed the aggregate amount of Available Lessor Parties Commitments as of such date after giving effect to such reduction. Any

such reduction (A) shall be in an amount equal to the lesser of (1) $1,000,000 (or an even multiple thereof) or (2) the remaining Available Lessor Parties Commitments and (B) shall reduce permanently the Lessor Parties Commitments then in effect.

(b) The Lessor Parties Commitments shall automatically be reduced to zero Dollars ($0) upon the occurrence of the Completion Date.

5A.7 Notice of Amounts Payable; Mandatory Assignment.

(a) In the event that any Lessor Party becomes aware that any amounts are or will be owed to it pursuant to Section 11.2 or 11.3 or that it is unable to make SOFR Lessor Advances, then it shall promptly notify the Lessee and the Agent thereof and, as soon as possible thereafter, such Lessor Party shall submit to the Lessee (with a copy to the Agent) a certificate indicating the amount owing to it and the calculation thereof. In addition, such Lessor Party will use commercially reasonable efforts to (x) reduce or eliminate any such claim or (y) to enable itself to continue making SOFR Lessor Advances, including a change in the lending office at which its obligations under the Operative Agreements is maintained, so long as such change is not otherwise disadvantageous to such Lessor Party, as determined by such Lessor Party in its sole discretion.

(b) In the event that (i) any Lessor Party delivers to the Lessee a certificate in accordance with Section 5A.7(a) in connection with amounts payable pursuant to Sections 11.2 or 11.3, (ii) such Lessor Party is required to make Lessor Advances as ABR Lessor Advances in accordance with Section 11.3 or (iii) such Lessor Party is a Defaulting Lessor Party or a Non-Consenting Lessor Party, then, subject to Section 10.1 and to the extent such Lessor Party has been unable to eliminate such claim referenced in the foregoing subsections (i) or (ii), the Lessee may, at its own expense, including the payment to the Agent of the assignment fee pursuant to Section 10.5 (provided, such amounts shall be reimbursed or paid entirely (as elected by the Lessee) by the Lessee, as Supplemental Rent, or, prior to the Construction Period Termination Date, shall be paid by the Construction Agent with the proceeds of Advances) and in the discretion of the Lessee, require such Lessor Party to transfer or assign, in whole, without recourse (in accordance with Section 10.1), all of its Lessor Parties Commitment, interests, rights (except for rights to be indemnified for actions taken while a party hereunder) and obligations under this Agreement to an Eligible Assignee if the Lessee (subject to Section 10.1), with the full cooperation of such Lessor Party, can identify an Eligible Assignee who is ready, willing and able to be such replacement bank or lending institution with respect thereto and such replacement bank or lending institution (which may be another Lessor Party) shall assume such assigned obligations in accordance with the provisions of Section 10.1; provided, however, that (x) subject to Section 10.1, the Lessee (provided, such amounts shall be reimbursed or paid entirely (as elected by the Lessee) by the Lessee, as Supplemental Rent, or, prior to the Construction Period Termination Date, shall be paid by the Construction Agent with the proceeds of Advances) or such replacement bank or lending institution, as the case may be, shall have paid to such Lessor Party in immediately available funds the outstanding Lessor Advances of such Lessor Party and the Lessor Yield accrued to the date of such payment on such Lessor Advances and all other amounts owed to such Lessor Party pursuant to the Operative Agreements, and (y) such assignment of the Lessor Parties Commitment of such Lessor Party does not conflict with any law, rule or regulation or order of any court or Governmental Authority.

5A.8 Pro Rata Treatment and Payments.

(a) Each Construction Advance and any reduction of the Lessor Parties Commitments shall be made pro rata according to their respective Lessor Parties Commitments. Subject to the

provisions of the Operative Agreements, each payment (including each repayment or prepayment) by the Lessee on account of outstanding Lessor Advances and Lessor Yield shall be made pro rata according to the respective outstanding advance amounts on the Lessor Advances then held by the Lessor Parties. All payments (including repayments and prepayments) to be made by the Lessee, whether on account of advance amounts on the Lessor Advances, Lessor Yield or otherwise, shall be made without set-off or counterclaim and shall be made prior to 11:00 a.m., New York, New York time on the due date thereof (and any payment received on any day after such time shall be deemed received on the next Business Day), to the Agent, for the account of the Lessor Parties, at the Agent's office specified by the Agent from time to time, in Dollars and in immediately available funds. The Agent shall distribute such payments to the Lessor Parties promptly upon receipt in like funds as received. If any payment hereunder becomes due and payable on a day other than a Business Day, such payment shall be extended to the next succeeding Business Day; provided, however, if such payment includes an amount of Lessor Yield calculated with reference to the Adjusted Term SOFR Rate and the result of such extension would be to extend such payment into another calendar month, then such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment pursuant to the preceding sentence, Lessor Yield thereon shall be payable at the then applicable rate during such extension.

(b) Unless the Agent shall have been notified in writing by any Lessor Party prior to a requested Lessor Advance that such Lessor Party will not make its share of such Lessor Advance available to the Agent, the Agent may either (i) assume that such Lessor Party is making such amount available to the Agent, and the Agent may, in reliance upon such assumption, make available to the Construction Agent a corresponding amount or (ii) utilize the funding mechanics herein for Lessor Advances. If the Agent utilizes the mechanism described in the foregoing Section 5A.8(b)(i), the Lessor Party which has not funded its Lessor Advance shall forthwith upon demand pay to the Agent all amounts paid by the Agent on behalf of the Lessor Party, together with interest thereon, for each day from the date a payment was made by the Agent until the date the Agent has been paid such amounts in full, at a rate per annum equal to the Federal Funds Effective Rate plus two percent (2%).

5A.9 Conversion and Continuation Options Respecting the Lessor Advances.

(a) The Lessee may elect from time to time to convert SOFR Lessor Advances to ABR Lessor Advances by giving the Agent at least three (3) Business Days' prior irrevocable notice of such election, provided, that any such conversion of SOFR Lessor Advances may only be made on the last day of a Lessor Yield Period with respect thereto, and provided, further, to the extent an Event of Default has occurred and is continuing on the last day of any such Lessor Yield Period, the applicable SOFR Lessor Advance shall automatically be converted to an ABR Lessor Advance, and during the continuance of any Event of Default, the Lessee may not elect to convert any Lessor Advance into a SOFR Lessor Advance or to continue any Lessor Advance as a SOFR Lessor Advance. The Lessee may elect from time to time to convert ABR Lessor Advances to SOFR Lessor Advances by giving the Agent at least three (3) Business Days' prior irrevocable notice of such election. Upon receipt of any such notice, the Agent shall promptly notify each Lessor Party thereof. All or any part of outstanding SOFR Lessor Advances or ABR Lessor Advances may be converted as provided herein, provided, that no ABR Lessor Advance may be converted into a SOFR Lessor Advance after the date that is one (1) month prior to the Expiration Date.

(b) Subject to the restrictions specified herein, any SOFR Lessor Advance may be continued as such upon the expiration of the current Lessor Yield Period with respect thereto by the Lessee giving irrevocable notice to the Agent, in accordance with the applicable notice provision for the conversion of ABR Lessor Advances to SOFR Lessor Advances set forth herein,

provided, that no SOFR Lessor Advance may be continued as such after the date that is one (1) month prior to the Expiration Date, provided, further, no SOFR Lessor Advances may be continued as such if an Event of Default has occurred and is continuing as of the last day of the Lessor Yield Period for such SOFR Lessor Advance, provided, further, unless a SOFR Lessor Advance is not then permitted subject to the terms of this Agreement or the other Operative Agreements, if the Lessee shall fail to give any required notice as described above or otherwise herein, such Lessor Advance (on the last day of such then expiring Lessor Yield Period) shall automatically be continued as a SOFR Lessor Advance with a Lessor Yield Period of one (1) month, consistent with the requirements set forth in the definition of the term "Lessor Yield Period", and provided, further, if such continuation of a SOFR Lessor Advance is not permitted pursuant to the terms of this Agreement, such Lessor Advance shall automatically be converted to an ABR Lessor Advance on the last day of such then expiring Lessor Yield Period.

5A.10 Excess Yield.

Notwithstanding any provisions to the contrary contained in this Agreement or any other Operative Agreement, Lessee shall not be required to pay, and the Lessor Parties shall not be permitted to collect, any amount of Lessor Yield in excess of the maximum amount of yield permitted by applicable Law ("Excess Yield"). If any Excess Yield is provided for or determined by a court of competent jurisdiction to have been provided for in this Agreement or in any other Operative Agreement, then, in such event: (1) the provisions of this subsection shall govern and control; (2) Lessee shall not be obligated to pay any Excess Yield; (3) any Excess Yield that the Lessor Parties may have received hereunder shall be, at the option of the Majority Secured Parties, (a) applied as a credit against the outstanding principal balance of the Obligations or accrued and unpaid Lessor Yield (not to exceed the maximum amount permitted by Law), (b) refunded to the payor thereof, or (c) any combination of the foregoing; (4) the yield rates provided for herein or in the other Operative Agreements shall be automatically reduced to the maximum lawful rate allowed from time to time under applicable Law, and this Agreement and the other Operative Agreements shall be deemed to have been and shall be reformed and modified to reflect such reduction; and (5) Lessee shall not have any action against the Agent or any Lessor Party for any damages arising out of the payment or collection of any Excess Yield (other than to enforce this Section 5A.10).

5A.11 Conversion and Continuation Options Respecting the Lessor Advances.

(a) Benchmark Replacement. Notwithstanding anything to the contrary herein or in any other Operative Agreement, with respect to any Lessor Advance, if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred prior to any setting of the applicable then-current Benchmark, then the Benchmark Replacement will replace such Benchmark with respect to each affected Lessor Advance for all purposes hereunder or under any Operative Agreement in respect of such Benchmark setting and subsequent Benchmark settings, without any amendment to, or further action or consent of any other party to, this Agreement or any other Operative Agreement.

(b) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, the Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Operative Agreement, any amendments implementing such Conforming Changes will become effective without any further action or consent of Lessee or any other party to this Agreement or any other Operative Agreement.

(c) Notices; Standards for Decisions and Determinations. The Agent will notify Lessee of (i) the implementation of any Benchmark Replacement, and (ii) the effectiveness of any Conforming Changes in connection with the use, administration, adoption or implementation of a Benchmark Replacement. Any determination, decision or election that may be made by the Agent pursuant to this Section 5A.11, including any determination with respect to a tenor, rate or adjustment or of the occurrence or non-occurrence of an event, circumstance or date and any decision to take or refrain from taking any action or any selection, will be conclusive and binding absent manifest error and may be made in its sole discretion and without consent from Lessee or any other party to this Agreement or any other Operative Agreement.

(d) Market Disruption. Notwithstanding the foregoing, if prior to any Lessor Yield Period, the Agent determines that, by reason of circumstances affecting the relevant market (other than a Benchmark Transition Event), adequate and reasonable means do not exist for ascertaining the Term SOFR Reference Rate for such Lessor Yield Period, the Agent shall give prompt notice thereof to Lessee, whereupon the Lessor Yield for such Lessor Yield Period with respect to each Lessor Advance based on such Term SOFR Reference Rate, and for all subsequent Lessor Yield Periods for Lessor Advances based on such Term SOFR Reference Rate until such notice has been withdrawn by the Agent, shall be the sum of (i) an alternate benchmark rate that has been selected by the Agent, (ii) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero (0)) that has been selected by the Agent and (iii) the applicable Applicable Percentage.

5A.12 Initial Benchmark Conforming Changes.

In connection with the use or administration of any Benchmark, the Agent will have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Operative Agreement, any amendments implementing such Conforming Changes will become effective without any further action or consent of Lessee or any other party to this Agreement or any other Operative Agreement. The Agent will notify Lessee of the effectiveness of any Conforming Changes in connection with the use or administration of any Benchmark.

5A.13 Illegality.

If the adoption of or any change in any Applicable Law or in the interpretation or application thereof after the date hereof shall make it unlawful for the Agent or Lessor to effect or continue Lessor Advances as contemplated by the Operative Agreements, (a) any commitment of Lessor hereunder to enter into a new Lessor Advance shall be terminated and the Maturity Date shall be deemed to have occurred, (b) if required by such adoption or change, the Lessor Yield shall be the sum of (i) an alternate benchmark rate that has been selected by the Agent, (ii) the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or zero (0)) that has been selected by the Agent and (iii) the applicable Applicable Percentage, and (c) if required by such adoption or change, the Maturity Date shall be deemed to have occurred.

SECTION 6.
REPRESENTATIONS AND WARRANTIES.

6.1 Representations and Warranties of Each Credit Party.

Effective as of the Initial Closing Date or the Property Closing Date, as applicable, the date of each Lessor Advance and the Rent Commencement Date (except to the extent any representation and warranty is otherwise specifically limited to one or more specific dates), each Credit Party represents and warrants to each of the other parties hereto that:

(a) Each Credit Party (i) is a corporation, partnership or limited liability company duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization, (ii) has the lawful power to own or lease its properties and to engage in the business it presently conducts or proposes to conduct, and (iii) is duly licensed or qualified and in good standing in each jurisdiction where the property owned or leased by it or the nature of the business transacted by it or both makes such licensing or qualification necessary except to the extent that the failure to be so licensed, qualified or in good standing would not cause a Material Adverse Effect and, except in each case of (i)-(iii), as otherwise expressly permitted pursuant to Section 8.3B(e).

(b) All of the authorized capital stock of the Parent, and the shares (referred to herein as the "Shares") of the Parent that are issued and outstanding have been validly issued and are fully paid and nonassessable. There are no options, warrants or other rights outstanding to purchase any such Shares to be issued after the Initial Closing Date or the Property Closing Date, as applicable, except as indicated on Schedule II.

(c) Schedule III states the name of each of the Credit Parties, its jurisdiction of incorporation, its principal place of business, its authorized capital stock, the issued and outstanding shares (referred to herein as the "Subsidiary Shares") and the owners thereof if it is a corporation, its outstanding partnership interests (the ("Partnership Interests") if it is a partnership and its outstanding limited liability company interests, interests assigned to managers thereof and the voting rights associated therewith (the "LLC Interests") if it is a limited liability company. Each of the Credit Parties has good and marketable title to all of the Subsidiary Shares, Partnership Interests and LLC Interests it purports to own, free and clear in each case of any Lien. All Subsidiary Shares, Partnership Interests and LLC Interests have been validly issued, and all Subsidiary Shares are fully paid and nonassessable. All capital contributions and other consideration required to be made or paid in connection with the issuance of the Partnership Interests and LLC Interests have been made or paid, as the case may be. There are no options, warrants or other rights outstanding to purchase any such Subsidiary Shares, Partnership Interests or LLC Interests except as indicated on Schedule III.

(d) Each Credit Party has full power to enter into, execute, deliver and carry out this Agreement and the other Operative Agreements to which it is a party and to incur and perform all its Obligations, including all payment and performance obligations, under the Operative Agreements to which it is a party, and all such actions have been duly authorized by all necessary proceedings on its part.

(e) This Agreement has been duly and validly executed and delivered by each Credit Party, and each other Operative Agreement which any Credit Party is required to execute and deliver on or after the date hereof will have been duly executed and delivered by such Credit Party on the required date of delivery of such Operative Agreement. This Agreement and each other Operative Agreement constitutes, or will constitute, legal, valid and binding obligations of each

Credit Party which is or will be a party thereto on and after its date of delivery thereof, enforceable against such Credit Party in accordance with its terms, except to the extent that enforceability of any of such Operative Agreement may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar Laws affecting the enforceability of creditors' rights generally or limiting the right of specific performance and general concepts of equity.

(f) Neither the execution and delivery of this Agreement or the other Operative Agreements by any Credit Party nor the consummation of the transactions herein or therein contemplated or compliance with the terms and provisions hereof or thereof by any of them will conflict with, constitute a default under or result in any breach of (i) the terms and conditions of the certificate or articles of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents of any Credit Party or (ii) any material Law or any material agreement or instrument or order, writ, judgment, injunction or decree to which any Credit Party is a party or by which it is bound or to which it is subject, or result in the creation or enforcement of any Lien, charge or encumbrance whatsoever upon any property (now or hereafter acquired) of any Credit Party except for Liens created by the Operative Agreements.

(g) There are no actions, suits, proceedings or investigations pending or, to the knowledge of any Credit Party, threatened against such Credit Party at law or equity before any Official Body which individually or in the aggregate would reasonably be expected to result in any Material Adverse Effect. None of the Credit Parties or any Subsidiaries of any Credit Party is in violation of any order, writ, injunction or any decree of any Official Body which would reasonably be expected to result in any Material Adverse Effect.

(h) The real property owned by each Credit Party is described on Schedule V. Each Credit Party has good and marketable title to (or ownership of) or valid leasehold interest in all properties, assets and other rights which it purports to own or lease or which are reflected as owned or leased on its books and records, free and clear of all Liens and encumbrances except (i) in the case of all such properties, assets and other rights (other than the Collateral), Additional Permitted Liens and (ii) in the case of the Collateral, Permitted Liens. In the case of property (whether or not such property constitutes Collateral) leased by such Credit Party, such property is subject to the terms and conditions of the applicable leases. Upon consummation of the transactions contemplated hereby, all leases of real property are in full force and effect in all material respects without the necessity for any consent which has not previously been obtained.

(i) (i) BLS has delivered to the Agent copies of the Parent's (a) audited consolidated year-end financial statements for and as of the end of the fiscal year ended February 3, 2018 and (b) unaudited consolidated quarter-end financial statements for and as of the end of the fiscal quarter ended May 5, 2018 (collectively, the "Historical Statements"). The Historical Statements were compiled from the books and records maintained by the Parent's management, fairly represent in all material respects the consolidated financial condition of the Parent and its Subsidiaries as of their dates and the results of operations for the fiscal periods then ended and have been prepared in accordance with GAAP consistently applied.

(ii) BLS has delivered to the Agent consolidated financial projections of the Parent and its Subsidiaries for the period from fiscal year 2018 through fiscal year 2020 derived from various assumptions of the Parent's management (the "Financial Projections"). The Financial Projections represent a reasonable estimation of possible results in light of the history of the business, present and foreseeable conditions and the estimates and assumptions of the Parent's management. Such Financial Projections and

the assumptions therein were, at the time made, fair; however, actual results may differ materially from such Financial Projections.

(iii) Neither the Parent nor any Subsidiary of the Parent has any liabilities, contingent or otherwise, or forward or long-term commitments that are not disclosed in the Historical Statements or in the notes thereto, and except as disclosed therein there are no unrealized or anticipated losses from any commitments of the Parent or any Subsidiary of the Parent, in each case which would reasonably be expected to cause a Material Adverse Effect. From February 3, 2018 to the Fourth Amendment Closing Date**,** no Material Adverse Effect has occurred.

(j) Neither the Construction Agent nor the Lessee shall use the proceeds of any Lessor Advance for any purpose other than Property Acquisition Costs, costs incurred by the Construction Agent to permit the acquisition, testing, engineering, installation, development, construction, modification, design, and renovation, as applicable, of the Property (or components thereof) in accordance with the terms of the Agency Agreement and the other Operative Agreements (including construction of the Improvements and acquisition and installation of the Equipment) or for the payment of Transaction Expenses, in each case which accrue prior to the Rent Commencement Date.

(k) None of the Credit Parties or any Subsidiaries of any Credit Party engages or intends to engage principally, or as one of its important activities, in the business of extending credit for the purpose, immediately, incidentally or ultimately, of purchasing or carrying margin stock (within the meaning of Regulation U, T or X as promulgated by the Board of Governors of the Federal Reserve System). No part of the proceeds of any Lessor Advance has been or will be used, immediately, incidentally or ultimately, to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any margin stock or to refund Indebtedness originally incurred for such purpose, or for any purpose which entails a violation of or which is inconsistent with the provisions of the regulations of the Board of Governors of the Federal Reserve System. None of the Credit Parties holds or intends to hold margin stock in such amounts that more than twenty-five percent (25%) of the reasonable value of the assets of any Credit Party are or will be represented by margin stock.

(l) Neither this Agreement nor any other Operative Agreement, nor any certificate, statement, agreement or other documents furnished to any Financing Party in connection herewith or therewith taken as a whole, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein and therein, in light of the circumstances under which they were made, not misleading. There is no fact known to any Credit Party which materially adversely affects the business, property, assets, financial condition, results of operations or prospects of any Credit Party which has not been set forth in this Agreement, another Operative Agreement or in the certificates, statements, agreements or other documents furnished in writing to the Financing Parties prior to or at the date hereof in connection with the transactions contemplated hereby.

(m) All federal, state, local and other Tax returns required to have been filed with respect to each Credit Party have been filed, and payment or adequate provision has been made for the payment of all Taxes, fees, assessments and other governmental charges which have or may become due pursuant to said returns or to assessments received, except to the extent that (i) the amount thereof is not individually or in the aggregate in an amount that would reasonably be expected to cause a Material Adverse Effect, or (ii) such Taxes, fees, assessments and other charges are being contested in good faith by appropriate proceedings diligently conducted and for which

such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made.

(n) No consent, approval, exemption, order or authorization of, or a registration or filing with, any Official Body or any other Person is required by any Law or any agreement in connection with the execution, delivery and carrying out of this Agreement and the other Operative Agreements by any Credit Party, except as listed on Schedule VI, all of which shall have been obtained or made on or prior to the Initial Closing Date except as otherwise indicated on Schedule VI.

(o) No event has occurred and is continuing and no condition exists or will exist after giving effect to any Lessor Advance to be made on the date of such Lessor Advance, under or pursuant to the Operative Agreements which constitutes an Event of Default or a Default. None of the Credit Parties is in violation of (i) any material term of its certificate of incorporation, bylaws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents or (ii) any material agreement or instrument to which it is a party or by which it or any of its properties may be subject or bound where such violation would constitute a Material Adverse Effect.

(p) Each Credit Party owns or possesses all the material patents, trademarks, service marks, trade names, copyrights, licenses, registrations, franchises, permits and rights necessary to own and operate its properties and to carry on its business as presently conducted and planned to be conducted by such Credit Party, without known possible, alleged or actual conflict with the rights of others.

(q) Schedule VII lists all insurance policies to which any Credit Party is a party, all of which are valid and in full force and effect. No notice has been given or claim made and no grounds exist to cancel or avoid any of such policies or to reduce the coverage provided thereby. Such policies provide adequate coverage from reputable and financially sound insurers in amounts sufficient to insure the assets and risks of each Credit Party in accordance with customary business practice in the industry of the Credit Parties.

(r) The Credit Parties are in compliance in all material respects with all Applicable Laws (other than labor and employment Laws which are specifically addressed in Section 6.1(v) and Environmental Laws which are specifically addressed in Section 6.1(w)) in all jurisdictions in which any Credit Party is presently or will be doing business except where the failure to do so would not reasonably be expected to constitute a Material Adverse Effect.

(s) All material contracts relating to the business operations of each Credit Party, including all employee benefit plans and Labor Contracts are valid, binding and enforceable upon such Credit Party except as limited by bankruptcy, insolvency and general concepts of equity and each of the other parties thereto in accordance with their respective terms, and there is no default by such Credit Party thereunder or, to the Credit Parties' knowledge, by any other parties thereto. None of the Credit Parties is bound by any contractual obligation, or subject to any restriction in any organization document, or any requirement of Law which would reasonably be expected to result in a Material Adverse Effect or which restricts or prohibits any Credit Party from entering into, and performing its obligations under, the transactions contemplated hereby. For purposes of this Section 6.1(s), the term "material contracts" shall mean those contracts or other agreements which the Parent would be required to file with the SEC pursuant to item 601(a)(10) of Regulation S-K promulgated under the Securities Act and the Exchange Act.

(t) None of the Credit Parties is an "investment company" registered or required to be registered under the Investment Company Act or under the "control" of an "investment company" as such terms are defined in the Investment Company Act and shall not become such an "investment company" or under such "control." None of the Credit Parties is subject to any other federal or state statute or regulation limiting its ability to incur Indebtedness for borrowed money.

(u) Except as set forth on Schedule VIII:

(i) The Identified Big Lots Entities and each other member of the ERISA Group are in compliance in all material respects with any applicable provisions of ERISA with respect to all Benefit Arrangements and Plans. As of the Initial Closing Date, the Identified Big Lots Entities and each member of the ERISA Group do not have any obligation to make contributions to any Multiemployer Plans or Multiple Employer Plans. There has been no Prohibited Transaction with respect to any Benefit Arrangement or any Plan or, to the best knowledge of the Identified Big Lots Entities and each member of the ERISA Group, with respect to any Multiemployer Plan or Multiple Employer Plan, which could result in any material liability of any Identified Big Lots Entity or any other member of the ERISA Group. The Identified Big Lots Entities and all other members of the ERISA Group have made when due any and all payments required to be made under any agreement relating to a Multiemployer Plan or a Multiple Employer Plan or any Law pertaining thereto. With respect to each Plan, Multiemployer Plan and Multiple Employer Plan, the Identified Big Lots Entities and each other member of the ERISA Group (A) have fulfilled in all material respects their obligations under the minimum funding standards of ERISA, (B) except for required premium payments, have not incurred any liability to the PBGC, and (C) have not had asserted against them any penalty for failure to fulfill the minimum funding requirements of ERISA.

(ii) To the best of each Identified Big Lots Entity's knowledge, each Multiemployer Plan and Multiple Employer Plan is able to pay benefits thereunder when due.

(iii) Neither an Identified Big Lots Entity nor any other member of the ERISA Group has instituted or intends to institute proceedings to terminate any Plan.

(iv) No event requiring notice to the PBGC under Section 303(k)(4) of ERISA has occurred or is reasonably expected to occur with respect to any Plan.

(v) With respect to each Plan and in accordance with each such Plan's most recent actuarial valuation report used to determine funding under Section 412 of the Code, no Plan is in "at risk" status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code).

(vi) Neither an Identified Big Lots Entity nor any other member of the ERISA Group has incurred or reasonably expects to incur any material withdrawal liability under ERISA to any Multiemployer Plan or Multiple Employer Plan. Neither an Identified Big Lots Entity nor any other member of the ERISA Group has been notified by any Multiemployer Plan or Multiple Employer Plan that such Multiemployer Plan or Multiple Employer Plan has been terminated within the meaning of Title IV of ERISA and, to the best knowledge of each Identified Big Lots Entity, no Multiemployer Plan or Multiple Employer Plan is reasonably expected to be reorganized or terminated, within the meaning of Title IV of ERISA.

(vii) To the extent that any Benefit Arrangement is insured, the Identified Big Lots Entities and all other members of the ERISA Group have paid when due all premiums required to be paid for all periods through the Initial Closing Date. To the extent that any Benefit Arrangement is funded other than with insurance, the Identified Big Lots Entities and all other members of the ERISA Group have made when due all contributions required to be paid for all periods through the Initial Closing Date.

(viii) All Plans, Benefit Arrangements, Multiemployer Plans and Multiple Employer Plans have been administered in all material respects in accordance with their terms and Applicable Law.

(v) Each of the Credit Parties is in compliance with the Labor Contracts and all applicable labor and employment Laws including those related to equal employment opportunity and affirmative action, labor relations, minimum wage, overtime, child labor, medical insurance continuation, worker adjustment and relocation notices, immigration controls and worker and unemployment compensation, where the failure to comply would reasonably be expected to constitute a Material Adverse Effect. There are no outstanding grievances, arbitration awards or appeals therefrom arising out of the Labor Contracts or current or threatened strikes, picketing, handbilling or other work stoppages or slowdowns at facilities of any of the Credit Parties which in any case would reasonably be expected to constitute a Material Adverse Effect.

(w) Except as disclosed on Schedule IX:

(i) None of the Credit Parties has received any material Environmental Complaint, whether directed or issued to any Credit Party or relating or pertaining to any predecessor of any Credit Party or to any prior owner, operator or occupant of the Credit Party Property, and none of such Credit Parties have reason to believe that it might receive a material Environmental Complaint.

(ii) No activity of any Credit Party at the Credit Party Property is being or has been conducted in violation of any Environmental Law or Environmental Permit which has caused or would reasonably be expected to cause a Material Adverse Effect and, to the knowledge of any such Credit Party no activity of any predecessor of any Credit Party or any prior owner, operator or occupant of the Credit Party Property was conducted in violation of any Environmental Law which has caused or would reasonably be expected to cause a Material Adverse Effect.

(iii) There are no Regulated Substances present on, in, under, or emanating from, or to any Credit Party's knowledge emanating to, the Credit Party Property or any portion thereof which result in Contamination and which would reasonably be expected to cause a Material Adverse Effect.

(iv) Each Credit Party has all Environmental Permits and all such Environmental Permits are in full force and effect and each such Credit Party's operations at the Credit Party Property are conducted in compliance with the terms and conditions of such Environmental Permits except to the extent that such noncompliance would not reasonably be expected to cause a Material Adverse Effect and none of the Credit Parties have received any written notice from an Official Body that such Official Body has or intends to suspend, revoke or adversely alter, whether in whole or in part, any such Environmental Permit.

(v) Each Credit Party has submitted to an Official Body and/or maintains, as appropriate, all material Environmental Records.

(vi) No structures, improvements, equipment, fixtures, impoundments, pits, lagoons or aboveground or underground storage tanks located on the Credit Party Property contain or use, except in compliance with Environmental Laws and Environmental Permits, Regulated Substances or otherwise are operated or maintained except in compliance with Environmental Laws and Environmental Permits unless such noncompliance would not be reasonably expected to cause a Material Adverse Effect. To the knowledge of each Credit Party, no structures, improvements, equipment, fixtures, impoundments, pits, lagoons or aboveground or underground storage tanks of prior owners, operators or occupants of the Credit Party Property contained or used Regulated Substances, except in compliance with Environmental Laws, Regulated Substances or otherwise were operated or maintained by any such prior owner, operator or occupant except in compliance with Environmental Laws unless such noncompliance would not be reasonably expected to cause a Material Adverse Effect.

(vii) To the knowledge of each Credit Party, no facility or site to which any such Credit Party, either directly or indirectly by a third party, has sent Regulated Substances for storage, treatment, disposal or other management has been or is being operated in violation of Environmental Laws except to the extent that such violation would not reasonably be expected to cause a Material Adverse Effect.

(viii) No portion of the Credit Party Property is identified or, to the knowledge of each Credit Party, proposed to be identified on any list of contaminated properties or other properties which pursuant to Environmental Laws are the subject of a Remedial Action by an Official Body or any other Person (including any such Credit Party), nor to the knowledge of any such Credit Party is any property adjoining or in the proximity of the Credit Party Property identified or proposed to be identified on any such list or the subject of a Remedial Action.

(ix) No portion of the Credit Party Property constitutes an Environmentally Sensitive Area except for those portions of the Credit Party Property constituting an Environmentally Sensitive Area which would not reasonably be expected to result in a Material Adverse Effect.

(x) No Lien or other material encumbrance authorized by Environmental Laws exists against the Credit Party Property and none of the Credit Parties has any reason to believe that such a Lien or encumbrance may be imposed.

(xi) Neither the transaction contemplated by the Operative Agreements nor any other transaction involving the sale, transfer or exchange of the Credit Party Property will trigger or has triggered any obligation under any applicable Environmental Laws to make a filing, provide a notice, provide other disclosure or take any other action, or in the event that any such transaction-triggered obligation does arise or has arisen under any applicable Environmental Laws, all such action required thereby has been taken in compliance with applicable Environmental Laws except to the extent that the failure to take such action in compliance with applicable Environmental Laws would not be reasonably expected to cause a Material Adverse Effect.

(x) The Obligations of each Credit Party under the Operative Agreements to which it is a party do rank and will rank at least pari passu in priority of payment with all other Indebtedness of such Credit Party except Indebtedness of such Credit Party to the extent secured by Additional Permitted Liens. There is no Lien upon or with respect to any of the properties or income of any Credit Party which secures indebtedness or other obligations of any Person except for, in the case of such properties or income other than the Collateral, Additional Permitted Liens and, in the case of such properties or income constituting Collateral, Permitted Liens.

(y) (i) No Covered Entity is a Sanctioned Person, and (ii) no Covered Entity, either in its own right or through any third party, (A) has any of its assets in a Sanctioned Country or in the possession, custody or control of a Sanctioned Person in violation of any Anti-Terrorism Law, (B) does business in or with, or derives any of its income from investments in or transactions with, any Sanctioned Country or Sanctioned Person in violation of any Anti-Terrorism Law; or (C) engages in any dealings or transactions prohibited by any Anti-Terrorism Law.

(z) [Reserved].

(aa) Each Excluded Inactive Subsidiary has no material assets or liabilities and does not conduct business.

(bb) Upon the execution and delivery of the Lease, (i) the Lessee will have unconditionally accepted the Property and will have a valid leasehold interest in the Property, subject only to the Permitted Liens, and (ii) no offset will exist with respect to any Rent or other sums payable under the Lease.

(cc) (i) The Security Documents (other than the Lease, which is referenced in Section 6.1(cc)(ii)) create, as security for the Obligations, valid and enforceable security interests in, and Liens on, all of the Collateral, subject only to Permitted Liens, in favor of the Agent, for the benefit of the Secured Parties. Upon recordation of the Mortgage Instrument in the real estate recording office in the county or parish in which the Property is located, the Lien created by the Mortgage Instrument in the real property described therein shall be a perfected first priority mortgage Lien on such real property (subject only to Permitted Liens) in favor of the Agent, for the benefit of the Secured Parties. To the extent that the security interests in the portion of the Collateral comprised of personal property can be perfected by filing in the filing office in the state where the Lessee is located for purposes of the UCC, upon filing of the UCC Financing Statements in such filing offices, the security interests created by the Security Documents (other than the Lease, which is referenced in Section 6.1(cc)(ii)) shall be perfected first priority security interests (subject only to Permitted Liens) in such personal property in favor of the Agent, for the benefit of the Secured Parties; and

(ii) The Lease creates, as security for the obligations of the Lessee under the Lease, valid and enforceable security interests in, and Liens on, the Property leased thereunder, subject only to Permitted Liens, in favor of the Lessor. Upon recordation of the memorandum of the Lease (or a short form lease) and either the Deed in the real estate recording office in the real estate recording office in the county or parish in which the Property is located, the Lien created by the Lease in the real property described therein shall be a perfected first priority mortgage Lien on such real property (subject only to Permitted Liens) in favor of the Lessor, which rights pursuant to the UCC Financing Statements are assigned to the Agent, for the benefit of the Secured Parties. To the extent that the security interests in the portion of the Property comprised of personal property can be perfected by the filing in the filing office in the state where the Lessee is located for

purposes of the UCC, upon filing of the UCC Financing Statements in such filing offices, a security interest created by the Lease shall be a perfected first priority security interests (subject only to Permitted Liens) in such personal property in favor of the Lessor, which rights pursuant to the UCC Financing Statements are assigned to the Agent, for the benefit of the Secured Parties.

(dd) The Plans and Specifications for the Property will be prepared prior to the commencement of construction in accordance with all applicable Legal Requirements (including all applicable Environmental Laws and building, planning, zoning and fire codes), except to the extent the failure to comply therewith, individually or in the aggregate, shall not have and could not reasonably be expected to have a Material Adverse Effect. Upon completion of the Improvements for the Property in accordance with the applicable Plans and Specifications (except with respect to final completion matters regarding any punch list items for which the Punchlist Advance has been made), such Improvements will be within any building restriction lines and will not encroach in any manner onto any adjoining land (except as permitted by express written easements or those encroachments which have been approved by the Agent).

(ee) To the best of the knowledge of the Credit Parties, all written information and written materials which have been prepared and provided by the Credit Parties to (i) an appraiser in connection with an Appraisal are true and accurate in all material respects on the date as of which such written information and written materials are dated or certified, except for such inaccuracies or misstatements which would not have a Material Adverse Effect, and are not incomplete by omitting to state any material fact necessary to make such information (taken as a whole) not misleading at such time in light of the circumstances under which such information was provided and (ii) the Lessor with respect to the Property are true and accurate on the date as of which such written information and materials are dated or certified, except such as would not have a Material Adverse Effect.

(ff) Nothing contained in Section 11 hereof limits any payment obligations to additional insureds or loss payees with respect to any insurance policies required to be maintained by the Lessee pursuant to Article XIV of the Lease and amounts payable under such insurance policies to or for the benefit of such additional insureds or loss payees are not limited by the provisions of Section 5.4 of the Agency Agreement.

(gg) The location of the Construction Agent and the Lessee for purposes of the UCC is the State of Ohio and, respecting the Construction Agent and the Lessee, its principal place of business is located at 4900 E. Dublin-Granville Road, Columbus, Franklin County, OH 43081, and its chief executive office and office where the documents, accounts and records related to the transactions contemplated by this Agreement and each other Operative Agreement are located at 4900 E. Dublin-Granville Road, Columbus, Franklin County, OH 43081. The Construction Agent and the Lessee maintain a mailing address at: AVDC, LLC, c/o Big Lots, Inc., 4900 E. Dublin- Granville Road, Columbus, OH 43081.

(hh) As of the Property Closing Date, the date of each subsequent Lessor Advance and the Rent Commencement Date only, the Property is the Permitted Facility which consists of (i) unimproved Land, (ii) Land and existing Improvements thereon which Improvements are either suitable for occupancy at the time of acquisition or will be renovated and/or modified in accordance with the terms of this Agreement, and/or (iii) Equipment. The Property is located at the location set forth on the applicable Requisition.

(ii) As of the Property Closing Date, the date of each subsequent Lessor Advance and the Rent Commencement Date only, the Lessor has good and marketable legal title to the Property, subject only to (i) such Liens referenced in Section 6.1(cc)(i) and (ii) on the Property Closing Date and (ii) subject to Section 5.6, Permitted Liens after the Property Closing Date.

(jj) As of the Property Closing Date, the date of each subsequent Lessor Advance and the Rent Commencement Date only, the Property complies with all Insurance Requirements and all standards of the Lessee with respect to similar properties owned by the Lessee or Subsidiaries (direct or indirect) or Affiliates of the Lessee.

(kk) As of the Property Closing Date, the date of each subsequent Lessor Advance and the Rent Commencement Date only, the Property complies with all Legal Requirements as of such date (including all zoning and land use laws and Environmental Laws), except to the extent that failure to comply therewith, individually or in the aggregate, shall not have and could not reasonably be expected to have a Material Adverse Effect and there is not and has not been any Environmental Condition at the Property, except as shall not and could not reasonably be expected to have a Material Adverse Effect.

(ll) As of the Property Closing Date, the date of each subsequent Lessor Advance and the Rent Commencement Date only, all utility services and facilities necessary for the construction and operation of the Improvements and the installation and operation of the Equipment regarding the Property (including gas, electrical, water and sewage services and facilities) are available at the Land and vehicular access to the Improvements on the Property is provided by either public right of way abutting the Property or Appurtenant Rights, except to the extent that the non-availability of such utility services and facilities does not have and could not reasonably be expected to have a Material Adverse Effect, and will be constructed prior to the Completion Date.

(mm) As of the Property Closing Date, the date of each subsequent Lessor Advance and the Rent Commencement Date only, the acquisition, installation and testing of the Equipment (if any) and construction of the Improvements (if any) to such date shall have been performed in a good and workmanlike manner, substantially in accordance with the applicable Plans and Specifications, except to the extent that the failure of such performance does not have and could not reasonably be expected to have a Material Adverse Effect.

(nn) As of the Property Closing Date, the date of each subsequent Lessor Advance and the Rent Commencement Date only, the Property has been acquired at a price that is not in excess of fair market value.

(oo) As of the Property Closing Date, the date of each subsequent Lessor Advance and the Rent Commencement Date only, the Land included in the Property in respect of which a Lessor Advance is being requested is a separate parcel for all real estate Tax and assessment purposes, and no part of the Land is aggregated with any other parcel for such purposes.

(pp) As of the Property Closing Date and the date of each subsequent Lessor Advance, the amount of any Lessor Advance then being requested represents an amount owed by the Construction Agent or the Lessee in respect of Property Costs incurred prior to or as of the date of such Lessor Advance for which, in each case, the Construction Agent or the Lessee has not previously been reimbursed by a Lessor Advance.

(qq) As of the Rent Commencement Date only, the Property shall be improved in accordance with the applicable Plans and Specifications in a good and workmanlike manner and shall be operational and a certificate of occupancy or its equivalent shall have been issued therefor.

(rr) The Equipment shall only be, but in any event shall include, all equipment, apparatus, furnishings, fittings and other personal property (together with all replacements, modifications, alterations and additions thereto) necessary or otherwise appropriate for use in the physical plant of the Property and shall not in any event include any Excluded Equipment.

(ss) No Credit Party is a "covered fund" within the meaning of Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. § 1851) and the regulations promulgated in connection therewith.

(tt) No Credit Party is an EEA Financial Institution.

6.1A Updates to Schedules.

BLS shall update the schedules listed immediately after this paragraph on the date on which the Identified Big Lots Entities deliver each quarterly Compliance Certificate. Provided that BLS delivers such updates with each Compliance Certificate and that the Identified Big Lots Entities timely deliver such Compliance Certificates, (1) any inaccuracy in such schedules between due dates for Compliance Certificates shall not be a default hereunder, and (2) such schedules shall be deemed to be amended upon delivery thereof.

Schedule II - Capitalization
Schedule III - Credit Parties
Schedule V - Owned Real Estate

BLS shall update the schedules listed immediately after this paragraph as soon as reasonably practicable after receipt thereof from the insurer. Provided that BLS delivers such updates as stated, (1) any inaccuracy in such schedules between due dates for Compliance Certificates shall not be a default hereunder, and (2) such schedules shall be deemed to be amended upon delivery thereof.

Schedule VII - Insurance Policies

Should any of the information or disclosures provided on any of the other Schedules attached hereto become outdated or incorrect in any material respect, BLS shall promptly provide the Agent in writing with such revisions or updates to such Schedule as may be necessary or appropriate to update or correct same; provided, however, that no Schedule shall be deemed to have been amended, modified or superseded by any such correction or update, nor shall any breach of warranty or representation resulting from the inaccuracy or incompleteness of any such Schedule be deemed to have been cured thereby, unless and until the Majority Secured Parties, in their sole and absolute discretion, shall have accepted in writing such revisions or updates to such Schedule.

