SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 8-K

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

Date of Report (Date of the earliest event reported): June 8, 2023

Bread Financial Holdings, Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware	**001-15749**	**31-1429215**
(State or Other Jurisdiction of Incorporation or Organization)	**(Commission File Number)**	**(I.R.S. Employer Identification Number)**

3095 Loyalty Circle
Columbus, Ohio 43219
(Address and Zip Code of Principal Executive Offices)

(614) 729-4000
(Registrant's telephone number, including area code)

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

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

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

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

Title of each class	**Trading Symbol(s)**	**Name of each exchange on which registered**
Common Shares, par value $0.01 per share	**BFH**	**NYSE**

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

Emerging growth company ☐

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

Item 1.01 Entry into a Material Definitive Agreement.

Purchase Agreement, Indenture and Notes

On June 13, 2023, Bread Financial Holdings, Inc. (the "Company") closed its previously announced offering of $316.25 million aggregate principal amount of 4.25% Convertible Senior Notes due 2028 (the "Notes"). The Notes were issued pursuant to an indenture (the "Indenture") dated as of June 13, 2023 among the Company, certain of the Company's domestic subsidiaries as guarantors and U.S. Bank Trust Company, National Association, as trustee (the "Trustee").

In connection therewith, on June 8, 2023, the Company entered into a purchase agreement (the "Purchase Agreement") with certain initial purchasers (the "Initial Purchasers") agreeing, subject to customary conditions, to issue and sell $275 million aggregate principal amount of Notes to the Initial Purchasers. Pursuant to the Purchase Agreement, the Company also granted the Initial Purchasers an option to purchase, for settlement within a period of 13 days beginning on, and including, June 13, 2023, up to an additional $41.25 million aggregate principal amount of Notes. On June 12, 2023, the Initial Purchasers informed the Company that they were exercising their option to purchase the additional $41.25 million aggregate principal amount of Notes. The Notes issued on June 13, 2023 include $41.25 million aggregate principal amount of Notes issued pursuant to the full exercise by the Initial Purchasers of such option.

After deducting the Initial Purchasers' discounts and our estimated offering expenses, the net proceeds to the Company from the offering of the Notes are estimated to be approximately $305.5 million. After payment of the cost of entering into the capped call transactions described below, the Company intends to use the remainder of the net proceeds from the Notes offering to repay in part the outstanding loans under the Company's existing credit agreement, by and among the Company as borrower, certain of the Company's subsidiaries as guarantors, the banks party thereto and Wells Fargo Bank, N.A. as administrative agent, dated June 14, 2017, as amended, supplemented or otherwise modified from time to time (the "Existing Credit Agreement").

The Notes will be the Company's senior, unsecured obligations and will be (i) equal in right of payment to the rights of creditors under the Company's other existing and future senior, unsecured indebtedness (including indebtedness under the Existing Credit Agreement, the New Credit Agreement (as defined below), the 4.750% Senior Notes due 2024 and the 7.000% Senior Notes due 2026); (ii) senior in right of payment to the rights of creditors under the Company's existing and future indebtedness expressly subordinated to the Notes; (iii) effectively subordinated to any future secured indebtedness, to the extent of the value of the collateral securing that indebtedness; and (iv) structurally subordinated to all existing and future indebtedness and other liabilities, including trade payables but excluding intercompany obligations and liabilities of a type not required to be reflected on a balance sheet in accordance with GAAP, and (to the extent the Company is not a holder thereof) preferred equity, if any, of the Company's non-guarantor subsidiaries, including Comenity Bank, Comenity Capital Bank and the Company's variable interest entities (VIEs) and (v) senior in right of payment under any of the Company's Series A Non-Voting Preferred Stock with respect to rights of creditors upon liquidation, winding up and dissolution. On the issue date, the Notes will be guaranteed by each of the Company's domestic subsidiaries that guarantees the Company's obligations under its existing 4.750% Senior Notes due 2024, 7.000% Senior Notes due 2026, the Existing Credit Agreement and the New Credit Agreement. After the issue date, any wholly owned domestic subsidiaries of the Company that guarantees, or becomes issuer, co-issuer or co-obligor (as applicable) of, any "Covered Debt Securities" (as defined in the Indenture) will become a subsidiary guarantor under the Indenture.