6.2 Representations and Warranties of the Lessor Parties.

Effective as of the Initial Closing Date or the Property Closing Date, as applicable, the date of each Lessor Advance and the Rent Commencement Date (except to the extent any representation and warranty is otherwise specifically limited to one or more specific dates), each Lessor Party represents and warrants

(as to itself but not as to any other Person, including any other Lessor Party) to each of the other parties hereto that:

(a) It is an entity duly organized, validly existing and in good standing in the jurisdiction of its formation (and as to the Lessor but not as to any other Lessor Party, the State of California) and has the power and authority to enter into and perform its obligations under each of the Operative Agreements to which it is or will be a party and each other agreement, instrument and document to be executed and delivered by it on or before the Initial Closing Date and the Property Closing Date in connection with or as contemplated by each such Operative Agreement to which it is, or as the case may be, will be a party;

(b) The execution, delivery and performance of each Operative Agreement to which it is or will be a party has been duly authorized by all necessary action on its part and neither the execution and delivery thereof, nor the consummation of the transactions contemplated thereby, nor compliance by it with any of the terms and provisions thereof (i) does or will require any approval or consent of any holder of any of its indebtedness or obligations or any other consent or approval by any Person that has not previously been obtained, (ii) does or will contravene any Legal Requirement, (iii) does or will contravene or result in any breach of or constitute any default under, or result in the creation of any Lien upon any of its property (except for the Liens created expressly pursuant to the Security Documents) under (A) its articles of organization or other formation documents or (B) any other agreement or instrument to which it is a property or by which it or its properties may be bound or affected;

(c) This Agreement and the other Operative Agreements to which it is or, as the case may be, will be a party, have been or on or before the Initial Closing Date or the Property Closing Date, as applicable, will be, duly executed and delivered by it and constitute, or upon execution and delivery will constitute, a legal, valid and binding obligation enforceable against it in accordance with the terms thereof, subject to bankruptcy, insolvency, moratorium and similar laws affecting creditors' rights generally and general principles of equity (regardless of whether considered in a proceeding at law or in equity);

(d) There is no action or proceeding pending or, to its knowledge, threatened to which it is or will be a party before any Governmental Authority that, if adversely determined, would materially and adversely affect its ability to perform its obligations under the Operative Agreements to which it is a party or would question the validity or enforceability of any of the Operative Agreements to which it is or will become a party;

(e) It has not assumed or transferred any of its right, title or interest in or under the Agency Agreement, the Lease or its interest in the Property or any portion thereof, except in accordance with the Operative Agreements;

(f) [Reserved];

(g) Except as otherwise expressly contemplated by the Operative Agreements, the proceeds of the Lessor Advances shall not be applied by it for any purpose other than Property Acquisition Costs, costs incurred to permit the acquisition, testing, engineering, installation, development, construction, modification, design, and renovation, as applicable, of the Property (or components thereof) in accordance with the terms of the Agency Agreement and the other Operative Agreements (including construction of the Improvements and acquisition and installation of the Equipment), in each case, which accrue prior to the Rent Commencement Date;

(h) Neither it nor any Person authorized by it to act on its behalf has offered any security relating to the Property, or any security the offering of which for the purposes of the Securities Act would be deemed to be part of the same offering as the offering of the aforementioned securities to, or solicited any offer to acquire any of the same from, any Person, and neither it nor any Person authorized by it to act on its behalf will take any action which would subject, as a direct result of such action alone, the issuance or sale of any of the aforementioned securities to the provisions of Section 5 of the Securities Act or require the qualification of any Operative Agreement under the Trust Indenture Act of 1939, as amended;

(i) [Reserved];

(j) It is not engaged principally in, and does not have as one (1) of its important activities, the business of extending credit for the purpose of purchasing or carrying any margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System of the United States), and no part of the proceeds of the Lessor Advances will be used by it to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying any such margin stock or for any purpose that violates, or is inconsistent with, the provisions of Regulations T, U, or X of the Board of Governors of the Federal Reserve System of the United States;

(k) It is not itself, nor is it controlled by, an "investment company" registered or required to be registered under the Investment Company Act; and

(l) The Property is free and clear of all Lessor Liens attributable to it.

SECTION 6B.
GUARANTY

6B.1 Guaranty of Payment and Performance.

Subject to Section 6B.7, the Guarantors hereby unconditionally guarantee to each Financing Party the prompt payment and performance of the Obligations in full when due (whether at stated maturity, as a mandatory repayment or prepayment, by acceleration or otherwise) or when such is otherwise to be performed. This Section 6B is a guaranty of payment and performance and not of collection and is a continuing guaranty and shall apply to all Obligations whenever arising.

6B.2 Obligations Unconditional.

The Guarantors agree that the obligations of the Guarantors hereunder are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Operative Agreements, or any other agreement or instrument referred to therein, or any substitution, release or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by Applicable Law, irrespective of any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety, guarantor or co-obligor, it being the intent of this Section 6B.2 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. The Guarantors agree that this Section 6B may be enforced by any Financing Party without the necessity at any time of resorting to or exhausting any other security or collateral and without the necessity at any time of having recourse to any of the Operative Agreements or any collateral, if any, hereafter securing the Obligations or otherwise and the Guarantors hereby waive the right to require the Financing Parties to proceed against the Construction Agent, the Lessee or any other Person (including a co-guarantor) or to require the Financing Parties to pursue any other remedy or enforce

any other right. The Guarantors further agree that each Guarantor hereby waives any and all right of subrogation, indemnity, reimbursement or contribution against the Construction Agent, the Lessee or any other guarantor of the Obligations for amounts paid under this Section 6B until such time as the Lessor Advances, accrued but unpaid Lessor Yield and all other amounts owing under the Operative Agreements have been paid in full. Without limiting the generality of the waiver provisions of this Section 6B, the Guarantors hereby waive any rights to require the Financing Parties to proceed against the Construction Agent, the Lessee or any co-guarantor or to require the Lessor to pursue any other remedy or enforce any other right, including any and all rights under N.C. Gen. Stat. § 26-7 through 26-9, or any similar statute. Additionally, the Guarantors hereby waive any rights and defenses that are or may become available to any of them by reason of §§ 2787 to 2855, inclusive, and §§ 2899 and 3433 of the California Civil Code. The foregoing waivers and the provisions otherwise set forth in this Section 6B which pertain to North Carolina law or to California law are included solely out of an abundance of caution, and shall not be construed to mean that any such provisions of North Carolina law or California law are in any way applicable to this Section 6B or the Obligations. The Guarantors further agree that nothing contained in this Section 6B shall prevent the Financing Parties from suing on any Operative Agreement or foreclosing any security interest in or Lien on any Collateral, if any, securing the Obligations or from exercising any other rights available to it under any Operative Agreement, or any other instrument of security, if any, and the exercise of any of the aforesaid rights and the completion of any foreclosure proceedings shall not constitute a discharge of the obligations of the Guarantors hereunder; it being the purpose and intent of the Guarantors that the obligations of the Guarantors hereunder shall be absolute, independent and unconditional under any and all circumstances; provided, that any amounts due under this Section 6B which are paid to or for the benefit of any Financing Party shall reduce the Obligations by a corresponding amount (unless required to be rescinded at a later date). Neither the obligations of the Guarantors under this Section 6B nor any remedy for the enforcement thereof shall be impaired, modified, changed or released in any manner whatsoever by an impairment, modification, change, release or limitation of the liability of any other Credit Party or by reason of the bankruptcy or insolvency of any other Credit Party. The Guarantors waive any and all notice of the creation, renewal, extension or accrual of any of the Obligations and notice of or proof of reliance by any Financing Party upon this Section 6B or acceptance of this Section 6B. The Obligations shall conclusively be deemed to have been created, contracted or incurred, or renewed, extended, amended or waived, in reliance upon this Section 6B. All dealings between the Credit Parties, on the one hand, and the Financing Parties, on the other hand, likewise shall be conclusively presumed to have been had or consummated in reliance upon this Section 6B.

6B.3 Modifications.

The Guarantors agree that (a) all or any part of the security now or hereafter held for the Obligations, if any, may be exchanged, compromised or surrendered from time to time; (b) no Financing Party shall have any obligation to protect, perfect, secure or insure any such security interests, Liens or encumbrances now or hereafter held, if any, for the Obligations or the properties subject thereto; (c) the time or place of payment of the Obligations may be changed or extended, in whole or in part, to a time certain or otherwise, and may be renewed or accelerated, in whole or in part; (d) the Construction Agent, the Lessee and any other party liable for payment under the Operative Agreements may be granted indulgences generally; (e) any of the provisions of any Operative Agreements may be modified, amended or waived; (f) any party (including any co-guarantor) liable for the payment thereof may be granted indulgences or be released; and (g) any deposit balance for the credit of the Construction Agent, the Lessee or any other party liable for the payment of the Obligations or liable upon any security therefor may be released, in whole or in part, at, before or after the stated, extended or accelerated maturity of the Obligations, all without notice to or further assent by the Guarantor, which shall remain bound thereon, notwithstanding any such exchange, compromise, surrender, extension, renewal, acceleration, modification, indulgence or release.

6B.4 Waiver of Rights.

The Guarantors expressly waive to the fullest extent permitted by Applicable Law: (a) notice of acceptance of this Section 6B by any Financing Party and of all extensions of credit or other Lessor Advances by the Lessor Parties pursuant to the terms of the Operative Agreements; (b) presentment and demand for payment or performance of any of the Obligations; (c) protest and notice of dishonor or of default with respect to the Obligations or with respect to any security therefor; (d) notice of any Financing Party obtaining, amending, substituting for, releasing, waiving or modifying any security interest, Lien or encumbrance, if any, hereafter securing the Obligations, or any Financing Party's subordinating, compromising, discharging or releasing such security interests, Liens or encumbrances, if any; (e) all other notices to which the Guarantors might otherwise be entitled; and (f) the right to seek through any means to have the obligations of the Guarantors under this Section 6B adjudicated invalid or unenforceable. Notwithstanding anything to the contrary herein, (i) payments from the Guarantors hereunder shall be due two (2) Business Days after written demand by any Financing Party for such payment (unless the Obligations are automatically accelerated pursuant to the applicable provisions of the Operative Agreements in which case payments from the Guarantors shall be automatically due) and (ii) any modification of the Operative Agreements which has the effect of increasing the Obligations shall not be enforceable against the Guarantors unless the Guarantors execute the document evidencing such modification or otherwise reaffirm their guaranty in writing in connection with such modification.

6B.5 Reinstatement.

The obligations of the Guarantors under this Section 6B shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and the Guarantors agree that the Guarantors will indemnify each Financing Party on demand for all reasonable costs and expenses (including reasonable fees of counsel) incurred by any Financing Party in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

6B.6 Remedies.

The Guarantors agree that, as between the Guarantors, on the one hand, and each Financing Party, on the other hand, the Obligations may be declared to be forthwith due and payable as provided in the applicable provisions of the Operative Agreements (and shall be deemed to have become automatically due and payable in the circumstances provided therein) notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing such Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or such Obligations being deemed to have become automatically due and payable), such Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors in accordance with the applicable provisions of the Operative Agreements.

6B.7 Limitation of Guaranty.

Notwithstanding any provision to the contrary contained herein or in any of the other Operative Agreements (but subject to Section 6B.4(f)), to the extent the obligations of the Guarantors shall be adjudicated to be invalid or unenforceable for any reason (including because of any applicable state or federal law relating to fraudulent conveyances or transfers) then the obligations of the Guarantors hereunder shall be limited to the maximum amount that is permissible under Applicable Law (whether federal or state

and including the Bankruptcy Code). This paragraph shall not apply to any Guarantor that is the direct or indirect owner of 100% of the equity interest in the Lessee.

Subject to Section 6B.5, upon the indefeasible satisfaction of the Obligations in full, regardless of the source of payment, the obligations of the Guarantors hereunder shall be deemed satisfied, discharged and terminated other than indemnifications set forth herein that expressly survive.

6B.8 Payment of Amounts to the Agent.

Each Financing Party hereby instructs the Guarantors, and the Guarantors hereby acknowledge and agree, that until such time as the Lessor Advances are paid in full and the Liens evidenced by the Security Documents have been released, any and all Rent (excluding Excepted Payments which shall be payable to the Lessor or other Person as appropriate) and any and all other amounts of any kind or type under any of the Operative Agreements due and owing or payable to any Financing Party shall instead be paid directly to the Agent (excluding Excepted Payments which shall be payable to the Lessor or other Person as appropriate) or as the Agent may direct from time to time for allocation and distribution in accordance with the procedures set forth in Section 8.7 hereof.

6B.9 Joinder of Guarantors.

Any Subsidiary of the Parent which is required to join this Agreement as a Guarantor pursuant to Section 8.3B(h) and which has not yet done so shall execute and deliver to the Agent (a) a Guarantor Joinder in substantially the form attached hereto as EXHIBIT H pursuant to which it shall join as a Guarantor each of the documents to which the Guarantors are parties; and (b) documents in the forms described in Sections 5.3(t), 5.3(u) and 5.3(y) modified as appropriate to relate to such Subsidiary. The Credit Parties shall deliver such Guarantor Joinder and related documents to the Agent within thirty (30) Business Days after the date of (x) the filing of such Subsidiary's articles of incorporation or other similar formation document if the Subsidiary is a corporation, (y) the filing of its certificate of limited partnership or other similar formation document, if the Subsidiary is a limited partnership or (z) the filing of the applicable formation document, if the Subsidiary is an entity other than a corporation or limited partnership.

6B.10 Additional Waivers and Provisions.

(a) The Guarantors understand, acknowledge and agree that if the Secured Parties foreclose judicially or nonjudicially against any real property security for the Obligations and/or the Obligations, that foreclosure could impair or destroy any ability that any such Guarantor may have to seek reimbursement, contribution, or indemnification from any applicable Person based on any right such Guarantor may have of subrogation, reimbursement, contribution, or indemnification for any amounts paid by such Guarantor hereunder, including by reason of Sections 2787 through 2855 of the California Civil Code. The Guarantors further understand and acknowledge that in the absence of this paragraph, such potential impairment or destruction of the Guarantors' rights, if any, may entitle the Guarantors, or any of them, to assert a defense to its guaranty obligations under this Section 6B based on Section 580d of the California Code of Civil Procedure as interpreted in Union Bank v. Gradsky, 265 Cal. App. 2d 40 (1968). By executing this Agreement, each Guarantor freely, irrevocably, and unconditionally: (i) waives and relinquishes that defense and agrees that it will be fully liable under this Agreement even though the Secured Parties may foreclose, either by judicial foreclosure or by exercise of power of sale, any deed of trust securing the Obligations and/or the Obligations; (ii) agrees that it will not assert that defense in any action or proceeding which the Secured Parties may commence to enforce this Section 6B; (iii) acknowledges and agrees that the rights and defenses waived by such Guarantor in this Section 6B include any right or defense that it may have or be entitled to assert based upon or arising out of any one or more of §§

580a, 580b, 580d, or 726 of the California Code of Civil Procedure or § 2848 of the California Civil Code; and (iv) acknowledges and agrees that the Secured Parties are relying on this waiver in creating the Obligations and the Obligations, and that this waiver is a material part of the consideration which the Secured Parties are receiving for creating the Obligations and the Obligations.

(b) The Guarantors waive all rights and defenses that any of them may have because any of the Obligations or the Obligations is secured by real property. This means, among other things: (i) the Secured Parties may collect from any Guarantor without first foreclosing on any real or personal property collateral pledged by the Lessor or the Lessee; and (ii) if the Secured Parties foreclose on any real property collateral pledged by the Lessor or the Lessee: (A) the amount of the Obligations and the Obligations may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (B) the Secured Parties may collect from any Guarantor even if the Secured Parties, by foreclosing on the real property collateral, have destroyed any right such Guarantor may have to collect from the Lessor or the Lessee. This is an unconditional and irrevocable waiver of any rights and defenses the Guarantors may have because any of the Obligations or the Obligations is secured by real property. These rights and defenses include any rights or defenses based upon § 580a, 580b, 580d, or 726 of the California Code of Civil Procedure.

(c) The Guarantors waive any right or defense any of them may have at law or equity, including California Code of Civil Procedure § 580a, to a fair market value hearing or action to determine a deficiency judgment after a foreclosure.

6B.11 Representations; Separateness.

Each Guarantor represents, warrants and covenants that, except as permitted under Sections 8.3B and 10.1, (a) it does not have and will not acquire any direct ownership interest in the Property or any portion thereof, and (b) it will not merge or consolidate with the Construction Agent, the Lessee or the Lessor.

SECTION 7.
PAYMENT OF CERTAIN EXPENSES.

7.1 Transaction Expenses.

(a) The Lessor Parties agree on the Initial Closing Date, to pay, or cause to be paid, all Transaction Expenses arising from the Initial Closing Date, including all reasonable fees, expenses and disbursements of the various legal counsels for the Credit Parties, the Lessor and the Agent in connection with the transactions contemplated by the Operative Agreements and incurred in connection with the Initial Closing Date, all fees, Taxes and expenses for the recording, registration and filing of such documents and in any event all such Taxes, fees and other charges in connection with any and all UCC financing statements and fixture filings and all other reasonable fees, expenses and disbursements incurred in connection with the Initial Closing Date; provided, however, the Lessor Parties shall be obligated to pay such amounts described in this Section 7.1(a) only to the extent of the amount of the funds made available by the Lessor Parties as part of the Lessor Advances without regard to whether such amounts are referenced in any Requisition. On the Initial Closing Date after satisfaction of the conditions precedent for such date, the Lessor Parties shall make Lessor Advances sufficient in the aggregate to pay for the Transaction Expenses referenced in this Section 7.1(a). The Lessee shall pay all such amounts if not paid by the Lessor Parties.

(b) Assuming no Default or Event of Default shall have occurred and be continuing, the Lessor Parties agree on the Property Closing Date, the date of each Construction Advance and on the Completion Date to pay, or cause to be paid, all Transaction Expenses including all Fees, all other reasonable fees, expenses and disbursements of the various legal counsels for the Credit Parties, the Lessor and the Agent in connection with the transactions contemplated by the Operative Agreements and billed in connection with the Property Closing Date, date of Construction Advance or the Completion Date, all amounts described in Section 7.1(a) of this Agreement which have not been previously paid, all fees, expenses and disbursements incurred with respect to the various items referenced in Sections 5.3 and/or 5.4 (including any premiums for title insurance policies and charges for any updates to such policies) and all other fees, expenses and disbursements in connection with the Property Closing Date, date of Construction Advance or Completion Date, including all expenses relating to and all fees, Taxes and expenses for the recording, registration and filing of such documents and in any event all such Taxes, fees and other charges in connection with any and all UCC financing statements and fixture filings; provided, however, the Lessor Parties shall be obligated to pay such amounts described in this Section 7.1(b) only to the extent of the amount of funds made available by the Lessor Parties as part of the Lessor Advances and without regard to whether such amounts are referenced in any Requisition. On the Property Closing Date, on the date of any Construction Advance and on the Completion Date, after satisfaction of the conditions precedent for such date, the Lessor Parties shall make Lessor Advances sufficient in the aggregate to pay for the Transaction Expenses referenced in this Section 7.1(b). The Lessee shall pay all such amounts if not paid by the Lessor Parties.

7.2 Fee Calculation.

All fees payable pursuant to the Operative Agreements shall be calculated on the basis of a year of three hundred sixty (360) days for the actual days elapsed.

7.3 Certain Fees and Expenses.

Subject to Sections 7.1(a) and 7.1(b), the Lessee agrees to pay or cause to be paid (a) all reasonable fees, costs and expenses incurred by the Credit Parties or the Agent, including all reasonable fees, expenses and disbursements of the various legal counsels for the Credit Parties or the Agent, in entering into any future Operative Agreements or any future amendments, modifications, supplements, restatements and/or replacements with respect to any of the Operative Agreements, whether or not such future Operative Agreements or future amendments, modifications, supplements, restatements and/or replacements are ultimately entered into, or giving or withholding of waivers of consents hereto or thereto, which have been requested by the Credit Parties or the Agent, (b) all fees, costs and expenses (including reasonable fees and expenses of counsel) incurred by the Credit Parties, the Agent or the Lessor Parties in connection with any exercise of remedies under any Operative Agreement following the occurrence and continuance of an Event of Default and (c) all reasonable fees, costs and expenses (including fees and expenses of counsel) incurred by the Credit Parties, the Agent or the Lessor Parties in connection with (i) any transfer or conveyance of the Property, whether or not such transfer or conveyance is ultimately accomplished and (ii) the matters described in Section 5A.7; provided further, however, that the Lessee shall only be responsible for the reasonable documented out-of-pocket fees and disbursements of one primary counsel to the Agent (and, if reasonably necessary, one regulatory counsel and one local counsel in each jurisdiction the laws of which govern any of the Operative Agreements or in which the Lessee is organized or owns property or assets).

7.4 Lessor Parties Unused Fee.

Subject to Sections 7.1(a) and 7.1(b), during the Commitment Period, the Lessee agrees to pay or to cause to be paid to the Agent monthly on the last Business Day of each calendar month or such other

date as agreed with the Agent for the account of the Lessor Parties an unused fee (the "Lessor Parties Unused Fee"), calculated as the Available Lessor Parties Commitment multiplied by the Applicable Percentage allocated by the Agent ratably among the Lessor Parties.

Notwithstanding the foregoing provisions of this Section 7.4:

(a) No Defaulting Lessor Party shall be entitled to receive any Lessor Parties Unused Fee for any period during which that Lessor Party is a Defaulting Lessor Party (and the Lessee shall not be required to pay or to cause to be paid any such fee that otherwise would have been required to have been paid to that Defaulting Lessor Party).

(b) With respect to any Lessor Parties Unused Fee payable to any Defaulting Lessor Party pursuant to the first paragraph of this Section 7.4 (which is to be withheld from any Defaulting Lessor Party pursuant to the foregoing subsection (a)), (i) the Lessee agrees to pay, or to cause to be paid, to each Non-Defaulting Lessor Party that portion of any such fee otherwise payable to the Defaulting Lessor Party with respect to the Defaulting Lessor Party's Lessor Advance that have been reallocated to a Non-Defaulting Lessor Party pursuant to Section 5A.1(e)(i)(C), and (ii) the Lessee shall not be required to pay, or cause to be paid, the remaining amount of any such fee.

7.5 Lessor Parties Upfront Fee.

Subject to Section 7.1(a), on the Initial Closing Date, the Lessee shall pay or cause to be paid to the Agent (a) for the account of the Lessor Parties an upfront fee (the "Lessor Parties Upfront Fee"), on the terms and conditions set forth in the Engagement Letter.

7.6 Administrative Agency Fee.

Subject to Sections 7.1(a) and 7.1(b), the Lessee shall pay or cause to be paid to the Agent, for the account of the Agent, an administrative agency fee (the "Administrative Agency Fee"), on the terms and conditions set forth in the Engagement Letter.

7.7 Structuring Fee.

Subject to Section 7.1(a), on the Initial Closing Date, the Lessee shall pay or cause to be paid a structuring fee (the "Structuring Fee") to the Agent for the benefit of Wells Fargo Securities, LLC (for its individual account) on the terms and conditions set forth in the Engagement Letter.

SECTION 8.
OTHER COVENANTS AND AGREEMENTS.

8.1 Cooperation with the Lessee.

The Lessor Parties and the Agent shall, at the expense of and to the extent reasonably requested by the Lessee (but without assuming additional liabilities on account thereof and only to the extent such is acceptable to the Lessor Parties and the Agent in their reasonable discretion), cooperate with the Lessee in connection with the Lessee satisfying its covenant obligations contained in the Operative Agreements including at any time and from time to time, promptly and duly executing and delivering any and all such further instruments, documents and financing statements (and continuation statements related thereto).

8.2 Covenants of the Lessor Parties.

Each Lessor Party hereby agrees (as to itself but not as to any other Person, including any other Lessor Party) that so long as this Agreement is in effect:

(a) It will not create or permit to exist at any time, and it will, at its own cost and expense, promptly take such action as may be necessary duly to discharge, or to cause to be discharged, all Lessor Liens attributable to it on the Property and the other Collateral; provided, however, that it shall not be required to so discharge any such Lessor Lien while the same is being contested in good faith by appropriate proceedings diligently prosecuted so long as such proceedings shall not materially and adversely affect the rights of the Lessee under the Lease and the other Operative Agreements or involve any material danger of impairment of the Liens of the Security Documents or of the sale, forfeiture or loss of, and shall not interfere with the use or disposition of, the Property or title thereto or any interest therein or the payment of Rent;

(b) [Reserved];

(c) The Lessor shall take or refrain from taking such actions and grant or refrain from granting such approvals with respect to the Property and/or with respect to the election and enforcement of remedies regarding any Event of Default, in each case as directed in writing by the Agent in accordance with the Operative Agreements (as determined by the Majority Secured Parties, subject to the provisions of any applicable agreements among the Lessor Parties pursuant to the Operative Agreements) or, in connection with Section 8.5, the Construction Agent or the Lessee; provided, however, that notwithstanding the foregoing provisions of this subparagraph (c), (i) the Lessor shall retain its right as a Lessor Party to vote on each Unanimous Vote Matter or matters for which its consent is required pursuant to Section 8.6, in each case, in its sole discretion and without regard to any direction from any other Financing Party, any Credit Party or any other Person and (ii) the Lessor shall retain its rights in the Excepted Payments and any and all other rights expressly reserved by it under the Operative Agreements; and

(d) Within ten (10) days following receipt by Lessor from Lessee of a request delivered in accordance with Section 12.2, Lessor shall provide to Lessee a Lessor Confirmation Letter; provided, Lessor shall have no obligation to provide any Lessor Confirmation Letter more frequently than once each calendar quarter; provided, further, that if there have been any changes to the factual matters set forth in the Lessor Confirmation Letter or the financial accounting standards referenced therein that bear on the conclusions set forth therein, such letter shall set forth the analysis based on such changed factual matters or financial accounting standards. The parties hereto agree that the Credit Parties and their auditors are the sole beneficiaries of the matters addressed in this Section 8.2(d).

8.3 Credit Party Covenants, Consent and Acknowledgment.

The Credit Parties, jointly and severally, covenant and agree that until Payment in Full, the Credit Parties shall comply at all times with the following covenants:

(a) Each Credit Party shall, to the extent reasonably requested by any of the other parties hereto, cooperate with the other parties in accordance with Section 12.11 hereof.

(b) Each Lessor Party hereby instructs each Credit Party, and each Credit Party hereby acknowledges and agrees, that until such time as the Lessor Advances are paid in full and the Liens evidenced by the Security Documents have been released (i) any and all Rent (excluding Excepted

Payments which shall be payable to the Lessor Party or other Person as appropriate) and any and all other amounts of any kind or type under any of the Operative Agreements due and owing or payable by any Credit Party to any Lessor Party (including pursuant to Section 5.3(c) of the Agency Agreement and Section 17.6(c) of the Lease) shall instead be paid directly to the Agent (excluding Excepted Payments which shall be payable to the Lessor Party or other Person as appropriate) or as the Agent may direct from time to time for allocation and distribution in accordance with the procedures set forth in Section 8.7 hereof, (ii) all rights of the Lessor Parties under the Lease (except in respect of Excepted Payments and as provided in Section 12.4) shall be exercised by the Agent and (iii) each Credit Party shall cause all notices, certificates, financial statements, communications and other information which are delivered, or are required to be delivered, to any Lessor Party, to also be delivered at the same time to the Agent.

(c) No Credit Party shall consent to or permit any amendment, supplement or other modification of the terms or provisions of any Operative Agreement except in accordance with Section 12.4 of this Agreement.

(d) From and after the Rent Commencement Date, the Lessee hereby covenants and agrees to reimburse the Agent for any Appraisal or reappraisal (in form and substance satisfactory to the Agent and from an appraiser selected by the Agent) to be issued respecting the Property as requested by the Agent from time to time (i) at each and every time as such shall be required to satisfy any regulatory requirements imposed on the Agent and/or any Lessor Party and (ii) after the occurrence and continuance of an Event of Default. To the extent any such Appraisal or reappraisal is deemed necessary by the Agent prior to the Rent Commencement Date, such shall be paid for as a Transaction Expense.

(e) Each Credit Party hereby covenants and agrees that, except for amounts payable as Basic Rent, any and all payment obligations owing from time to time under the Operative Agreements by any Person to any Financing Party or any other Person shall (without further action) be deemed to be Supplemental Rent obligations payable by the Lessee and guaranteed by the Guarantors, which is subject to the funding requirements described in this Agreement prior to the Rent Commencement Date. Without limitation, such obligations of the Credit Parties shall include the Transaction Expenses.

(f) At any time the Lessor or the Agent is entitled under the Operative Agreements to possession of the Property or any component thereof, each of the Construction Agent and the Lessee hereby covenants and agrees, at its own cost and expense, to assemble the Equipment and make the same available to the Agent (on behalf of the Lessor) at the Property.

(g) Each of the Construction Agent and the Lessee hereby covenants and agrees that (i) each Indemnified Person will, at all times, be covered to the extent so provided in Article XIV of the Lease, as additional insured or loss payee, as the case may be, under the insurance policies required to be maintained by the Construction Agent or the Lessee pursuant to Section 2.6(e) of the Agency Agreement and Article XIV of the Lease, or pursuant to the insurance policies that the Construction Agent or the Lessee requires any relevant contractor or subcontractor to carry, for any Claim arising out of the acts or omissions of any of the contractors or subcontractors of the Construction Agent or the Lessee and (ii) each insurance policy that is carried by the Construction Agent or the Lessee pursuant to the Agency Agreement or the Lease (A) shall at all times contain a waiver of subrogation clause pursuant to which the relevant insurers waive any and all rights to make any claim against any such additional insured or loss payee with respect to any payments made, or any obligation of such insureds under, any such policy and (B) shall at all times cover each such additional insured or loss payee for any and all Claims relating to the Property or the

transactions contemplated by the Operative Agreements. The Construction Agent and the Lessee will be liable to each such additional insured or loss payee, on a full recourse basis, for any breach of the foregoing covenants and agreements.

(h) The Lessee hereby covenants and agrees that as of the Completion, the Property shall be the Permitted Facility.

(i) The Lessee hereby covenants and agrees that it shall give prompt notice to the Agent if the location of the Lessee for purposes of the UCC shall cease to be in the State of Ohio, if the Lessee's principal place of business shall cease to be located at 4900 E. Dublin-Granville Road, Columbus, Franklin County, OH 43081 or if the Lessee's chief executive office or office where the records concerning the account or contract rights relating to the Property are kept shall cease to be located at 4900 E. Dublin-Granville Road, Columbus, Franklin County, OH 43081 or if it shall change its name. The Lessee shall at all times maintain a mailing address at: AVDC, LLC, c/o Big Lots, Inc., 4900 E. Dublin-Granville Road, Columbus, OH 43081.

(j) The Lessee hereby covenants and agrees that the rights of the Lessee under this Agreement and under the Lease shall not impair or in any way diminish the obligations of the Construction Agent and/or the rights of the Lessor under the Agency Agreement.

(k) Each Credit Party shall promptly notify the Agent, or cause the Agent to be promptly notified, upon a Responsible Officer of such Credit Party gaining knowledge of the occurrence of any Default or Event of Default (whether material or not) which is continuing at such time. In any event, such notice shall be provided to the Agent within ten (10) days of when such Credit Party gains such knowledge.

(l) The Lessee shall cause all financing statements and continuation statements and any other necessary documents covering the right, title and interest of the Agent as agent for the Secured Parties with regard to the Collateral to be promptly produced, to be submitted to the Agent for review and after confirmation thereof by the Agent, to be filed for recordation in such manner and in such places as may be required by law fully to preserve and protect the right, title and interest of the Agent as agent for the Secured Parties hereunder to all property comprising the Collateral. The Lessee shall deliver to the Agent file-stamped copies of, or filing receipts for, any document recorded, registered or filed as provided above, as soon as available following such recording, registration or filing. The Lessor shall cooperate fully with the Lessee in connection with the obligations of the Lessee set forth above and will execute or cause the execution (at the expense of the Lessee, which the Lessee agrees to pay) of any and all documents reasonably required to fulfill the intent of this Section 8.3(l).

(m) Each Credit Party acknowledges and agrees that such Credit Party shall at no time be an EEA Financial Institution.

(n) The Lessee covenants and agrees to deliver to the Agent, on or before the Commencement Date, the Lease and a memorandum thereof (or short form lease) (such memorandum or short form lease to be in the form attached to the Lease as Exhibit B or in such other form as is acceptable to the Agent, with modifications as necessary to conform to applicable state law, and in form suitable for recording).

(o) In addition to, and not in limitation of, the requirements of Article XIV of the Lease, Lessee will maintain insurance against loss or damage which to the Lessee's knowledge is similar to the kinds and in the amounts customarily maintained by corporations engaged in the same

or similar businesses and which are similarly situated to the Lessee, the failure of which would be reasonably likely to have a Material Adverse Effect.

8.3A Additional Credit Party Affirmative Covenants.

The Credit Parties, jointly and severally, covenant and agree that until Payment in Full, the Credit Parties shall comply at all times with the following affirmative covenants:

(a) Each Credit Party shall maintain its legal existence as a corporation, limited partnership or limited liability company and its license or qualification and good standing in each jurisdiction in which its ownership or lease of property or the nature of its business makes such license or qualification necessary, except to the extent that the failure to be so qualified, licensed or in good standing would not be reasonably likely to cause a Material Adverse Effect and as otherwise permitted in Section 8.3B(e) or Section 10.1.

(b) Each Credit Party shall, and shall cause each of its Subsidiaries to, duly pay and discharge all liabilities to which it is subject or which are asserted against it, promptly as and when the same shall become due and payable, including all Taxes, assessments and governmental charges upon it or any of its properties, assets, income or profits, prior to the date on which penalties attach thereto, except to the extent that such liabilities, including Taxes, assessments or charges, are being contested in good faith and by appropriate and lawful proceedings diligently conducted and for which such reserve or other appropriate provisions, if any, as shall be required by GAAP shall have been made, but only to the extent that failure to discharge any such liabilities would not result in a Material Adverse Effect, provided that the Credit Parties and their Subsidiaries will pay all such liabilities forthwith upon the commencement of proceedings to foreclose any Lien which may have attached as security therefor.

(c) Each Credit Party shall, and shall cause each Excluded Active Subsidiary to, insure its properties and assets against loss or damage by fire and such other insurable hazards as such assets are commonly insured (including fire, extended coverage, property damage, workers' compensation, public liability and business interruption insurance) and against other risks (including errors and omissions) in such amounts as similar properties and assets are insured by prudent companies in similar circumstances carrying on similar businesses, and with reputable and financially sound insurers, including self-insurance to the extent customary, all as reasonably determined by the Agent. At the request of the Agent, the Credit Parties shall deliver to the Agent (i) on the Initial Closing Date and annually thereafter a certificate of insurance signed by the Credit Parties' independent insurance broker describing and certifying as to the existence of the insurance required to be maintained by this Agreement and the other Operative Agreements, and (ii) from time to time a summary schedule indicating all insurance then in force with respect to each of the Credit Parties.

(d) Each Credit Party shall, and shall cause each Excluded Active Subsidiary to, maintain in good repair, working order and condition (ordinary wear and tear excepted) in accordance with the general practice of other businesses of similar character and size, all of those material properties useful or necessary to its business, and from time to time, such Credit Party will make or cause to be made all appropriate repairs, renewals or replacements thereof to the extent that a failure to make such repairs, renewals or replacements would be reasonably expected to cause a Material Adverse Effect.

(e) Each Credit Party shall, and shall cause each Excluded Active Subsidiary to, maintain in full force and effect all patents, trademarks, service marks, trade names, copyrights,

licenses, franchises, permits and other intellectual property and authorizations necessary for the ownership and operation of its properties and business if the failure so to maintain the same would constitute a Material Adverse Effect.

(f) Each Credit Party shall permit any of the officers or authorized employees or representatives of any Financing Party to visit, no more than twice per year (unless an Event of Default has occurred and is continuing), during normal business hours and inspect any of its properties and to examine and make excerpts from its books and records and discuss its business affairs, finances and accounts with its officers, all in such detail and at such times and as often as any Lessor Party may reasonably request, provided that each Lessor Party shall provide the Lessee and the Agent with reasonable notice prior to any visit or inspection; provided, further, that such visit or inspection shall be conducted during normal business hours and shall not unreasonably interfere with the business or operations of the applicable Credit Party and all information obtained or observed during such visit or inspection shall be subject to the confidentiality obligations in Section 12.13. In the event any Lessor Party desires to visit and inspect any Credit Party, such Lessor Party shall make a reasonable effort to conduct such visit and inspection contemporaneously with any visit and inspection to be performed by the Agent.

(g) The Parent shall, and shall cause each Subsidiary of the Parent to, maintain and keep proper books of record and account which enable the Parent and its Subsidiaries to issue financial statements in accordance with GAAP and as otherwise required by Applicable Laws of any Official Body having jurisdiction over the Parent or any Subsidiary of the Parent, and in which full, true and correct entries shall be made in all material respects of all its dealings and business and financial affairs.

(h) Each Identified Big Lots Entity shall, and shall cause each other member of the ERISA Group to, comply with ERISA, the Code and other Applicable Laws applicable to Plans and Benefit Arrangements except where such failure, alone or in conjunction with any other failure, would not result in a Material Adverse Effect. Without limiting the generality of the foregoing, each Identified Big Lots Entity shall cause all of its Plans and all Plans maintained by any member of the ERISA Group to be funded in accordance with the minimum funding requirements of ERISA and shall make, and cause each member of the ERISA Group to make, in a timely manner, all contributions due to Plans, Benefit Arrangements, Multiemployer Plans and Multiple Employer Plans.

(i) Each Credit Party shall, and shall cause each of its Subsidiaries to, comply with all Applicable Laws, including all Environmental Laws, in all respects, provided that it shall not be deemed to be a violation of this Section 8.3A(i) if any failure to comply with any Law would not result in fines, penalties, remediation costs, other similar liabilities or injunctive relief which in the aggregate would reasonably be expected to constitute a Material Adverse Effect.

(j) The Credit Parties will use the proceeds of the Lessor Advances for the purposes stated in Section 6.1(j). The Credit Parties shall not use the proceeds of the Lessor Advances for any purposes which contravenes any Applicable Law or any provision hereof.

(k) Each Credit Party shall cause any intercompany Indebtedness, loans or advances owed by any Credit Party to any other Credit Party to be subordinated pursuant to the terms of the Intercompany Subordination Agreement.

(l) (i) The Credit Parties shall promptly notify the Agent and each of the Lessor Parties in writing upon the occurrence of a Reportable Compliance Event.

(ii) The Credit Parties shall cause each Covered Entity to conduct its business in compliance with all Anti-Corruption Laws in all material respects and maintain policies and procedures reasonably designed to promote compliance with such Laws.

(m) Each Credit Party shall provide to the Financing Parties such information and documentation as may reasonably be requested by any Financing Party from time to time for purposes of compliance by any such Financing Party with Applicable Laws (including the USA Patriot Act and other "know your customer" and anti-money laundering rules and regulations), and any policy or procedure implemented by any such Financing Party to comply therewith.

(n) The Credit Parties shall cause the aggregate amount of Lessor Advances (as such is referenced in section (b) of the definition of "Lessor Advances" in Appendix A attached hereto) to be fully reserved against on a Dollar for Dollar basis as an expressed, singularly identified component part of the Reserves (as "Reserves" is defined in the ABL Credit Agreement), which amount of Lessor Advances shall be a subtracted element in the determination of the Borrowing Base (as "Borrowing Base" is defined in the ABL Credit Agreement).

8.3B Additional Credit Party Negative Covenants.

The Credit Parties, jointly and severally, covenant and agree that until Payment in Full, the Credit Parties shall comply with the following negative covenants:

(a) Each of the Credit Parties shall not at any time create, incur, assume or suffer to exist any Indebtedness, except:

(i) Indebtedness under the ABL Credit Agreement, subject to compliance with Section 8.3B(t);

(ii) Existing Indebtedness as set forth on Schedule X (including any extensions or renewals thereof, provided there is no increase in the amount thereof, or an increase in the effective interest rate thereof, or an earlier maturity date for any payment payable thereunder, or the provision of any security or guarantees therefor, or other significant change in the terms thereof unless otherwise specified on Schedule X);

(iii) Indebtedness in respect of Capital Leases and Synthetic Lease Obligations or any sale-leaseback transaction (including any extensions or renewals thereof), and any Indebtedness in respect of any refinancing of the Obligations under the Operative Agreements (the "AVDC Refinancing Indebtedness");

(iv) Indebtedness secured by (A) Purchase Money Security Interests or (B) by security interests in proceeds granted in connection with securities lending transactions or reverse repurchase agreements involving United States Treasury bonds, provided that (1) the aggregate amount as of any date of all such Indebtedness permitted by this Section 8.3B(a)(iv)(A) shall not exceed Twenty-Five Million and 00/100 Dollars ($25,000,000.00) and (2) the aggregate amount as of any date of all such Indebtedness permitted by this Section 8.3B(a)(iv)(B) shall not exceed Ten Million and 00/100 Dollars ($10,000,000.00);

(v) Indebtedness of a Credit Party to another Credit Party which is subordinated in accordance with the provisions of Section 8.3A(k);

(vi) Any Bank-Provided Hedge or other Qualified Hedge Agreement;

(vii) Any unsecured Indebtedness not otherwise permitted by (i)-(vi) above; provided, that

(A) such Indebtedness is pari passu in right of payment with the Obligations,

(B) such Indebtedness complies with Section 8.3B(q), and

(C) immediately prior to and after giving effect to such Indebtedness, no Event of Default or Default shall have occurred; and

(viii) [Reserved].

(b) Each of the Credit Parties shall not at any time create, incur, assume or suffer to exist any Lien (i) on any of its property or assets (other than Collateral), tangible or intangible, now owned or hereafter acquired, or agree or become liable to do so, except Additional Permitted Liens and (ii) on any Collateral, now owned or hereafter acquired, or agree or become liable to do so, except Permitted Liens.

(c) Each of the Credit Parties shall not at any time, directly or indirectly, become or be liable in respect of any Guaranty, or assume, guarantee, become surety for, endorse or otherwise agree, become or remain directly or contingently liable upon or with respect to any obligation or liability of any other Person, except for:

(i) existing Guaranties as set forth on Schedule XI;

(ii) Guaranties of Indebtedness of the Credit Parties permitted in Section 8.3B(a);

(iii) other Guaranties to the extent the Indebtedness represented by such Guaranties is permitted in Section 8.3B(a); and

(iv) Guaranties by any Credit Party of the obligations, to the extent not prohibited by the ABL Credit Agreement or by the Operative Agreements, of any other Credit Party.

(d) Each of the Credit Parties shall not at any time make or suffer to remain outstanding any loan or advance to, or purchase, acquire or own any stock, bonds, notes or securities of, or any partnership interest (whether general or limited) or limited liability company interest in, or any other investment or interest in, or make any capital contribution to, any other Person, or agree, become or remain liable to do any of the foregoing, except:

(i) trade credit extended on usual and customary terms in the ordinary course of business;

(ii) advances to employees to meet expenses incurred by such employees in the ordinary course of business;

(iii) Permitted Investments;

(iv) investments in a Credit Party;

(v) investments not otherwise permitted in (i)-(iv) above or (vi)-(x) below in an amount which should not exceed One Hundred Twenty Five Million and 00/100 Dollars ($125,000,000.00) in the aggregate;

(vi) investments in notes and other securities received in settlement of overdue Indebtedness and accounts payable owed to a Credit Party in the ordinary course of business and for amounts which, individually and in the aggregate, are not material to the Credit Parties;

(vii) investments in the nature of seller financing or other consideration received in any disposition (including any sale, lease, assignment or transfer) of assets or property by any Credit Party, provided that the aggregate value of all such investments, other than any such investments in a Credit Party, at any time (based on the value at the time of acquisition thereof but reduced by payments or other realization thereon) shall not exceed Ten Million and 00/100 Dollars ($10,000,000.00); provided, that, for the avoidance of doubt, sale-leaseback transactions shall be governed by Sections 8.3B(a) and 8.3B(f) and not by this Section 8.3B(d);

(viii) investments in Bank-Provided Hedges or Qualified Hedge Agreements;

(ix) Permitted Acquisitions;

(x) Investments (including equity or debt obligations) in trade receivables or received in connection with the bankruptcy or reorganization of suppliers and customers and in settlement (including settlements of litigation) of delinquent obligations of, and other disputes with, customers and suppliers arising in the ordinary course of business; and

(xi) investments in the Big Lots Supplemental Savings Plan and such other similar non-qualified plan as the Credit Parties may create or enter into from time to time.

(e) Each of the Credit Parties shall not dissolve, liquidate or wind-up its affairs, or become a party to any merger or consolidation, or acquire by purchase, lease or otherwise all or substantially all of the assets or capital stock of any other Person, provided, that:

(i) any Credit Party other than an Identified Big Lots Entity may consolidate or merge into another Credit Party which is directly or indirectly wholly-owned by one or more of the other Credit Parties; provided, that the Lessee may not so consolidate or merge into another Credit Party unless the requirements of Section 10.1 (regarding assignment and other transfers (directly or indirectly pursuant to a merger or other transaction) by the Lessee or the Construction Agent) are satisfied to the satisfaction of the Agent, in its reasonable discretion, as if such Section 10.1 were reconstituted to apply to consolidation and merger of the Lessee and the Construction Agent, in a manner as the Agent shall determine, in its reasonable discretion;

(ii) any Credit Party other than an Identified Big Lots Entity may be dissolved, provided, that the assets of such Credit Party are distributed to another Credit Party; provided, that the Lessee may not so dissolve unless the Lessee has previously assigned or otherwise transferred (directly or indirectly pursuant to a merger or other transaction) its entire right, title and interest in the Operative Agreements and with respect to the Property in accordance with all of the requirements of Section 10.1; and

(iii) any Credit Party may receive or acquire, whether by distribution (or series of distributions), purchase or by merger, (A) all or substantially all of the ownership interests of another Person or (B) all or substantially all of the assets of another Person or of a business or division of another Person (each a "Permitted Acquisition"), provided that, unless such purchase is of inventory in the ordinary course of business (which shall be a Permitted Acquisition but shall not be subject to the requirements below), each of the following requirements is met:

(A) if a Credit Party is acquiring the ownership interests in such Person, such Person shall, unless not required by Section 8.3B(h), execute a Guarantor Joinder and such other documents required by Section 6B.9 and join this Agreement as a Guarantor pursuant to Section 6B.9 on or before the date of such Permitted Acquisition;

(B) the board of directors or other equivalent governing body of such Person shall have approved such Permitted Acquisition and, if the Credit Parties shall use any portion of the loans under the ABL Credit Agreement to fund such Permitted Acquisition, the Credit Parties also shall have delivered to the Financing Parties written evidence of the approval of the board of directors (or equivalent body) of such Person for such Permitted Acquisition;

(C) the business acquired, or the business conducted by the Person whose ownership interests are being acquired, as applicable, shall be complementary to or substantially the same as one or more line or lines of business conducted by the Credit Parties and shall comply with Section 8.3B(j);

(D) no Default or Event of Default shall exist immediately prior to and after giving effect to such Permitted Acquisition; and

(E) if the Consideration in connection with any such Permitted Acquisition exceeds Twenty-Five Million and 00/100 Dollars ($25,000,000.00), the Credit Parties shall deliver at least five (5) Business Days prior to such Permitted Acquisition a certificate in the form of EXHIBIT I.

(f) None of the Credit Parties shall sell, convey, assign, lease, distribute (including by spin off or split off), abandon or otherwise transfer or dispose of, voluntarily or involuntarily, any of its properties or assets, tangible or intangible, except (notwithstanding the following exceptions, with respect to the Lessee, none of the following exceptions shall apply or otherwise permit any sale, conveyance, assignment, lease, abandonment or other transfer or disposal of any of Lessee's right, title or interest in any of the Operative Agreements or with respect to the Property, unless the Lessee has previously assigned or otherwise transferred (directly or indirectly pursuant to a merger or other transaction) its entire right, title, and interest in the Operative Agreements and with respect to the Property in accordance with all of the requirements of Section 10.1):

(i) transactions involving the sale of inventory in the ordinary course of business;

(ii) any sale, transfer or lease of properties or assets in the ordinary course of business which are no longer necessary or required in the conduct of such Credit Party's business;

(iii) any sale, transfer, lease or other conveyance of properties or assets by any Credit Party to another Credit Party, including a Subsidiary that will be merged or consolidated with a Credit Party pursuant to a series of transactions that are integrated with such sale, transfer, lease or other conveyance;

(iv) any sale, transfer or lease of properties or assets in the ordinary course of business which are replaced by substitute properties or assets acquired or leased or any disposition of any real property in connection with (A) a sale-leaseback transaction permitted under Section 8.3B(a), or (B) a like-kind exchange described in Section 1031 of the Code and the Treasury Department regulations promulgated thereunder;

(v) any sale or transfer by the Parent of the capital stock or other equity interests of the Parent; or

(vi) any sale, transfer, lease or other conveyance of properties or assets, other than those specifically excepted pursuant to clauses (i) through (v) above, provided that:

(A) there shall not exist any Event of Default or Default immediately prior to and after giving effect to such sale; and

(B) the Credit Parties shall be in compliance with all of the covenants herein applicable to any Credit Party and with respect to any sale the proceeds of which exceed Ten Million and 00/100 Dollars ($10,000,000.00), BLS shall deliver a Compliance Certificate to the Agent for the benefit of the Lessor Parties at least ten (10) Business Days before such sale confirming the same.

(g) None of the Credit Parties shall enter into or carry out any transaction with any Affiliates of any Credit Party (including purchasing property or services from or selling property or services to any Affiliate of any Credit Party) unless such transaction (i) is not otherwise prohibited by the ABL Credit Agreement or the Operative Agreements, (ii) is entered into in the ordinary course of business upon terms and conditions substantially as favorable to such Person as would be obtainable by it in a comparable arm's length transaction with a Person other than an Affiliate and (iii) is in accordance with all Applicable Law in all material respects.

(h) Each of the Credit Parties shall not, and shall not permit any of its Subsidiaries to, own or create directly or indirectly any Subsidiaries other than (i) any Subsidiary which has joined this Agreement as a Guarantor on the Initial Closing Date and has otherwise joined the ABL Credit Agreement in accordance with the terms thereof; (ii) any Excluded Inactive Subsidiary; (iii) any Excluded Active Subsidiary; (iv) any Subsidiary formed or acquired after the Initial Closing Date which joins this Agreement as a Guarantor pursuant to Section 6B.9 or which merges or consolidates with a Credit Party pursuant to a series of transactions that are integrated with such Subsidiary's formation; or (v) the Lessee; provided, however, no Subsidiary shall be required to join this Agreement as a Guarantor pursuant to Section 6B.9 if the execution of the Guarantor Joinder would cause material adverse Tax consequences to any Credit Party or any Affiliate of a Credit Party (pursuant to Section 956 of the Code and the United States Income Tax Regulations promulgated thereunder, or otherwise) as demonstrated to the reasonable satisfaction of the Agent; provided, further, that no Subsidiary shall join as a guarantor with respect to the Obligations of the Lessee and/or the Construction Agent if (x) such Subsidiary is a Foreign Subsidiary that is a "controlled foreign corporation" within the meaning of Section 957(a) of the Code (or is a Subsidiary of such Foreign Subsidiary) or (y) such Subsidiary is a Domestic Subsidiary owning, directly or indirectly, no material assets other than equity interests in one or more "controlled

foreign corporations" within the meaning of Section 957(a) of the Code. The parties to this Agreement acknowledge and agree that the entities designated on Schedule XVIII are the only Guarantors as of the Fourth Amendment Closing Date.

(i) Except for investments permitted by Section 8.3B(d), each of the Credit Parties shall not become or agree to (i) become a general or limited partner in any general or limited partnership, except that the Credit Parties may be general or limited partners in other Credit Parties, (ii) become a member or manager of, or hold a limited liability company interest in, a limited liability company, except that the Credit Parties may be members or managers of, or hold limited liability company interests in, other Credit Parties, or (iii) become a joint venturer or hold a joint venture interest in any joint venture. The Credit Parties shall not permit any Excluded Inactive Subsidiary to acquire or hold any material assets, incur or suffer to exist any material liabilities or to conduct any material business.

(j) None of the Credit Parties shall engage in any business other than the distribution of and the wholesale and retail sale of general merchandise and ancillary or value-added activities and functions in support of or as an enhancement to the foregoing businesses, substantially as conducted and operated by such Credit Party during the present fiscal year, and such Credit Party shall not permit any material change in such business. This Section 8.3B(j) shall not prohibit the Parent, BLS or any Subsidiary thereof from engaging in a business which provides services common to the retail or wholesale trade in general merchandise to the Parent, BLS or any Subsidiary thereof or to any Person engaged in the sale of general retail merchandise.

(k) Each of the Credit Parties and each member of the ERISA Group shall not:

(i) fail to satisfy the minimum funding requirements of ERISA and the Code with respect to any Plan;

(ii) request a minimum funding waiver from the Internal Revenue Service with respect to any Plan;

(iii) engage in a Prohibited Transaction with any Plan, Benefit Arrangement, Multiemployer Plan or Multiple Employer Plan which, alone or in conjunction with any other circumstances or set of circumstances resulting in liability under ERISA, would constitute a Material Adverse Effect;

(iv) permit any Plan to be in "at risk" status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code), determined as of the most recent actuarial valuation report for each Plan using the actuarial assumptions required under Section 412 of the Code for purposes of funding;

(v) fail to make when due any contribution to any Multiemployer Plan or Multiple Employer Plan that any Identified Big Lots Entity or any member of the ERISA Group may be required to make under any agreement relating to such Multiemployer Plan or Multiple Employer Plan, or any Law pertaining thereto;

(vi) withdraw (completely or partially) from any Multiemployer Plan or withdraw (or be deemed under Section 4062(e) of ERISA to withdraw) from any Multiple Employer Plan, where any such withdrawal would result in a Material Adverse Effect;

(vii) terminate, or institute proceedings to terminate, any Plan, where such termination would result in a Material Adverse Effect;

(viii) permit the imposition of a Lien under Section 303(k)(1) of ERISA; or

(ix) fail to give any and all notices and make all disclosures and governmental filings required under ERISA or the Code, where such failure would result in a Material Adverse Effect.

(l) The Parent shall not, and shall not permit any Subsidiary of the Parent to, change its fiscal year from the fifty-two (52)/fifty-three (53) week fiscal year beginning on the Sunday closest to February 1 of each calendar year and ending on the Saturday closest to January 31 of the following calendar year.

(m) Each of the Credit Parties (other than the Parent) shall not, and shall not permit any of its Subsidiaries to, issue any additional shares of its capital stock or other equity interests or any options, warrants or other rights in respect thereof other than to another Credit Party or Subsidiary of a Credit Party.

(n) Except in connection with the dissolution of a Credit Party as permitted in Section 8.3B(e), each of the Credit Parties shall not amend in any material respect its certificate or articles of incorporation, by-laws, certificate of limited partnership, partnership agreement, certificate of formation, limited liability company agreement or other organizational documents without providing at least five (5) calendar days' prior written notice to the ABL Credit Agreement Administrative Agent, the ABL Credit Agreement Banks and the Financing Parties and, in the event such change would be adverse to (i) the ABL Credit Agreement Banks as determined by the ABL Credit Agreement Administrative Agent in its sole reasonable discretion, obtaining the prior written consent of the ABL Credit Agreement Required Banks or (ii) the Financing Parties as determined by the Agent in its sole reasonable discretion, obtaining the prior written consent of the Majority Secured Parties; provided, however, that any Credit Party (other than the Parent) may convert from one form of entity to another form of entity, reincorporate, re-domesticate, or change its name without prior written notice to the Agent so long as such change would not have a Material Adverse Effect.

(o) [Reserved].

(p) [Reserved].

(q) No Credit Party shall directly or indirectly enter into or assume or become bound by, or permit any Subsidiary to enter into or assume or become bound by, any agreement, other than the ABL Credit Agreement, the other ABL Credit Agreement Loan Documents, this Agreement, the other Operative Agreements and any operative documents in connection with any other Synthetic Lease Obligations (collectively, the Operative Agreements and any other such operative documents may be referred to as the "Synthetic Lease Documents"), or any provision of any certificate of incorporation, bylaws, partnership agreement, operating agreement or other organizational formation or governing document prohibiting the creation or assumption of any Lien or encumbrance upon any such Credit Party's or Subsidiary's properties, whether now owned or hereafter created or acquired, or otherwise prohibiting or restricting any transaction contemplated hereby; provided, that the foregoing shall not apply to (i) restrictions and conditions imposed by any Law or by any ABL Credit Agreement Loan Document or Synthetic Lease Document, (ii) restrictions or conditions imposed by any agreement relating to secured Indebtedness or other

obligations permitted by both this Agreement and the Synthetic Lease Documents but, (y) solely with respect to the specific assets that secure the Synthetic Lease Obligations, any restriction or condition imposed by the Synthetic Lease Documents and, (z) with respect to any other assets, only to the extent such restriction or condition is limited to the specific assets subject to an Additional Permitted Lien, (iii) customary provisions in leases or other agreements restricting assignment thereof, or (iv) restrictions or conditions imposed by any agreement relating to the issuance by any Credit Party of Indebtedness represented by publicly or privately placed notes as permitted by Section 8.3B(a)(vii).

(r) Each of the Credit Parties (other than the Parent) shall not, and shall not permit any of its Subsidiaries to: (a) become a Sanctioned Person; (b) directly, or knowingly indirectly through a third party, engage in any transactions or other dealings with any Sanctioned Person or Sanctioned Jurisdiction, including any use of the proceeds of the Lessor Advances to fund any operations in, finance any investments or activities in, or, make any payments to, a Sanctioned Person or Sanctioned Jurisdiction; (c) engage in any transactions or other dealings with any Sanctioned Person or Sanctioned Jurisdiction prohibited by any Laws of the United States or other applicable jurisdictions relating to economic sanctions and any Anti-Terrorism Laws; or (d) cause any Lessor Party or Agent to violate any sanctions administered by OFAC.

(s) Each Credit Party hereby covenants and agrees that until the Expiration Date, the Credit Party will not, and will not permit any its Subsidiaries to, directly or knowingly indirectly, use the Lessor Advances or any proceeds thereof for any purpose which would breach any Anti- Corruption Laws in any jurisdiction in which any Covered Entity conducts business.

(t) Each of the Credit Parties shall not, and shall not permit any of its Subsidiaries to, amend, modify, extend, supplement, restate and/or replace any of the following provisions of the ABL Credit Agreement Loan Documents (from those in effect as of the ABL Credit Agreement Closing Date): (a) to increase the lender commitments, as described in the ABL Credit Agreement as in effect on the ABL Credit Agreement Closing Date, such that the aggregate lender commitment thereafter exceeds $900,000,000; (b) to remove or reduce the reserve with respect to the "Synthetic Lease Agreement", as described in the ABL Credit Agreement as in effect on the ABL Credit Agreement Closing Date; or (c) with respect to the maturity date under the ABL Credit Agreement, as described in the ABL Credit Agreement as in effect on the ABL Credit Agreement Closing Date, such that the maturity date is revised to reference an earlier date.

8.3C <u>Additional Credit Party Reporting Requirements.</u>

The Credit Parties, jointly and severally, covenant and agree that until Payment in Full, the Credit Parties will furnish or cause to be furnished to the Agent:

(a) As soon as available and in any event within forty-five (45) calendar days after the end of each of the first three (3) fiscal quarters in each fiscal year of the Parent, unaudited financial statements of the Parent, consisting of: (i) a consolidated balance sheet as of the end of such fiscal quarter and as of the end of the prior fiscal year; (ii) a consolidated statement of operations for such fiscal quarter and the year-to-date period of the then-current fiscal year, and for the corresponding fiscal quarter and year-to-date period of the prior fiscal year; (iii) a consolidated statement of shareholders' equity as of the end of such fiscal quarter, as of the end of the corresponding fiscal quarter of the prior fiscal year, and as of the end of the prior fiscal year; and (iv) a consolidated statement of cash flows for the year-to-date period of the then-current fiscal year and the corresponding year-to-date period of the prior fiscal year. Each of the aforementioned financial statements shall be in reasonable detail and certified (subject to normal year-end audit adjustments)

by an Authorized Officer of the Parent as having been prepared in accordance with GAAP. The Credit Parties will be deemed to have complied with the delivery requirements of this Section 8.3C(a) if the Credit Parties have complied with the portion of Section 8.3C(h)(iv) that relates to Form 10-Q reporting and the financial statements contained in such Form 10-Q reports meet the requirements described in this Section 8.3C(a).

(b) As soon as available and in any event within ninety (90) days after the end of each fiscal year of the Parent, financial statements of the Parent consisting of a consolidated balance sheet as of the end of such fiscal year, and related consolidated statements of operations, shareholders' equity and cash flows for the fiscal year then ended, all in reasonable detail and setting forth in comparative form the financial statements as of the end of and for the preceding fiscal year, and audited by independent certified public accountants of nationally recognized standing. The Credit Parties shall deliver with such financial statements a certifying letter of such accountants to the Agent for the benefit of each Financing Party which shall: (i) be to the effect that such consolidated financial statements fairly present in all material respects the financial condition and results of operations of the Parent and its Subsidiaries on a consolidated basis in accordance with GAAP, (ii) not contain a "going concern" or like qualification or exception, (iii) not contain a qualification or exception as to the scope of such audit (other than as is customary), and (iv) not indicate the occurrence or existence of any event, condition or contingency which would materially impair the prospect of payment or performance of any covenant, agreement or duty of any Credit Party under any of the ABL Credit Loan Documents or any Operative Agreements. The Credit Parties will be deemed to have complied with the delivery requirements of this Section 8.3C(b) if (i) the Credit Parties have complied with the portion of Section 8.3C(h)(iv) that relates to Form 10-K reporting and the financial statements contained in such Form 10-K meet the requirements described in this Section 8.3C(b) and (ii) the Parent delivers to the Agent the certifying letter of accountants as described above.

(c) Concurrently with the financial statements of the Parent furnished to the Agent for the benefit of the Financing Parties pursuant to Sections 8.3C(a) and 8.3C(b), a certificate (each a "Compliance Certificate") of the Identified Big Lots Entities signed by an Authorized Officer of each Identified Big Lots Entity, in the form of EXHIBIT J, to the effect that, except as described pursuant to Section 8.3C(d), (i) the representations and warranties of the Credit Parties contained in Section 6.1 and in the other Operative Agreements are true in all material respects on and as of the date of such certificate with the same effect as though such representations and warranties had been made on and as of such date (except representations and warranties which (i) expressly relate solely to an earlier date or time, in which case such representations and warranties were true and correct as of such earlier date or time or (ii) are qualified by materiality or references to Material Adverse Effect, which such representations and warranties shall be true and correct in all respects as of such date) and the Credit Parties have performed and complied with all covenants and conditions of the Operative Agreements and (ii) no Event of Default or Default exists and is continuing on the date of such certificate.

(d) Promptly after any officer of any Credit Party has learned of the occurrence of an Event of Default or Default, a certificate signed by an Authorized Officer of such Credit Party setting forth the details of such Event of Default or Default and the action which such Credit Party proposes to take with respect thereto.

(e) Promptly after the commencement thereof, notice of all actions, suits, proceedings or investigations before or by any Official Body or any other Person against any Credit Party or Subsidiary of any Credit Party, which involve a claim or series of claims, or which the Credit Party or Subsidiary reasonably determines would be, in excess of Twenty-Five Million and 00/100

Dollars ($25,000,000.00) or which if adversely determined would constitute a Material Adverse Effect.

(f) Written notice to the Agent:

(i) at least ten (10) Business Days prior thereto, with respect to any proposed sale or transfer of assets pursuant to Section 8.3B(f)(vi);

(ii) within the time limits set forth in Section 8.3B(n), any material amendment to the organizational documents of any Credit Party; and

(iii) promptly following any change in organizational documents as permitted in Section 8.3B(n).

(g) [Reserved].

(h) Promptly upon their becoming available to any Credit Party:

(i) any forecasts or projections of the Parent, to be supplied not later than forty-five (45) days following the commencement of the fiscal year to which any of the foregoing may be applicable,

(ii) any reports including management letters submitted to the Parent by independent accountants in connection with any annual, interim or special audit,

(iii) any reports or notices generally distributed by the Parent to its shareholders on a date no later than the date supplied to such shareholders,

(iv) periodic or current reports, including Forms 10-K, 10-Q and 8-K, proxy statements, registration statements and prospectuses (but excluding statements regarding beneficial ownership on Forms 3, 4 and 5), filed by the Parent with the SEC,

(v) a copy of any order in any proceeding to which the Parent or any of its Subsidiaries is a party issued by any Official Body which would reasonably be expected to result in a Material Adverse Effect, and

(vi) such other reports and information as any of the Financing Parties may from time to time reasonably request. BLS shall also notify the Financing Parties promptly of the enactment or adoption of any Law which would reasonably be expected to result in a Material Adverse Effect.

Information required to be delivered pursuant to sub-clause (iv) above shall be deemed to have been delivered on the date on which the Credit Parties provide notice to the Agent that such information has been posted on the Internet at www.biglots.com, www.sec.gov or another website identified in such notice and accessible by the Agent without charge; provided, that (i) such notice may be included in a certificate delivered pursuant to Section 8.3C(c) and (ii) BLS shall deliver paper copies of the information referred to in sub-clause (iv) above to the Agent if it so requests.

In the event that the Parent shall for any reason cease to be subject to the reporting requirements of the Exchange Act, it shall nonetheless furnish to the Agent reports containing

substantially the same information at substantially the same times as would otherwise be required by the foregoing provisions of sub-clause (iv) above.

(i) Promptly upon becoming aware of the occurrence thereof, notice (including the nature of the event and, when known, any action taken or threatened by the Internal Revenue Service or the PBGC with respect thereto) of:

(i) any Reportable Event with respect to any Identified Big Lots Entity or any other member of the ERISA Group (regardless of whether the obligation to report said Reportable Event to the PBGC has been waived),

(ii) any Prohibited Transaction which could subject any Identified Big Lots Entity or any other member of the ERISA Group to a material civil penalty assessed pursuant to Section 502(i) of ERISA or a material Tax imposed by Section 4975 of the Code in connection with any Plan, any Benefit Arrangement or any trust created thereunder,

(iii) any assertion of material withdrawal liability with respect to any Multiemployer Plan or Multiple Employer Plan,

(iv) any partial or complete withdrawal from a Multiemployer Plan or Multiple Employer Plan by any Identified Big Lots Entity or any other member of the ERISA Group under Title IV of ERISA (or assertion thereof), where such withdrawal is likely to result in material withdrawal liability,

(v) any cessation of operations (by any Identified Big Lots Entity or any other member of the ERISA Group) at a facility in the circumstances described in Section 4062(e) of ERISA,

(vi) any withdrawal by any Identified Big Lots Entity or any other member of the ERISA Group from a Multiple Employer Plan,

(vii) a failure by any Identified Big Lots Entity or any other member of the ERISA Group to make a payment to a Plan required to avoid imposition of a Lien under Section 303(k)(1) of ERISA,

(viii) a determination that any Plan is, or is expected to be, in "at-risk" status (as defined in Section 303(i)(4) of ERISA or Section 430(i)(4) of the Code, or

(ix) any change in the actuarial assumptions or funding methods used for any Plan, where the effect of such change is to materially reduce the Plan's funding target attainment percentage or materially increase the obligation to make periodic contributions.

(j) Promptly after receipt thereof, copies of (a) all notices received by any Identified Big Lots Entity or any other member of the ERISA Group of the PBGC's intent to terminate any Plan administered or maintained by any Identified Big Lots Entity or any member of the ERISA Group, or to have a trustee appointed to administer any such Plan; and (b) at the request of the Agent or any other Financing Party each annual report (IRS Form 5500 series) and all accompanying schedules, the most recent actuarial reports, the most recent financial information concerning the financial status of each Plan administered or maintained by any Identified Big Lots Entity or any other member of the ERISA Group, and schedules showing the amounts contributed

to each such Plan by or on behalf of any Identified Big Lots Entity or any other member of the ERISA Group in which any of their personnel participate or from which such personnel may derive a benefit, and each Schedule B (Actuarial Information) to the annual report filed by any Identified Big Lots Entity or any other member of the ERISA Group with the Internal Revenue Service with respect to each such Plan.

(k) Promptly upon the filing thereof, copies of any Form 500, or any successor or equivalent form to Form 500, filed with the PBGC in connection with the standard termination of any Plan.

(l) To the extent not otherwise provided to the Agent pursuant to this Section 8.3C and concurrent with the delivery of the same by the Borrower Representative (as such term is defined in the ABL Credit Agreement) to the ABL Credit Agreement Administrative Agent, all financial statements, borrowing base information and other information, notices and other reports as are required to be delivered by the Borrower Representative to the ABL Credit Agreement Administrative Agent pursuant to Sections 5.01 and 5.02 of the ABL Credit Agreement, including, without limitation, any and all financial statements, compliance certificates, borrowing base certificates and supporting information, notices, copies of agreements and any other information or documentation required to be so delivered pursuant to such Sections 5.01 and 5.02 of the ABL Credit Agreement; provided that, so long as the Agent is an ABL Credit Agreement Bank and the Credit Parties have complied with such delivery obligations under the ABL Credit Agreement, the Credit Parties shall not be obligated to separately deliver any items in this subsection (l) to the Agent.

8.4 Sharing of Certain Payments.

Except for Excepted Payments, the parties hereto acknowledge and agree that all payments due and owing by any Credit Party to any Lessor Party under the Lease or any of the other Operative Agreements (including pursuant to Section 5.3(c) of the Agency Agreement and Section 17.6(c) of the Lease) shall be made by such Credit Party directly to the Agent as more particularly provided in Section 8.3(b) hereof. The Financing Parties and the Credit Parties acknowledge the terms of Section 8.7 of this Agreement regarding the allocation of payments and other amounts made or received from time to time under the Operative Agreements and agree, that all such payments and amounts are to be allocated as provided in Section 8.7 of this Agreement.

8.5 Grant of Easements, Agreement regarding Restrictive Covenants, etc.

The Financing Parties hereby agree that, so long as no Event of Default shall have occurred and be continuing, the Lessor shall, from time to time at the request of the Lessee (and with the prior consent of the Agent, except with regard to that certain water easement requested by the Town of Apple Valley, California and consisting of a rectangular easement area near the northeast corner of the Property (the "Water Utility Easement") which shall not require any such consent from the Agent), in connection with the transactions contemplated by the Agency Agreement, the Lease or the other Operative Agreements, (i) grant easements and other rights in the nature of easements with respect to the Property, including the Water Utility Easement, (ii) release existing easements or other rights in the nature of easements which are for the benefit of the Property, (iii) execute and deliver to any Person any instrument appropriate to confirm or effect such grants or releases, and (iv) execute and deliver to any Person such other documents or materials in connection with the acquisition, development, construction, testing or operation of the Property, including reciprocal easement agreements, construction contracts, operating agreements, development agreements, plats, replats or subdivision documents; provided, that each of the agreements referred to in this Section 8.5 (including the Water Utility Easement) shall be of the type normally executed by the Lessee

in the ordinary course of the Lessee's business and shall be on commercially reasonable terms so as not to diminish the value or limit the use of the Property in any material respect.

8.6 The Agent.

(a) Each Lessor Party hereby designates and appoints the Agent as administrative agent and collateral agent of such Lessor Party to act as specified herein and in the other Operative Agreements, and each such Lessor Party hereby authorizes the Agent as the administrative agent and collateral agent for such Lessor Party, to take such action on its behalf under the provisions of this Agreement and the other Operative Agreements and to exercise such powers and perform such duties as are expressly delegated by the terms hereof and of the other Operative Agreements, together with such other powers as are reasonably incidental thereto. Such delegation of authority shall include the execution and delivery by the Agent of release instruments in recordable form releasing the Lien of the Operative Agreements in accordance with the requirements thereof. Notwithstanding any provision to the contrary in any of the Operative Agreements, the Agent shall not have any duties or responsibilities, except those expressly set forth herein and therein, or any fiduciary relationship with any Lessor Party, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any of the other Operative Agreements, or shall otherwise exist against the Agent. The provisions of this Section 8.6 are solely for the benefit of the Agent and the Lessor Parties and no other Person shall have any rights as a third party beneficiary of the provisions hereof. Except as otherwise provided in this Section 8.6, in performing its functions and duties under this Agreement and the other Operative Agreements, the Agent shall act solely as Agent of the Lessor Parties. The Agent does not assume and shall not be deemed to have assumed any obligation or relationship of agency or trust with or for any Credit Party or any other Person.

(b) The Agent may execute any of its duties hereunder or under the other Operative Agreements by or through agents or attorneys-in-fact and shall be entitled to advice of counsel concerning all matters pertaining to such duties. The Agent shall not be responsible for the negligence or misconduct of any agents or attorneys-in-fact selected by it with reasonable care.

(c) Neither the Agent nor any of its officers, directors, employees, agents, attorneys- in-fact or affiliates shall be (i) liable for any action lawfully taken or omitted to be taken by it or such Person under or in connection herewith or in connection with any of the other Operative Agreements (except for its or such Person's own gross negligence or willful misconduct), or (ii) responsible in any manner to any Lessor Party for any recitals, statements, representations or warranties contained herein or in any of the other Operative Agreements or in any certificate, report, statement or other document referred to or provided for in, or received by the Agent under or in connection herewith or in connection with the other Operative Agreements, or enforceability or sufficiency of any of the other Operative Agreements, or for any failure of any party (not including the Agent) to any Operative Agreement to perform its obligations hereunder or thereunder. The Agent shall not be responsible to any Lessor Party for the effectiveness, genuineness, validity, enforceability, collectability or sufficiency of this Agreement, or any of the other Operative Agreements or for any representations, warranties, recitals or statements made herein or therein or made by any Credit Party in any written or oral statement or in any financial or other statements, instruments, reports, certificates or any other documents in connection herewith or therewith furnished or made by the Agent to any Lessor Party or by or on behalf of any Credit Party to the Agent or any Lessor Party or be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained herein or therein or as to the use of the proceeds of the purchases or of the existence or possible existence of any Default or Event of Default or to inspect the properties, books or records of any of the Credit Parties.

(d) The Agent shall be entitled to rely, and shall be fully protected in relying, upon any note, writing, resolution, notice, consent, certificate, affidavit, letter, facsimile, email, cablegram, telegram, telecopy, telex, teletype or electronic message, statement, order or other document or conversation believed by it in good faith to be genuine and correct and to have been signed, sent or made by the proper Person or Persons and upon advice and statements of legal counsel (including counsel to any Credit Party), independent accountants and other experts selected by the Agent with reasonable care. The Agent may deem and treat the Lessor Parties as the owner of their respective interests hereunder for all purposes unless a written notice of assignment, negotiation or transfer thereof shall have been filed with the Agent in accordance with Section 10 or any other applicable provision of the Operative Agreements. The Agent, acting in its capacity as Agent, shall be fully justified in failing or refusing to take any action under this Agreement or under any of the other Operative Agreements unless it shall first receive such advice or concurrence of the Majority Secured Parties as it deems appropriate or it shall first be indemnified to its satisfaction by the Lessor Parties against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. The Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder or under any of the other Operative Agreements in accordance with a request of the Majority Secured Parties or all the Lessor Parties if such request is a Unanimous Vote Matter and such request, and any action taken or failure to act pursuant thereto shall be binding upon all the Lessor Parties (including their successors and assigns).

(e) The Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default unless the Agent has received notice from a Lessor Party, the Construction Agent or the Lessee referring to the Operative Agreement, describing such Default or Event of Default and stating that such notice is a "notice of default." In the event that the Agent receives such a notice, the Agent shall give prompt notice thereof to the Lessor Parties. Subject to this Section 8.6 of the Participation Agreement, the Agent shall take such action with respect to such Default or Event of Default as shall be directed by the Majority Secured Parties.

(f) Each Lessor Party expressly acknowledges that neither the Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or affiliates has made any representations or warranties to it and that no act by the Agent or any affiliate thereof hereafter taken, including any review of the affairs of the Credit Parties, shall be deemed to constitute any representation or warranty by the Agent to any Lessor Party. Each Lessor Party represents to the Agent that it has, independently and without reliance upon the Agent or any other Lessor Party, and based on such documents and information as it has deemed appropriate, made its own appraisal of and investigation into the business, assets, operations, property, financial and other conditions, prospects and creditworthiness of the Credit Parties and made its own decision to make its purchases hereunder and enter into this Agreement. Each Lessor Party also represents that it will, independently and without reliance upon the Agent or any other Lessor Party, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit analysis, appraisals and decisions in taking or not taking action under this Agreement, and to make such investigation as it deems necessary to inform itself as to the business, assets, operations, property, financial and other conditions, prospects and creditworthiness of the Credit Parties. Except for notices, reports and other documents expressly required to be furnished to the Lessor Parties by the Agent pursuant to this Agreement, the Agent shall not have any duty or responsibility to provide any Lessor Party with any credit or other information concerning the business, operations, assets, property, financial or other conditions, prospects or creditworthiness of the Credit Parties which may come into the possession of the Agent or any of its officers, directors, employees, agents, attorneys-in-fact or affiliates.

(g) The Agent and its Affiliates may make loans to, accept deposits from and generally engage in any kind of business with the Credit Parties as though the Agent were not Agent hereunder.

(h) The provisions of Section 10.3 shall govern with respect to the replacement of the Agent.

(i) Regarding the Agent functioning as the collateral agent for the Secured Parties, each of the Lessor (and to the extent necessary, each of the other Lessor Parties) hereby assigns to the Agent the Lien granted by the Lessee pursuant to the Lease to secure the Lessor Advances. The Secured Parties acknowledge, agree and direct that the rights and remedies of the Secured Parties in connection with an Event of Default, including as beneficiaries of the Lien of the Security Documents, shall be exercised by the Agent on behalf of the Secured Parties as directed from time to time (a) by the Majority Secured Parties; provided, notwithstanding the foregoing, the Agent shall not take any action concerning the exercise of remedies or otherwise under any of the Operative Agreements with respect to the Property (regardless of whether a Default or Event of Default has occurred and is continuing) unless the Lessor has expressly consented to such action or (b) pursuant to Sections 8.2(c) and 12.4, by the Lessor Parties; provided, that for the avoidance of doubt, nothing in this Section 8.6 shall affect any automatic acceleration, right of acceleration or right to terminate the Lessor Parties Commitment exercised in accordance with the applicable Operative Agreements; and provided further, in all cases, the Agent shall allocate payments and other amounts received in accordance with Section 8.7. Except in the case of Excepted Payments and other rights expressly reserved by the Lessor pursuant to the Operative Agreements and subject to Section 12.4, the Agent is further appointed to provide notices under the Operative Agreements on behalf of the Lessor (as determined by the Agent, in its reasonable discretion with regard to matters concerning the Collateral) and to receive notices under the Operative Agreements on behalf of the Lessor with regard to matters concerning the Collateral. The Agent hereby accepts such appointments. The Agent hereby further agrees promptly to provide notices and other documentation received from time to time from the Credit Parties to the Lessor Parties. The parties hereto hereby agree to the provisions contained in this Section 8.6. For the avoidance of doubt and notwithstanding anything contained in this Agreement or any other Operative Agreement to the contrary, each Financing Party agrees that no Secured Party (other than the Agent) shall have the right to individually seek to realize upon any Lien granted by any Security Document, it being understood and agreed that such rights and remedies may be exercised solely by the Agent for the benefit for the Secured Parties upon the terms of the Operative Agreements; provided, if any action requires the participation of the Lessor (given the Lessor is the holder of legal title to the Property), then the Lessor shall participate in such action as reasonably requested by the Agent.

8.7 Collection and Allocation of Payments and Other Amounts.

(a) Each Credit Party has agreed pursuant to Section 5.7 and otherwise in accordance with the terms of this Agreement to pay to (i) the Agent any and all Rent (excluding Excepted Payments) and any and all other amounts of any kind or type under any of the Operative Agreements, in each case, due and owing or payable to any Financing Party and (ii) each Person as appropriate the Excepted Payments. Promptly after receipt, the Agent shall apply and allocate, in accordance with the terms of this Section 8.7, such amounts received from any Credit Party and all other payments, receipts and other consideration of any kind whatsoever received by the Agent or any Lessor Party in connection with the Collateral, the Security Documents or any of the other Operative Agreements. Ratable distributions among the Lessor Parties under this Section 8.7 shall be made based on the ratio of the various Lessor Party's outstanding Lessor Advances to the aggregate Property Cost. If, and to the extent that both SOFR Lessor Advances and ABR Lessor

Advances are outstanding at a point in time at which payments and other amounts are to be applied and allocated pursuant to this Section 8.7, then such payments and amounts shall first be applied and allocated to the ABR Lessor Advances and next to the SOFR Lessor Advances.

(b) Payments and other amounts received by the Agent from time to time in accordance with the terms of subparagraph (a) shall be applied and allocated as follows (subject in all cases to Sections 8.7(c)(i), (ii) and (iii)):

(i) Any such payment or amount identified as or deemed to be Basic Rent, any amount in respect of a Casualty referenced in the last two sentences of Section 3.4(b) of the Agency Agreement or any amount in respect of a Condemnation referenced the last two sentences of Section 3.5(b) of the Agency Agreement shall be applied and allocated by the Agent:

first, ratably to the Lessor Parties for application and allocation to the payment of accrued Lessor Yield with respect to the Lessor Advances and thereafter ratably to the outstanding Lessor Advances which are due and payable on such date;

second, if a Default or Event of Default is in effect, such excess (if any) shall be held by the Agent until the earlier of (I) the first date thereafter on which no Default or Event of Default shall be in effect (in which case such payments or returns shall then be made pursuant to "third" below) and (II) the Expiration Date (or, if earlier, the date of any acceleration), in which case such amounts shall be applied and allocated in the manner contemplated by Section 8.7(b)(iv); and

third, any excess shall be paid to the Lessee.

(ii) Except as otherwise specified pursuant to (A) Section 3.4(b) of the Agency Agreement, Section 3.5(b) of the Agency Agreement or Section 15.1(a) of the Lease (regarding amounts payable to the Construction Agent or the Lessee, as applicable) and (B) Section 8.7(b)(i) (regarding allocation of amounts referenced in the last two sentences of Section 3.4(b) of the Agency Agreement and the last two sentences of Section 3.5(b) of the Agency Agreement), if (other than as specified in the foregoing subsection (A) or (B)) on any date the Agent or the Lessor shall receive any amount in respect of any Casualty or Condemnation pursuant to Section 3.4 or 3.5 of the Agency Agreement or Section 15.1(a) of the Lease, then such amount shall be applied and allocated in accordance with Section 8.7(b)(iii)(x) hereof.

(iii) (x) An amount equal to the proceeds from the RVI Policy and an amount equal to any payment identified as proceeds of the sale or other disposition (or lease upon the exercise of remedies) of the Property or any portion thereof, including pursuant to (i) the exercise of remedies under the Security Documents (other than proceeds in an amount equal to the Termination Value which shall be allocated pursuant to Section 8.7(b)(iv)), (ii) the exercise of remedies set forth in the Agency Agreement, (iii) the exercise of remedies set forth in the Lease, or (iv) any payment in respect of excess wear and tear pursuant to Section 21.3 of the Lease, in each case shall be applied and allocated (subject to the following provisos) by the Agent, in accordance with clauses first, second and third of this Section 8.7(b)(iii)(x);

provided, prior to such allocation in accordance with clauses first, second and third of this Section 8.7(b)(iii)(x), allocations shall be made in connection with the exercise of remedies under clause (y) of the second paragraph of Section 5.3(c) of the Agency Agreement, (a) with the Construction Agent retaining the amounts allocable to it under the waterfall provisions of clause (y) of such second paragraph of such Section 5.3(c) and the other amounts thereunder being allocated pursuant to the first paragraph of this Section 8.7(b) (which first paragraph precedes Section 8.7(b)(i)) and thereafter to the following provisions of this Section 8.7(b)(iii)(x); and (b) with the Agent retaining in favor of the Lessor Parties the one percent (1%) interest as referenced in such second paragraph of such Section 5.3(c) regarding any sale or other disposition of the Lessor's interest in the Property to the extent occurring on or prior to the second annual anniversary of the date Lessor receives notice of, or otherwise has knowledge of, the Agency Agreement Event of Default;

provided, further, in connection with the exercise of remedies under the third paragraph of Section 5.3(c) of the Agency Agreement or Section 5.3(d) of the Agency Agreement, there shall be no allocation pursuant to clause third below and in substitution for such clause third, an allocation shall be made ratably to the Lessor Parties based on their respective Lessor Advances outstanding immediately prior to the allocation of proceeds received pursuant to such third paragraph of such Section 5.3(c) or such Section 5.3(d), as applicable; and

provided, prior to such allocation in accordance with clauses first, second and third of this Section 8.7(b)(iii)(x), allocations shall be made in connection with the exercise of remedies under Section 17.6 of the Lease, with the Lessee retaining the amounts allocable to it under such Section 17.6(c) and the other amounts thereunder being allocated pursuant to the first paragraph of this Section 8.7(b) (which first paragraph precedes Section 8.7(b)(i)) and thereafter to the following provisions of this Section 8.7(b)(iii)(x):

first, ratably to the payment to the Lessor Parties of the Lessor Yield with respect to the Lessor Advances and then to the advance amount balance of the Lessor Advances;

second, to the extent moneys remain after application and allocation pursuant to clause first above, to all other amounts owing under the Operative Agreements to the Lessor Parties then outstanding; and

third, to the extent moneys remain after application and allocation pursuant to clause first through second above, to the Lessee.