The Notes will accrue interest at a rate of 4.25% per annum, payable semi-annually in arrears on June 15 and December 15 of each year, beginning on December 15, 2023. The Notes will mature on June 15, 2028, unless earlier repurchased, redeemed or converted. Holders may surrender their Notes, in integral multiples of $1,000 principal amount, for conversion into cash and, if applicable, shares of the Company's common stock, prior to the close of business on the second scheduled trading day immediately preceding the maturity date based on the applicable conversion rate and only under certain circumstances specified within the Indenture. Upon surrender of Notes for conversion, the Company will pay cash up to the aggregate principal amount of the Notes to be converted and pay or deliver, as the case may be, cash, shares of the Company's common stock or a combination of cash and shares of the Company's common stock at the Company's election, in respect of the remainder, if any, of the Company's conversion obligation in excess of the aggregate principal amount of the Notes being converted. The initial conversion rate for the Notes is 26.0247 shares of the Company's common stock per $1,000 principal amount of Notes (equivalent to an initial conversion price of approximately $38.43 per share of the Company's common stock), subject to adjustment as provided in the Indenture. Holders will not receive any cash payment or, if applicable, additional shares representing accrued and unpaid interest upon conversion of a Note, except in limited circumstances. Instead, interest will be deemed paid by the cash and, if applicable, shares of the Company's common stock paid or delivered, as the case may be, to holders upon conversion.

The Notes will be redeemable for cash in whole or in part (subject to the "Partial Redemption Limitation" (as defined in the Indenture)), at the Company's option, on a redemption date occurring on or after June 21, 2026 and before the 51st scheduled trading day before the maturity date, but only if the closing price per share of the Company's common stock equals or exceeds 130% of the conversion price for each of at least 20 trading days, whether or not consecutive, including the trading day immediately before the date the Company sends the related redemption notice, during the 30 consecutive trading days ending on, and including, the trading day immediately before the date the Company sends such notice.

If certain corporate events that constitute a "Fundamental Change" (as defined in the Indenture) occur, then noteholders may require the Company to repurchase all or a portion of their Notes at a cash repurchase price equal to 100% of the principal amount of the Notes to be repurchased plus accrued and unpaid interest, if any, to, but excluding, the Fundamental Change repurchase date. The definition of Fundamental Change includes certain business combination transactions involving the Company and certain de-listing events with respect to the Company's common stock.

If certain corporate events that constitute a "Make-Whole Fundamental Change" (as defined in the Indenture) occur or if the Company delivers a notice of redemption, the Company will, in certain circumstances, increase the conversion rate applicable to Notes that are converted in connection with such Make-Whole Fundamental Change or Notes that are called (or deemed called as provide in the Indenture) for redemption and converted in connection with such notice of redemption.

If an "Event of Default" (as defined in the Indenture) (other than specified events of bankruptcy, insolvency or reorganization of the Company (and not solely with respect to a "Significant Subsidiary" of the Company or any group of "Guarantors" that, taken together, would constitute a "Significant Subsidiary" (each such term as defined in the Indenture))) occurs and is continuing, the trustee or the holders of at least 25% in principal amount of the outstanding Notes may declare the principal and accrued and unpaid interest on all the outstanding Notes to be immediately due and payable. If an event of default relating to specified events of bankruptcy, insolvency or reorganization involving the Company (and not solely with respect to a Significant Subsidiary or any group of Guarantors that, taken together, would constitute a Significant Subsidiary) occurs, the principal and accrued and unpaid interest on all the outstanding Notes will automatically become immediately due and payable without further action or notice by any person.

With the exception of covenants restricting the Company's ability to merge, consolidate or sell all or substantially all of the Company's assets, the Indenture does not provide for restrictive covenants.

The above descriptions of the Purchase Agreement, the Indenture and the Notes are summaries and are not complete, and are qualified in their entirety by reference to the full and complete text of the Purchase Agreement, the Indenture and the Form of Note, a copy each of which is attached as Exhibits 10.1, 4.1 and 4.2, respectively, to this Current Report on Form 8-K and incorporated by reference herein.

Capped Call Transactions

On June 8, 2023, in connection with the pricing of the Notes, the Company entered into privately negotiated capped call transactions (the "Base Capped Call Transactions") with certain of the Initial Purchasers or their affiliates and other financial institutions (the "Option Counterparties"). In addition, on June 12, 2023, in connection with the Initial Purchasers' exercise of their option to purchase additional Notes, the Company entered into additional capped call transactions (the "Additional Capped Call Transactions," and, together with the Base Capped Call Transactions, the "Capped Call Transactions") with each of the Option Counterparties. The Capped Call Transactions cover, subject to customary anti-dilution adjustments, the aggregate number of shares of the Company's common stock that initially underlie the Notes, and are expected generally to reduce potential dilution to the Company's common stock upon any conversion of Notes and/or offset any cash payments the Company is required to make in excess of the principal amount of converted Notes, as the case may be, with such reduction and/or offset subject to a cap, based on the cap price of the Capped Call Transactions. The cap price of the Capped Call Transactions is initially $61.48, which represents a premium of 100% over the last reported sale price of the Company's common stock on June 8, 2023. The cost of the Capped Call Transactions was approximately $39.2 million, which was paid to the Option Counterparties on June 13, 2023 in connection with the closing of the offering of Notes.