(y) Notwithstanding any provision in any Operative Agreement to the contrary (including the provisions of clause (x) of this Section 8.7(b)(iii)), any amount paid by a third party purchaser for the purchase of the Property on the Expiration Date pursuant to the election by the Lessee of the Sale Option shall be applied and allocated by the Agent in the following order of priority:

first, so much of such amount as shall be required to pay actual and reasonable costs of the Financing Parties of selling and transferring the Property, including all recordation fees, legal fees and expenses, finders' and brokers' fees and sales commissions allocable to the Property;

second, ratably to the payment to the Lessor Parties of the Lessor Yield with respect to the Lessor Advances, then to the advance balance of the Lessor Advances and then to all other amounts owing under the Operative Agreements to the Lessor Parties then outstanding; and

third, to the extent monies remain after application and allocation pursuant to clauses first through second above, to the Lessee.

(iv) An amount equal to (A) any such payment identified as a payment pursuant to the Maximum Residual Guarantee Amount or the Deficiency Balance, as may be required under the Lease, or the Construction Period Guarantee Amount, as may be required under the Agency Agreement, (B) any other amount payable upon any exercise of remedies after the occurrence and continuance of an Event of Default not covered by Section 8.7(b)(i) or 8.7(b)(iii) above (including any amount received in connection with an acceleration which does not represent proceeds from the sale or liquidation of the Property), (C) any amounts payable by the Guarantors pursuant to Section 6B and (D) any payment of the Termination Value under the Agency Agreement or the Lease, including in connection with Article V of the Agency Agreement, Article XVII of the Lease or the exercise of the Purchase Option under Articles XVI or XX of the Lease, in each case shall be applied and allocated by the Agent:

first, ratably to the payment to the Lessor Parties of the Lessor Yield with respect to the Lessor Advances and then to the advance amount balance of the Lessor Advances; and

second, to the extent moneys remain after application and allocation pursuant to clause first above, to all other amounts owing under the Operative Agreements to the Lessor Parties then outstanding.

(v) An amount equal to any such payment identified as Supplemental Rent shall be applied and allocated by the Agent to the payment of any amounts then owing to the Financing Parties and the other parties to the Operative Agreements (or any of them) (other than any such amounts payable pursuant to the preceding provisions of this Section 8.7(b)) for which such payment is made in accordance with the provisions of Operative Agreements; provided, however, that Supplemental Rent received upon the exercise of remedies after the occurrence and continuance of an Event of Default in lieu of or in substitution of the Maximum Residual Guarantee Amount or as a partial payment thereon shall be applied and allocated as set forth in Section 8.7(b)(iv).

(vi) Any such payment or amount payable to the Agent pursuant to Section 5.11 shall be applied and allocated by the Agent ratably to the Lessor Parties for application and allocation to the payment of accrued Lessor Yield with respect to the Lessor Advances and thereafter ratably to the outstanding Lessor Advances on such date.

(vii) The Agent in its reasonable judgment shall identify the nature of each payment or amount received by the Agent and apply and allocate each such amount in the manner specified above.

(c) It is agreed that, prior to the application and allocation of amounts received by the Agent in the order described in Section 8.7(b) above or any distribution of money to the Lessee, any such amounts shall first be applied and allocated to the payment of (i) any and all sums

advanced by the Agent or the Lessor (regarding the Lessor, only to the extent such amounts have not otherwise been funded by the Lessor Parties in accordance with Section 8.9) in order to preserve the Collateral or to preserve its Lien thereon, (ii) the expenses of retaking, holding, preparing for sale or lease, selling or otherwise disposing or realizing on the Collateral, or of any exercise by the Agent or the Lessor (regarding the Lessor, only to the extent such amounts have not otherwise been funded by the Lessor Parties in accordance with Section 8.9) of its rights under the Security Documents, together with reasonable attorneys' fees and expenses and court costs and (iii) any and all other amounts reasonably owed to the Agent under or in connection with the transactions contemplated by the Operative Agreements (including any accrued and unpaid administration fees).

(d) [Reserved].

8.8 Release of Property, etc.

(a) If the Lessee shall at any time purchase the Property pursuant to the Lease, or the Construction Agent shall purchase the Property pursuant to the Agency Agreement, or if the Property shall be sold in accordance with Article XXI of the Lease, then, upon payment of all amounts then due and owing by the Lessee and the Construction Agent under the Operative Agreements, the Agent is hereby authorized and directed to release the Property from the Liens created by the Operative Agreements to the extent of its interest therein. In addition, upon the Payment in Full (unless the Secured Parties retain rights in the Property at such time in accordance with the Operative Agreements), the Agent is hereby authorized and directed to release the Property from the Liens created by the Operative Agreements to the extent of its interest therein. Upon request of the Lessor or the Lessee following any such release, the Agent shall, at the sole cost and expense of the Lessee, execute and deliver to the Lessor and the Lessee such documents as the Lessor or the Lessee shall reasonably request to evidence such release.

(b) Each of the Lessor Parties irrevocably authorizes the Agent, at its option and in its discretion, to release any Guarantor from its obligations under the Guaranty set forth in Section 6B of this Agreement if such Person ceases to be a Subsidiary as a result of a transaction permitted hereunder. Upon request by the Agent at any time, the Majority Secured Parties will confirm in writing the Agent's authority to release any Guarantor from its obligations under the Guaranty pursuant to this Section 8.8(b). In each case as specified in this Section 8.8(b), the Agent will, at the Lessee's expense, execute and deliver to the applicable Lessor Party such documents as such Lessor Party may reasonably request (provided, such are in form and substance reasonably satisfactory to the Agent) to release such Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Operative Agreements and this Section 8.8(b).

8.9 Sharing of Lessor Expenses After Rent Commencement Date.

From and after the Rent Commencement Date, the Lessor Parties shall share costs and expenses (if any) to be paid by the Lessor pursuant to the Lease ratably based on their then current Lessor Parties Ownership Interest.

SECTION 9.
RIGHTS UNDER SECTION 5A OF THIS AGREEMENT.

9.1 [Reserved].

9.2 [Reserved].

9.3 The Construction Agent's and the Lessee's Rights under Section 5A of this Agreement.

Notwithstanding anything to the contrary contained in any Operative Agreement, the Credit Parties and the Lessor Parties hereby agree that, prior to the occurrence and continuation of any Default or Event of Default, the Construction Agent and the Lessee shall have the following rights (provided, that the Lessee shall have the right to receive all notices and certificates referenced in this Section 9.3 notwithstanding the occurrence and continuance of any Default or Event of Default):

(a) the right to provide any notices of repayment or prepayment pursuant to Section 5A.4 of this Agreement; and

(b) the right to receive any notice and any certificate, in each case issued pursuant to Section 5A.1 through 5A.5 of this Agreement in addition to the other parties referenced therein to receive such notices and certificates.

SECTION 10.
TRANSFER OF INTEREST.

10.1 Restrictions on Transfer.

Each Lessor Party may participate, assign or transfer all or a portion of its interest hereunder and under the other Operative Agreements in accordance with Sections 10.4 and 10.5; provided, that in the event any Lessor Party assigns or transfers all or a portion of its interest hereunder and under the other Operative Agreements, such Lessor Party shall deliver to the Agent a copy of any such assignment agreement or other documents referenced in Section 10.5; provided, further, that any such participation, assignment or other transfer by the Lessor shall be subject to the rights of the Lessee under the Lease and the other Operative Agreements and to the Lien of the applicable Security Documents and (provided, no Default or Event of Default has occurred and is continuing) shall require the consent of the Lessee (which consent may not be unreasonably withheld or delayed); provided, further, notwithstanding the foregoing, there shall be no such requirement to obtain the consent of the Lessee with regard to the matters effected pursuant to the Lessor Assignment Agreement. If any assignment of an interest of any Lessor Party to Section 10.5 or of the Lessor's interest pursuant to this Section 10.1 is made at such time that an Event of Default shall have occurred and be continuing, then the Lessee shall pay the expenses incurred in connection with such assignment. The requirements of this Agreement that the Lessor assign or transfer its right, title or interest in or to the Property only to an Eligible Assignee shall not apply to the obligations of the Lessor to transfer the Property to the Lessee or a third party purchaser pursuant to the Lease or the Agency Agreement upon payment for the Property in accordance with the terms and conditions of the Lease or the Agency Agreement.

Subject to the proviso to this sentence, no Guarantor may assign or otherwise transfer (directly or indirectly pursuant to a merger or other transaction) any of the Operative Agreements or any of their respective rights or obligations thereunder or with respect to the Property in whole or in part to any Person without the prior written consent of the Agent and the Lessor Parties; provided, however, that no such

consent shall be required for a Guarantor to engage in a transaction permitted by Sections 8.3B(e)(i), (e)(ii) or (f). Subject to the provisos to this sentence, neither the Construction Agent nor the Lessee may assign or otherwise transfer (directly or indirectly pursuant to a merger or other transaction) any of the Operative Agreements or any of their respective rights or obligations thereunder or with respect to the Property in whole or in part to any Person (other than any Subsidiary of the Parent (direct or indirect)) without the prior written consent of the Agent and the Lessor Parties; provided, however, no such consent shall be required in connection with any such assignment or other transfer (direct or indirect pursuant to a merger or other transaction) to any Subsidiary of the Parent (direct or indirect); provided, further, and notwithstanding the preceding proviso, all such assignments and other transfers (including such assignments and other transfers (direct or indirect pursuant to a merger or other transaction) to any Subsidiary of the Parent (direct or indirect)) must satisfy all the following terms of this Section 10.1 and, if such terms are not so satisfied, then any such assignment or other transfer (direct or indirect pursuant to a merger or other transaction) shall, automatically and without the need for further action, be null and void and of no further force or effect.

In addition to any consent that may be required by the second sentence of the immediately preceding paragraph (if any), neither the Construction Agent nor the Lessee may assign or otherwise transfer (directly or indirectly pursuant to a merger or other transaction) any of the Operative Agreements or any of their respective rights or obligations thereunder or with respect to the Property in whole or in part to any Person without satisfaction in full of the following conditions precedent:

(a) the Construction Agent or the Lessee, as applicable, shall provide prior written notice to the Agent of such assignment or other transfer no less than ninety (90) days prior to the anticipated effective date of such assignment or other transfer;

(b) the Credit Parties (including any such assignee or other transferee of the Construction Agent or the Lessee) shall (when applicable, as determined by the Agent, in its reasonable discretion) execute and deliver to the Agent, or cause to be so executed and delivered with regard to such assignment or other transfer and such assignee or other transferee, all agreements, documents, instruments, certificates, opinions, evidence of insurance and such other items, in each case, as required by the Agent, in its reasonable discretion, and in form and substance satisfactory to the Agent, in its reasonable discretion, including: (i) an assignment and assumption agreement pursuant to which such assignee or other transferee assumes all liabilities and obligations of the Construction Agent or the Lessee, as applicable, under or pursuant to the Operative Agreements and otherwise with regard to the Property; (ii) a certificate regarding such assignee or other transferee from the Secretary or an Assistant Secretary of such assignee or other transferee (comparable to the certificates contemplated under Section 5.3(u)); (iii) a legal opinion by counsel to such assignee or other transferee acceptable to the Agent and addressing such issues as identified by the Agent and otherwise consistent with the opinions delivered in respect of the Credit Parties on the date hereof; (iv) UCC, tax and judgment lien searches regarding such assignee or other transferee (comparable to the searches contemplated under Section 5.3(q)); (v) a reaffirmation by all remaining Credit Parties of their liabilities and obligations under or pursuant to the Operative Agreements from and after the effectiveness of such assignment or other transfer; (vi) amendments, supplements and/or restatements regarding the Operative Agreements and filings of the same in the appropriate filing offices, in each case as determined necessary or appropriate by the Agent, in its reasonable discretion; (vii) endorsements to the title insurance policy delivered pursuant to Section 5.3(g), as such are determined necessary or appropriate by the Agent, in its reasonable discretion; (viii) all Taxes, fees and other charges in connection with such assignment or other transfer, including in connection with the execution, delivery, recording, filing and registration of documents in connection with such assignment or other transfer (including with regard to any and all UCC Financing Statements), the out-of-pocket fees and expenses incurred by the Agent (including

reasonable fees of outside counsel) and the cost of title insurance endorsements shall have been paid by the Construction Agent or the Lessee, as applicable, or provision for such payment (including pursuant to a Lessor Advance) shall have been made by the Construction Agent or the Lessee, as applicable; (ix) a certificate of insurance evidencing the insurance with respect to the Property as required by the Lease or the Agency Agreement, as applicable; (x) UCC Financing Statements; and (xi) such other items in regard to such assignment or other transfer as are identified by the Agent, in its reasonable discretion; and

(c) there shall not have occurred and be continuing any Default or Event of Default, as of the effective date of such assignment or other transfer.

Notwithstanding any provision in any Operative Agreement to the contrary, no assignment or other transfer by the Construction Agent or the Lessee, as applicable, shall be effective unless and until the Agent has confirmed to its satisfaction, in its reasonable discretion, that all conditions precedent for such assignment or other transfer have been satisfied, and any such assignment or other transfer effected without such confirmation by the Agent shall (without the need for any further action) be null and void and of no further force or effect.

10.2 Effect of Transfer.

From and after any transfer effected in accordance with this Section 10, the transferor shall be released, to the extent of such transfer, from its liability hereunder and under the other documents to which it is a party in respect of obligations to be performed on or after the date of such transfer; provided, however, that any transferor shall remain liable hereunder and under such other documents to the extent that the transferee shall not have assumed the obligations of the transferor thereunder. Upon any transfer by any Lessor Parties as above provided, any such transferee shall assume the obligations of the applicable Lessor Party and shall be deemed a "Lessor Party" for all purposes of such documents and each reference herein to the transferor shall thereafter be deemed a reference to such transferee for all purposes, except as provided in the preceding sentence. Notwithstanding any transfer of all or a portion of the transferor's interest as provided in this Section 10, the transferor shall be entitled to all benefits accrued and all rights vested prior to such transfer including rights to indemnification under any such document.

10.3 Successor Agent.

The Agent may, at any time, resign upon twenty (20) days' written notice to the Lessor Parties and the Lessee and be removed with cause by the Lessor Parties upon thirty (30) days' written notice to the Agent. Upon any such resignation or removal, the Majority Secured Parties, in consultation with the Lessee, shall have the right to appoint a successor Agent. If no successor Agent shall have been so appointed, and shall have accepted such appointment, within thirty (30) days after the notice of resignation or notice of removal, as appropriate, then the retiring Agent shall select a successor Agent provided such successor is a Lessor Party or a commercial bank organized under the laws of the United States of America or of any State thereof, has a combined capital and surplus of at least $100,000,000 or an Affiliate of any such commercial bank. Upon the acceptance of any appointment as the Agent hereunder by a successor, such successor Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the retiring Agent, and the retiring Agent shall be discharged from its duties and obligations as the Agent under the Operative Agreements. The fees payable by the Lessee to a successor Agent shall be the same as those payable to its predecessor unless agreed between the Lessee and such successor. Notwithstanding the foregoing, the provisions of Section 8.6 shall inure to the benefit of the retiring Agent as to any actions taken or omitted to be taken by it while it was the Agent under the Operative Agreements.

10.4 Participations.

Subject to and in accordance with Section 10.1, any Lessor Party may, in the ordinary course of its business and in accordance with Applicable Law and at its own cost and expense, at any time sell to one (1) or more banks, lending institutions or other entities ((other than a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of, a natural Person, or a competitor of any Credit Party) (each, a "Participant") participating interests in any Lessor Advance owing to such Lessor Party, any Lessor Parties Commitment of such Lessor Party or any other interest of such Lessor Party under the Operative Agreements; provided, that any such sale of a participating interest shall be in a Lessor Advance amount of at least $2,000,000 or such lesser amount constituting such Lessor Party's entire interest in the Operative Agreements. In the event of any such sale by a Lessor Party of a participating interest to a Participant, such Lessor Party's obligations under the Operative Agreements to the other parties to this Agreement shall remain unchanged, such Lessor Party shall remain solely responsible for the performance thereof, such Lessor Party shall remain the holder of its Lessor Parties Interest for all purposes under the Operative Agreements, and the Credit Parties and the Agent shall continue to deal solely and directly with such Lessor Party in connection with such Lessor Party's rights and obligations under the Operative Agreements. In no event shall any Participant have any right to approve any amendment or waiver of any provision of any Operative Agreement, or any consent to any departure by any Credit Party or any other Person therefrom, except to the extent that such amendment, waiver or consent would (a) reduce any Lessor Advance or Lessor Yield on any Lessor Advance, or postpone the date of the final maturity of any Lessor Advance, in each case to the extent subject to such participation or (b) release all or substantially all of the collateral pursuant to the Security Documents. The Credit Parties agree that, while an Event of Default shall have occurred and be continuing, if amounts outstanding by any Credit Party under the Operative Agreements are due or unpaid, or shall have become due and payable upon the occurrence of an Event of Default, each Participant shall, to the maximum extent permitted by Applicable Law, but only after obtaining the prior written consent of the Majority Secured Parties prior to exercising any right of set-off, be deemed to have the right of set-off in respect of its participating interests in amounts owing directly to it as a Lessor Party, provided, that in purchasing such participating interest, such Participant shall be deemed to have agreed to share with the Lessor Parties the proceeds thereof as provided in Section 12.15 as fully as if it were a Lessor Party hereunder. The Credit Parties also agree that each Participant shall be entitled to the benefits of, and shall be subject to the obligations and limitations under, Sections 11.2, 11.3 and 11.4 with respect to its participation in the Lessor Parties Commitments and the Lessor Advances outstanding from time to time as if it was a Lessor Party; provided, that such Participant shall have complied with the requirements of said Sections and provided, further, that no Participant shall be entitled to receive any greater amount pursuant to any such Section than the transferor Lessor Party would have been entitled to receive in respect of the amount of the participation transferred by such transferor Lessor Party to such Participant had no such transfer occurred and provided, further, that the Lessor Parties and the Participants, taken as a whole, shall not be entitled to receive any greater amount pursuant to any such Section than the original Lessor Party (prior to any participation) would have been entitled to receive pursuant to such Section.

10.5 Assignments.

(a) Subject to and in accordance with Section 10.1, any Lessor Party may, in the ordinary course of its business and in accordance with Applicable Law and at its own cost and expense, at any time and from time to time assign to any Eligible Assignee (each, a "Purchasing Lessor Party"), all or any part of its rights and obligations under this Agreement and the other Operative Agreements pursuant to an assignment and acceptance, in form and substance reasonably acceptable to the Agent, executed by such Purchasing Lessor Party, such assigning Lessor Party and the Agent and delivered to the Agent for its acceptance and recording in the Register; provided, that no such assignment to a Purchasing Lessor Party (other than any Lessor Party or any affiliate

thereof) shall be in an aggregate advance amount less than $2,000,000 (other than in the case of an assignment of all of a Lessor Party's interests under the Operative Agreements); provided, further, to the extent no Default or Event of Default shall have occurred and be continuing, any such assignment (other than to a Lessor Party or its Affiliates) shall be subject to the consent (not to be unreasonably withheld or delayed) by the Lessee; provided, further, upon the occurrence and during the continuance of any Event of Default, (i) any Lessor Party may assign to any Person (regardless of whether such Person is an Eligible Assignee; provided that, in no event, shall any assignment be made to any competitor of any Credit Party even if an Event of Default has occurred) all or any part of such Lessor Party's rights and obligations under the Operative Agreements pursuant to an assignment and acceptance, in form and substance reasonably satisfactory to the Agent, and (ii) there shall be no minimum aggregate advance amount required for any such assignment. Upon such execution, delivery, acceptance and recording, from and after the effective date determined pursuant to such assignment and acceptance, (x) the Purchasing Lessor Party thereunder shall be a party hereto and, to the extent provided in such assignment and acceptance, have the rights and obligations of a Lessor Party hereunder with a Lessor Parties Interest as set forth therein, and (y) the assigning Lessor Party thereunder shall, to the extent provided in such assignment and acceptance, be released from its obligations under this Agreement (and, in the case of an assignment and acceptance covering all of the remaining portion of an assigning Lessor Party's rights and obligations under the Operative Agreements, such assigning Lessor Party shall cease to be a party hereto).

(b) Upon its receipt of an assignment and acceptance, in form and substance reasonably satisfactory to the Agent, executed by an assigning Lessor Party, a Purchasing Lessor Party and the Agent together with payment to the Agent of a registration and processing fee of
$3,500 (which, subject to Section 5A.7(b), shall not be payable by the Construction Agent or the Lessee), the Agent shall (i) promptly accept such assignment and acceptance and (ii) promptly after the effective date determined pursuant thereto, record the information contained therein in the Register and give notice of such acceptance and recordation to the Lessee and the Lessor Parties.

(c) Each Purchasing Lessor Party, by executing and delivering an assignment and acceptance,

(i) agrees to execute and deliver to the Agent, as promptly as practicable, the documentation described in Section 11.2(e), as applicable;

(ii) represents and warrants to the Lessee and the Agent that the form so delivered is true and accurate and that, as of the effective date of the assignment and acceptance, each of such Purchasing Lessor Party's lending offices is entitled to receive payments of advance amount and Lessor Yield under or in respect of this Agreement without withholding or deduction for or on account of any U.S. Taxes;

(iii) agrees to update the forms delivered pursuant to clause (i) if such forms expire or become obsolete or inaccurate unless an event has occurred which renders the relevant form inapplicable (it being understood that if the applicable form is not so delivered, payments under or in respect of the Operative Agreements may be subject to withholding and deduction and such Purchasing Lessor Party may not have any rights to indemnity for such withholding and deduction under Section 11.2(e) as provided therein);

(iv) agrees to promptly notify the Lessee and the Agent in writing if it ceases to be entitled to receive payments of advance amount and Lessor Yield under or in respect of the Operative Agreements without withholding or deduction for or on account of any

U.S. Taxes (it being understood that payments under or in respect of the Operative Agreements may be subject to withholding and deduction in such event);

(v) acknowledges that in the event it ceases to be exempt from withholding and/or deduction of U.S. Taxes, the Agent may withhold and/or deduct the applicable amount from any payments to which such assignee Lessor Party would otherwise be entitled, without any liability to such assignee Lessor Party therefor; and

(vi) agrees to indemnify the Lessee and the Agent from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs or expenses that result from such assignee Lessor Party's breach of any such representation, warranty or agreement;

provided, however, that the foregoing provisions of this Section 10.5 shall not apply to any Purchasing Lessor Party to the extent it is not legally eligible to provide such forms and is entitled to indemnification from U.S. withholding taxes under Section 11.2(e) under the circumstances described in clause (a) of Section 11.2(e)(i).

(d) Any Lessor Party party to this Agreement may, from time to time and without the consent of the Lessee or any other Person, pledge or assign for security purposes any portion of its Lessor Parties Interest or any other interests in the Operative Agreements to any Federal Reserve Bank.

(e) In connection with any assignment of rights and obligations under the Operative Agreements of any Defaulting Lessor Party, 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 Lessee and the Agent, the applicable Pro Rata Share of Lessor Advances previously requested but not funded by the Defaulting Lessor Party, 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 Lessor Party to the Agent or any Lessor Party under any Operative Agreement (and interest accrued thereon) and (B) acquire (and fund as appropriate) its full Pro Rata Share of all Lessor Advances in accordance with the percentage corresponding to the applicable Lessor Parties Commitment of the assignor. Notwithstanding the foregoing, in the event that any assignment of rights and obligations under the Operative Agreements of any Defaulting Lessor Party 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 Lessor Party for all purposes of the Operative Agreements until such compliance occurs. No assignment by a Defaulting Lessor Party will constitute a waiver or release of any claim of any party hereunder arising from that Lessor Party's having been a Defaulting Lessor Party. Any assignment or transfer by a Lessor Party of rights or obligations under the Operative Agreements that does not comply with this subsection shall be treated for purposes of the Operative Agreements as a sale by such Lessor Party of a participation in such rights and obligations in accordance with this Agreement.

10.6 The Register; Disclosure.

The Agent shall maintain for the benefit of the Lessor Parties a copy of each assignment and acceptance delivered to it and a register (the "Register") for the recordation of the names and addresses of the Lessor Parties, the Lessor Parties Commitments of the Lessor Parties, the Commitment Percentages of

the Lessor Parties, the Percentage Shares of the Lessor Parties and the amount of outstanding Lessor Advances owing to each Lessor Party from time to time. The entries in the Register shall be conclusive, in the absence of clearly demonstrable error, and the Credit Parties, the Agent and the Lessor Parties may treat each Person whose name is recorded in the Register as the owner of the Lessor Parties Interests recorded therein for all purposes of the Operative Agreements. The Register shall be available for inspection by the Lessee or any Lessor Party at any reasonable during normal business hours of the Agent and from time to time upon reasonable notice.

SECTION 11.
INDEMNIFICATION.

11.1 General Indemnity.

Subject to Sections 11.2 (regarding indemnification matters concerning Impositions) and 11.6, whether or not any of the transactions contemplated hereby shall be consummated, the Indemnity Provider hereby assumes liability for and agrees to defend, indemnify and hold harmless each Indemnified Person on an After Tax Basis from and against any Claims which may be imposed on, incurred by or asserted against an Indemnified Person by any third party (including any other Indemnified Person), including Claims arising from the negligence of such Indemnified Person (but, in each case, not to the extent (1) such Claims arise from the gross negligence or willful misconduct of such Indemnified Person itself, as determined by a court of competent jurisdiction in a final nonappealable judgment, as opposed to gross negligence or willful misconduct imputed to such Indemnified Person; (2) disputes solely between or among Indemnified Persons and not relating to or in connection with acts or omissions by the Lessee or any other Credit Party; (3) such Claims result from a claim brought by any Credit Party against an Indemnified Person for breach in bad faith of such Indemnified Person's obligations hereunder or under any other Operative Agreement, if such Credit Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction; (4) the Indemnity Provider was not given notice of the subject claim and the opportunity to participate in the defense thereof, at its expense (except that each Credit Party shall remain liable to the extent such failure to give notice does not result in a loss of such Credit Party); or (5) the same results from a compromise or settlement agreement entered into without the consent of the Indemnity Provider, which shall not be unreasonably withheld), whether or not such Indemnified Person shall also be indemnified as to any such Claim by any other Person and whether or not such Claim is initiated after the Termination Date, so long as such Claim arises out of an act or omission (or other circumstance or condition of any kind or description) which arose or occurred prior to the Termination Date, in any way relating to or arising or alleged to relate to, or arise out of the execution, delivery, performance or enforcement of this Agreement, the Lease, the Agency Agreement or any other Operative Agreement or on or with respect to the Property or any component thereof, including Claims in any way relating to or arising or alleged to arise out of (a) the financing, refinancing, purchase, acceptance, rejection, ownership, design, construction, refurbishment, development, delivery, nondelivery, leasing, subleasing, possession, use, occupancy, operation, maintenance, repair, modification, transportation, condition, sale, return, repossession (whether by summary proceedings or otherwise), or any other disposition of the Property or any part thereof, including the acquisition, holding or disposition of any interest in the Property, lease or agreement comprising a portion of any thereof; (b) any latent or other defects in the Property or any portion thereof whether or not discoverable by an Indemnified Person or the Indemnity Provider; (c) any violation or alleged violation of law or in tort (strict liability or otherwise); (d) any Claim based upon a violation or alleged violation of the terms of any restriction, easement, condition or covenant or other matter affecting title to the Property; (e) any violation of or noncompliance with (or alleged violation or noncompliance with) any Environmental Laws, any Environmental Claims or any loss of or damage to any property or the environment relating to the Property, the Lease or the Indemnity Provider; (f) the Operative Agreements, or any transaction contemplated thereby (including the formation, continuance, operation and ultimate dissolution and liquidation of the Lessor) or any amendment,

modification or waiver thereof or the exercise of remedies under any Operative Agreement following the occurrence and continuance of any Event of Default; (g) any breach by the Indemnity Provider, the Construction Agent or any Guarantor of any of its representations or warranties under the Operative Agreements to which the Indemnity Provider, the Construction Agent or any Guarantor is a party or failure by the Indemnity Provider, the Construction Agent or any Guarantor to perform or observe any covenant or agreement to be performed by it under any of the Operative Agreements; (h) the making of any Modifications in violation of the Operative Agreements or any standards imposed by any insurance policies required to be maintained by the Lessee pursuant to the Lease which are in effect at any time with respect to the Property or any part thereof; (i) any Claim for patent, trademark or copyright infringement; (j) the transactions contemplated hereby or by any other Operative Agreement, in respect of the application of Parts 4 and 5 of Subtitle B of Title I of ERISA; (k) personal injury, death or property damage, including Claims based on strict or absolute liability in tort; (l) any fees, expenses and/or other assessments by any business park or any other applicable entity with oversight responsibility for the Property; (m) the retaining or employment of any broker, finder or financial advisor by any Credit Party to act on its behalf in connection with this Agreement or the other Operative Agreements; (n) Claims arising from any public improvements with respect to the Property resulting in any change or special assessments being levied against the Property or any plans to widen, modify or realign any street or highway adjacent to the Property, or any Claim for utility "tap-in" fees; (o) except in all cases for the existence of Lessor Liens and Liens created under the Operative Agreements in favor of any Financing Party, the existence of any Lien on or with respect to the Property, the Improvements or any Equipment relating thereto, title thereto, any interest therein or on any Basic Rent or Supplemental Rent, including any Liens which arise out of the possession, use, occupancy, construction, repair or rebuilding of the Property or by reason of labor or materials furnished or claimed to have been furnished to the Lessee or the Lessor or any predecessor in title, or any of its contractors or agents or by reason of the financing of any personalty or equipment purchased or leased by the Lessee or the Lessor or any predecessor in title or Modifications constructed by the Lessee.

If a written Claim is made against any Indemnified Person or if any proceeding shall be commenced against such Indemnified Person (including a written notice of such proceeding), for any Claim, such Indemnified Person shall promptly notify the Indemnity Provider in writing and shall not take action with respect to such Claim without the consent of the Indemnity Provider for thirty (30) days after the receipt of such notice by the Indemnity Provider; provided, however, that in the case of any such Claim, if action shall be required by law or regulation to be taken prior to the end of such period of thirty (30) days, such Indemnified Person shall endeavor to, in such notice to the Indemnity Provider, inform the Indemnity Provider of such shorter period, and no action shall be taken with respect to such Claim without the consent of the Indemnity Provider before seven (7) days before the end of such shorter period; provided, further, that the failure of such Indemnified Person to give the notices referred to in this sentence shall not diminish the Indemnity Provider's obligation hereunder except to the extent such failure precludes in any material respect the Indemnity Provider from contesting such Claim.

If, within thirty (30) days of receipt of such notice from the Indemnified Person (or such shorter period as the Indemnified Person has notified the Indemnity Provider is required by law or regulation for the Indemnified Person to respond to such Claim), the Indemnity Provider shall request in writing that such Indemnified Person respond to such Claim, the Indemnified Person shall, at the expense of the Indemnity Provider, in good faith conduct and control such action (including by pursuit of appeals) by, in the sole discretion of the Person conducting and controlling such action (1) resisting payment thereof, (2) not paying the same except under protest, if protest is necessary and proper, (3) if the payment be made, using reasonable efforts to obtain a refund thereof in appropriate administrative and judicial proceedings, or (4) taking such other action as is reasonably requested by the Indemnity Provider from time to time (provided, however, that (A) if such Claim, in the Indemnity Provider's reasonable discretion, can be pursued by the Indemnity Provider on behalf of or in the name of such Indemnified Person, the Indemnified Person, at the Indemnity Provider's request, shall allow the Indemnity Provider to conduct and control the

response to such Claim unless such Claim cannot be pursued independently from any other claim involving such Indemnified Person or unless such Claim is unrelated to the Property or the transactions contemplated by the Operative Agreements and (B) in the case of any Claim (and notwithstanding the provisions of the foregoing subsection (A)), the Indemnified Person may require the Indemnity Provider to conduct and control the response to such Claim (with counsel to be selected by the Indemnity Provider and consented to by such Indemnified Person, such consent not to be unreasonably withheld); provided, however, that any Indemnified Person may retain separate counsel at the expense of the Indemnity Provider if, in the written opinion of counsel to the Indemnified Person reasonably acceptable to the Indemnity Provider (the expense of which opinion shall be paid by the Indemnity Provider), use of counsel of the Indemnity Provider's choice would be expected to give rise to a conflict of interest between such Indemnified Person and the Indemnity Provider).

The party controlling the response to any Claim shall consult in good faith with the non-controlling party and shall keep the non-controlling party reasonably informed as to the conduct of the response to such Claim; provided, that all decisions ultimately shall be made in the discretion of the controlling party. The parties agree that an Indemnified Person may at any time decline to take further action with respect to the response to such Claim and may settle such Claim if such Indemnified Person shall waive its rights to any indemnity from the Indemnity Provider that otherwise would be payable in respect of such Claim (and any future Claim, the pursuit of which is precluded by reason of such resolution of such Claim) and shall pay to the Indemnity Provider any amount previously paid or advanced by the Indemnity Provider pursuant to this Section 11.1 by way of indemnification or advance for the payment of an amount regarding such Claim (not including the expenses of the contest).

Notwithstanding the foregoing provisions of this Section 11.1, an Indemnified Person shall not be required to take any action and the Indemnity Provider shall not be permitted to respond to any Claim in its own name or that of the Indemnified Person unless (A) the Indemnity Provider shall have agreed in writing to pay and shall pay to such Indemnified Person on demand and on an After Tax Basis all reasonable costs, losses and expenses that such Indemnified Person actually incurs in connection with such Claim, including all reasonable legal, accounting and investigatory fees and disbursements and the Indemnity Provider shall have agreed in writing to indemnify such Indemnified Person in respect of the Claim if and to the extent the contest is not successful, (B) the Indemnified Person shall have reasonably determined that the action to be taken will not result in any material danger of sale, forfeiture or loss of the Property, or any part thereof or interest therein, will not interfere with the payment of Rent, and will not result in risk of criminal liability or civil penalty or risk of sale, forfeiture or loss of or the creation of any Lien (other than a Permitted Lien) on the Property, (C) if such Claim shall involve the payment of any amount prior to the resolution of such Claim, the Indemnity Provider shall provide to the Indemnified Person an interest-free advance in an amount equal to the amount that the Indemnified Person is required to pay (with no additional net after-Tax cost to such Indemnified Person) prior to the date such payment is due, (D) in the case of an appeal of an adverse determination respecting a Claim that must be pursued in the name of an Indemnified Person (or an Affiliate thereof), the Indemnity Provider shall have provided to such Indemnified Person an opinion of independent counsel selected by the Indemnity Provider and reasonably satisfactory to the Indemnified Person stating that a reasonable basis exists to pursue such an appeal, and (E) no Default or Event of Default shall have occurred and be continuing. In no event shall an Indemnified Person be required to appeal an adverse judicial determination to the United States Supreme Court. In addition, an Indemnified Person shall not be required to contest any Claim in its name (or that of an Affiliate) if the subject matter thereof shall be of a continuing nature and shall have previously been decided adversely by a court of competent jurisdiction pursuant to the contest provisions of this Section 11.1, unless there shall have been a change in Law (or interpretation thereof) and the Indemnified Person shall have received, at the Indemnity Provider's expense, an opinion of independent counsel selected by the Indemnity Provider and reasonably acceptable to the Indemnified Person stating that as a result of such change in Law (or interpretation thereof), it is more likely than not that the Indemnified Person will prevail in such contest. In no event shall the Indemnity

Provider be permitted to adjust or settle any Claim without the consent of the Indemnified Person to the extent any such adjustment or settlement involves, or is reasonably likely to involve, any performance by or adverse admission by or with respect to the Indemnified Person.

11.2 General Tax Indemnity.

(a) Subject to Section 11.6, the Indemnity Provider shall pay and assume liability for, and does hereby agree to indemnify, protect and defend the Property and all Indemnified Persons, and hold them harmless against, all Impositions on an After Tax Basis, and all payments pursuant to the Operative Agreements shall be made free and clear of and without deduction or Withholding for any and all present and future Impositions, except as required by Applicable Law. If deduction or Withholding from any such payment is required by Applicable Law and such deduction or Withholding is subject to indemnification by the Indemnity Provider under the provisions of this Section 11.2, then such payment amount shall be increased as necessary so that after making all required deductions and Withholdings (including deductions and Withholdings applicable to additional sums payable under this Section 11.2(a)) the applicable recipient of such payment receives an amount equal to the sum it would have received had no such deduction or Withholding been made.

(b) Notwithstanding anything to the contrary in Section 11.2(a) hereof, the following shall be excluded from the indemnity required by Section 11.2(a):

(i) Taxes (other than Taxes that are, or are in the nature of, sales, use, rental, value added, transfer or property Taxes) that are imposed on or measured by net income (however denominated and including the Texas franchise Tax on taxable margin, Taxes based on capital gains and minimum Taxes), net worth, or capital stock, franchise Taxes, gross receipts Taxes and branch profits Taxes, in each case, imposed as a result of an Indemnified Person (A) being organized under the laws of, or having its principal office or, in the case of any Financing Party, its applicable lending office located in, the jurisdiction imposing such Taxes (or any political subdivision thereof) or (B) having a present or former connection with the jurisdiction imposing such Taxes; provided, that such Taxes shall not be excluded under this subparagraph (i) to the extent the sole connection between such Indemnified Person and the jurisdiction imposing such Taxes is (I) the location, possession or use of the Property in, the location or the operation of the Lessee or any use of the Property in, or the making of payments by or on behalf of the Lessee under the Operative Agreements from, the jurisdiction imposing such Taxes and/or (II) the activities of any one or more of the Indemnified Persons in the jurisdiction imposing the Taxes in connection with its or their enforcement of remedies under the Operative Agreements; provided, further, that this clause (i) shall not be interpreted to prevent a payment from being made on an After Tax Basis if such payment is otherwise required to be so made; and

(ii) any Taxes which are imposed on an Indemnified Person as a result of the gross negligence or willful misconduct of such Indemnified Person itself, as determined by a court of competent jurisdiction in a final nonappealable judgment (as opposed to gross negligence or willful misconduct imputed to such Indemnified Person), but not Taxes imposed as a result of ordinary negligence of such Indemnified Person.

(c) (i) Subject to the terms of Sections 11.2(f) and 11.6, the Indemnity Provider shall pay or cause to be paid all Impositions directly to the applicable Governmental Authority where feasible and otherwise to the Indemnified Person, as appropriate, and the Indemnity Provider

shall at its own expense, upon such Indemnified Person's reasonable request, furnish to such Indemnified Person copies of official receipts or other satisfactory proof evidencing such payment.

(ii) In the case of Impositions for which no contest is conducted pursuant to Section 11.2(f) and which the Indemnity Provider pays directly to the applicable Governmental Authority, the Indemnity Provider shall (subject to Section 11.6) pay such Impositions prior to the latest time permitted by the relevant Governmental Authority for timely payment. In the case of Impositions for which the Indemnity Provider reimburses an Indemnified Person, the Indemnity Provider shall do so within thirty (30) days after receipt by the Indemnity Provider of demand by such Indemnified Person describing in reasonable detail the nature of the Imposition and the basis for the demand (including the computation of the amount payable), accompanied by receipts, if available, or other reasonable evidence of such demand (and shall make advances with respect to such Impositions in the manner and to the extent provided by Section 11.2(f) and 11.1 prior to such date). In the case of Impositions for which a contest is conducted pursuant to Section 11.2(f), the Indemnity Provider shall (subject to Section 11.6) pay such Impositions or reimburse such Indemnified Person for such Impositions, to the extent not previously paid, advanced or reimbursed pursuant to subsection (a) or (f), prior to the latest time permitted by the relevant Governmental Authority for timely payment after conclusion of all contests under Section 11.2(f) (and shall make advances with respect to such Impositions in the manner and to the extent provided by Section 11.2(f) and 11.1 prior to such date).

(iii) At the Indemnity Provider's request, the amount of any indemnification payment by the Indemnity Provider pursuant to subsection (a) shall be verified and certified by an independent public accounting firm mutually acceptable to the Indemnity Provider and the Indemnified Person. The fees and expenses of such independent public accounting firm shall be paid by the Indemnity Provider.

(d) The Indemnity Provider shall be responsible for preparing and filing (i) any real and personal property or ad valorem Tax returns in respect of the Property and (ii) any other Tax returns required of the Lessor respecting the transactions described in the Operative Agreements (but in the case of Tax returns described in clause (ii), other than returns with respect to Taxes excluded from indemnification pursuant to Section 11.2(b)(i)). In case any report or Tax return shall be required to be made with respect to any Tax indemnified by the Indemnity Provider under subsection (a), the Indemnity Provider, at its sole cost and expense, shall notify the relevant Indemnified Person of such requirement and (except if such Indemnified Person notifies the Indemnity Provider that such Indemnified Person intends to prepare and file such report or return) (A) to the extent required or permitted by and consistent with Legal Requirements, make and file in the Indemnity Provider's name such return, statement or report; and (B) in the case of any other such return, statement or report required to be made in the name of such Indemnified Person, advise such Indemnified Person of such fact and prepare such return, statement or report for filing by such Indemnified Person or, where such return, statement or report shall be required to reflect items in addition to any obligations of the Indemnity Provider under or arising out of subsection (a), provide such Indemnified Person, at the Indemnity Provider's expense, with information sufficient to permit such return, statement or report to be properly made with respect to any obligations of the Indemnity Provider under or arising out of subsection (a). Such Indemnified Person shall, upon the Indemnity Provider's request and at the Indemnity Provider's expense, provide any data maintained by such Indemnified Person (and not otherwise available to or within the control of the Indemnity Provider) with respect to the Property which the Indemnity Provider may reasonably be required to prepare any required Tax returns or reports.

(e) As between the Indemnity Provider on one hand, and each Financing Party on the other hand, the Indemnity Provider shall be responsible for, and the Indemnity Provider shall indemnify and hold harmless each Financing Party (including, for purposes of this Section 11.2(e), each Participant to the extent such Participant is entitled to the benefit of this provision pursuant to Section 10.4) (without duplication of any indemnification required by subsection (a) and subject to Section 11.6) on an After Tax Basis against, any obligation for United States or foreign withholding Taxes or similar levies, imposts, charges, fees, deductions or withholdings (collectively, "Withholdings") imposed in respect of the Lessor Yield payable on the Lessor Advances, Rent payable under the Lease or with respect to any other payments under the Operative Agreements to be made without deduction, withholding or set-off (all such payments being referred to herein as "Exempt Payments") (including, if any Financing Party receives a demand for such payment from any Governmental Authority or a Withholding is otherwise required with respect to any Exempt Payment, the Indemnity Provider shall discharge such demand on behalf of such Financing Party); provided, however, that the obligation of the Indemnity Provider under this Section 11.2(e) shall not apply to:

(i) Withholdings on any Exempt Payment to any Financing Party which is a Non-U.S. Person unless such Financing Party is, on the date hereof (or on the date it becomes a Financing Party hereunder) and on the date of any change in the principal place of business or the lending office of such Financing Party, entitled to submit and submits to the Agent (which shall be available to the Indemnity Provider upon request) an executed IRS Form W-8BEN, Form W-8BEN-E, Form W-8IMY, Form W-8ECI or other applicable forms (relating to such Financing Party and entitling it to a complete exemption from Withholding on such Exempt Payment) or is otherwise subject to exemption from Withholding with respect to such Exempt Payment (except (a) in the case of a transferee, if the transferring Financing Party was being indemnified against Withholdings at the time of transfer as a result of a change in Law after the Initial Closing Date (or, if later, the date the transferring Financing Party became a Financing Party hereunder) or (b) where the failure of the exemption results from a change in the principal place of business of the Lessee);

(ii) Any U.S. Taxes imposed solely by reason of the failure by a Non-U.S. Person to comply with applicable certification, information, documentation or other reporting requirements concerning the nationality, residence, identity or connections with the United States of America of such Non-U.S. Person if such compliance is required by statute or regulation of the United States as a precondition to relief or exemption from such U.S. Taxes (but only if the Non-U.S. Person can legally comply with such requirement);

(iii) Withholdings on any Exempt Payment to any Financing Party which is a U.S. Person unless such Financing Party has delivered to the Agent (which shall be available to the Indemnity Provider upon request), on or before the date it becomes a Financing Party hereunder, an executed IRS Form W-9 certifying that such Financing Party is exempt from U.S. federal backup withholding Tax; or

(iv) U.S. federal Withholdings imposed under FATCA.

For the purposes of this Section 11.2(e), (A) "U.S. Person" shall mean a citizen, national or resident of the United States, a corporation, partnership or other entity created or organized in or under any laws of the United States or any State thereof, or any estate or trust that is subject to Federal income taxation regardless of the source of its income and (B) "U.S. Taxes" shall mean

any present or future Tax, assessment or other charge or levy imposed by or on behalf of the United States or any taxing authority thereof or therein.

If a Financing Party or an Affiliate with whom such Financing Party files a consolidated Tax return (or equivalent) subsequently receives the benefit in any country of a Tax credit or an allowance resulting from U.S. Taxes with respect to which it has received a payment of an additional amount under this Section 11.2(e), so long as no Event of Default has occurred and is continuing (or at such time as such Event of Default is no longer continuing), such Financing Party will pay to the Indemnity Provider such part of that benefit as in the reasonable opinion of such Financing Party will leave it (after such payment) in a position no more and no less favorable than it would have been in if no additional payment had been required to be paid, provided always that (i) such Financing Party will be the sole judge of the amount of any such benefit and of the date on which it is received, (ii) such Financing Party will have the absolute discretion as to the order and manner in which it employs or claims Tax credits and allowances available to it and (iii) such Financing Party will not be obliged to disclose to the Indemnity Provider any information regarding its Tax affairs or Tax computations.

Each U.S. Person and Non-U.S. Person that shall become a Financing Party after the date hereof shall, upon the effectiveness of the related transfer or otherwise upon becoming a Financing Party hereunder, be required to provide all of the forms and statements referenced above or other evidences of exemption from Withholdings to the Agent, which shall be available to the Indemnity Provider upon request (unless the transferor of such Financing Party was being indemnified against Withholding at the time of the transfer as a result of a change in Law after the Initial Closing Date, in which case such forms and statements shall evidence a rate of Withholding that does not exceed the rate of Withholding applicable to Exempt Payments to the transferor).

(f) If an Imposition is made against any Indemnified Person or if any proceeding shall be commenced against such Indemnified Person (including a written notice of such proceeding), for any Imposition, such Indemnified Person shall promptly notify the Indemnity Provider in writing and shall not take action with respect to such Imposition without the consent of the Indemnity Provider (such consent not to be unreasonably withheld, conditioned or delayed) for thirty (30) days after the receipt of such notice by the Indemnity Provider; provided, however, that in the case of any such Imposition, if action shall be required by Applicable Law to be taken prior to the end of such period of thirty (30) days, such Indemnified Person shall, in such notice to the Indemnity Provider, inform the Indemnity Provider of such shorter period, and no action shall be taken with respect to such Imposition without the consent of the Indemnity Provider (such consent not to be unreasonably withheld, conditioned or delayed) before seven (7) days before the end of such shorter period; provided, further, that the failure of such Indemnified Person to give the notices referred to in this sentence shall not diminish the Indemnity Provider's obligation hereunder except to the extent such failure effectively precludes the Indemnity Provider from contesting such Imposition.

If, within thirty (30) days of receipt of such notice from the Indemnified Person (or such shorter period as the Indemnified Person has notified the Indemnity Provider is required by Applicable Law for the Indemnified Person to respond to such Imposition), the Indemnity Provider shall request in writing that such Indemnified Person contest such Imposition, the Indemnified Person shall, at the expense of the Indemnity Provider, in good faith conduct and control such action with counsel selected by the Indemnified Person and consented to by the Indemnity Provider, such consent not to be unreasonably withheld (including by pursuit of appeals) by, in the sole discretion of the Person conducting and controlling such action (1) resisting payment thereof, (2) not paying the same except under protest, if protest is necessary and proper, (3) if the payment

be made, using reasonable efforts to obtain a refund thereof in appropriate administrative and judicial proceedings, or (4) taking such other action as is reasonably requested by the Indemnity Provider from time to time provided that such other action cannot reasonably be expected to have any adverse effect on the Indemnified Person (provided, however, that (A) if such contest, in the Indemnified Person's reasonable discretion, can be pursued by the Indemnity Provider in its own name, the Indemnified Person, at the Indemnity Provider's request, shall allow the Indemnity Provider to conduct and control the contest of such Imposition unless such Imposition cannot be pursued independently from any other claim involving such Indemnified Person or unless such Imposition is unrelated to the Property or the transactions contemplated by the Operative Agreements and (B) in the case of any Imposition (and notwithstanding the provisions of the foregoing subsection (A)), the Indemnified Person may require the Indemnity Provider to conduct and control the contest of such Imposition (with counsel to be selected by the Indemnity Provider and consented to by such Indemnified Person, such consent not to be unreasonably withheld); provided, however, that any Indemnified Person may retain separate counsel at the expense of the Indemnity Provider if, in the written opinion of counsel to the Indemnified Person reasonably acceptable to the Indemnity Provider (the expense of which opinion shall be paid by the Indemnity Provider), use of counsel of the Indemnity Provider's choice would be expected to give rise to a conflict of interest between such Indemnified Person and the Indemnity Provider).

The party controlling the contest of any Imposition shall consult in good faith with the non-controlling party and shall keep the non-controlling party reasonably informed as to the conduct of the contest of such Imposition; provided, that all decisions ultimately shall be made in the discretion of the controlling party. The parties agree that an Indemnified Person may at any time decline to take further action with respect to the contest of such Imposition and may settle such contest if such Indemnified Person shall waive its rights to any indemnity from the Indemnity Provider that otherwise would be payable in respect of such Imposition (and any future Imposition, the pursuit of which is precluded by reason of such resolution of such contest) and shall pay to the Indemnity Provider any amount previously paid or advanced by the Indemnity Provider pursuant to this Section 11.2 by way of indemnification or advance for the payment of an amount regarding such Imposition (not including the expenses of the contest).

Notwithstanding the foregoing provisions of this Section 11.2(f), an Indemnified Person shall not be required to take any action and the Indemnity Provider shall not be permitted to contest any Imposition in its own name or that of the Indemnified Person unless (A) the Indemnity Provider shall have agreed in writing to pay and shall pay to such Indemnified Person on demand and on an After Tax Basis all reasonable costs, losses and expenses that such Indemnified Person actually incurs in connection with such contest, including all reasonable legal, accounting and investigatory fees and disbursements and the Indemnity Provider shall have agreed in writing to indemnify such Indemnified Person in respect of the Imposition if and to the extent the contest is not successful, (B) the Indemnified Person shall have reasonably determined that the action to be taken will not result in any material danger of sale, forfeiture or loss of the Property, or any part thereof or interest therein, will not interfere with the payment of Rent, and will not result in risk of criminal liability or risk of sale, forfeiture or loss of or the creation of any Lien (other than a Permitted Lien) on the Property, (C) if such contest shall involve the payment of any amount prior to the resolution of such contest, the Indemnity Provider shall provide to the Indemnified Person an interest-free advance in an amount equal to the amount that the Indemnified Person is required to pay (with no additional net cost, on an After Tax Basis, to such Indemnified Person) prior to the date such payment is due, (D) in the case of a contest of an Imposition that cannot and is not to be pursued in the name of the Indemnity Provider, the Indemnity Provider shall have provided to such Indemnified Person an opinion of independent counsel selected by the Indemnity Provider and reasonably satisfactory to the Indemnified Person stating that a reasonable basis exists to pursue the contest (or in the case of

an appeal of adverse judicial determination, the position asserted in such appeal will more likely than not prevail), and (E) no Default or Event of Default shall have occurred and be continuing. In no event shall an Indemnified Person be required to appeal an adverse judicial determination to the United States Supreme Court. In addition, an Indemnified Person shall not be required to contest any Imposition in its name (or that of an Affiliate) if the subject matter thereof shall be of a continuing nature and shall have previously been decided adversely by a court of competent jurisdiction pursuant to the contest provisions of this Section 11.2(f), unless there shall have been a change in Law (or interpretation thereof) and the Indemnified Person shall have received, at the Indemnity Provider's expense, an opinion of nationally-recognized independent counsel selected by the Indemnity Provider and reasonably acceptable to the Indemnified Person stating that as a result of such change in Law (or interpretation thereof), that the Indemnified Person should prevail in such contest. In no event shall the Indemnity Provider be permitted to adjust or settle the contest of Imposition without the consent of the Indemnified Person to the extent any such adjustment or settlement involves, or is reasonably likely to involve, any performance by or adverse admission by or with respect to the Indemnified Person.

(g) Each Lessor Party has entered into the transactions contemplated by the Operative Agreements on the assumption that the Lessor Advances are properly characterized for Federal, State and local income Tax purposes as debt (the "Assumed Characterization"). If for any reason (and notwithstanding anything to the contrary contained in the Operative Agreements and without regard to paragraph (b) hereof, except subsection (ii) thereof) (other than any Financing Party voluntarily taking a position on its Federal, State or local income Tax returns inconsistent with the Assumed Characterization), any Financing Party shall suffer any adverse Federal, State or local income Tax consequences as a result of any challenge to the Assumed Characterization (a "Tax Loss"), the Indemnity Provider will pay to such Financing Party an amount sufficient to reimburse such Financing Party, on an After Tax Basis, for the additional Federal, State and local income Taxes payable by (or not refundable to) such Financing Party from time to time as a result of such Tax Loss plus all interest, penalties, fines and additions to Tax payable by such Financing Party as a result of such Tax Loss. In connection with the foregoing, the applicable Financing Party shall provide written notice to the Indemnity Provider of any claim for indemnification under this Section 11.2(g). Any such claim shall be subject to the contest provisions of Section 11.2(f) and the verification procedure set forth in Section 11.2(c)(iii). Any payments due to such Financing Party pursuant to this Section 11.2(g) shall be paid no later than the date that such Financing Party shall become obligated to pay the additional Federal, State or local income Taxes resulting from the Tax Loss.

11.3 Yield Protection Amount.

Subject to Section 11.6, if any Regulatory Change occurring after the date hereof:

(a) shall impose upon any Financing Party (which, for purposes of this Section 11.3, shall include any Participant to the extent such Participant is entitled to the benefit of this provision pursuant to Section 10.4), modify or deem applicable any reserve, special deposit or similar requirement against assets of any Financing Party, deposits or obligations with or for the account of any Financing Party or with or for the account of any Affiliate (or entity deemed by the Federal Reserve Board to be an Affiliate) of any Financing Party, or credit extended by any Financing Party (except any reserve requirement already reflected in the Term SOFR Reference Rate); or

(b) shall change the amount of capital maintained or required or requested or directed to be maintained by any Financing Party or such Financing Party's holding company; or

(c) shall impose any other condition affecting any Lessor Advance or any Operative Agreement (or any Financing Party's participation therein) or any of its obligations or right to acquire or hold any Lessor Advance;

and the result of any of the foregoing is or would be with regard to the transactions evidenced by the Operative Agreements:

(i) to increase the cost to (or impose a cost on) a Financing Party funding or acquiring or holding any Lessor Advance or loans or other extensions of credit under any Operative Agreement or any obligation or commitment of such Financing Party with respect to any of the foregoing,

(ii) to reduce the amount of any sum received or receivable by a Financing Party as a Lessor Party (or otherwise in respect of any of the Lessor Advances), under any Operative Agreement (or its participation in any of the foregoing), or

(iii) to reduce the rate of return on the capital of such a Financing Party as a consequence of its obligations under the Operative Agreements (or its participation therein) to a level below that which such Financing Party could otherwise have achieved,

in each case by an amount reasonably deemed by such Financing Party to be material, then prior to the next Payment Date, and in any case within thirty (30) days after demand by such Financing Party, the Lessee shall pay directly to such Financing Party such additional amount or amounts as will compensate such Financing Party for such additional or increased cost or such reduction (the "Yield Protection Amount"); provided that the Lessee shall not be required to compensate any Financing Party pursuant to the foregoing provisions of this Section 11.3 for any increased costs incurred or reductions suffered more than one hundred twenty (120) days prior to the date that such Financing Party notifies the Lessee of the event or circumstances giving rise to such increased costs or reductions and of such Financial Party's intention to claim compensation therefor (except that, if the Regulatory Change giving rise to such increased costs or reductions is retroactive, then the one hundred twenty (120) days period referred to above shall be extended to include the period of retroactive effect thereof).

In determining any amount provided for or referred to in this Section 11.3, a Financing Party may use any reasonable averaging and attribution method that it (in its sole discretion) shall deem applicable. Any Financing Party when making a claim under this Section 11.3 shall submit to the Lessee a statement as to such increased cost or reduced return (including calculation thereof in reasonable detail), which statement shall, in the absence of error, be conclusive and binding upon the Lessee.

(d) Notwithstanding any other provision of this Agreement or any other Operative Agreement, if any Financing Party (including, for purposes of this Section 11.3(d), any Participant to the extent such Participant is entitled to the benefit of this provision pursuant to Section 10.4) shall notify the Agent that the introduction of or any change in or in the interpretation of any Law or regulation makes it unlawful, or any central bank or other governmental authority asserts that it is unlawful, for any Financing Party to perform its obligations hereunder to make or maintain SOFR Lessor Advances then (i) each SOFR Lessor Advance will automatically, at the earlier of the end of the Lessor Yield Period for such SOFR Lessor Advance or the date required by law, convert into an ABR Lessor Advance, unless such introduction of or such change in or in the interpretation of any Law or regulation requires that the Lessor Yield shall be the Benchmark Replacement determined by the Agent pursuant to clause (2) of the definition of "Benchmark Replacement" and

(ii) the obligation of the Financing Parties to make, convert or continue SOFR Lessor Advances shall be suspended until the Agent shall notify the Lessee that such Financing Party has determined that the circumstances causing such suspension no longer exist.

11.4 Funding/Contribution Indemnity.

Subject to Section 11.6, the Lessee agrees to indemnify each Financing Party (which, for purposes of this Section 11.4, shall include any Participant to the extent such Participant is entitled to the benefit of this provision pursuant to Section 10.4) and to hold each Financing Party harmless from (I) all Breakage Costs, and (II) any loss or reasonable expense which such Financing Party may sustain or incur as a consequence of (a) any default in connection with the drawing of funds for any Lessor Advance, (b) any default in making any repayment or prepayment after a notice thereof has been given in accordance with the provisions of the Operative Agreements or the delivery by the Lessee of a revocation of such a notice (notwithstanding that each such notice is expressly irrevocable and that the Lessee has no right to revoke) pursuant to Section 16.2(a) or 20.2 of the Lease, (c) the making of a voluntary or involuntary payment of Lessor Advances (except for ABR Lessor Advances) on a day which is not the last day of a Lessor Yield Period with respect thereto or (d) any redetermination of the Lessor Yield based on a Benchmark Replacement for any reason on a day that is not the last day of the then-current Lessor Yield Period. Such indemnification shall be in an amount equal to the excess, if any, of (x) the amount of Lessor Yield which would have accrued on the amount so paid, or not so borrowed, accepted, converted or continued for the period from the date of such payment or of such failure to borrow, accept, convert or continue to the last day of such Lessor Yield Period (or, in the case of a failure to borrow, accept, convert or continue, the Lessor Yield Period that would have commenced on the date of such failure) in each case at the applicable Lessor Yield for such Lessor Advance for such Lessor Yield Period over (y) the amount of yield (as determined by such Financing Party in its reasonable discretion) which would have accrued to such Financing Party on such amount by placing such amount on deposit for a comparable period with leading banks in the relevant interest rate market. This covenant shall survive the termination of the Operative Agreements and the payment of all other amounts payable hereunder.

11.5 EXPRESS INDEMNIFICATION FOR ORDINARY NEGLIGENCE, STRICT LIABILITY, ETC.

WITHOUT LIMITING THE GENERALITY OF THE INDEMNIFICATION PROVISIONS OF ANY AND ALL OF THE OPERATIVE AGREEMENTS (BUT SUBJECT TO SECTION 11.6), EACH PERSON PROVIDING INDEMNIFICATION OF ANOTHER PERSON UNDER ANY OPERATIVE AGREEMENT HEREBY FURTHER EXPRESSLY RELEASES EACH BENEFICIARY OF ANY SUCH INDEMNIFICATION FROM ALL CLAIMS FOR LOSS OR DAMAGE, DESCRIBED IN ANY OPERATIVE AGREEMENT, CAUSED BY ANY ACT OR OMISSION ON THE PART OF ANY SUCH BENEFICIARY ATTRIBUTABLE TO THE ORDINARY NEGLIGENCE (WHETHER SOLE OR CONTRIBUTORY) OR STRICT LIABILITY OF ANY SUCH BENEFICIARY, AND INDEMNIFIES, EXONERATES AND HOLDS EACH SUCH BENEFICIARY FREE AND HARMLESS FROM AND AGAINST ANY AND ALL ACTIONS, CAUSES OF ACTION, SUITS, CLAIMS, LOSSES, COSTS, LIABILITIES, DAMAGES AND EXPENSES (INCLUDING ATTORNEY'S FEES AND EXPENSES), DESCRIBED ABOVE, INCURRED BY ANY SUCH BENEFICIARY (IRRESPECTIVE OF WHETHER ANY SUCH BENEFICIARY IS A PARTY TO THE ACTION FOR WHICH INDEMNIFICATION UNDER THIS AGREEMENT OR ANY OTHER OPERATIVE AGREEMENT IS SOUGHT) ATTRIBUTABLE TO THE ORDINARY NEGLIGENCE (WHETHER SOLE OR CONTRIBUTORY) OR STRICT LIABILITY OF ANY SUCH BENEFICIARY.

11.6 Indemnity Prior to Completion Date / Construction Period Termination Date.

Notwithstanding the provisions of Sections 11.1, 11.2, 11.3, 11.4 and 11.5 and any other indemnity provision in any Operative Agreement (except as set forth in Section 11.7), the Lessor shall be the only beneficiary of the provisions set forth in Sections 11.1, 11.2, 11.3, 11.4 and 11.5 or any other indemnity provision in any Operative Agreement requiring indemnity payments directly or indirectly from any Credit Party (except as set forth in Section 11.7) with respect to any Claim arising thereunder with respect to the Construction Period Property for the period prior to the Completion Date related to the Property, but the Indemnity Provider shall provide such indemnity only to the extent such Claims result from claims caused by or resulting from the Indemnity Provider's own actions or failures to act (or the act or failure to act of its Affiliates, employees, servants or agents) while in possession of or having management responsibility for the Construction Period Property. As a clarification of the prior sentence, the Indemnity Provider indemnifies the Lessor for, and shall pay the Lessor with respect to, any such Claim referenced in the prior sentence by or against any Indemnified Person other than the Lessor. The Indemnity Provider acknowledges and agrees in this connection that the Property is in its possession and that the Indemnity Provider has management responsibility for the Property, in each case prior to the Completion Date, that the Indemnity Provider is responsible as the Construction Agent for the acts and omissions of its Affiliates, employees, servants and agents and that the Indemnity Provider has agreed to maintain the Property free from injury or mishap to third persons; provided, however, that the occurrence of injury or mishap to third persons shall not give rise to an Event of Default. To the extent the Indemnity Provider is not obligated to indemnify each Indemnified Person with respect to the various matters described in this Section 11.6, the Lessor shall indemnify each other Indemnified Person for such Claims; provided, however, that any obligation of the Lessor to provide any such indemnity shall be discharged solely and exclusively from amounts received by the Lessor from the Indemnity Provider or from Lessor Advances and to the extent such amounts are insufficient to pay such Claims, then the Lessor shall have no responsibility therefor. To the extent the Indemnity Provider does not provide an amount to the Lessor adequate to pay such Claims by or against any Indemnified Person, the Lessor Parties shall make Lessor Advances to pay for such Claim without regard to the satisfaction of conditions precedent pursuant to Section 5.3 or 5.4 of this Agreement but only to the extent amounts are available therefor with respect to the Available Lessor Parties Commitment (subject to the rights of the Lessor Parties to increase their respective commitment amounts in accordance with the provisions of Section 5.8). Notwithstanding any other provision in any other Operative Agreement to the contrary, all amounts so advanced shall be added to the Property Cost for the Construction Period Property.

THE INDEMNITY OBLIGATIONS UNDERTAKEN BY THE LESSOR PURSUANT TO THIS SECTION 11.6 ARE IN ALL RESPECTS SUBJECT TO THE LIMITATIONS ON LIABILITY REFERENCED IN SECTION 12.9.

This Section 11.6 shall only limit or otherwise affect any obligation of the Indemnity Provider in respect of any Claim which arises out of or relates to the Property prior to the Completion Date.

11.7 Additional Provisions Regarding Environmental Indemnification.

Each and every Indemnified Person shall at all times have the rights and benefits, and the Indemnity Provider shall have the obligations, in each case provided pursuant to the Operative Agreements with respect to environmental matters, violations of any Environmental Law, and Environmental Claim or other loss of or damage to any property or the environment relating to the Property, the Lease or the Indemnity Provider (including the rights and benefits provided pursuant to Section 11.1(e)).

11.8 Increase of Lessor Advances.

The Lessor Advances and the Property Cost shall be increased on a dollar-for-dollar basis for the respective Lessor Advances necessary for the Lessor Parties to fund the Lessor in an amount sufficient to pay indemnity claims made by any other Indemnified Person against any Lessor Party pursuant to Section 11.6.

11.9 Survival.

The obligations of the Indemnity Provider under this Section 11 shall survive in accordance with the provisions of Section 12.1.

SECTION 12.
MISCELLANEOUS.

12.1 Survival of Agreements.

The representations, warranties, covenants, indemnities and agreements of the parties provided for in the Operative Agreements, and the parties' obligations under any and all thereof, shall survive the execution and delivery of this Agreement, the transfer of the Property to the Lessor, the acquisition of the Property (or any of its components), the construction of any Improvements, the Completion of the Property, any disposition of any interest of the Lessor in the Property, the payment of the Lessor Advances and any disposition thereof and shall be and continue in effect notwithstanding any investigation made by any party and the fact that any party may waive compliance with any of the other terms, provisions or conditions of any of the Operative Agreements. Except as otherwise expressly set forth herein or in other Operative Agreements, the indemnities of the parties provided for in the Operative Agreements shall survive the expiration or termination of any thereof.

12.2 Notices.

All notices required or permitted to be given under any Operative Agreement shall be in writing. Notices may be served by private courier, prepaid; by facsimile; or personally couriered notices shall be deemed delivered when delivered as addressed, or if the addressee refuses delivery, when presented for delivery notwithstanding such refusal. Telecommunicated notices shall be deemed delivered when receipt is either confirmed by confirming transmission equipment or acknowledged by the addressee or its office. Personal delivery shall be effective when accomplished. Unless a party changes its address by giving notice to the other party as provided herein, notices shall be delivered to the parties at the following addresses:

If to the Lessee, to such entity at the following address:

AVDC, LLC
c/o Big Lots, Inc.
4900 E. Dublin-Granville Road
Columbus, OH 43081
Attention: Paul Schroeder
Telephone: (614) 278-6815
Fax: (614) 278-6666

If to the Parent, to such entity at the following address:

Big Lots, Inc.
4900 E. Dublin-Granville Road
Columbus, OH 43081
Attention: Paul Schroeder
Telephone: (614) 278-6815
Fax: (614) 278-6666

If to any of the Guarantors other than the Parent, to each such entity at the following address:

c/o Big Lots, Inc.
4900 E. Dublin-Granville Road
Columbus, OH 43081
Attention: Paul Schroeder
Telephone: (614) 278-6815
Fax: (614) 278-6666

If to any of the Lessor Parties, to each such entity at the address set forth for such Lessor Party on Schedule XVI.

If to the Agent, to it at the following address:

Wells Fargo Bank, National Association
MAC N9305-157
90 S. 7th Street, 15th Floor
Minneapolis, MN 55402
Attention: Zach Shimota
Telephone: 612-849-6696
Fax: None

From time to time any party may designate additional parties and/or another address for notice purposes by notice to each of the other parties hereto. Each notice hereunder shall be effective upon receipt or refusal thereof.

12.3 Counterparts.

This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one (1) and the same instrument.

12.4 Terminations, Amendments, Waivers, Etc; Unanimous Vote Matters.

Except with regard to the Unanimous Vote Matters and each other exception expressly set forth in any Operative Agreement, each Operative Agreement only may be terminated, amended, supplemented, waived or modified by, or consent granted by, an instrument in writing signed by the Majority Secured Parties and each Credit Party, to the extent such Credit Party is a party to such Operative Agreement.

Notwithstanding the foregoing, no such termination, amendment, supplement, waiver or modification or consent shall, without the consent of the Agent and, to the extent affected thereby, the Lessor Parties, in all cases without the need for any consent from any Defaulting Lessor Party except to the

extent required pursuant to the second to last paragraph of this Section 12.4 (collectively, the "Unanimous Vote Matters") (i) reduce or increase the Lessor Parties Commitment except as otherwise provided in Sections 5.8, 5A.6 and 9.3 of this Agreement, (ii) extend the scheduled date of maturity of any Lessor Advance, (iii) extend the scheduled Expiration Date, (iv) extend any payment date of any Lessor Advance, (v) reduce the stated Lessor Yield (other than as a result of waiving the applicability of any post-default increase in Lessor Yield), (vi) modify the priority of any Lien in favor of the Agent under any Security Document, (vii) consent to any Lien against the Property or other Collateral other than any Permitted Lien, (viii) subordinate any obligation owed to any of the Lessor Parties, (ix) reduce the Fees under this Agreement, (x) extend the scheduled date of payment of the Fees, (xi) extend the expiration date of the Lessor Parties Commitment, (xii) terminate, amend, modify, extend, supplement, restate, replace or waive any provision of Section 8.3B of this Agreement or this Section 12.4, (xiii) reduce the percentages specified in the definitions of "Majority Secured Parties", (xiv) release a material portion of the Collateral (except in accordance with Section 8.8(a)), (xv) release any Credit Party from its obligations under any Operative Agreement (except in accordance with Section 8.8(b)) or (xvi) otherwise alter any payment obligations of any Credit Party to the Lessor or any Financing Party under the Operative Agreements. Additionally, in no event shall Section 8.6 be terminated, amended, supplemented, waived or modified without the consent of the Agent. Any such termination, amendment, supplement, waiver or modification shall apply equally to each of the Lessor Parties and shall be binding upon all the parties to this Agreement. In the case of any waiver, each party to this Agreement shall be restored to its former position and rights under the Operative Agreements, and any Default or Event of Default waived shall be deemed to be cured and not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default, or impair any right consequent thereon. For the avoidance of doubt, the parties to this Agreement agree that, except as provided in Sections 5.8 and 11.8, any increase in the Lessor Parties Commitment of the Lessor Parties shall be a matter decided as a Unanimous Vote Matter.

Notwithstanding the foregoing, the Engagement Letter may be amended, modified, extended, supplemented, restated, replaced or waived, or a consent with respect thereto may be granted, in each case only by an instrument in writing signed by the parties thereto.

Notwithstanding anything to the contrary herein, (i) no Defaulting Lessor Party shall have any right to approve or disapprove of any termination, amendment, supplement, waiver or modification of any Operative Agreement or otherwise to provide a consent with respect to any Operative Agreement (and any termination, amendment, supplement, waiver, modification or consent which by its terms requires the consent of all Lessor Parties or each affected Lessor Party may be effected with the consent of the applicable Lessor Parties other than Defaulting Lessor Party), except that (A) the Lessor Parties Commitment of any Defaulting Lessor Party may not be increased or extended without the consent of such Lessor Party, and (B) any termination, amendment, supplement, waiver or modification requiring the consent of all Lessor Parties or each affected Lessor Party, that by its terms affects any Defaulting Lessor Party disproportionately adversely relative to other affected Lessor Parties shall require the consent of such Defaulting Lessor Party, as applicable; (ii) each Lessor Party is entitled to vote as such Lessor Party sees fit on any bankruptcy reorganization plan that affects the Lessor Advances, and each Lessor Party acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code supersedes the unanimous consent provisions set forth herein and (iii) the Majority Secured Parties shall determine whether or not to allow a Credit Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lessor Parties.

If any Lessor Party does not consent to a proposed termination, amendment, supplement, waiver, modification or consent with respect to any Operative Agreement that requires the consent of each Lessor Party and that has been approved by the Majority Secured Parties, the Lessee may replace such Non- Consenting Lessor Party in accordance with a required assignment of the Lessor Party's interests pursuant to Section 5A.7(b); provided, that such termination, amendment, supplement, waiver, modification or

consent can be effected as a result of such assignment (together with all other such assignments required by the Lessee to be made pursuant to this paragraph).

12.5 Headings, etc.

The Table of Contents and headings of the various Articles and Sections of this Agreement are for convenience of reference only and shall not modify, define, expand or limit any of the terms or provisions hereof.

12.6 Parties in Interest.

Except as expressly provided herein, none of the provisions of this Agreement are intended for the benefit of any Person except the parties hereto.

12.7 GOVERNING LAW; SUBMISSION TO JURISDICTION; WAIVER OF JURY TRIAL; VENUE.

(a) THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED, INTERPRETED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK EXCEPT TO THE EXTENT THAT LOCAL LAW IS PROPERLY APPLICABLE FOR MATTERS OF REAL PROPERTY. Any legal action or proceeding with respect to this Agreement or any other Operative Agreement may be brought in the courts of the State of New York in New York County or of the United States for the Southern District of New York, and, by execution and delivery of this Agreement, each of the parties to this Agreement hereby irrevocably accepts for itself and in respect of its property, generally and unconditionally, the nonexclusive jurisdiction of such courts. Each of the parties to this Agreement further irrevocably consents to the service of process out of any of the aforementioned courts in any such action or proceeding by overnight courier delivery to it at the address set out for notices pursuant to Section 12.2, such service to become effective in the manner provided in Section 12.2. Nothing herein shall affect the right of any party to serve process in any other manner permitted by Law or to commence legal proceedings or to otherwise proceed against any party in any other jurisdiction.

(b) EACH OF THE PARTIES HERETO IRREVOCABLY AND UNCONDITIONALLY, TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING RELATING TO ANY DISPUTE OR THIS AGREEMENT, ANY OTHER OPERATIVE AGREEMENT AND FOR ANY COUNTERCLAIM THEREIN.

(c) Each of the parties to this Agreement hereby irrevocably waives any objection which it may now or hereafter have to the laying of venue of any of the aforesaid actions or proceedings arising out of or in connection with this Agreement or any other Operative Agreement brought in the courts referred to in subsection (a) above and hereby further irrevocably waives and agrees not to plead or claim in any such court that any such action or proceeding brought in any such court has been brought in an inconvenient forum.

(d) Notwithstanding anything to the contrary contained in this Agreement or any of the other Operative Agreements, if any action or proceeding is filed in a court of the State of California by or against any party hereto in connection with any of the transactions contemplated by this Agreement or any other Operative Agreement and the foregoing waiver of a right to a trial by jury is for any reason not enforceable in such action or proceeding (including as a consequence

of the application of California law), the parties to this Agreement hereby agree that (a) the court shall, and the parties shall advise and direct the court to, make a general reference pursuant to California Code of Civil Procedure Section 638 to a referee (who shall be a single active or retired judge) to hear and determine all of the issues in such action or proceeding (whether of fact or of law) and to report a statement of decision; provided, that at the option of any party to such proceeding, any such issues pertaining to a "provisional remedy" as defined in California Code of Civil Procedure Section 1281.8 shall be heard and determined by the court, and (b) without limiting the generality of Section 7, the Lessee shall be solely responsible to pay, or cause to be paid, all fees and expenses of any referee appointed in such action or proceeding.

12.8 Severability.

Any provision of any Operative Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

12.9 Liability Limited.

Anything to the contrary contained in any Operative Agreement notwithstanding, except as stated in this Section 12.9, no Exculpated Person shall be personally liable in any respect for any liability or obligation arising hereunder or in any other Operative Agreement including the payment of the advance amount or yield regarding the Lessor Advances, or for monetary damages for the breach of performance of any of the covenants contained in the Operative Agreements. The Lessor Parties and the Agent agree that, in the event any remedies under any Operative Agreement are pursued, none of the Lessor Parties or the Agent shall have any recourse against any Exculpated Person, for any deficiency, loss or Claim for monetary damages or otherwise resulting therefrom and recourse shall be had solely and exclusively against the Lessor's interest in the Trust Property, and the assets of the Credit Parties (with respect to the Credit Parties' obligations under the Operative Agreements); but nothing contained herein shall be taken to prevent recourse against or the enforcement of remedies against (a) the Lessor's interest in the Trust Property in respect of any and all liabilities, obligations and undertakings contained herein and/or in any other Operative Agreement; (b) the Lessor Parties for any of their obligations arising on a full recourse basis; or (c) the Lessor Parties or any other Person for gross negligence or willful misconduct (other than any gross negligence or willful misconduct imputed to any Lessor Party from any Person other than the Lessor Party or any Affiliate of the Lessor Party (excepting the Agent)). Notwithstanding the provisions of this Section 12.9, nothing in any Operative Agreement shall: (w) constitute a waiver, release or discharge of any indebtedness or obligation evidenced by or arising under any Operative Agreement or secured by any Operative Agreement, but the same shall continue until paid or discharged; (x) relieve any Exculpated Person from liability and responsibility for (but only to the extent of the damages arising by reason of): active waste knowingly committed by any Exculpated Person with respect to the Property, any fraud, gross negligence or willful misconduct on the part of any Exculpated Person (other than any fraud, gross negligence or willful misconduct imputed to such Exculpated Person from any Person other than an Affiliate of such Exculpated Person (excepting the Agent)); (y) relieve any Exculpated Person from liability and responsibility for (but only to the extent of the moneys misappropriated, misapplied or not turned over) (i) except for Excepted Payments, misappropriation or misapplication by any Lessor Party (i.e., application in a manner contrary to any of the Operative Agreements) of any insurance proceeds or condemnation award paid or delivered to any Lessor Party by any Person other than the Agent, (ii) except for Excepted Payments, any rent or other income received by any Lessor Party from any Credit Party that is not turned over to the Agent, or (iii) except for Excepted Payments, any deposits or any

escrows or amounts owed by the Construction Agent under the Agency Agreement held by any Lessor Party; or (z) affect or in any way limit the Agent's rights and remedies under any Operative Agreement with respect to the Rents (other than Excepted Payments) and rights and powers of the Agent under the Operative Agreements or to obtain a judgment against the Lessee's interest in the Property or the Agent's rights and powers to obtain a judgment against any Lessor Party (but limited as to those matters specified in this Section 12.9) or any Credit Party (provided, that no deficiency judgment or other money judgment shall be enforced against any Exculpated Person except to the extent of the Lessor's interest in the Trust Property or to the extent any Lessor Party may be liable as otherwise contemplated in clauses (b) and (c) of this Section 12.9).

12.10 Rights of the Credit Parties.

If at any time all obligations of the Lessor Parties under the Operative Agreements and of the Credit Parties under the Operative Agreements have in each case been satisfied or discharged in full, then the Credit Parties shall be entitled to terminate the Lease and guaranty obligations under Section 6B.

12.11 Further Assurances.

The parties hereto shall promptly cause to be taken, executed, acknowledged or delivered, at the sole expense of the Lessee, all such further acts, conveyances, documents and assurances as the other parties may from time to time reasonably request in order to carry out and effectuate the intent and purposes of this Agreement, the other Operative Agreements and the transactions contemplated hereby and thereby (including the preparation, execution (if applicable) and filing of any and all UCC Financing Statements, Mortgage Instruments and other filings or registrations which the parties hereto may from time to time request to be filed or effected). The Lessee, at its own expense and without need of any prior request from any other party, shall take such action as may be necessary (including any action specified in the preceding sentence), or (if the Agent or the Lessor shall so request) as so requested, in order to maintain and protect all security interests provided for hereunder or under any other Operative Agreement. In addition, in connection with the sale or other disposition of the Property or any portion thereof, the Lessee agrees to execute such instruments of conveyance as may be reasonably required in connection therewith.

12.12 Calculations under Operative Agreements.

The parties hereto agree that all calculations and numerical determinations to be made under the Operative Agreements by any Lessor Party shall be made by the Agent (to the extent such calculations and numerical determinations relate to any Lessor Party, Lessor Advances or Lessor Yield) and that such calculations and determinations shall be conclusive and binding on the parties hereto in the absence of manifest error.

12.13 Confidentiality.

Each Financing Party severally agrees to use reasonable efforts to keep confidential all non-public information pertaining to any Credit Party or any of its Subsidiaries which is provided to it by any Credit Party or any of its Subsidiaries and which an officer of the Lessee or any of its Subsidiaries has requested in writing be kept confidential, and shall not intentionally disclose such information to any Person except:

(a) to the extent such information is public when received by such Person or becomes public thereafter due to the act or omission of any party other than such Person;

(b) to the extent such information is independently obtained from a source other than any Credit Party or any of its Subsidiaries and such information from such source is not, to such

Person's knowledge, subject to an obligation of confidentiality or, if such information is subject to an obligation of confidentiality, that disclosure of such information is permitted;

(c) to counsel, auditors or accountants retained by any such Person or any Affiliates of any such Person (if such Affiliates are permitted to receive such information pursuant to clause (f) or (g) below), provided they agree to keep such information confidential as if such Person or Affiliate were party to this Agreement and to financial institution regulators, including examiners of any Financing Party or any Affiliate thereof in the course of examinations of such Persons;

(d) in connection with any litigation or the enforcement or preservation of the rights of any Financing Party under the Operative Agreements;

(e) to the extent required by any applicable statute, rule or regulation or court order (including, by way of subpoena) or pursuant to the request of any regulatory or Governmental Authority having jurisdiction over any such Person; provided, however, that such Person shall endeavor (if not otherwise prohibited by Law) to notify the Lessee prior to any disclosure made pursuant to this clause (e), except that no such Person shall be subject to any liability whatsoever for any failure to so notify the Lessee;

(f) any Financing Party may disclose such information to another Financing Party or to any Affiliate of a Financing Party that is a direct or indirect owner of any Financing Party;

(g) any Financing Party may disclose such information to an Affiliate of any Financing Party to the extent required in connection with the transactions contemplated hereby or to the extent such Affiliate is involved in, or provides advice or assistance to such Person with respect to, such transactions (provided, in each case that such Affiliate has agreed in writing to maintain confidentiality as if it were such Financing Party (as the case may be)); or

(h) to the extent disclosure to any other financial institution or other Person is appropriate in connection with any proposed or actual assignment by any Lessor Party of interests to another Person, as specified in Section 10.1 (who will in turn be required by the transferring Lessor Party to agree in writing to maintain confidentiality as if it were the Lessor Party originally party to this Agreement).

12.14 Financial Reporting/Tax Characterization.

The Credit Parties agree to obtain advice from their own accountants and Tax counsel regarding the financial reporting treatment and the Tax characterization of the transactions described in the Operative Agreements. The Credit Parties further agree that none of them shall rely upon any statement of any Financing Party or any of their respective Affiliates and/or Subsidiaries regarding any such financial reporting treatment and/or Tax characterization.

12.15 Set-off.

In addition to any rights now or hereafter granted under Applicable Law and not by way of limitation of any such rights, upon and after the occurrence and continuance of any Event of Default and during the continuance thereof (but only after obtaining the prior written consent of the Majority Secured Parties) the Lessor Parties and their respective Affiliates and any assignee or participant of any Lessor Party in accordance with the applicable provisions of the Operative Agreements are hereby authorized by the Credit Parties at any time or from time to time, without notice to the Credit Parties or to any other Person (subject to the above requirement to obtain the prior written consent of the Majority Secured Parties), any

such notice being hereby expressly waived, to set-off and to appropriate and to apply any and all deposits (general or special, time or demand, including indebtedness evidenced by certificates of deposit, whether matured or unmatured) and any other indebtedness at any time held or owing by such Lessor Party, their respective Affiliates or any assignee or participant of such Lessor Party in accordance with the applicable provisions of the Operative Agreements to or for the credit or the account of any Credit Party against and on account of the obligations of any Credit Party under the Operative Agreements irrespective of whether or not (a) such Lessor Party shall have made any demand under any Operative Agreement or (b) the Agent shall have declared any or all of the obligations of any Credit Party under the Operative Agreements to be due and payable and although such obligations shall be contingent or unmatured. Notwithstanding the foregoing, no Lessor Party shall exercise, or attempt to exercise, any right of set-off, banker's lien, or the like, against any deposit account or property of any Credit Party held by any Lessor Party, without the prior written consent of the Majority Secured Parties, and any Financing Party violating this provision shall indemnify the Agent and the other Financing Parties from any and all costs, expenses, liabilities and damages resulting therefrom. The contractual restriction on the exercise of set-off rights provided in the foregoing sentence is solely for the benefit of the Financing Parties and may not be enforced by any Credit Party. In addition to the foregoing, and not in limitation thereof, in the event that any Defaulting Lessor Party shall exercise any such right of set-off, but only after obtaining the prior written consent of the Majority Secured Parties, (a) all amounts so set off shall be paid over immediately to the Agent for further application in accordance with the provisions of Section 5A.1(e), respectively, and, pending such payment, shall be segregated by such Defaulting Lessor Party from its other funds and deemed held in trust for the benefit of the Agent and the other Secured Parties and (b) the applicable Defaulting Lessor Party shall provide promptly to the Agent a statement describing in reasonable detail the secured obligations owing to such entity as to which it exercised such right of set-off.

Except as otherwise expressly provided herein or as otherwise agreed among all the Lessor Parties, where, and to the extent, one Lessor Party is entitled to payments prior to other Lessor Parties, if any Lessor Party (a "Benefitted Lessor Party") shall at any time receive any payment of all or part of its Lessor Advances, or Lessor Yield thereon, or receive any collateral in respect thereof (whether voluntarily or involuntarily, by set-off or otherwise (subject to having first obtained the written consent of the Majority Secured prior to initiating any action with regard to such collateral)), in a greater proportion than any such payment to or collateral received by any other Lessor Party, if any, in respect of such other Lessor Party's Lessor Parties Interest, or Lessor Yield thereon, such Benefitted Lessor Party shall purchase for cash from the other Lessor Parties a participating interest in such portion of each such other Lessor Party's Lessor Parties Interest, or shall provide such other Lessor Parties with the benefits of any such collateral, or the proceeds thereof, as shall be necessary to cause such Benefitted Lessor Party to share the excess payment or benefits of such collateral or proceeds ratably with each of the other Lessor Parties; provided, however, that if all or any portion of such excess payment or benefits is thereafter recovered from such Benefitted Lessor Party, such purchase shall be rescinded, and the purchase price and benefits returned, to the extent of such recovery, but without Lessor Yield.

12.16 Limited Obligation of the Lessee to Pay on behalf of the Lessor.

To the extent the Lessee undertakes to pay any amount on behalf of any Lessor Party pursuant to any Operative Agreement, such obligation of the Lessee shall be limited only to amounts payable by such Lessor Party, as the case may be, on a non-recourse basis.

12.17 Limitation on Commitments.

Notwithstanding any provision of any Operative Agreement to the contrary, the Property may not be financed under the Operative Agreements until such time as sufficient commitments therefor have been approved by each Financing Party in its sole discretion.

12.18 USA Patriot Act Notice.

Each Financing Party that is subject to the USA Patriot Act hereby notifies each of the Credit Parties that pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies the Credit Parties, which information includes the name and address of Credit Parties and other information that will allow such Financing Party to identify the Credit Parties in accordance with the USA Patriot Act.

12.19 Acknowledgement and Consent to Bail-In of Affected Financial Institutions.

Notwithstanding anything to the contrary in any Operative Agreement or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Affected Financial Institution arising under any Operative Agreement may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is the applicable Affected 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 Affected Financial Institution, its parent, 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 Operative Agreement; or

(iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of any Resolution Authority.

12.20 UCC Filing Authorization.

Lessee authorizes Lessor and Agent, to file UCC financing and fixture filings statements, amendments thereto and renewals thereof without Lessee's signature, as Lessor or Agent may determine to be necessary or appropriate to perfect and maintain the security interests and liens granted pursuant to any and all of the Security Documents.

12.21 [Reserved].

12.22 Lessee to Cause Performance of Obligations by Identified Big Lots Entities.

Lessee shall cause each Identified Big Lots Entity (that is not a party to this Agreement) to perform its obligations under this Agreement.

12.23 Erroneous Payments.

(a) If the Agent notifies a Lessor Party or any Person who has received funds on behalf of a Lessor Party (any such Lessor Party or other recipient (and each of their respective successors

and assigns), a "Payment Recipient") that the Agent has determined in its sole discretion (whether or not after receipt of any notice under immediately succeeding clause (b)) that any funds received by such Payment Recipient from the Agent or any of its Affiliates were erroneously or mistakenly transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lessor Party or other Payment Recipient on its behalf) (any such funds, whether transmitted or received as a payment, prepayment or repayment of principal, advance, interest, yield, fees, distribution or otherwise, individually and collectively, an "Erroneous Payment"), and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall at all times remain the property of the Agent pending its return or repayment as contemplated below in this Section 12.23, and held in trust for the benefit of the Agent, and such Lessor Party shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in no event later than two Business Days thereafter (or such later date as the Agent may, in its sole discretion, specify in writing), return to the Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in Same Day Funds (in the currency so received), together with yield thereon (except to the extent waived in writing by the Agent) in respect of each day from and including the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to the date such amount is repaid to the Agent in Same Day Funds at the greater of the Overnight Bank Funding Rate and a rate determined by the Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice of the Agent to any Payment Recipient under this clause (a) shall be conclusive, absent manifest error.

(b) Without limiting immediately preceding clause (a), each Lessor Party or any Person who has received funds on behalf of a Lessor Party (and each of their respective successors and assigns), hereby further agrees that if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, advance, interest, yield, fees, distribution or otherwise) from the Agent (or any of its Affiliates) (x) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (y) that was not preceded or accompanied by a notice of payment, prepayment or repayment sent by the Agent (or any of its Affiliates), or (z) that such Lessor Party, or other such recipient, otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part) in each case:

(i) (A) in the case of immediately preceding clauses (x) or (y), an error and mistake shall be presumed to have been made (absent written confirmation from the Agent to the contrary) or (B) an error has been made (in the case of immediately preceding clause (z)), in each case, with respect to such payment, prepayment or repayment; and

(ii) such Lessor Party shall (and shall use commercially reasonable efforts to cause any other recipient that receives funds on its respective behalf to) promptly (and, in all events, within one Business Day of its knowledge of such error) notify the Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Agent pursuant to this Section 12.23(b).

For the avoidance of doubt, the failure to deliver a notice to the Agent pursuant to this Section 12.23 shall not have any effect on a Payment Recipient's obligations pursuant to clause (a) above or on whether or not an Erroneous Payment has been made.

(c) Each Lessor Party hereby authorizes the Agent to set off, net and apply any and all amounts at any time owing to such Lessor Party under any Operative Agreement, or otherwise

payable or distributable by the Agent to such Lessor Party from any source, against any amount due to the Agent under immediately preceding clause (a) or under the indemnification provisions of the Operative Agreements.

(d) (i) In the event that an Erroneous Payment (or portion thereof) is not recovered by the Agent for any reason, after demand therefor by the Agent in accordance with immediately preceding clause (a), from any Lessor Party that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on its respective behalf) (such unrecovered amount, an "Erroneous Payment Return Deficiency"), upon the Agent's notice to such Lessor Party at any time, then effective immediately (with the consideration therefor being acknowledged by the parties hereto) (i) such Lessor Party shall be deemed to have assigned its Lessor Advances (but not its Lessor Parties Commitments) with respect to which such Erroneous Payment was made (the "Erroneous Payment Impacted Class") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Agent may specify) (such assignment of the Lessor Advances (but not Lessor Parties Commitments) of the Erroneous Payment Impacted Class, the "Erroneous Payment Deficiency Assignment") at par plus any accrued and unpaid yield (with the assignment fee to be waived by the Agent in such instance), and is hereby (together with the Lessee) deemed to execute and deliver an assignment and assumption (with such assignment and assumption being deemed to satisfy all applicable requirements pursuant to the Operative Agreements) with respect to such Erroneous Payment Deficiency Assignment, (ii) the Agent as the assignee Lessor Party shall be deemed to acquire the Erroneous Payment Deficiency Assignment, (iii) upon such deemed acquisition, the Agent as the assignee Lessor Party shall become a Lessor Party under the Operative Agreements with respect to such Erroneous Payment Deficiency Assignment and the assigning Lessor Party shall cease to be a Lessor Party under the Operative Agreements with respect to such Erroneous Payment Deficiency Assignment, excluding, for the avoidance of doubt, its obligations under the indemnification provisions of the Operative Agreements and its applicable Lessor Parties Commitments which shall survive as to such assigning Lessor Party and (iv) the Agent may reflect in the Register its ownership interest in the Lessor Advances subject to the Erroneous Payment Deficiency Assignment. For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Lessor Parties Commitments and such Lessor Parties Commitments shall remain available in accordance with the terms of this Agreement and the other Operative Agreements.

(ii) Subject to the rights and obligations of the successors and assigns of the parties hereto, (but excluding, in all events, any assignment consent or approval requirements (whether from Lessee or otherwise)), the Agent may, in its discretion, sell any Lessor Advance acquired pursuant to an Erroneous Payment Deficiency Assignment and upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lessor Party shall be reduced by the net proceeds of the sale of such Lessor Advance (or portion thereof), and the Agent shall retain all other rights, remedies and claims against such Lessor Party (and/or against any recipient that receives funds on its respective behalf). In addition, an Erroneous Payment Return Deficiency owing by the applicable Lessor Party (x) shall be reduced by the proceeds of prepayments or repayments of any Lessor advanced amount (principal) and yield, or other distribution in respect of any Lessor advanced amount (principal) and yield, received by the Agent on or with respect to any such Lessor Advances acquired from such Lessor Party pursuant to an Erroneous Payment Deficiency Assignment (to the extent that any such Lessor Advances are then owned by the Agent) and (y) may, in the sole discretion of the Agent, be reduced by any amount specified by the Agent in writing to the applicable Lessor Party from time to time.

(e) The parties hereto agree that (x) irrespective of whether the Agent may be equitably subrogated, in the event that an Erroneous Payment (or portion thereof) is not recovered from any Payment Recipient that has received such Erroneous Payment (or portion thereof) for any reason, the Agent shall be subrogated to all the rights and interests of such Payment Recipient (and, in the case of any Payment Recipient who has received funds on behalf of a Lessor Party, to the rights and interests of such Lessor Party, as the case may be) under the Operative Agreements with respect to such amount (the "Erroneous Payment Subrogation Rights") (provided that the Credit Parties' Obligations under the Operative Agreements in respect of the Erroneous Payment Subrogation Rights shall not be duplicative of such Obligations in respect of Lessor Advances that have been assigned to the Agent under an Erroneous Payment Deficiency Assignment) and (y) an Erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by the Lessee or any other Credit Party; provided that this Section 12.23 shall not be interpreted to increase (or accelerate the due date for), or have the effect of increasing (or accelerating the due date for), the Obligations of the Lessee or any other Credit Party relative to the amount (and/or timing for payment) of the Obligations that would have been payable had such Erroneous Payment not been made by the Agent; provided, further, that for the avoidance of doubt, the immediately preceding clauses (x) and (y) shall not apply to the extent any such Erroneous Payment is, and solely with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Agent from the Lessee or any other Credit Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by applicable Law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Agent for the return of any Erroneous Payment received, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine.

(g) Each party's obligations, agreements and waivers under this Section 12.23 shall survive the resignation or replacement of the Agent, any transfer of rights or obligations by, or the replacement of, a Lessor Party, the termination of the Lessor Parties Commitments and/or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Operative Agreement.

(h) Notwithstanding the foregoing and for the avoidance of doubt, the parties to this Agreement acknowledge and agree that the Completion Date has occurred and that the Lessor Parties Commitments have been reduced to zero (0).

12.24 ERISA Matters.

(a) Each Lessor Party (x) represents and warrants, as of the date such Person became a Lessor Party party hereto, to, and (y) covenants, from the date such Person became a Lessor Party party hereto to the date such Person ceases being a Lessor Party party hereto, for the benefit of, Agent and its Affiliates, and not for the benefit of Lessee or any other Credit Party, that at least one of the following is and will be true:

(i) such Lessor Party is not using, and has not used, "plan assets" (within the meaning of 29 CFR § 2510.3-101, as modified by Section 3(42) of ERISA) of one or more Plans in connection with the Lessor Advances or the Lessor Parties Commitments,

(ii) the transaction exemption set forth in one or more Prohibited Transaction exemptions ("PTEs"), such as PTE 84-14 (a class exemption for certain transactions

determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lessor Party's entrance into, participation in, administration of and performance of the Lessor Advances, the Lessor Parties Commitments and the Operative Agreements,

(iii) (A) such Lessor Party is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lessor Party to enter into, participate in, administer and perform the Lessor Advances, the Lessor Parties Commitments and the Operative Agreements, (C) the entrance into, participation in, administration of and performance of the Lessor Advances, the Lessor Parties Commitments and the Operative Agreements satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lessor Party, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lessor Party's entrance into, participation in, administration of and performance of the Lessor Advances, the Lessor Parties Commitments and the Operative Agreements, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Agent, in its sole discretion, and such Lessor Party.

(b) In addition, unless sub-clause (i) in the immediately preceding Section 12.24(a) is true with respect to a Lessor Party or such Lessor Party has not provided another representation, warranty and covenant as provided in sub-clause (iv) in the immediately preceding Section 12.24(a), such Lessor Party further (x) represents and warrants, as of the date such Person became a Lessor Party party hereto, and (y) covenants, from the date such Person became a Lessor Party party hereto to the date such Person ceases being a Lessor Party party hereto, for the benefit of, the Agent and its Affiliates, and not, for the avoidance of doubt, to or for the benefit of Lessee or any other Credit Party, that:

(i) none of the Agent or any of its Affiliates is a fiduciary with respect to the assets of such Lessor Party (including in connection with the reservation or exercise of any rights by Agent under this Agreement, any Operative Agreement or any other documents related to hereto or thereto),

(ii) the Person making the investment decision on behalf of such Lessor Party with respect to the entrance into, participation in, administration of and performance of the Lessor Advances, the Lessor Parties Commitments and the Operative Agreements is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies (including in respect of the Lessor Advances),

(iii) the Person making the investment decision on behalf of such Lessor Party with respect to the entrance into, participation in, administration of and performance of the Lessor Advances, the Lessor Parties Commitments and the Operative Agreements is a fiduciary under ERISA or the Code, or both, with respect to the Lessor Advances, the

Lessor Parties Commitments and the Operative Agreements and is responsible for exercising independent judgment in evaluating the transactions hereunder, and

(iv) no fee or other compensation is being paid directly to the Agent or any of its Affiliates for investment advice (as opposed to other services) in connection with the Lessor Advances, the Lessor Parties Commitments and the Operative Agreements.

12.25 Notification to the Lessor Parties.

The Agent hereby informs the Lessor Parties that each such Person is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with the transactions contemplated hereby, and that such Person has a financial interest in the transactions contemplated hereby in that such Person or an Affiliate thereof (i) may receive interest, yield or other payments with respect to the Lessor Advances, the Lessor Parties Commitments and the Operative Agreements, (ii) may recognize a gain if it extended the Lessor Advances or the Lessor Parties Commitments for an amount less than the amount being paid for an interest in the Lessor Advances or the Lessor Parties Commitments by such Lessor Party or (iii) may receive fees or other payments in connection with the transactions contemplated hereby, the Operative Agreements or otherwise, including structuring fees, commitment fees, arrangement fees, facility fees, upfront fees, underwriting fees, ticking fees, agency fees, administrative agent or utilization fees, minimum usage fees, letter of credit fees, fronting fees, deal-away or alternate transaction fees, amendment fees, processing fees, term out premiums, banker's acceptance fees, breakage or other early termination fees or fees similar to the foregoing.

12.26 Rates.

Lessor Yield may be determined by reference to a benchmark rate that is, or may in the future become, the subject of regulatory reform or cessation. Regulators have signaled the need to use alternative reference rates for some of these benchmark rates and, as a result, such benchmark rates may cease to comply with applicable laws and regulations, may be permanently discontinued or the basis on which they are calculated may change. Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, , (i) the continuation of, administration of, submission of, calculation of or any other matter related to any offered rate, the rates in any Benchmark, any component definition thereof or rates referred to in the definition thereof or with respect to any alternative, successor or replacement rate thereto (including any then- current Benchmark or any Benchmark Replacement), including whether the composition or characteristics of any such alternative, successor or replacement rate (including any Benchmark Replacement), as it may or may not be adjusted pursuant to Section 5A.11, will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, such Benchmark or any other Benchmark prior to its discontinuance or unavailability, or (ii) the effect, implementation or composition of any Conforming Changes. Agent and its Affiliates or other related entities may engage in transactions that affect the calculation of a Benchmark, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to Lessee. Agent may select information sources or services in its reasonable discretion to ascertain any Benchmark, any component definition thereof or rates referenced in the definition thereof, in each case pursuant to the terms of this Agreement and the other Operative Agreements, and shall have no liability to Lessee or any other person or entity for damages of any kind, including direct or indirect, special, punitive, incidental or consequential damages, costs, losses or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or component thereof) provided by any such information source or service.

12.27 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 Operative Agreement), each Credit Party acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a) (i) the arranging and other services regarding this Agreement and the other Operative Agreements provided by the Agent and any Affiliate thereof and the Lessor Parties are arm's-length commercial transactions between the Credit Parties and their respective Affiliates, on the one hand, and the Agent and, as applicable, its Affiliates and the Lessor Parties and their Affiliates (solely for purposes of this Section, the Lessor Parties and their Affiliates shall collectively be referred to as the "Lenders"), on the other hand, (ii) each of the Credit Parties has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each Credit Party is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Operative Agreements; (b) (i) the Agent and its Affiliates and each Lender 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 Credit Party or any of their respective Affiliates, or any other Person and (ii) neither the Agent, any of its Affiliates nor any Lender has any obligation to any Credit Party or any of their respective Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Operative Agreements; and (c) the Agent and its Affiliates and the Lenders may be engaged in a broad range of transactions that involve interests that differ from those of the Credit Parties and their respective Affiliates, and neither the Agent, any of its Affiliates nor any Lender has any obligation to disclose any of such interests to any Credit Party or any of their respective Affiliates. Except with respect to the Agent's duties and obligations to the Credit Parties as provided herein and to the fullest extent permitted by law, each of the Credit Parties hereby waives and releases any claims that it may have against the Agent, any of its Affiliates 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.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers thereunto duly authorized as of the day and year first above written.

CONSTRUCTION AGENT AND LESSEE:

AVDC, LLC (formerly, AVDC, Inc.), as the Construction Agent and the Lessee

By: _____
Name: _____
Title: _____

(signature pages continue)

GUARANTORS:

BIG LOTS STORES, LLC (formerly, Big Lots Stores, Inc.), as a Guarantor

By: _____
Name: _____
Title: _____

BIG LOTS, INC., as a Guarantor

By: _____
Name: _____
Title: _____

BIG LOTS ECOMMERCE LLC, as a Guarantor

By: _____
Name: _____
Title: _____

BIG LOTS F&S, LLC (formerly, Big Lots F&S, Inc.), as a Guarantor

By: _____
Name: _____
Title: _____

BIG LOTS MANAGEMENT, LLC (formerly, BLHQ LLC), as a Guarantor

By: _____
Name: _____
Title: _____

(signature pages continue)

BROYHILL, LLC, as a Guarantor

By: _____
Name: _____
Title: _____

CLOSEOUT DISTRIBUTION, LLC (formerly, Closeout Distribution, Inc.), as a Guarantor

By: _____
Name: _____
Title: _____

CONSOLIDATED PROPERTY HOLDINGS, INC., as a Guarantor

By: _____
Name: _____
Title: _____

CSC DISTRIBUTION LLC (formerly, CSC Distribution, Inc.), as a Guarantor

By: _____
Name: _____
Title: _____

BIG LOTS STORES – CSR, LLC (formerly, C.S. Ross Company), as a Guarantor

By: _____
Name: _____
Title: _____

(signature pages continue)

DURANT DC, LLC, as a Guarantor

By: _____
Name: _____
Title: _____

GAFDC LLC, as a Guarantor

By: _____
Name: _____
Title: _____

GREAT BASIN LLC, as a Guarantor

By: _____
Name: _____
Title: _____

PAFDC LLC, as a Guarantor

By: _____
Name: _____
Title: _____

BIG LOTS STORES – PNS, LLC (formerly, PNS Stores, Inc.), as a Guarantor

By: _____
Name: _____
Title: _____

(signature pages continue)

WAFDC, LLC, as a Guarantor

By: _____
Name: _____
Title: _____

INFDC, LLC, as a Guarantor

By: _____
Name: _____
Title: _____

(signature pages continue)

LESSOR PARTIES:

WACHOVIA SERVICE CORPORATION, as the Lessor

By: _____
Name: _____
Title: _____

(signature pages continue)

BANKERS COMMERCIAL CORPORATION, as a
Lease Participant

By: _____

Name: Stefan Breuer

Title: Managing Director

(signature pages continue)

PNC BANK, NATIONAL ASSOCIATION (successor-by-merger to PNC Equipment Finance, LLC), as a Lease Participant

By: _____
Name: _____
Title: _____

(signature pages continue)

AGENT:

WELLS FARGO BANK, NATIONAL ASSOCIATION,
as the Agent

By: _____
Name: _____
Title: _____

(signature pages end)

Appendix A
Rules of Usage and Definitions

I. Rules of Usage

The following rules of usage shall apply to this Appendix A and the Operative Agreements (and each appendix, schedule, exhibit and annex to the foregoing) unless otherwise required by the context or unless otherwise defined therein:

(a) Except as otherwise expressly provided, any definitions set forth herein or in any other document shall be equally applicable to the singular and plural forms of the terms defined.

(b) Except as otherwise expressly provided, references in any document to articles, sections, paragraphs, clauses, annexes, appendices, schedules or exhibits are references to articles, sections, paragraphs, clauses, annexes, appendices, schedules or exhibits in or to such document.

(c) The headings, subheadings and table of contents used in any document are solely for convenience of reference and shall not constitute a part of any such document nor shall they affect the meaning, construction or effect of any provision thereof.

(d) References to any Person shall include such Person, its successors, permitted assigns and permitted transferees.

(e) Except as otherwise expressly provided, reference to any agreement means such agreement as amended, modified, extended, supplemented, restated and/or replaced from time to time in accordance with the applicable provisions thereof.

(f) Except as otherwise expressly provided, references to any law includes any amendment or modification to such law and any rules or regulations issued thereunder or any law enacted in substitution or replacement therefor.

(g) When used in any document, words such as “hereunder”, “hereto”, “hereof” and “herein” and other words of like import shall, unless the context clearly indicates to the contrary, refer to the whole of the applicable document and not to any particular article, section, subsection, paragraph or clause thereof.

(h) References to “including” mean including without limiting the generality of any description preceding such term and for purposes hereof the rule of ejusdem generis shall not be applicable to limit a general statement, followed by or referable to an enumeration of specific matters, to matters similar to those specifically mentioned.

(i) References herein to “attorney’s fees”, “legal fees”, “costs of counsel” or other such references shall not include the allocated cost of in-house counsel.

(j) Each of the parties to the Operative Agreements and their counsel have reviewed and revised, or requested revisions to, the Operative Agreements, and the usual rule of construction that any ambiguities are to be resolved against the drafting party shall be inapplicable in the construction and interpretation of the Operative Agreements and any amendments or exhibits thereto.

(k) Capitalized terms used in any Operative Agreements which are not defined in this Appendix A but are defined in another Operative Agreement shall have the meaning so ascribed to such term in the applicable Operative Agreement.

(l) In computing any period of time for purposes of any Operative Agreement, the mechanics for counting the number of days set forth in Rule 6 of the Federal Rules of Civil Procedure shall be observed.

(m) Time is of the essence, including with regard to the performance of all obligations.

II. Definitions

"ABL Credit Agreement" shall mean the Credit Agreement dated as of or about the date of the Fourth Amendment by and among the Parent, BLS, the other ABL Credit Agreement Loan Parties party thereto, the ABL Credit Agreement Banks party thereto and the ABL Credit Agreement Administrative Agent.

"ABL Credit Agreement Administrative Agent" shall mean the Administrative Agent (as such term is defined in the ABL Credit Agreement).

"ABL Credit Agreement Banks" shall mean the Lenders (as such term is defined in the ABL Credit Agreement).

"ABL Credit Agreement Closing Date" shall mean the date as of which the closing conditions set forth in Section 4.01 of the ABL Credit Agreement have been satisfied and the ABL Credit Agreement is then in effect.

"ABL Credit Agreement Loan Documents" shall mean the ABL Credit Agreement and the other Loan Documents (as such term is defined in the ABL Credit Agreement).

"ABL Credit Agreement Loan Parties" shall mean the Loan Parties (as such term is defined in the ABL Credit Agreement).

"ABL Credit Agreement Secured Obligations" shall mean the Secured Obligations (as such term is defined in the ABL Credit Agreement).

"ABL Credit Agreement Security Agreement" shall mean the Security Agreement (as such term is defined in the ABL Credit Agreement).

"ABL Credit Agreement Required Banks" shall mean the Required Lenders (as such term is defined in the ABL Credit Agreement).

"ABR" shall mean, at any time, the highest of (a) the Prime Rate, (b) the Federal Funds Rate plus 0.50% and (c) except during any period of the unavailability of Term SOFR (as determined by the Agent in accordance with the Operative Agreements), the Adjusted Term SOFR Rate for a Lessor Yield Period of one month plus 1%; each change in the ABR shall take effect simultaneously with the corresponding change or changes in the Prime Rate, the Federal Funds Rate or the Term SOFR Reference Rate.

"ABR Lessor Advance" shall mean a Lessor Advance bearing a Lessor Yield based on the ABR.

"Acceptable Regulatory Standards" shall mean those standards currently in effect with respect to the presence of a hazardous substance on the Property which would be sufficient to satisfy the promulgated remediation standards of the jurisdiction where the Property is located for the continued use of the real property for industrial or commercial purposes only, including the possible application of restrictive covenants, engineering controls, other types of use restrictions or monitored natural attenuation for the minimum and lowest cost.

"Acquisition Advance" shall have the meaning given to such term in Section 5.3 of the Participation Agreement.

"Additional Permitted Liens" shall mean:

(a) Any Lien on various property and assets (other than Collateral), granted by the ABL Credit Agreement Loan Parties in favor of the ABL Credit Agreement Administrative Agent pursuant to the ABL Credit Agreement Security Agreement and securing the ABL Credit Agreement Secured Obligations (subject to compliance with Section 8.3B(t));

(b) Liens for Taxes, assessments, or similar charges, incurred in the ordinary course of business and which are not yet due and payable;

(c) Pledges or deposits made in the ordinary course of business to secure payment of workmen's compensation, or to participate in any fund in connection with workmen's compensation, unemployment insurance, old-age pensions or other social security programs;

(d) Liens of contractors, mechanics, materialmen, warehousemen, carriers, or other like Liens, securing obligations incurred in the ordinary course of business that are not yet due and payable and Liens of landlords securing obligations to pay lease payments that are not yet due and payable or in default;

(e) Good-faith pledges or deposits made in the ordinary course of business to secure performance of bids, tenders, contracts (other than for the repayment of borrowed money) or leases, not in excess of the aggregate amount due thereunder, or to secure statutory obligations, or surety, appeal, indemnity, performance or other similar bonds required in the ordinary course of business;

(f) Encumbrances consisting of zoning restrictions, easements or other restrictions on the use of real property, none of which materially impairs the use of such property or the value thereof, and none of which is violated in any material respect by existing or proposed structures or land use;

(g) Liens on property leased by or consigned to any Credit Party under Capital Leases, operating leases, leases giving rise to Synthetic Lease Obligations or consignment arrangements, in each case, securing obligations of such Credit Party to the lessor (and, in the case of leases giving rise to Synthetic Lease Obligations, the lenders to the lessor) or the consignor under such leases or consignment arrangements and Liens on property securing any AVDC Refinancing Indebtedness;

(h) Any Lien existing on the ABL Credit Agreement Closing Date and described on Schedule XV, provided that the principal amount secured thereby is not hereafter increased, and no additional assets become subject to such Lien;

(i) Purchase Money Security Interests to the extent that the aggregate amount of loans and deferred payments secured by such Purchase Money Security Interests do not exceed at any

one time outstanding Twenty-Five Million and 00/100 Dollars ($25,000,000.00) (excluding for the purpose of this aggregate computation any loans or deferred payments secured by Liens described on Schedule XV);

(j) Liens on proceeds granted in connection with securities lending transactions or reverse repurchase agreements involving United States Treasury bonds to the extent the aggregate amount of the Indebtedness secured by such Liens do not exceed at any one time outstanding Ten Million and 00/100 Dollars ($10,000,000.00) (excluding for the purpose of this aggregate computation any loans or deferred payments secured by Liens described on Schedule XV; and

(k) The following, (i) if the validity or amount thereof is being contested in good faith by appropriate and lawful proceedings diligently conducted so long as levy and execution thereon have been stayed and continue to be stayed or (ii) if a final judgment is entered and such judgment is discharged within thirty (30) days of entry, or (iii) if payments thereof are covered in full (subject to customary deductibles) by an insurance company of reputable standing which has acknowledged that the applicable policy applies to the following and is not reserving any right to contest applicability, and in any case they do not in the aggregate materially impair the ability of any Credit Party to perform its obligations hereunder or under the other Operative Agreements:

(A) Claims or Liens for Taxes, assessments or charges due and payable and subject to interest or penalty; provided that the applicable Credit Party maintains such reserves or other appropriate provisions as shall be required by GAAP and pays all such Taxes, assessments or charges forthwith upon the commencement of proceedings to foreclose any such Lien;

(B) Claims, Liens or encumbrances upon, and defects of title to, real or personal property, including any attachment of personal or real property or other legal process prior to adjudication of a dispute on the merits;

(C) Claims or Liens of mechanics, materialmen, warehousemen, carriers, or other statutory nonconsensual Liens; or

(D) Liens resulting from final judgments or orders for the payment of money in excess of Fifty Million and 00/100 Dollars ($50,000,000.00) in the aggregate entered against any Credit Party by a court having jurisdiction in the premises, which judgment is not satisfied, discharged, vacated, bonded or stayed pending appeal within a period of sixty (60) days from the date of entry.

"Adjusted Term SOFR Rate" shall mean, for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation, plus (b) 0.10% (10 basis points).

"Administrative Agency Fee" shall have the meaning given to such term in Section 7.6 of the Participation Agreement.

"Advance" shall mean, individually, an Initial Closing Date Advance, an Acquisition Advance, a Construction Advance or any other Lessor Advance in accordance with the Operative Agreements.

"Affected Financial Institution" shall mean any EEA Financial Institution or UK Financial Institution.

"Affiliate", as to any Person, shall mean any other Person (a) which directly or indirectly controls, is controlled by, or is under common control with such Person, (b) which beneficially owns or holds twenty percent (20%) or more of any class of the voting or other equity interests of such Person, or (c) twenty percent (20%) or more of any class of voting interests or other equity interests of which is beneficially owned or held, directly or indirectly, by such Person. Control, as used in this definition, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise, including the power to elect a majority of the directors or trustees of a corporation or trust, as the case may be.

"After Tax Basis" shall mean, in the context of determining the amount of a payment to be made on such basis, actually or constructively, the base amount of such payment increased so that, after reduction by the amount of all Taxes required to be paid by the recipient calculated at the then maximum marginal Tax rates generally applicable to Persons of the same Tax classification as the recipient with respect to the receipt by the recipient of such increased amount (and taking into account the deductibility of any such Taxes at such maximum marginal Tax rates, as well as any actual Tax benefits realized as a result of the recipient's actual or constructive payment of the base amount that is subject to indemnification), such increased payment (as so reduced) is equal to the base amount of the payment otherwise required to be made. At the Indemnity Provider's request, the amount of any indemnification payment by the Indemnity Provider required to be made on such "After Tax Basis" shall be verified and certified by an independent public accounting firm mutually acceptable to the Indemnity Provider and the applicable Indemnified Person. The fees and expenses of such independent public accounting firm shall be paid by the Indemnity Provider.

"Agency Agreement" shall mean the Construction Agency Agreement dated on or about the Initial Closing Date, between the Construction Agent and the Lessor.

"Agency Agreement Default" shall mean any event or condition which, with the lapse of time or the giving of notice, or both, would constitute an Agency Agreement Event of Default.

"Agency Agreement Event of Default" shall mean an "Event of Default" as defined in Section 5.1 of the Agency Agreement.

"Agent" shall mean Wells Fargo Bank, National Association, a national banking association, as agent for the Lessor Parties, or any successor agent appointed in accordance with the terms of the Participation Agreement, and respecting the Security Documents, as agent for the Secured Parties, to the extent of their interests.

"Anti-Corruption Laws" shall mean the United States Foreign Corrupt Practices Act of 1977, as amended, the UK Bribery Act 2010, and any other similar anti-corruption Laws or regulations administered or enforced in any jurisdiction in which any Identified Big Lots Entity or any of its Subsidiaries conduct business.

"Anti-Terrorism Laws" shall mean any Law in force or hereinafter enacted related to terrorism, money laundering, or economic sanctions, including Executive Order No. 13224, the USA PATRIOT Act, the International Emergency Economic Powers Act, 50 U.S.C. 1701, et. seq., the Trading with the Enemy Act, 50 U.S.C. App. 1, et. seq., 18 U.S.C. § 2332d, and 18 U.S.C. § 2339B, and any regulations or directives promulgated under these provisions.

"Applicable Law" shall mean, for any Person, all existing and future applicable laws, rules, regulations (including proposed, temporary and final income Tax regulations), statutes, treaties, codes, ordinances, permits, certificates, orders and licenses of and interpretations by any Governmental Authority

(including usury laws, the Federal Truth in Lending Act, and Regulation Z and Regulation B of the Board of Governors of the Federal Reserve System), and applicable judgments, decrees, injunctions, writs or orders of any court, arbitrator or other administrative, judicial, or quasi-judicial Tribunal or agency of competent jurisdiction.

"Applicable Percentage" shall mean for SOFR Lessor Advances, ABR Lessor Advances and for Lessor Parties Unused Fees, the appropriate applicable percentages set forth below:

Applicable Percentage for SOFR Lessor Advances	Applicable Percentage for ABR Lessor Advances	Applicable Percentage for Lessor Parties Unused Fees
2.60%	1.60%	0.350%

"Appraisal" shall mean, with respect to the Property, an appraisal to be delivered in connection with the Participation Agreement or in accordance with the terms of the Lease, in each case prepared by a reputable appraiser reasonably acceptable to the Agent, which in the judgment of counsel to the Agent, complies with all of the provisions of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, the rules and regulations adopted pursuant thereto, and all other applicable Legal Requirements, or any other appraisal or valuation with respect to the Property reasonably acceptable to the Agent.

"Appraisal Procedure" shall have the meaning given such term in Section 21.4 of the Lease.

"Appurtenant Rights" shall mean (a) all agreements, easements, rights of way or use, rights of ingress or egress, privileges, appurtenances, tenements, hereditaments and other rights and benefits at any time belonging or pertaining to the Land underlying the Improvements or the Improvements, including the use of any streets, ways, alleys, vaults or strips of land adjoining, abutting, adjacent or contiguous to the Land and (b) all permits, licenses and rights, whether or not of record, appurtenant to such Land or the Improvements.

"Assumed Characterization" shall have the meaning given to such term in Section 11.2(g) of the Participation Agreement.

"Attributable Indebtedness" shall mean, with respect to any Person, on any date, (a) in respect of any Capital Lease, the capitalized amount thereof that would appear on the balance sheet of such Person prepared as of such date in accordance with GAAP, and (b) in respect of any Synthetic Lease Obligation, the capitalized amount of the remaining lease payments thereunder that would appear on a balance sheet of such Person prepared as of such date in accordance with GAAP if such Synthetic Lease Obligation were accounted for as a Capital Lease.

"Authorized Officer" shall mean with respect to any Credit Party, the Chief Executive Officer, President, Chief Financial Officer, Treasurer or Assistant Treasurer of such Credit Party, any manager or the members (as applicable) in the case of any Credit Party which is a limited liability company or such other individuals, designated by written notice to the Agent from BLS, in each case, authorized to execute notices, reports and other documents on behalf of the Credit Parties required under the Operative Agreements. Any Credit Party may amend such list of individuals from time to time by giving written notice of such amendment to the Agent.

"Available Lessor Parties Commitment" shall mean an amount equal to the excess, if any, of (a) the amount of the Lessor Parties Commitment over (b) the aggregate amount of the Lessor Advances made since the Initial Closing Date after giving effect to Section 5.2(d) of the Participation Agreement.

"AVDC Refinancing Indebtedness" shall have the meaning given to such term in Section 8.3B(a)(iii).

"Bail-In Action" shall mean the exercise of any Write-Down and Conversion Powers by the applicable Resolution Authority in respect of any liability of an Affected Financial Institution.

"Bail-In Legislation" shall mean (a) with respect to any EEA Member Country implementing Article 55 of Directive 2014/59/EU of the European Parliament and of the Council of the European Union, the implementing law, regulation rule or requirement for such EEA Member Country from time to time which is described in the EU Bail-In Legislation Schedule and (b) with respect to the United Kingdom, Part I of the United Kingdom Banking Act 2009 (as amended from time to time) and any other law, regulation or rule applicable in the United Kingdom relating to the resolution of unsound or failing banks, investment firms or other financial institutions or their affiliates (other than through liquidation, administration or other insolvency proceedings).

"Bank-Provided Hedge" shall mean a Hedge Agreement which is provided by any ABL Credit Agreement Bank and with respect to which the ABL Credit Agreement Administrative Agent confirms meets specified requirements of the ABL Credit Agreement, all as evidenced by the Credit Parties to the reasonable satisfaction of the Agent. The liabilities of the Credit Parties to the provider of any Bank- Provided Hedge, for purposes of the Operative Agreements, shall not be Obligations.

"Bankruptcy Code" shall mean the United States Bankruptcy Reform Act of 1978 (11 U.S.C. § 101, et seq.), as amended from time to time.

"Basic Rent" shall mean the scheduled Lessor Yield due on the Lessor Advances on any Payment Date (but not including yield on overdue amounts), calculated as of the applicable date on which Basic Rent is due.

"Basic Term" shall have the meaning given to such term in Section 2.2 of the Lease.

"Basic Term Expiration Date" shall have the meaning given to such term in Section 2.2 of the Lease.

"Benchmark" shall mean the Term SOFR Reference Rate for a tenor of one month; provided that if a Benchmark Transition Event and its related Benchmark Replacement Date have occurred with respect to the Term SOFR Reference Rate for the tenor or the then-current Benchmark in accordance with Section 5A.11, then "Benchmark" shall mean the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to clause (a) of Section 5A.11.

"Benchmark Replacement" shall mean with respect to any Benchmark Transition Event, the first alternative set forth in the order below that can be determined by the Agent as a replacement of the applicable then-current Benchmark as of the Benchmark Replacement Date:

(1) if such then-current Benchmark is the Term SOFR Reference Rate, the sum of: (a) Daily Simple SOFR and (b) the related Benchmark Replacement Adjustment; or

(2) the sum of: (a) the alternate benchmark rate that has been selected by the Agent as the replacement for the then-current Benchmark and (b) the related Benchmark Replacement Adjustment;

provided that, in each case, if such Benchmark Replacement as so determined would be less than zero (0), the Benchmark Replacement will be deemed to be zero (0) for the purposes of this Agreement and the other Operative Agreements.

"Benchmark Replacement Adjustment" shall mean with respect to any replacement of the then- current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment, (which may be a positive or negative value or zero (0)) that has been selected by the Agent.

"Benchmark Replacement Date" shall mean with respect to any Benchmark, the earliest to occur of the following events with respect to such Benchmark:

(1) in the case of clause (1) or (2) of the definition of "Benchmark Transition Event," the later of (a) the date of the public statement or publication of information referenced therein and (b) the date on which the administrator of such Benchmark permanently or indefinitely ceases to provide such Benchmark; or

(2) in the case of clause (3) of the definition of "Benchmark Transition Event," the first date on which such Benchmark has been determined and announced by the regulatory supervisor for the administrator of such Benchmark to be non-representative; provided, that such non-representativeness will be determined by reference to the most recent statement or publication referenced in such clause (3) even if such Benchmark continues to be provided on such date.

"Benchmark Transition Event" shall mean with respect to any Benchmark, the occurrence of one or more of the following events with respect to such Benchmark:

(1) a public statement or publication of information by or on behalf of the administrator of such Benchmark announcing that such administrator has ceased or will cease to provide such Benchmark, permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark;

(2) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark, the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, an insolvency official with jurisdiction over the administrator for such Benchmark, a resolution authority with jurisdiction over the administrator for such Benchmark or a court or an entity with similar insolvency or resolution authority over the administrator for such Benchmark, which states that the administrator of such Benchmark has ceased or will cease to provide such Benchmark permanently or indefinitely, provided that, at the time of such statement or publication, there is no successor administrator that will continue to provide such Benchmark; or

(3) a public statement or publication of information by the regulatory supervisor for the administrator of such Benchmark announcing that such Benchmark is not, or as of a specified future date will not be, representative.

"Benefit Arrangement" shall mean at any time an "employee benefit plan," within the meaning of Section 3(3) of ERISA, which is not a Plan, a Multiemployer Plan or a Multiple Employer Plan and which is maintained, sponsored or otherwise contributed to by any member of the ERISA Group.

"Benefitted Lessor Party" shall have the meaning given to such term in Section 12.15 of the Participation Agreement.

"Big Lots Supplemental Savings Plan" shall mean the nonqualified deferred compensation plan maintained for the benefit of employees of the Parent's Subsidiaries.

"Bill of Sale" shall mean a warranty bill of sale (or special warranty bill of sale if seller is not an individual) regarding Equipment, in form and substance satisfactory to the Agent, in its reasonable discretion.

"BLS" shall mean Big Lots Stores, LLC (formerly, Big Lots Stores, Inc.), an Ohio limited liability company.

"Breakage Costs" shall mean any amount or amounts as shall compensate any Financing Party for any loss, cost or expense incurred by such Financing Party (as determined by such Financing Party in its reasonable discretion) as a result of a repayment or prepayment of Lessor Advances or Lessor Yield pursuant to the terms of the Operative Agreements on any date other than a Payment Date or any failure to receive a Lessor Advance, in each case on the date specified therefor in the applicable Requisition.

"Budgeted Total Property Cost" shall mean the amount of Property Cost set forth in the Construction Budget for the Property necessary for final completion thereof.

"Business Day" shall mean any day of the year other than a Saturday or a Sunday on which (a) banks are not required or authorized to be closed in New York, New York or Charlotte, North Carolina and (b) if the term "Business Day" is used in connection with the determination of Term SOFR, a U.S. Government Securities Business Day.

"Capital Lease" shall mean all leases that have been or should be, in accordance with GAAP, recorded as capitalized leases, including any "financing lease" under FASB 842.

"Captive Insurance Entity" shall mean an insurance company created and owned by a Credit Party whose primary purpose is to provide coverage on the risk of the Parent or the Parent's Subsidiaries.

"Casualty" shall mean any damage or destruction of all or any portion of the Property as a result of a fire or other casualty.

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9601 et seq., as amended by the Superfund Amendments and Reauthorization Act of 1986.

"Certifying Party" shall have the meaning given to such term in Section 26.3 of the Lease.

"Claims" shall mean any and all obligations, liabilities, losses, actions, suits, penalties, claims, demands, costs and expenses (including reasonable attorney's fees and expenses) of any nature whatsoever.

"Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

"Collateral" shall mean, excluding in all cases Excepted Payments, the assets and property upon which a Lien is created, exists or is purported to be created by one or more of the Security Documents.

"Commencement Date" shall have the meaning given to such term in Section 2.2 of the Lease.

"Commitment Percentage" shall mean, as to any Lessor Party at any time, the percentage which such Lessor Party's Lessor Parties Commitment then constitutes of the aggregate Lessor Parties Commitments.

"Commitment Period" shall mean the period from and including the Initial Closing Date to and including the date that is eighteen (18) months after the Initial Closing Date or in the event that a Force Majeure Event occurs with respect to the Property during such eighteen (18) month period, then the date that is up to three (3) months after such eighteen (18) month period) as determined in a manner consistent with Section 3.3 of the Agency Agreement, or such earlier date as the Lessor Parties Commitment shall terminate as provided in the Participation Agreement.

"Commitments" shall mean the Lessor Parties Commitments.

"Company Obligations" shall mean the Obligations.

"Completion" shall mean, such time as the acquisition, installation, testing and final completion of the Improvements on the Property has been achieved in all material respects in accordance with the Plans and Specifications, the Agency Agreement and/or the Lease, and in compliance with all Legal Requirements and Insurance Requirements and a temporary certificate of occupancy or its equivalent has been issued with respect to the Property by the appropriate governmental entity (except if noncompliance, individually or in the aggregate, shall not have and could not reasonably be expected to have a Material Adverse Effect). If the Lessor purchases the Property that includes existing Improvements that are to be immediately occupied by the Lessee without any improvements to be financed pursuant to the Operative Agreements, the date of Completion for the Property shall be the Property Closing Date.

"Completion Date" shall mean, the earlier of (a) the date on which Completion for the Property has occurred or (b) the Construction Period Termination Date.

"Compliance Certificate" shall have the meaning given to such term in Section 8.3C(c) of the Participation Agreement.

"Condemnation" shall mean any taking or sale of the use, access, occupancy, easement rights or title to the Property or any part thereof, wholly or partially (temporarily or permanently), by or on account of any actual or threatened eminent domain proceeding or other taking of action by any Person having the power of eminent domain, including an action by a Governmental Authority to change the grade of, or widen the streets adjacent to, the Property or alter the pedestrian or vehicular traffic flow to the Property so as to result in a change in access to the Property, or by or on account of an eviction by paramount title or any transfer made in lieu of any such proceeding or action.

"Conforming Changes" shall mean with respect to either the use or administration of an initial Benchmark or the use, administration, adoption or implementation of any Benchmark Replacement, any technical, administrative or operational changes (including changes to the definition of "Business Day", the definition of "Lessor Yield," the definition of "Lessor Yield Period," the definition of "U.S. Government Securities Business Day," timing and frequency of determining rates and making payments, prepayment provisions, early purchases, the applicability and length of lookback periods, the applicability of Section 5A.11 and other technical, administrative or operational matters) that the Agent decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and administration thereof by the Agent in a manner substantially consistent with market practice (or, if the Agent decides that adoption of any portion of such market practice is not administratively feasible or if the Agent determines that no market practice for the administration of any such rate exists, in such other manner of administration as the

Agent decides is reasonably necessary in connection with the administration of this Agreement and the other Operative Agreements).

"Consolidated Subsidiary" shall mean, as to any Person, any Subsidiary of such Person which under the rules of GAAP consistently applied should have its financial results consolidated with those of such Person for purposes of financial accounting statements.

"Consolidated Total Indebtedness" shall mean, as of any date of determination, any and all Indebtedness (excluding any Synthetic Lease Obligation and any obligations (contingent or otherwise) under any Hedge Agreement) of the Parent and its Subsidiaries, in each case determined and consolidated for the Parent and its Subsidiaries in accordance with GAAP.

"Construction Advance" shall mean an advance of funds by any of the Lessor Parties to pay, or to reimburse the Lessee, the Construction Agent or a designee or designees of either for, Property Costs pursuant to Section 5.4 of the Participation Agreement.

"Construction Agency Person" shall mean the Construction Agent, the Lessee, the Guarantors, any contractor, subcontractor, adviser, architect, engineer, developer, employee, attorney-in-fact or agent with respect to the Property and any other Person that the Construction Agent directly or indirectly supervises, hires or otherwise permits to engage in any Work with respect to the Property, any portion thereof or any Improvements thereto, and any Affiliate of any of the foregoing.

"Construction Agent" shall mean AVDC, LLC (formerly, AVDC Inc.), an Ohio limited liability company, as the construction agent under the Agency Agreement.

"Construction Agent Certificate" shall have the meaning given to such term in Section 5.17(b)(i)(A) of the Participation Agreement.

"Construction Budget" shall mean the construction budget certified to the Agent detailing the cost of acquisition, installation, testing, constructing and developing the Property as determined by the Construction Agent in its reasonable, good faith judgment, as such budget may be amended, modified or supplemented from time to time in accordance with the terms of the Operative Agreements.

"Construction Commencement Date" shall mean, with respect to Improvements, the Property Closing Date.

"Construction Consultant" shall mean Wells Fargo Real Estate Technical Services, a division of Wells Fargo Bank, National Association, a national banking association.

"Construction Contract" shall mean any contract entered into between the Construction Agent or the Lessee with (a) a Contractor for the construction of Improvements or any portion thereof on the Property, which shall be a maximum guaranteed price design-build agreement between the Construction Agent and the general contractor for the Property to complete construction of the Property in accordance with the Construction Budget on or prior to the Construction Period Termination Date, (b) an architect for the design of Improvements or any portion thereof on the Property, and (c) an engineer for engineering services regarding Improvements or any portion thereof on the Property.

"Construction Documents" shall mean each of the Construction Contracts, the Construction Budget, the construction schedule, the Plans and Specifications and each and every other agreement or document related to any of the foregoing.

"Construction Period" shall mean the period commencing on the Construction Commencement Date and ending on the Completion Date.

"Construction Period Guarantee Amount" shall have the meaning given to such term in Section 5.4 of the Agency Agreement.

"Construction Period Property" shall mean the Property if, at any date of determination, the Rent Commencement Date has not occurred on or prior to such date.

"Construction Period Termination Date" shall mean (a) the earlier of (i) the date that the Lessor Parties Commitment has been terminated in its entirety in accordance with the terms of the Participation Agreement, or (ii) the date that is eighteen (18) months after the Initial Closing Date or in the event that a Force Majeure Event occurs with respect to the Property during such eighteen (18) month period, then the date that is up to three (3) months after such eighteen (18) month period as determined in a manner consistent with Section 3.3 of the Agency Agreement or (b) such later date as shall be agreed to by each Lessor Party, in its sole discretion.

"Contamination" shall mean the presence or release or threat of release of Regulated Substances in, on, under or emanating to or from any Credit Party Property which pursuant to Environmental Laws requires notification or reporting to an Official Body, or which pursuant to Environmental Laws requires the investigation, cleanup, removal, remediation, containment, abatement of or other response action or which otherwise constitutes a violation of Environmental Laws.

"Contractor" shall mean each entity with whom the Construction Agent or the Lessee contracts to construct any Improvements or any portion thereof on the Property.

"Controlled Group" shall mean all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Lessee, are treated as a single employer under Section 414 of the Code.

"Corresponding Tenor" shall mean with respect to a Benchmark Replacement, an approximately one-month tenor (including overnight) (disregarding Business Day adjustment).

"Covered Entity" shall mean (a) each Identified Big Lots Entity, each of Identified Big Lots Entity's Subsidiaries, Lessee, Lessee's Subsidiaries, all Guarantors and (b) each Person that, directly or indirectly, is in control of a Person described in clause (a) above. For purposes of this definition, control of a Person shall mean the direct or indirect (x) ownership of, or power to vote, twenty five percent (25%) or more of the issued and outstanding equity interests having ordinary voting power for the election of directors of such Person or other Persons performing similar functions for such Person, or (y) power to direct or cause the direction of the management and policies of such Person whether by ownership of equity interests, contract or otherwise.

"Credit Parties" shall mean the Construction Agent, the Lessee and the Guarantors.

"Credit Party Property" shall mean all real property (including the Property), both owned and leased, of any Credit Party.

"Daily Simple SOFR" shall mean, for any day, SOFR, with the conventions for this rate (which will include a lookback) being established by the Agent in accordance with the conventions for this rate recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for syndicated business loans; provided, that if the Agent decides that any such convention is not administratively feasible

for the Agent, then the Agent may establish another convention in its reasonable discretion. If for the calculation of Daily Simple SOFR, the calculation of SOFR for any day results in a SOFR rate of less than zero (0), SOFR shall be deemed to be zero (0) for all purposes of this Agreement and the other Operative Agreements. Each calculation by the Agent of Daily Simple SOFR shall be conclusive and binding for all purposes, absent manifest error.

"Debtor Relief Laws" shall mean the Bankruptcy Code, 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.

"Deed" shall mean a warranty deed (or special warranty deed if grantor is not an individual) respecting any Land and/or Improvements, in form and substance satisfactory to the Agent, in its reasonable discretion.

"Deemed Insolvency" shall mean with respect to any Person, such Person (i) is insolvent pursuant to the Uniform Fraudulent Transfers Act or any similar, equivalent or replacement thereof, (ii) is engaged in a business or transaction, or is about to engage in business or a transaction, for which any property remaining with such Person is an unreasonably small amount of capital or (iii) intended to incur, or believed that such Person would incur, debt or other obligations that would be beyond such Person's ability to pay as such debts and obligations mature or otherwise become due.

"Default" shall mean any event or condition which with notice, passage of time or a determination reasonably made by the Agent or the Majority Secured Parties, or any combination of the foregoing, would constitute an Event of Default.

"Defaulting Lessor Party" shall mean, subject to Section 5A.1(e)(ii) of the Participation Agreement, any Lessor Party that

(a) has failed to (i) fund all or any portion of its Lessor Advances within two (2) Business Days of the date such Lessor Advances were required to be funded under the Operative Agreement unless such Lessor Party notifies the Agent and the Lessee in writing that such failure is the result of such Lessor Party's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied, or (ii) pay to the Agent or any other Lessor Party any other amount required to be paid by it hereunder within two (2) Business Days of the date when due,

(b) has notified the Agent or the Lessee in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lessor Party's obligation to fund a Lessor Advance and states that such position is based on such Lessor Party's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied),

(c) has failed, within three (3) Business Days after written request by the Agent or the Lessee, to confirm in writing to the Agent and the Lessee that it will comply with its prospective funding obligations hereunder (provided, that such Lessor Party shall cease to be a Defaulting Lessor Party pursuant to this clause (c) upon receipt of such written confirmation by the Agent), or

(d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-In Action;

provided, that a Lessor Party shall not be a Defaulting Lessor Party solely by virtue of the ownership or acquisition of any equity interest in that Lessor Party 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 Lessor Party 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 Lessor Party (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lessor Party. Any determination by the Agent that a Lessor Party is a Defaulting Lessor Party 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 Lessor Party shall be deemed to be a Defaulting Lessor Party (subject to Section 5A.1(e)(ii)) as of the date established therefor by the Agent in a written notice of such determination, which shall be delivered by the Agent to each other Lessor Party promptly following such determination.

"Deficiency Balance" shall have the meaning given to such term in Section 21.1(b) of the Lease.

"Dollars" and "$" shall mean dollars in lawful currency of the United States of America.

"Domestic Subsidiary" shall mean a Subsidiary that is organized under the laws of any political subdivision of the United States.

"DTSC" shall have the meaning given to such term in Section 5.14 of the Participation Agreement.

"EEA Financial Institution" shall mean (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" shall mean any of the member states of the European Union, Iceland, Liechtenstein, and Norway.

"EEA Resolution Authority" shall mean 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.

"Election Date" shall have the meaning given to such term in Section 20.1 of the Lease.

"Election Notice" shall have the meaning given to such term in Section 20.1 of the Lease.

"Eligible Assignee" shall mean respecting any assignee of any Lessor Party, any "qualified institutional buyer" as that term is defined in Rule 144A under the Securities Act or an Affiliate of a "qualified institution buyer", except in all cases any Defaulting Lessor Party, any Credit Party, any Affiliate of any Credit Party or any competitor of any Credit Party.

"Engagement Letter" shall mean that certain engagement letter agreement, dated October 17, 2017, from Wells Fargo Securities, LLC and Wells Fargo Bank, National Association to Mr. Paul Schroeder, Senior Vice President, Controller and Treasurer of Big Lots, Inc., and accepted by Big Lots, Inc., as such letter may be amended, modified, supplemented, restated or replaced from time to time.

"Environmental Claims" shall mean any investigation, notice, violation, demand, allegation, action, suit, injunction, judgment, order, consent decree, penalty, fine, lien, proceeding, or claim (whether administrative, judicial, or private in nature) arising (a) pursuant to, or in connection with, an actual or alleged violation of, or noncompliance with, any Environmental Law, (b) in connection with any Hazardous Substance, (c) from any abatement, removal, remedial, corrective, or other response action in connection with a Hazardous Substance, Environmental Law, or other order of a Tribunal or (d) from any actual or alleged damage, injury, threat, or harm to health, safety, natural resources, or the environment.

"Environmental Complaint" shall mean any (a) notice of non-compliance or violation, citation or order relating in any way to any Environmental Law, Environmental Permit, Contamination or Regulated Substance; (b) civil, criminal, administrative or regulatory investigation instituted by an Official Body relating in any way to any Environmental Law, Environmental Permit, Contamination or Regulated Substance; (c) administrative, regulatory or judicial action, suit, claim or proceeding instituted by any Person or Official Body or any written notice of liability or potential liability from any Person or Official Body, in either instance, setting forth allegations relating to or a cause of action for personal injury (including death), property damage, natural resource damage, contribution or indemnity for the costs associated with the performance of Remedial Actions, direct recovery for the costs associated with the performance of Remedial Actions, liens or encumbrances attached to or recorded or levied against property for the costs associated with the performance of Remedial Actions, civil or administrative penalties, criminal fines or penalties, or declaratory or equitable relief arising under any Environmental Laws; or (d) subpoena, request for information or other written notice or demand of any type issued to the Guarantor or any of its Subsidiaries by an Official Body pursuant to any Environmental Laws.

"Environmental Condition" shall mean any action, omission, event, condition or circumstance, including the presence of any Hazardous Substance, which does or reasonably could (i) require assessment, investigation, abatement, correction, removal or remediation, (ii) give rise to any obligation or liability of any nature (whether civil or criminal, arising under a theory of negligence or strict liability, or otherwise under any Environmental Law, (iii) create or constitute a public or private nuisance or trespass, or (iv) constitute a violation of or noncompliance with any Environmental Law.

"Environmental Laws" shall mean all federal, state, provincial, local and foreign Laws (including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq., the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq., the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 et seq., the Toxic Substances Control Act, 15 U.S.C. § 2601 et seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et seq., the Federal Safe Drinking Water Act, 42 U.S.C. §§ 300f-300j, the Federal Air Pollution Control Act, 42 U.S.C. § 7401 et seq., the Oil Pollution Act, 33 U.S.C. § 2701 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 to 136y) each as amended, and any regulations promulgated thereunder or any equivalent state, provincial or local Law, each as amended, and any regulations promulgated thereunder and any consent decrees, settlement agreements, judgments, orders, directives or any binding policies having the force and effect of law issued by or entered into with an Official Body pertaining or relating to: (a) pollution or pollution control; (b) protection of human health from exposure to Regulated Substances; (c) protection of the environment and/or natural resources; (d) the presence, use, management, generation, manufacture, processing, extraction, treatment, recycling, refining, reclamation, labeling, sale, transport, storage, collection, distribution, disposal or release or threat of release of Regulated Substances; (e) the presence of

Contamination; (f) the protection of endangered or threatened species; and (g) the protection of Environmentally Sensitive Areas.

"Environmental Permits" shall mean all permits, licenses, bonds or other forms of financial assurances, consents, registrations, identification numbers, approvals or authorizations required under Environmental Laws (a) to own, occupy or maintain any Credit Party Property; (b) for the operations and business activities of the Credit Parties; or (c) for the performance of a Remedial Action.

"Environmental Records" shall mean all notices, reports, records, plans, applications, forms or other filings relating or pertaining to all Credit Party Properties, Contamination, the performance of a Remedial Action and the operations and business activities of the Credit Parties which pursuant to Environmental Laws, Environmental Permits or at the request or direction of an Official Body either must be submitted to an Official Body or otherwise must be maintained.

"Environmental Violation" shall mean any activity, omission, occurrence or condition that violates or threatens (if the threat requires remediation under any Environmental Law and is not remediated during any grace period allowed under such Environmental Law) to violate or results in or threatens (if the threat requires remediation under any Environmental Law and is not remediated during any grace period allowed under such Environmental Law) to result in noncompliance with any Environmental Law.

"Environmentally Sensitive Area" shall mean (a) any wetland as defined by or designated by Applicable Laws, including applicable Environmental Laws; (b) any area designated as a coastal zone pursuant to Applicable Laws, including Environmental Laws; (c) any area of historic or archeological significance or scenic area as defined or designated by Applicable Laws, including Environmental Laws; (d) habitats of endangered species or threatened species as designated by Applicable Laws, including Environmental Laws; (e) wilderness or refuge areas as defined or designated by Applicable Laws, including Environmental Laws; or (f) a floodplain or other flood hazard area as defined pursuant to any Applicable Laws.

"Equipment" shall mean equipment, apparatus, furnishings, fittings and personal property of every kind and nature whatsoever that is purchased, leased or otherwise acquired using the proceeds of the Lessor Advances, together with all replacements, modifications, alterations, attachments and additions thereto.

"Equipment Schedule" shall mean each Equipment Schedule attached to the applicable Requisition.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as the same may be amended or supplemented from time to time, and any successor statute of similar import, and the rules and regulations thereunder, as from time to time in effect.

"ERISA Affiliate" shall mean any trade or business (whether or not incorporated) under common control with the Lessee within the meaning of Section 414(b) or (c) of the Code (and Sections 414(m) and
(o) of the Code for purposes of provisions relating to Section 412 of the Code).

"ERISA Event" shall mean (a) a reportable event as defined in Section 4043(b) of ERISA and the regulations issued thereunder, with respect to a Pension Plan, as to which PBGC has not by regulation waived the requirements of Section 4043(a) of ERISA that it be notified within 30 days of the occurrence of such event (provided that a failure to meet the minimum funding standard of Section 412 of the Code or Section 302 of ERISA shall be a reportable event regardless of the issuance of any waivers in accordance with Section 412(c) of the Code); (b) the filing under Section 4041 of ERISA of a notice of intent to terminate any Pension Plan or the termination of any Plan; (c) the institution by PBGC of proceedings under Section 4042 of ERISA for the termination of, or the appointment of a trustee to administer, any Pension

Plan, or the receipt by any Guarantor or any ERISA Affiliate of notice from a Multiemployer Plan that such action has been taken by PBGC with respect to such Multiemployer Plan; (d) the complete or partial withdrawal by any Guarantor or any ERISA Affiliate under Section 4201 or 4204 of ERISA from a Multiemployer Plan, or the receipt by any Guarantor or any ERISA Affiliate of notice from a Multiemployer Plan that it is in reorganization or insolvency pursuant to Section 4241 or 4245 of ERISA or that it intends to terminate or has terminated under Section 4041A or ERISA; and (e) the institution of a proceeding by a fiduciary of any Multiemployer Plan against any Guarantor or any ERISA Affiliate to enforce Section 515 of ERISA which proceeding is not dismissed within thirty (30) days.

"ERISA Group" shall mean, at any time, each Identified Big Lots Entity and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control and all other entities which, together with any Identified Big Lots Entity, are treated as a single employer under Section 414 of the Code or Section 4001(b)(1) of ERISA; provided, however, that the ERISA Group shall only include those entities that regularly employ individuals to perform services within the United States.

"Erroneous Payment" shall have the meaning given to such term in Section 12.23(a) of the Participation Agreement.

"Erroneous Payment Deficiency Assignment" shall have the meaning given to such term in Section 12.23(d) of the Participation Agreement.

"Erroneous Payment Impacted Class" shall have the meaning given to such term in Section 12.23(d) of the Participation Agreement.

"Erroneous Payment Return Deficiency" shall have the meaning given to such term in Section 12.23(d) of the Participation Agreement.

"Erroneous Payment Subrogation Rights" shall have the meaning given to such term in Section 12.23(e) of the Participation Agreement.

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

"Event of Default" shall mean a Lease Event of Default or an Agency Agreement Event of Default.

"Excepted Payments" shall mean, regarding each Lessor Party:

(a) all indemnity payments (including indemnity payments made pursuant to Section 11 of the Participation Agreement) to which any Lessor Party or any of its Affiliates, successors, assigns, shareholders, members, managers, partners, agents, officers, directors or employees is entitled;

(b) any amounts (other than Basic Rent or Termination Value) payable under any Operative Agreement to reimburse any Lessor Party or any of its respective Affiliates (including the reasonable expenses of any Lessor Party incurred in connection with any such payment) for performing or complying with any of the obligations of any Credit Party under and as permitted by any Operative Agreement;

(c) any amount payable to any Lessor Party by any transferee as the purchase price of any Lessor Party's Lessor Party Interest (or a portion thereof);

(d) any insurance proceeds (or payments with respect to risks self-insured or policy deductibles) under liability policies in favor of any Lessor Party;

(e) any insurance proceeds under policies maintained by any Lessor Party;

(f) Transaction Expenses or other amounts, fees, disbursements or expenses paid or payable to or for the benefit of any Lessor Party;

(g) any payments in respect of interest to the extent attributable to payments referred to in clauses (a) through (f) above;

(h) any rights of any Lessor Party to demand, collect, sue for or otherwise receive and enforce payment of any of the foregoing amounts, provided that such rights shall not include the right to terminate the Lease; and

(i) any payments to any Lessor Party regarding any Overfunded Amount.

"Excess Proceeds" shall mean the excess, if any, of the aggregate of all awards, compensation, insurance proceeds or condemnation proceeds payable in connection with a Casualty or Condemnation over the Termination Value paid by the Lessee pursuant to the Lease with respect to such Casualty or Condemnation.

"Excess Yield" shall have the meaning given to such term in Section 5A.10 of the Participation Agreement.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, together with the rules and regulations promulgated thereunder.

"Excluded Active Subsidiaries" shall mean collectively the following Subsidiaries of any Credit Party: (a) any Captive Insurance Entity, (b) any Qualified Community Development Entity and any Subsidiary of a Qualified Community Development Entity, and (c) the Subsidiaries of the Parent listed on Schedule XII; each of which is referred to individually as an "Excluded Active Subsidiary". Any Excluded Active Subsidiary that joins the Participation Agreement as a Guarantor pursuant to Section 6B.9 of the Participation Agreement shall cease to be an Excluded Active Subsidiary.

"Excluded Equipment" shall mean equipment, apparatus, furnishings, fittings and personal property of every kind and nature whatsoever that is not Equipment.

"Excluded Inactive Subsidiaries" shall mean collectively the Subsidiaries of the Parent listed on Schedule XIII, each of which is referred to herein individually as an Excluded Inactive Subsidiary. Any Excluded Inactive Subsidiary which joins the Participation Agreement as a Guarantor pursuant to Section 6B.9 of the Participation Agreement shall cease to be an Excluded Inactive Subsidiary.

"Exculpated Persons" shall mean the Lessor Parties (except with respect to the representations and warranties and the other obligations of the Lessor Parties pursuant to the Operative Agreements expressly undertaken in their respective individual capacities, including the representations and warranties of the Lessor Parties pursuant to Section 6.2 of the Participation Agreement and the obligations of the Lessor Parties under Section 8.2 of the Participation Agreement) and their respective Affiliates, successors, assigns, shareholders, members, managers, partners, agents, officers, directors or employees.

"Exempt Payments" shall have the meaning given to such term in Section 11.2(e) of the Participation Agreement.

"Expiration Date" shall mean the last day of the Term; provided, in no event shall the Expiration Date be later than June 1, 2023.

"Facility Termination Date" shall mean the Expiration Date or such later date as the Lessor Parties shall notify the Lessee and the Agent of in writing.

"Fair Market Sales Value" shall mean, the amount, which in any event, shall not be less than zero (0), that would be paid in cash in an arms-length transaction between an informed and willing purchaser and an informed and willing seller, neither of whom is under any compulsion to purchase or sell, respectively, the Property. Fair Market Sales Value of the Property shall be determined based on the assumption that, except for purposes of Section 17 of the Lease, the Property is in the condition and state of repair required under Section 10.1 of the Lease and each Credit Party is in compliance with the other requirements of the Operative Agreements.

"FATCA" shall mean Section 1471 through 1474 of the Code, as of the date of the Participation 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 and any agreement entered into pursuant to Section 1471(b) of the Code, and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Official Bodies and implementing such Sections of the Code.

"Federal Funds Effective Rate" shall mean the Federal Funds Rate.

"Federal Funds Rate" shall mean, for any period, a fluctuating interest rate per annum equal for each day during such period to the weighted average of the overnight federal funds rates as in Federal Reserve Board Statistical Release H.15(519) or any successor or substitute publication selected by the Agent (or, if such day is not a Business Day, for the next preceding Business Day), or, if, for any reason, such rate is not available on any day, the rate determined, in the good faith opinion of the Agent, to be the rate at which overnight federal funds are being offered in the national federal funds market at 9:00 a.m. Charlotte, North Carolina time, absent demonstrable error; provided, notwithstanding the foregoing, if such interest rate determined as provided above would be less than 0.0% per annum for any applicable time period, then such interest rate for such time period shall be deemed to be 0.0% per annum.

"Fees" shall mean the Lessor Parties Unused Fee, the Lessor Parties Upfront Fee, the Administrative Agency Fee, the Structuring Fee and any and all additional fees referenced pursuant to the Engagement Letter.

"Financial Projections" shall have the meaning given to such term in Section 6.1(i)(ii) of the Participation Agreement.

"Financing Parties" shall mean the Lessor Parties and the Agent.

"Fiscal Quarter" shall mean any quarter of a Fiscal Year.

"Fiscal Year" shall mean any period of twelve consecutive calendar months ending on December 31; references to a Fiscal Year with a number corresponding to any calendar year (e.g., the "2004 Fiscal Year") refer to the Fiscal Year ending on December 31st of such calendar year.

"Fitch" shall mean Fitch Ratings, Inc., a subsidiary of the Fitch Group, Inc.

"Fixtures" shall mean all fixtures relating to the Improvements, including all components thereof, located in or on the Improvements, together with all replacements, modifications, alterations and additions thereto.

"Force Majeure Event" shall mean, with respect to construction in connection with the Construction Period Property, any event (the existence of which at the construction commencement date was not known, or would not reasonably have been expected to be discovered through the exercise of commercially reasonable due diligence, by any Construction Agency Person, taking into account the contemplated use of the Land and the Improvements) beyond the control of any such Person, including general strikes (but not any strike or other job action involving employees of any Construction Agency Person), acts of God, government activities directly interfering with the work of construction of the Improvements, any general inability to obtain labor or materials, civil commotion and enemy action; but excluding in all cases any event, cause or condition that results from a breach by any Construction Agency Person of its obligations, representations or warranties under the Operative Agreements or any other agreements to which it is a party, from any Construction Agency Person's financial condition or failure to pay or any event, cause or condition which could have been avoided or which could be remedied or mitigated through the exercise of commercially reasonable efforts or the commercially reasonable expenditure of funds or other commercially reasonably action, election or arrangement which would correct or resolve the impact of such event on the construction.

"Force Majeure Loss" shall mean the actual construction costs, determined by the applicable insurance company in assessing a claim for such costs under any policy of insurance, or if such loss is not fully insured in whole or in part under any policy of insurance, then as determined by a nationally recognized independent appraiser selected by the Agent, expended to repair and restore damage caused by a Force Majeure Event with respect to the Property (or portion thereof) to the condition of the Property immediately prior to such Force Majeure Event (but excluding all capitalized costs and other collateral costs and carrying costs whenever accrued).

"Foreign Subsidiary" shall mean a Subsidiary that is not organized under the laws of any political subdivision of the United States.

"Fourth Amendment" shall mean the Fourth Amendment to Certain Operative Agreements dated as of September 21, 2022 by and among the Lessee, the parties referenced on the signature pages thereof as guarantors, the Lessor Parties and the Agent.

"Fourth Amendment Closing Date" shall mean the date as of which all conditions precedent set forth in the Fourth Amendment are satisfied and the Fourth Amendment is effective.

"Full Recourse Event of Default" shall mean (a) an Agency Agreement Event of Default arising in whole or in part as a consequence of any fraudulent act or omission of any Construction Agency Person in connection with the negotiation, execution, delivery, consummation and/or performance of any Operative Agreement or any other contractual agreement relating to the Property or the construction or work thereon; (b) an Agency Agreement Event of Default arising in whole or in part as a consequence of the misapplication of any Lessor Advance or any portion thereof or any other funds made available to, or on behalf of, the Construction Agent or any other Construction Agency Person under any Operative Agreement; (c) an Agency Agreement Event of Default arising in whole or in part as a consequence of an Insolvency Event; (d) an occurrence pursuant to which any Construction Agency Person shall willfully breach any of its respective obligations, covenants, representations or warranties under any Operative Agreement, Construction Document or any other contractual agreement or otherwise regarding any law

relating to the Property or the construction or work thereon; (e) an occurrence pursuant to which any Construction Agency Person shall commit any illegal act regarding the Property; or (f) an occurrence pursuant to which any Construction Agency Person, through its actions or failure to act, shall cause any loss, cost or damage to any Financing Party with respect to the Property or matters related to the Operative Agreements, excluding (for purposes of this subclause (f) only) indemnity claims solely arising from failure to achieve (or to timely achieve) Completion.

"GAAP" shall mean generally accepted accounting principles set forth in the opinions and pronouncements of the accounting principles board of the American Institute of Certified Public Accountants, and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, that are applicable to the circumstances as of the date of determination.

"GAAP Project Cost" shall mean the Property Cost less any Uninsured Force Majeure Loss attributable to the Property.

"Governmental Action" shall mean all permits, authorizations, registrations, consents, approvals, waivers, exceptions, variances, orders, judgments, written interpretations, decrees, licenses, exemptions, publications, filings, notices to and declarations of or with, or required by, any Governmental Authority, or required by any Legal Requirement, and shall include, without limitation, all environmental and operating permits and licenses that are required for the full use, occupancy, zoning and operating of the Property.

"Governmental Authority" shall mean the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, Taxing, regulatory or administrative powers or functions of or pertaining to government (including the Financial Conduct Authority, the Prudential Regulation Authority and any supra-national bodies such as the European Union or the European Central Bank).

"Guarantor" shall mean, collectively, each Person executing the Participation Agreement as of the Initial Closing Date or otherwise executing a Guaranty Joinder from time to time after the Initial Closing Date, in each case, to evidence the guarantee of the Obligations.

"Guarantor Joinder" shall mean each Guarantor Joinder and Assumption Agreement executed by a newly added Guarantor pursuant to the provisions of Sections 6B.9 and 8.3B(h) of the Participation Agreement, in the form of EXHIBIT H to the Participation Agreement or in such other form as is satisfactory to the Agent, in its reasonable discretion.

"Guaranty" of any Person shall mean any obligation of such Person guaranteeing or in effect guaranteeing any liability or obligation of any other Person in any manner, whether directly or indirectly, including any agreement to indemnify or hold harmless any other Person, any performance bond or other suretyship arrangement and any other form of assurance against loss, except endorsement of negotiable or other instruments for deposit or collection in the ordinary course of business.

"H.15" shall mean Federal Reserve Statistical Release H.15.

"Hard Costs" shall mean all costs and expenses payable for supplies, materials, labor and profit with respect to the Improvements under any Construction Contract.

"Hazardous Substance" shall mean any of the following: (a) any petroleum or petroleum product, explosives, radioactive materials, asbestos, formaldehyde, polychlorinated biphenyls, lead and radon gas;

(b) any substance, material, product, derivative, compound or mixture, mineral, chemical, waste, gas, medical waste, or pollutant, in each case whether naturally occurring, man-made or the by-product of any process, that is toxic, harmful or hazardous to the environment or health or safety of human beings; or

(c) any substance, material, product, derivative, compound or mixture, mineral, chemical, waste, gas, medical waste or pollutant that would support the assertion of any claim under any Environmental Law or is the subject of regulatory action by any Governmental Authority under any Environmental Law, whether or not defined as hazardous as such under any Environmental Law.

"Hedge Agreement Termination Value" shall mean, as to any one or more Hedge Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Hedge Agreements, (a) for any date on or after the date such Hedge Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Hedge Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Hedge Agreements (which may include an ABL Credit Agreement Bank or any Affiliate of an ABL Credit Agreement Bank).

"Hedge Agreements" shall mean (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, cap transactions, floor transactions, collar transactions, currency swap transactions, cross-currency rate swap transactions, currency options, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options to enter into any of the foregoing), whether or not any such transaction is governed by or subject to any master agreement, and (b) any and all transactions of any kind, and the related confirmations, that are subject to the terms and conditions of, or governed by, any form of master agreement published by the 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 , in each case, entered into by the Parent or any of its Subsidiaries in the ordinary course of business and not for speculative purposes.

"Historical Statements" shall have the meaning given to such term in Section 6.1(i)(i) of the Participation Agreement.

"Holdback Amount" shall mean the "Holdback Amount" (as defined in the Purchase Agreement) up to, but not to exceed, an amount equal to $650,000.

"Identified Big Lots Entities" shall mean BLS, the Parent and the other ABL Credit Agreement Loan Parties.

"Impositions" shall mean any and all liabilities, losses, expenses, costs, charges and Liens of any kind whatsoever for fees, taxes, levies, imposts, duties, charges, assessments or withholdings ("Taxes") including but not limited to (i) real and personal property taxes, including personal property taxes on any property covered by the Lease that is classified by Governmental Authorities as personal property, and real estate or ad valorem taxes in the nature of property taxes; (ii) sales taxes, use taxes and other similar taxes (including rent taxes and intangibles taxes); (iii) excise taxes; (iv) real estate transfer taxes, conveyance taxes, stamp taxes and documentary recording taxes and fees; (v) taxes that are or are in the nature of franchise, income, value added, privilege and doing business taxes, license and registration fees; (vi) assessments on the Property, including all assessments for public Improvements or benefits, whether or not such improvements are commenced or completed within the Term; and (vii) taxes, Liens,

assessments or charges asserted, imposed or assessed by the PBGC or any Governmental Authority succeeding to or performing functions similar to the PBGC; and (viii) in each case all interest, additions to tax and penalties thereon, which at any time prior to, during or with respect to the Term or in respect of any period for which the Lessee shall be obligated to pay Supplemental Rent, may be levied, assessed or imposed by any Governmental Authority upon or with respect to (a) the Property or any part thereof or interest therein; (b) the leasing, financing, refinancing, demolition, construction, substitution, subleasing, assignment, control, condition, occupancy, servicing, maintenance, repair, ownership, possession, activity conducted on, delivery, insuring, use, operation, improvement, sale, transfer of title, return or other disposition of the Property or any part thereof or interest therein; (c) indebtedness with respect to the Property, or the Lessor Advances, or any part thereof or interest therein; (d) the rentals, receipts or earnings arising from the Property or any part thereof or interest therein; (e) the Operative Agreements, the performance thereof, or any payment made or accrued pursuant thereto; (f) the income or other proceeds received with respect to the Property or any part thereof or interest therein upon the sale or disposition thereof; (g) any contract (including the Agency Agreement) relating to the construction, acquisition or delivery of the Improvements or any part thereof or interest therein; (h) the obtaining of Lessor Advances; (i) the Lessor or the Trust Property; or (j) otherwise in connection with the transactions contemplated by the Operative Agreements.

"Improvements" shall mean, with respect to any Land, all buildings, structures, Fixtures, and other improvements of every kind existing at any time and from time to time on or under the Land purchased or otherwise acquired using the proceeds of the Lessor Advances, together with any and all appurtenances to such buildings, structures, Fixtures or improvements, including sidewalks, utility pipes, conduits and lines, parking areas and roadways, and including all Modifications and other additions to or changes in the Improvements at any time, including (a) any Improvements existing as of the Property Closing Date as such Improvements may be referenced on the applicable Requisition and (b) any Improvements made subsequent to the Property Closing Date.

"Indebtedness" shall mean, as to any Person at any time, without duplication, any and all indebtedness, obligations or liabilities (whether matured or unmatured, liquidated or unliquidated, direct or indirect, absolute or contingent, or joint or several) of such Person for or in respect of: (a) borrowed money, (b) amounts raised under or liabilities in respect of any note purchase or acceptance credit facility, (c) (i) reimbursement obligations (contingent or otherwise) under any letter of credit or (ii) net obligations under any Hedge Agreement, (d) any other transaction (including forward sale or purchase agreements and conditional sales agreements) having the commercial effect of a borrowing of money entered into by such Person to finance its operations or capital requirements (but not including trade payables and accrued expenses incurred in the ordinary course of business), (e) Attributable Indebtedness of such Person in respect of Capital Leases and Synthetic Lease Obligations, or (f) any Guaranty of Indebtedness for borrowed money. For purposes of the Operative Agreements, the amount of any net obligation under any Hedge Agreement on any date shall be deemed to be the Hedge Agreement Termination Value thereof as of such date.

"Indemnified Person" shall mean without duplication each Financing Party and their respective successors, assigns, directors, shareholders, members, managers, partners, officers, employees, agents and Affiliates.

"Indemnity Provider" shall mean the Lessee.

"Initial Closing Date" shall mean November 30, 2017.

"Initial Closing Date Advance" shall have the meaning given to such term in Section 5.3 of the Participation Agreement.

"Insolvency Event" shall mean one or more of (a) the liquidation or dissolution of the Construction Agent or the Lessee, or the suspension of the business of the Construction Agent or the Lessee, or the filing by the Construction Agent or the Lessee of a voluntary petition or an answer seeking reorganization, arrangement, readjustment of its debts or for any other relief under the Bankruptcy Code or under any other insolvency act or law, state or federal, now or hereafter existing, or any other action of the Construction Agent or the Lessee indicating its consent to, approval of or acquiescence in, any such petition or proceeding; the application by the Construction Agent or the Lessee for, or the appointment by, consent to or acquiescence of the Construction Agent or the Lessee regarding a receiver, a trustee or a custodian of the Construction Agent or the Lessee for all or a substantial part of its property; the making by the Construction Agent or the Lessee of any assignment for the benefit of creditors; the inability of the Construction Agent or the Lessee, or the admission by the Construction Agent or the Lessee in writing of its inability, to pay its debts as they mature; or the Construction Agent or the Lessee taking any corporate action to authorize any of the foregoing; (b) the filing of an involuntary petition against the Construction Agent or the Lessee in bankruptcy or seeking reorganization, arrangement, readjustment of its debts or for any other relief under the Bankruptcy Code, as amended, or under any other insolvency act or law, state or federal, now or hereafter existing; or the involuntary appointment of a receiver, a trustee or a custodian of the Construction Agent or the Lessee for all or a substantial part of its property; or the issuance of a warrant of attachment, execution or similar process against any substantial part of the property of the Construction Agent or the Lessee, and the continuance of any of such events for ninety (90) days undismissed or undischarged; (c) the adjudication of the Construction Agent or the Lessee as bankrupt or insolvent or the occurrence of a Deemed Insolvency with respect to the Construction Agent or the Lessee; (d) the entering of any order in any proceedings against the Construction Agent or the Lessee or any Subsidiary of the foregoing decreeing the dissolution, divestiture or split-up of the Construction Agent or the Lessee or any Subsidiary of the Construction Agent or the Lessee, and such order remains in effect for more than sixty (60) days; (e) the occurrence of any Agency Agreement Event of Default under Section 5.1(c) of the Agency Agreement, to the extent such Agency Agreement Event of Default is attributable to a Lease Event of Default under Section 17.1(n) or (o) of the Lease; or (f) the occurrence of any Lease Event of Default under Section 17.1(n) or (o) of the Lease.

"Insurance Requirements" shall mean all terms and conditions of any insurance policy required by the Lease to be maintained by the Lessee or required by the Agency Agreement to be maintained by the Construction Agent, all requirements of the issuer of any such policy and from and after the Completion Date, regarding self-insurance, any other insurance requirements of the Lessee.

"Intercompany Subordination Agreement" shall mean a Subordination Agreement among the Credit Parties in the form attached to the Participation Agreement as EXHIBIT K.

"Investment Company Act" shall mean the Investment Company Act of 1940, as amended, together with the rules and regulations promulgated thereunder.

"IRS" shall mean the United States Internal Revenue Service.

"Labor Contracts" shall mean all employment agreements, employment contracts, collective bargaining agreements and other similar agreements guaranteeing a right of employment among any Credit Party and its employees.

"Land" shall mean a parcel of real property described on (a) the Requisition issued by the Construction Agent or the Lessee on the Property Closing Date and (b) Exhibit A to the Lease.

"Land Cost" shall have the meaning given to such term in Section 5.4 of the Agency Agreement.

"Law" shall mean any law (including common law), constitution, statute, treaty, regulation, rule, ordinance, opinion, release, ruling, order, injunction, writ, decree, bond, judgment, authorization or approval, Lien or award of or settlement agreement with any Official Body.

"Lease" or "Lease Agreement" shall mean the Real Property Lease Agreement dated on or about the Initial Closing Date, between the Lessor and the Lessee.

"Lease Default" shall mean any event or condition which, with the lapse of time or the giving of notice, or both, would constitute a Lease Event of Default.

"Lease Event of Default" shall have the meaning given to such term in Section 17.1 of the Lease.

"Lease Participant" shall mean each bank or other financial institution which is from time to time party to any of the Operative Agreements in its capacity as a "Lease Participant".

"Legal Requirements" shall mean all foreign, federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions affecting any Lessor Party, any Credit Party, the Agent or the Property, Land, Improvements, Equipment or the taxation, demolition, construction, use or alteration of such Improvements, whether now or hereafter enacted and in force, including any that require repairs, modifications or alterations in or to the Property or in any way limit the use and enjoyment thereof (including all building, zoning and fire codes and the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et. seq., and any other similar federal, state or local laws or ordinances and the regulations promulgated thereunder) and any that may relate to environmental requirements (including all Environmental Laws), and all permits, certificates of occupancy, licenses, authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments which are either of record or known to any Credit Party affecting the Property or the Appurtenant Rights.

"Lessee" shall have the meaning given to such term in the Lease, and shall include any successor, transferee or assignee permitted pursuant to Section 10.1 of the Participation Agreement.

"Lessor" shall mean Wachovia Service Corporation, a Delaware corporation.

"Lessor Advance" shall mean, as the context may require,

(a) any single advance made by any Lessor Party pursuant to the terms of the Operative Agreements or

(b) the aggregate amount of all advances made by the Lessor Parties pursuant to the terms of the Operative Agreements as reduced from time to time by any repayment or prepayment of such advances pursuant to Section 5A.4 of the Participation Agreement or otherwise in accordance with the Operative Agreements.

"Lessor Assignment Agreement" shall mean the Assignment and Assumption Agreement dated on or about the Initial Closing Date, among the Lessor, the various banks and other lending institutions which are parties thereto as assignees, the Agent and the Lessee.

"Lessor Confirmation Letter" shall mean the confirmation letter issued by the Lessor from time to time to the Lessee pursuant to Section 8.2(d) of the Participation Agreement, in a form substantially similar to the form of confirmation letter provided to the Lessee on or prior to the Initial Closing Date.

"Lessor Lien" shall mean any Lien, lease or disposition of title in respect of the Property or any other Collateral arising as a result of (a) any claim against any Lessor Party or any Affiliate of any Lessor Party not resulting from the transactions contemplated by the Operative Agreements, (b) any act or omission of any Lessor Party or any Affiliate of any Lessor Party which is not required by the Operative Agreements or is in violation of any of the terms of the Operative Agreements, (c) any claim against any Lessor Party or any Affiliate of any Lessor Party with respect to Taxes or Transaction Expenses against which the Lessee is not required to indemnify the applicable Lessor Party or its Affiliate pursuant to Section 11 of the Participation Agreement or otherwise to pay pursuant to the Operative Agreements or (d) any claim against any Lessor Party or any Affiliate of any Lessor Party arising out of any transfer by the applicable Lessor Party of all or any portion of the interest of such Lessor Party in the Property or the Operative Agreements other than the transfer of title to or possession of the Property by such Lessor Party pursuant to and in accordance with the Operative Agreements, including pursuant to the exercise of the remedies set forth in Article XVII of the Lease.

"Lessor Parties" shall mean the Lessor and the Lease Participants.

"Lessor Parties Commitment" shall mean the pro rata Lessor Parties Commitment of the Lessor and the Lease Participants as set forth in Schedule I to the Participation Agreement as such Schedule I may be amended or replaced from time to time.

"Lessor Parties Interest" shall mean, regarding each Lessor Party, its respective (a) Lessor Parties Commitment and (b) Lessor Parties Ownership Interest.

"Lessor Parties Ownership Interest" shall mean, concurrent with the effectiveness of the Lessor Assignment Agreement, and with regard to each of the Lessor Parties, an undivided, pari passu ownership interest for the applicable Lessor Party (for each such Lessor Party, in an amount equal to its Percentage Share) in (a) all rights to payments required to be made by any Credit Party under the Operative Agreements (including, as applicable, the Construction Period Guarantee Amount, the Deficiency Balance, the Maximum Residual Guarantee Amount and Rent), (b) proceeds from (i) insurance that the Lessee is required to maintain pursuant to the Operative Agreements and (ii) condemnation proceedings regarding the Property, (c) any other proceeds from the sale or other disposition of the Property or any interest therein and (d) any other amounts payable pursuant to the Operative Agreements regarding the Property or any interest therein or the right, title and interest of the Lessor in the Property (but limited in each case regarding the foregoing subsections (a) – (d), to the amounts which would otherwise be payable to or for the benefit of the Lessor for its own account if the Lessor Assignment Agreement were not in effect and excluding in all cases regarding the foregoing subsections (a) – (d), the Excepted Payments which Excepted Payments shall be in favor exclusively of the applicable Lessor Party and/or its related parties).

"Lessor Parties Unused Fee" shall have the meaning given to such term in Section 7.4 of the Participation Agreement.

"Lessor Parties Upfront Fee" shall have the meaning given to such term in Section 7.5 of the Participation Agreement.

"Lessor Yield" shall mean with respect to Lessor Advances a per annum rate equal to (subject to Section 5A.11) the Adjusted Term SOFR Rate plus the Applicable Percentage, the ABR plus the Applicable Percentage or a combination thereof as determined pursuant to Section 5A.5 of the Participation Agreement.

"Lessor Yield Determination Date" shall mean the date that is two (2) U.S. Government Securities Business Days prior to the first day of the applicable Lessor Yield Period.

"Lessor Yield Period" shall mean as to any SOFR Lessor Advance, each period commencing on the last day of the next preceding Lessor Yield Period applicable to such SOFR Lessor Advance and ending one (1) month thereafter; provided, however, that all of the foregoing provisions relating to Lessor Yield Periods are subject to the following: (A) if any Lessor Yield Period would end on a day which is not a Business Day, such Lessor Yield Period shall be extended to the next succeeding Business Day (except that where the next succeeding Business Day falls in the next succeeding calendar month, then on the next preceding Business Day), (B) no Lessor Yield Period shall extend beyond the Expiration Date, (C) where a Lessor Yield Period begins on a day for which there is no numerically corresponding day in the calendar month in which the Lessor Yield Period is to end, such Lessor Yield Period shall end on the last Business Day of such calendar month and (D) there shall not be more than one (1) Lessor Yield Period outstanding at any one (1) time, respectively, for SOFR Lessor Advances.

"Lien" shall mean any mortgage, pledge, security interest, encumbrance, lien, option, attachment, levy, encroachment, title defect or charge of any kind.

"Limited Recourse Amount" shall mean in the case of the Lease regarding the Property, an amount equal to the Termination Value less the Maximum Residual Guarantee Amount.

"Limited Recourse Event of Default" shall have the meaning given to such term in Section 17.12 of the Lease.

"LLC Interests" shall have the meaning given to such term in Section 6.1(c) of the Participation Agreement.

"Majority Secured Parties" shall mean at any time the Lessor Parties (other than any Defaulting Lessor Party) whose Lessor Advances outstanding represent at least fifty-one percent (51%) of (a) the aggregate Lessor Advances outstanding or (b) to the extent there are no Lessor Advances outstanding, the aggregate Lessor Parties Commitment.

"Marketing Period" shall mean, if the Lessee has given a Sale Notice in accordance with Section 20.1 of the Lease, the period commencing on the date such Sale Notice is given and ending on the Expiration Date.

"Material Adverse Effect" shall mean any set of circumstances or events which: (a) has or could reasonably be expected to have any material adverse effect upon the validity or enforceability of the Participation Agreement or any other Operative Agreement; (b) is or could reasonably be expected to be material and adverse to the business, operations, properties, assets, or financial condition of the Credit Parties taken as a whole; (c) impairs materially or could reasonably be expected to impair materially the ability of the Credit Parties taken as a whole to duly and punctually pay or perform their Indebtedness or any of their respective obligations under the Operative Agreements; (d) impairs materially or could reasonably be expected to impair materially the ability of the ABL Credit Agreement Administrative Agent, any of the ABL Credit Agreement Banks or any of the Financing Parties, to the extent permitted, to enforce their legal remedies pursuant to the ABL Credit Agreement Loan Documents (in the case of the ABL Credit Agreement Administrative Agent or any of the ABL Credit Agreement Banks) or pursuant to the Participation Agreement or any other Operative Agreement (in the case of any of the Financing Parties); (e) impairs materially or could reasonably be expected to impair materially the validity, priority or enforceability of any Lien on the Property created by any of the Operative Agreements; or (f) impairs materially or could reasonably be expected to impair materially the value, utility or useful life of the Property, which has caused or could reasonably be expected to cause a diminution of the fair market value of the Property of ten percent (10%) or more from the then-current fair market value of the Property, or the use, or ability of the Lessee to use, the Property for the purpose for which it was intended.

"Maturity Date" shall mean the Expiration Date.

"Maximum Residual Guarantee Amount" shall mean (a) from the Initial Closing Date to and including December 31, 2018, an amount equal to the product of the GAAP Project Cost for the Property times eighty-seven percent (87.0%) and (b) from and including January 1, 2019 and thereafter, an amount as reasonably determined by the Majority Secured Parties and the Lessee in accordance with Accounting Standards Codification No. 842.

"Modifications" shall have the meaning given to such term in Section 11.1 of the Lease.

"Monthly Notice Date" shall mean the tenth (10th) day of each calendar month unless such is not a Business Day and in such case on the next preceding Business Day.

"Moody's" shall mean Moody's Investors Services, Inc., and any successor thereto.

"Mortgage Instrument" shall mean any mortgage, deed of trust or any other instrument executed by the Lessee (or regarding any Land, the applicable Affiliate of the Lessee) in favor of the Trustee thereunder, for the benefit of the Agent (for the benefit of the Secured Parties) and evidencing a Lien on the Lessee's interest in the Property, in form and substance reasonably acceptable to the Agent.

"Multiemployer Plan" shall mean any employee benefit plan which is a "multiemployer plan" within the meaning of Section 4001(a)(3) of ERISA and to which any Identified Big Lots Entity or any other member of the ERISA Group is then making or accruing an obligation to make contributions or, within the preceding five Plan years, has made or had an obligation to make such contributions.

"Multiple Employer Plan" shall mean a Plan which has two or more contributing sponsors (including any Credit Party or any other member of the ERISA Group) at least two of whom are not under common control, as such a plan is described in Sections 4063 and 4064 of ERISA.

"Non-Consenting Lessor Party" shall mean any Lessor Party that does not approve any proposed termination, amendment, supplement, waiver, modification or consent with respect to any Operative Agreement that (a) requires the approval of all Lessor Parties, or all affected Lessor Parties, in accordance with the terms of Section 12.4 of the Participation Agreement and (b) has been approved by the Majority Lessor Parties.

"Non-Defaulting Lessor Party" shall mean, at any time, each Lessor Party that is not a Defaulting Lessor Party at such time.

"Non-U.S. Person" shall mean a Person that is not a U.S. Person.

"Obligations" shall mean the collective reference to all obligations (including without limitation all payment and performance obligations), now existing or hereafter arising, owing by the Lessee and/or the Construction Agent, as applicable, to one or more Secured Parties under or pursuant to the Operative Agreements, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, which may arise under, out of, or in connection with the Participation Agreement, the Lessor Assignment Agreement, the Lease, the Agency Agreement or any of the other Operative Agreements, whether on account of advanced amounts, yield, reimbursement obligations, fees, indemnities, costs, expenses, termination payments or otherwise (including without limitation all fees and disbursements of counsel to any of the Secured Parties) that are required to be paid by the Lessee and/or the Construction Agent, as applicable, pursuant to the terms of the Operative Agreements for any purpose, including without

limitation in connection with the exercise of remedies. Obligations shall not include the liabilities to any Financing Party under any Bank-Provided Hedge or Qualified Hedge Agreement.

"OFAC" shall mean the Office of Foreign Assets Control of the United States Department of the Treasury.

"Off-Site Construction Costs" shall mean the construction costs, not to exceed Twelve Million and 00/100 Dollars ($12,000,000.00), incurred to pay for the Off-Site Improvements.

"Off-Site Improvements" shall mean the off-site improvements not located on the Land and not included in the Improvements, with such off-site improvements to include dry utilities (electrical, phone and street light); wet utilities (LP/HP mains and meters); curb gutters, road widening, sidewalks and landscaping; and all other necessary labor, materials, equipment and services to complete such work.

"Officer's Certificate" with respect to any Person shall mean a certificate executed on behalf of such Person by a Responsible Officer who has made or caused to be made such examination or investigation as is necessary to enable such Responsible Officer to express an informed opinion with respect to the subject matter of such Officer's Certificate.

"Official Body" shall mean the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra- national bodies such as the European Union or the European Central Bank).

"Operative Agreements" shall mean the following: the Participation Agreement, the Lessor Assignment Agreement, the Agency Agreement, the Engagement Letter, the Lease (and a memorandum thereof (or a short form lease), in each case, in a form reasonably acceptable to the Agent), each Requisition, the Intercompany Subordination Agreement, the Security Documents, the Deeds, the Bills of Sale and any and all other agreements, documents and instruments executed in connection with any of the foregoing.

"Overdue Rate" shall mean a per annum rate equal to the lesser of (a) the then current rate of Lessor Yield respecting the particular amount in question plus two percent (2%) and (b) the highest rate permitted by Applicable Law, in each case from the date of such non-payment until such amount is paid in full (whether after or before judgment).

"Overfunded Amount" shall have the meaning given to such term in Section 5.2(c)(ii) of the Participation Agreement.

"Overnight Bank Funding Rate" shall mean, for any day, the rate comprised of both overnight federal funds and overnight Eurocurrency borrowings by U.S.-managed banking offices of depository institutions, as such composite rate shall be determined by the Federal Reserve Bank of New York ("NYFRB"), as set forth on its public website from time to time, and as published on the next succeeding Business Day as the overnight bank funding rate by the NYFRB (or by such other recognized electronic source (such as Bloomberg) selected by the Agent for the purpose of displaying such rate); provided that, if such day is not a Business Day, the Overnight Bank Funding Rate for such day shall be such rate on the immediately preceding Business Day; provided, further, that if such rate shall at any time, for any reason, no longer exist, a comparable replacement rate determined by the Agent at such time (which determination shall be conclusive absent manifest error). If the Overnight Bank Funding Rate determined as above would be less than zero basis points (0.00%), then such rate shall be deemed to be zero basis points (0.00%).

"Overnight Federal Funds Rate" shall mean for any day, the rate per annum (rounded upwards, if necessary, to the nearest 1/100 of one percent (1%)) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers on such day, 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 Overnight 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 Overnight Federal Funds Rate for such day shall be the average rate charged to Wells Fargo Bank, National Association on such day on such transactions as determined by Wells Fargo Bank, National Association.

"Parent" shall mean Big Lots, Inc., an Ohio corporation.

"Participant" shall have the meaning given to such term in Section 10.4 of the Participation Agreement.

"Participation Agreement" shall mean the Participation Agreement dated on or about the Initial Closing Date, among the Lessor Parties, the Lessee, the Construction Agent, the Guarantors and the Agent.

"Partnership Interests" shall have the meaning given to such term in Section 6.1(c) of the Participation Agreement.

"Payment Date" shall mean (a) as to any SOFR Lessor Advance, the last day of the Lessor Yield Period applicable to such SOFR Lessor Advance, (b) as to any ABR Lessor Advance, the twentieth day of each month, unless such day is not a Business Day and in such case on the next occurring Business Day and (c) as to all Lessor Advances, the date of any voluntary or involuntary payment, repayment, prepayment, return or redemption, and the Expiration Date.

"Payment in Full" shall mean the indefeasible payment and satisfaction in full of all Obligations and the obligations of the other Credit Parties pursuant to the Operative Agreements (other than contingent indemnification and reimbursement obligations in respect of which no claim for payment has yet been asserted by the Person entitled thereto) and termination of the Lessor Parties Commitments.

"Payment Recipient" shall have the meaning given to such term in Section 12.23(a) of the Participation Agreement.

"PBGC" shall mean the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA or any successor.

"Pension Plan" shall mean a "pension plan", as such term is defined in Section 3(2) of ERISA, which is subject to Title IV of ERISA (other than a Multiemployer Plan), and to which any Credit Party or any ERISA Affiliate may have any liability, including any liability by reason of having been a substantial employer within the meaning of Section 4063 of ERISA at any time during the preceding five (5) years, or by reason of being deemed to be a contributing sponsor under Section 4069 of ERISA.

"Percentage Share" shall mean, for each Lessor Party and from time to time, the percentage which its respective funded Lessor Advances bears to all funded Lessor Advances, as the Percentage Share for each Lessor Party shall be determined from time to time by the Agent in good faith, with such determination by the Agent being conclusive and binding on each Lessor Party and the Credit Parties, absent manifest error.

"Permitted Acquisition" shall have the meaning given to such term in Section 8.3B(e)(iii) of the Participation Agreement.

"Permitted Facility" shall mean the approximately one million three hundred fifty thousand (1,350,000) square foot (gross building area) distribution center to be constructed at the southwest corner of Navajo Road and Lafayette Road in San Bernardino County, California identified by the Construction Agent or the Lessee reasonably acceptable to the Agent, it being agreed that in determining said acceptability, the Agent shall be entitled to require an appraisal of the parcel of real property.

"Permitted Investments" shall mean:

(a) direct obligations of the United States of America or any agency or instrumentality thereof or obligations backed by the full faith and credit of the United States of America maturing in twelve (12) months or less from the date of acquisition;

(b) commercial paper maturing in one (1) year or less rated not lower than A-1, by S&P's, P-1 by Moody's or F-1 by Fitch on the date of acquisition;

(c) demand deposits, time deposits or certificates of deposit maturing within one year in any Bank or any other commercial banks whose obligations are rated A-1, A or the equivalent or better by S&P's on the date of acquisition;

(d) money market mutual funds or cash management trusts rated the highest rating by S&P's, Moody's or Fitch (and not rated other than the highest rating by S&P's, Moody's or Fitch) or investing solely in investments described in clauses (a) through (c) above;

(e) fully collateralized repurchase agreements with a term of not more than one hundred eighty (180) days for securities described in clause (a) above and entered into with commercial banks whose obligations are rated A-1, A or the equivalent or better by S&P's on the date of acquisition;

(f) short term Tax-exempt securities rated not lower than BBB by S&P's, Baa2 by Moody's or an equivalent rating by Fitch with provisions for liquidity or maturity accommodations of two (2) years or less;

(g) investments in other readily marketable securities (excluding any equity or equity- linked securities other than auction rate preferred securities) which are rated P1 or P2 by Moody's, A1 or A2 by S&P's or F1 or F2 by Fitch (in lieu of a short term rating, a long term rating of not less than A2 by Moody's, A by S&P's or an equivalent rating by Fitch would qualify under this sub-clause (g), provided that no such security position shall exceed five percent (5%) of the invested cash portfolio of the Credit Parties); and

(h) any investment existing on September 22, 2021 and described on Schedule XIV.

"Permitted Liens" shall mean:

(a) the respective rights and interests of the parties to the Operative Agreements as provided in the Operative Agreements;

(b) the rights of any sublessee or assignee under a sublease or an assignment expressly permitted by the terms of the Lease for no longer than the duration of the Lease;

(c) Liens for Taxes that either are (i) not yet due or (ii) are being contested in accordance with the provisions of Section 13.1 of the Lease;

(d) Liens arising by operation of law, materialmen's, mechanics', workmen's, repairmen's, employees', carriers', warehousemen's and other like Liens relating to the construction of the Improvements or in connection with any Modifications or arising in the ordinary course of business for amounts that (i) are not more than thirty (30) days past due, (ii) are being diligently contested in good faith by appropriate proceedings, so long as such proceedings satisfy the conditions for the continuation of proceedings to contest Taxes set forth in Section 13.1 of the Lease or (iii) have been bonded for not less than the full amount in dispute (or as to which other security arrangements satisfactory to the Majority Secured Parties, in their reasonable discretion, have been made), which bonding (or arrangements) shall comply with applicable Legal Requirements, and shall have effectively stayed any execution or enforcement of such Liens;

(e) Liens arising out of judgments or awards with respect to which appeals or other proceedings for review are being prosecuted in good faith and for the payment of which adequate reserves have been provided to the extent required by GAAP or other appropriate provisions have been made, so long as such proceedings have the effect of staying the execution of such judgments or awards and satisfy the conditions for the continuation of proceedings to contest Taxes set forth in Section 13.1 of the Lease;

(f) Liens in favor of municipalities to the extent agreed to by the Majority Secured Parties;

(g) Liens that are expressly set forth as title exceptions on the title commitment issued under Section 5.3(g) of the Participation Agreement with respect to the Property, to the extent such title exceptions do not have and could not reasonably be expected to have a Material Adverse Effect;

(h) Liens on the Property approved by the Majority Secured Parties or otherwise permitted under Section 8.5 of the Participation Agreement; and

(i) Lessor Liens.

"Person" shall mean an individual, partnership, corporation (including a business trust), limited liability company, joint stock company, trust, unincorporated association, sole proprietorship, joint venture, government (or any agency or political subdivision thereof) or other entity.

"Plan" shall mean at any time an employee pension benefit plan (including a Multiple Employer Plan, but not a Multiemployer Plan) which is covered by Title IV of ERISA or is subject to the minimum funding standards under Section 412 of the Code and either (a) is maintained by any member of the ERISA Group for employees of any member of the ERISA Group or (b) has at any time within the preceding five years been maintained by any entity which was at such time a member of the ERISA Group for employees of any entity which was at such time a member of the ERISA Group.

"Plans and Specifications" shall mean, with respect to Improvements, the plans and specifications for such Improvements to be constructed or already existing certified to the Agent, as such Plans and Specifications may be amended, modified or supplemented from time to time in accordance with the terms of the Operative Agreements.

"Prime Rate" shall mean the rate announced by Wells Fargo Bank, National Association from time to time as its prime rate in the United States, such rate to change as and when such designated rate changes; provided, notwithstanding the foregoing, if any such interest rate for any period of time determined as provided above would be less than 0.0% per annum, then such interest rate for such period of time shall be deemed to be 0.0% per annum. The Prime Rate is not intended to be the lowest rate of interest charged by Wells Fargo Bank, National Association in connection with extensions of credit to debtors.

"Pro Rata Share" shall mean with respect to a Lessor Party, a percentage equal to such Lessor Party's pro rata share of the aggregate Lessor Parties Commitments, in each case, as set forth next to such Lessor Party's name on Schedule I of the Participation Agreement or on any assignment pursuant to which such Lessor Party becomes a party hereto.

"Prohibited Transaction" shall mean any prohibited transaction as defined in Section 4975 of the Code or Section 406 of ERISA for which (a) no statutory exception exists or (b) neither an individual nor a class exemption has been issued by the United States Department of Labor.

"Property" shall mean the real property that is (or is to be) acquired, constructed and/or renovated pursuant to the terms of the Operative Agreements, including the Land, each item of Equipment and the various Improvements, in each case located on such Land, including the Property if it is a Construction Period Property and if the Term has commenced.

"Property Acquisition Cost" shall mean the cost to the Lessor Parties for the Lessor to purchase the Property on the Property Closing Date (including Transaction Expenses).

"Property Closing Date" shall mean the Initial Closing Date.

"Property Cost" shall mean (a) the aggregate amount of the Lessor Advances (in each case, as such amounts shall be increased pro rata according to the Lessor Advances advanced or extended from time to time including to pay for the Transaction Expenses and Uninsured Force Majeure Losses) and (b) respecting the various amounts described in the foregoing subsection (a), all the occurrences and items giving rise to all such amounts.

"PTEs" shall have the meaning given to such term in Section 12.24(a) of the Participation Agreement.

"Punchlist Advance" shall have the meaning given to such term in Section 5.11 of the Participation Agreement.

"Punchlist Deadline" shall have the meaning given to such term in Section 5.11 of the Participation Agreement.

"Purchase Agreement" shall mean the Agreement of Purchase and Sale and Joint Escrow Instructions dated as of October 4, 2017 by and between Watson Land Company and the Lessee, without regard to any amendment, modification, extension, supplement, restatement and/or replacement thereof subsequent to such date.

"Purchase Money Security Interest" shall mean Liens upon real or tangible personal property securing loans to any Credit Party or Subsidiary of a Credit Party or deferred payments by such Credit Party or Subsidiary for the purchase of such real or tangible personal property.

"Purchase Option" shall have the meaning given to such term in Section 20.1 of the Lease.

"Purchasing Lessor Party" shall have the meaning given to such term in Section 10.5(a) of the Participation Agreement.

"Qualified Community Development Entity" shall mean any corporation or partnership (or a limited liability company designated as a corporation or partnership for federal income Tax purposes) organized under the laws of the United States of America or any state thereof that meets the requirements of Section 45(D)(c) of the Code.

"Qualified Hedge Agreement" shall mean a Hedge Agreement with a financial institution reasonably acceptable to the ABL Credit Agreement Administrative Agent (as evidenced by the Credit Parties to the reasonable satisfaction of the Agent) and the Agent and which (a) is documented in a standard International Swap Dealer Association Agreement or a similar agreement, (b) provides for the method of calculating the reimbursable amount of the provider's credit exposure in a reasonable and customary manner, (c) is entered into for hedging (rather than speculative) purposes, and (d) does not require that any collateral be provided as security for such agreement.

"Real Property" shall mean the Property.

"Real Property Lease" or "Real Property Lease Agreement" shall mean the Lease.

"Register" shall have the meaning given to such term in Section 10.6 of the Participation Agreement.

"Regulated Substances" shall mean, without limitation, any substance, material or waste, regardless of its form or nature, defined under Environmental Laws as a "hazardous substance," "pollutant," "pollution," "contaminant," "hazardous or toxic substance," "extremely hazardous substance," "toxic chemical," "toxic substance," "toxic waste," "hazardous waste," "special handling waste," "industrial waste," "residual waste," "solid waste," "municipal waste," "mixed waste," "infectious waste," "chemotherapeutic waste," "medical waste," "pesticide" or "regulated substance" or any other substance, material or waste, regardless of its form or nature, which is regulated, controlled or governed by Environmental Laws due to its radioactive, ignitable, corrosive, reactive, explosive, toxic, carcinogenic or infectious properties or nature or any other material, substance or waste, regardless of its form or nature, which otherwise is regulated, controlled or governed by Environmental Laws, including petroleum and petroleum products (including crude oil and any fractions thereof), natural gas, synthetic gas and any mixtures thereof, asbestos, urea formaldehyde, polychlorinated biphenyls, mercury, radon and radioactive materials.

"Regulation B" shall mean Regulation B of the Board of Governors of the Federal Reserve System (or any successor), as the same may be modified and supplemented and in effect from time to time.

"Regulation U" shall mean Regulation U of the Board of Governors of the Federal Reserve System (or any successor), as the same may be modified and supplemented and in effect from time to time.

"Regulation Z" shall mean Regulation Z of the Board of Governors of the Federal Reserve System (or any successor), as the same may be modified and supplemented and in effect from time to time.

"Regulatory Change" shall mean the occurrence, after the Initial Closing 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 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 "Regulatory Change", regardless of the date enacted, adopted or issued.

"Release" shall mean any release, pumping, pouring, emptying, injecting, escaping, leaching, dumping, seepage, spill, leak, flow, discharge, disposal or emission of a Hazardous Substance.

"Relevant Governmental Body" shall mean 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 or any successor thereto.

"Remedial Action" shall mean any investigation, identification, preliminary assessment, characterization, delineation, feasibility study, cleanup, corrective action, removal, remediation, risk assessment, fate and transport analysis, in situ treatment, containment, operation and maintenance or management in-place, control or abatement of or other response actions to Regulated Substances and any closure or post-closure measures associated therewith.

"Renewal Term" shall have the meaning given to such term in Section 2.2 of the Lease.

"Rent" shall mean, collectively, the Basic Rent and the Supplemental Rent, in each case payable under the Lease.

"Rent Commencement Date" shall mean, the Completion Date with respect to the Property.

"Reportable Compliance Event" shall mean that (a) any Covered Entity becomes a Sanctioned Person, or is charged by indictment, criminal complaint, or similar charging instrument, arraigned, custodially detained, penalized or the subject of an assessment for a penalty, or enters into a settlement with an Official Body in connection with any sanctions or other Anti-Terrorism Law or Anti-Corruption law, or any predicate crime to any Anti-Terrorism Law or Anti-Corruption Law, or has knowledge of facts or circumstances to the effect that it is reasonably likely that any aspect of its operations represents a violation of any Anti-Terrorism Law or Anti-Corruption Law; or (b) any Covered Entity engages in a transaction that has caused or may cause the Lessor Parties or Agent to be in violation of any Anti-Terrorism Laws, including a Covered Entity's use of any proceeds of the Lessor Advances to fund any operations in, finance any investments or activities in, or, make any payments to, directly or indirectly, a Sanctioned Person or Sanctioned Jurisdiction.

"Reportable Event" shall mean a reportable event described in Section 4043 of ERISA and regulations thereunder with respect to a Plan, a Multiemployer Plan or a Multiple Employer Plan.

"Requested Funds" shall mean any funds requested by the Lessee or the Construction Agent, as applicable, in accordance with Section 5 of the Participation Agreement.

"Requesting Party" shall have the meaning given to such term in Section 26.3 of the Lease.

"Requisition" shall have the meaning given to such term in Section 4.2 of the Participation Agreement.

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

"Responsible Officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of any party contained in any Operative Agreement, the President, or any Vice President, Assistant Vice President, Trust Officer or other officer, who in the normal performance of his or her operational responsibility would have knowledge of such matters and the requirements with respect thereto.

"RVI Policy" shall mean, with respect to the Property, a residual value insurance policy in form and substance reasonably acceptable to the Lessor in an amount sufficient to enable the Lessor to achieve its desired accounting treatment.

"S&P" shall mean Standard & Poor's, a division of The McGraw Hill Companies Inc., and any successor thereto.

"Sale Date" shall have the meaning given to such term in Section 20.3(a) of the Lease.

"Sale Notice" shall mean a notice given to the Lessor in connection with the election by the Lessee of its Sale Option.

"Sale Option" shall have the meaning given to such term in Section 20.1 of the Lease.

"Sale Proceeds Shortfall" shall mean the amount by which the proceeds of a sale described in Section 21.1 of the Lease are less than the Limited Recourse Amount with respect to the Property if it has been determined that the Fair Market Sales Value of the Property at the expiration of the term of the Lease has been impaired by greater than ordinary wear and tear during such term.

"Same Day Funds" shall mean immediately available funds in Dollars.

"Sanctioned Country" shall mean a country subject to a sanctions program maintained under any Anti-Terrorism Law.

"Sanctioned Jurisdiction" shall mean any country, territory, or region that is the subject of sanctions administered by OFAC, the Canadian government or any other applicable governmental authority.

"Sanctioned Person" shall mean (a) a Person that is the subject of sanctions administered by OFAC or the U.S. Department of State ("State"), including by virtue of being (i) named on OFAC's list of "Specially Designated Nationals and Blocked Persons"; (ii) organized under the Laws of, ordinarily resident in, or physically located in a Sanctioned Jurisdiction; (iii) owned or controlled 50% or more in the aggregate, by one or more Persons that are the subject of sanctions administered by OFAC; (b) a Person that is the subject of sanctions maintained by the European Union ("E.U."), including by virtue of being named on the E.U.'s "Consolidated list of persons, groups and entities subject to E.U. financial sanctions" or other, similar lists; (c) a Person that is the subject of sanctions maintained by the United Kingdom ("U.K."), including by virtue of being named on the "Consolidated List Of Financial Sanctions Targets in the U.K." or other, similar lists; or (d) a Person that is the subject of sanctions imposed by any Official Body of a jurisdiction whose Laws apply to the Participation Agreement and the other Operative Agreements.

"Secured Parties" shall mean the Lessor Parties and the Agent, together with their successors and permitted assigns.

"Securities Act" shall mean the Securities Act of 1933, as amended, together with the rules and regulations promulgated thereunder.

"Security Documents" shall mean the collective reference to the Mortgage Instruments, (to the extent the Lease is construed as a security instrument) the Lease, the UCC Financing Statements and all other security documents granting a Lien on any asset or assets of any Person to secure the obligations and liabilities of the Lessee under any Operative Agreement or to secure any guarantee of any such obligations and liabilities.

"Seismic Report" shall mean the Seismic Risk Assessment Report dated October 18, 2017 prepared by Global Realty Services Group regarding Big Lots Industrial Project Located at the SWC of Navajo Road and Lafayette Road.

"Shares" shall have the meaning given to such term in Section 6.1(b) of the Participation Agreement.

"SOFR" shall mean, with respect to any day, the secured overnight financing rate published for such day by the SOFR Administrator on the SOFR Administrator's Website at approximately 2:30 p.m. on the next succeeding U.S. Government Securities Business Day.

"SOFR Administrator" shall mean the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website" shall mean the website of the Federal Reserve Bank of New York, currently at http://www.newyorkfed.org, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"SOFR Lessor Advance" shall mean a Lessor Advance bearing a Lessor Yield based on the Term SOFR Reference Rate.

"Soft Costs" shall mean (a) all costs which are ordinarily and reasonably incurred in relation to the acquisition, development, leasing, financing, installation, construction, improvement and testing of the Property other than Hard Costs, including Off-Site Construction Costs, Fees, legal fees, broker fees, upfront fees, fees of the Construction Consultant, fees and expenses related to appraisals, title examinations, title insurance, document recordation, documentary stamp Taxes, intangible Taxes, surveys, environmental site assessments, geotechnical soil investigations and similar costs and professional fees customarily associated with a real estate purchase and closing and (b) the settlement amounts described in Schedule XVII to the Participation Agreement.

"Solvent" and "Solvency" shall 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.

"Structuring Fee" shall have the meaning given to such term in Section 7.7 of the Participation Agreement.

"Subsidiary" of any Person at any time shall mean (a) any corporation or trust of which fifty percent (50%) or more (by number of shares or number of votes) of the outstanding capital stock or shares of beneficial interest normally entitled to vote for the election of one or more directors or trustees (regardless of any contingency which does or may suspend or dilute the voting rights) is at such time owned directly or indirectly by such Person or one or more of such Person's Subsidiaries, (b) any partnership of which such Person is a general partner or of which fifty percent (50%) or more of the partnership interests are at the time directly or indirectly owned by such Person or one or more of such Person's Subsidiaries, (c) any limited liability company of which such Person is a member or of which fifty percent (50%) or more of the limited liability company interests are at the time directly or indirectly owned by such Person or one or more of such Person's Subsidiaries or (d) any corporation, trust, partnership, limited liability company or other entity which is controlled or capable of being controlled by such Person or one or more of such Person's Subsidiaries.

"Subsidiary Shares" shall have the meaning given to such term in Section 6.1(c) of the Participation Agreement.

"Supplemental Rent" shall mean all amounts, liabilities and obligations (other than Basic Rent) which the Lessee assumes or agrees to pay to any Lessor Party, the Agent or any other Person under the Lease or under any of the other Operative Agreements including payments of the Termination Value and the Maximum Residual Guarantee Amount and all indemnification amounts, liabilities and obligations.

"Synthetic Lease Documents" shall have the meaning given to such term in Section 8.3B(q) of the Participation Agreement.

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

"Tax Loss" shall have the meaning given to such term in Section 11.2(g) of the Participation Agreement.

"Taxes" shall have the meaning given to such term in the definition of "Impositions".

"Term" shall mean the Basic Term and each Renewal Term, if any.

"Term SOFR" shall mean the Term SOFR Reference Rate for a tenor of one month on the applicable Lessor Yield Determination Date, as such rate is published by the Term SOFR Administrator; provided, however, that (i) if as of 5:00 p.m. (New York City time) on any Lessor Yield Determination Date the Term SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator and a Benchmark Replacement Date with respect to the Term SOFR Reference Rate has not occurred, then Term SOFR will be the Term SOFR Reference Rate for such tenor as published by the Term SOFR Administrator on the first preceding U.S. Government Securities Business Day for which such Term SOFR Reference Rate for such tenor was published by the Term SOFR Administrator so long as such first preceding U.S. Government Securities Business Day is not more than three (3) U.S. Government Securities Business Days prior to such Lessor Yield Determination Date and (ii) if the calculation of Term SOFR as determined as provided above (including pursuant to clause (i) of this proviso) results in a Term SOFR rate

of less than zero (0), Term SOFR shall be deemed to be zero (0) for all purposes of this Agreement and the other Operative Agreements.

"Term SOFR Administrator" shall mean the CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the Term SOFR Reference Rate selected by the Agent in its reasonable discretion).

"Term SOFR Reference Rate" shall mean the forward-looking term rate based on SOFR.

"Termination Date" shall have the meaning given to such term in Section 16.2(a) of the Lease.

"Termination Notice" shall have the meaning given to such term in Section 16.1 of the Lease.

"Termination Value" shall mean the sum of (a) an amount equal to the aggregate outstanding Property Cost for the Property, as of the last occurring Payment Date, plus (b) any and all accrued but unpaid Lessor Yield on the Lessor Advances, plus (c) to the extent the same is not duplicative of the amounts payable under clause (b) above, all other Rent and other amounts then due and payable or accrued under the Agency Agreement, the Lease and/or under any other Operative Agreement (including amounts under Sections 11.1 through 11.9 of the Participation Agreement and all costs and expenses incurred by any Lessor Party and/or the Agent in connection with the transfer or sale of the Property to any Person (regardless of whether any such transfer or sale actually occurs)).

"Transaction Expenses" shall mean all Soft Costs and all other costs and expenses incurred or expended by the Construction Agent, the Lessee or any Financing Party in connection with the preparation, execution and delivery of the Operative Agreements and the transactions contemplated by the Operative Agreements including all costs, fees, expenses and other amounts described in Section 7 of the Participation Agreement, all reasonable costs and expenses incurred by any Lessor Party in connection with any designation of a new lending office or assignment by a Lessor Party to another of its offices, branches or affiliates, in each case, pursuant to Section 5A.7(a) the assignment fee payable to the Agent and any other fees or amounts (excluding advance amounts, Lessor Yield and Fees) incurred by a Lessor Party pursuant to Section 5A.7(b) and (except to the extent payable and actually paid by the Construction Agent or the Lessee pursuant to Section 11.6 of the Participation Agreement) all indemnity amounts, breakage amounts, costs, fees, expenses and other amounts arising pursuant to Section 11 of the Participation Agreement and the following:

(a) the reasonable fees, out-of-pocket expenses and disbursements of counsel in negotiating the terms of the Operative Agreements and the other transaction documents, preparing for the closings under, and rendering opinions in connection with, such transactions and in rendering other services customary for counsel representing parties to transactions of the types involved in the transactions contemplated by the Operative Agreements;

(b) the reasonable fees, out-of-pocket expenses and disbursements of accountants for any Credit Party in connection with the transactions contemplated by the Operative Agreements;

(c) any and all other reasonable fees, charges or other amounts payable to the Agent or any broker which arises under any of the Operative Agreements;

(d) any other reasonable fee, out-of-pocket expenses, disbursement or cost of any party to the Operative Agreements or any of the other transaction documents; and

(e) any and all Taxes and fees incurred in recording or filing any Operative Agreement or any other transaction document, any deed, declaration, mortgage, security agreement, notice or financing statement with any public office, registry or governmental agency in connection with the transactions contemplated by the Operative Agreement.

Notwithstanding the foregoing or any provision in Section 7.1 of the Participation Agreement or in any other Operative Agreement to the contrary, "Transaction Expenses" shall not include legal fees and other professional fees or similar costs and expenses expended by any transferee or assignee of any Lease Participant as of the Initial Closing Date.

"Tribunal" shall mean any state, commonwealth, federal, foreign, territorial, or other court or government body, subdivision agency, department, commission, board, bureau or instrumentality of a governmental body.

"Trust Property" shall mean the collateral identified in the Security Documents.

"U.S. Government Securities Business Day" shall mean any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association, or any successor thereto, recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

"U.S. Person" shall have the meaning given to such term in Section 11.2(e) of the Participation Agreement.

"U.S. Taxes" shall have the meaning given to such term in Section 11.2(e) of the Participation Agreement.

"UCC Financing Statements" shall mean UCC financing statements and fixture filings appropriately completed for filing in the applicable jurisdictions in order to procure a security interest in the Property against the Lessee, as debtor, in favor of the Lessor, as secured party, and thereafter assigned to the Agent, respecting any of the Security Documents.

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

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

"Unadjusted Benchmark Replacement" shall mean the applicable Benchmark Replacement excluding the related Benchmark Replacement Adjustment.

"Unanimous Vote Matters" shall have the meaning given to such term in Section 12.4 of the Participation Agreement.

"Uniform Commercial Code" and "UCC" shall mean the Uniform Commercial Code as from time to time in effect in the applicable jurisdiction or jurisdictions.

"Uninsured Force Majeure Loss" shall mean an amount equal to the Force Majeure Loss less any and all insurance proceeds paid in connection with the Force Majeure Event giving rise to such Force Majeure Loss.

"United States" shall mean the United States of America.

"United States Bankruptcy Code" shall mean the Bankruptcy Code.

"USA Patriot Act" shall mean the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, as the same has been, or shall hereafter be, renewed, extended, amended or replaced.

"Water Utility Easement" shall have the meaning given to such term in Section 8.5 of the Participation Agreement.

"Wholly-Owned Entity" shall mean a Person all of the shares of capital stock or other ownership interest of which are owned by the Parent and/or one of its wholly-owned Subsidiaries or other wholly- owned entities.

"Withholdings" shall have the meaning given to such term in Section 11.2(e) of the Participation Agreement.

"Work" shall mean the furnishing of labor, materials, components, furniture, furnishings, fixtures, appliances, machinery, equipment, tools, power, water, fuel, lubricants, supplies, goods and/or services with respect to the Property.

"Write-Down and Conversion Powers" shall mean (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

"Yield Protection Amount" shall have the meaning given to such term in Section 11.3 of the Participation Agreement.

EXHIBIT 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Bruce K. Thorn, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Big Lots, Inc.;

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(s) 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(s) 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 the 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.

Dated: December 7, 2022

By: /s/ Bruce K. Thorn

Bruce K. Thorn
President and Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO SECTION 302 OF THE SARBANES-OXLEY ACT OF 2002

I, Jonathan E. Ramsden, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Big Lots, Inc.;

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(s) 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(s) 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 the 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.

Dated: December 7, 2022

By: /s/ Jonathan E. Ramsden
Jonathan E. Ramsden
Executive Vice President, Chief Financial and Administrative Officer
(Principal Financial Officer)

EXHIBIT 32.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

This certification is provided pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and accompanies the quarterly report on Form 10-Q (the "Report") for the quarter ended July 30, 2022, of Big Lots, Inc. (the "Company"). I, Bruce K. Thorn, President and Chief Executive Officer of the Company, certify that:

(i) the Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: December 7, 2022

By: /s/ Bruce K. Thorn

Bruce K. Thorn
President and Chief Executive Officer
(Principal Executive Officer)

EXHIBIT 32.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER
PURSUANT TO SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

This certification is provided pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, and accompanies the quarterly report on Form 10-Q (the "Report") for the quarter ended July 30, 2022, of Big Lots, Inc. (the "Company"). I, Jonathan E. Ramsden, Executive Vice President, Chief Financial and Administrative Officer of the Company, certify that:

(i) the Report fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)); and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: December 7, 2022

By: /s/ Jonathan E. Ramsden

Jonathan E. Ramsden
Executive Vice President, Chief Financial and Administrative Officer
(Principal Financial Officer)