The Capped Call Transactions are separate transactions, each between the Company and the applicable Option Counterparty, and are not part of the terms of the Notes and will not affect any holder's rights under the Notes or the Indenture. Holders of the Notes will not have any rights with respect to the Capped Call Transactions.

The above description of the Capped Call Transactions is a summary and is not complete, and is qualified in its entirety by reference to the full and complete text of the Form of Capped Call Confirmation, a copy of which is attached as Exhibit 99.1 to this Current Report on Form 8-K and incorporated herein by reference.

Credit Agreement

On June 13, 2023, upon closing of the Notes Offering and the repayment of all outstanding borrowings and termination of all commitments under the Existing Credit Agreement, the commitments under the Company's previously announced credit agreement, dated as of June 7, 2023, with certain of its subsidiaries, as guarantors, JPMorgan Chase Bank, N.A, as administrative agent, and other financial institutions as lenders (the "New Credit Agreement") became available to be borrowed, subject to customary borrowing conditions applicable to the borrowings thereunder. A description of the New Credit Agreement was included in Item 1.01 to the Company's Current Report on Form 8-K, filed on June 8, 2023, and is incorporated herein by reference.

Following the closing of the Notes Offering, all outstanding borrowings under the Existing Credit Agreement have been repaid and all commitments thereunder have been terminated.

The above description of the New Credit Agreement is a summary and is not complete, and is qualified in its entirety by reference to the full and complete text of the New Credit Agreement, a copy of which is attached as Exhibit 10.2 to this Current Report on Form 8-K and incorporated herein by reference.

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

The information in Item 1.01 "Entry into a Material Definitive Agreement" is incorporated by reference into this Item 2.03.

Item 3.02 Unregistered Sales of Equity Securities

The information set forth under Item 1.01 is incorporated into this Item 3.02 by reference. The Notes were issued to the Initial Purchasers in reliance on Section 4(a)(2) under the Securities Act of 1933, as amended (the "Securities Act") in transactions not involving any public offering, and the Initial Purchasers resold the Notes in reliance upon Rule 144A under the Securities Act to persons reasonably believed to be "qualified institutional buyers," as defined therein. Any shares of the Company's common stock that may be issued upon conversion of the Notes will be issued in reliance upon Section 3(a)(9) of the Securities Act as involving an exchange by the Company exclusively with its security holders. Initially, a maximum of 10,287,897 shares of the Company's common stock may be issued upon conversion of the Notes, based on the initial maximum conversion rate of 32.5309 shares of common stock per $1,000 principal amount of Notes, which is subject to customary anti-dilution adjustment provisions.

Item 8.01 Other Events.

On June 8, 2023, the Company issued a press release announcing that it had priced its private offering of Notes. A copy of this press release is filed as Exhibit 99.2 to this Current Report on Form 8-K and incorporated herein by reference.

Forward Looking Statements

Certain statements in this Current Report on Form 8-K may constitute “forward-looking statements” within the meaning of Section 27A of the Securities Act and Section 21E of the Securities Exchange Act of 1934, as amended. Forward-looking statements give the Company’s expectations or forecasts of future events and can generally be identified by the use of words such as “believe,” “expect,” “anticipate,” “estimate,” “intend,” “project,” “plan,” “likely,” “may,” “should” or other words or phrases of similar import. Similarly, statements that describe its business strategy, outlook, objectives, plans, intentions or goals also are forward-looking statements. Examples of forward-looking statements include, but are not limited to, statements the Company makes regarding, and the guidance it gives with respect to, the Company’s anticipated operating or financial results, future financial performance and outlook, future dividend declarations and future economic conditions.

The Company believes that its expectations are based on reasonable assumptions. Forward-looking statements, however, are subject to a number of risks and uncertainties that are difficult to predict and, in many cases, beyond the Company’s control. Accordingly, its actual results could differ materially from the projections, anticipated results or other expectations expressed in this communication, and no assurances can be given that the Company’s expectations will prove to have been correct. Factors that could cause the outcomes to differ materially include, but are not limited to, the following: macroeconomic conditions, including market conditions, inflation, rising interest rates, unemployment levels and the increased probability of a recession or prolonged economic slowdown, and the related impact on consumer spending behavior, payments, debt levels, savings rates and other behavior; global political, market, public health and social events or conditions, including the ongoing war in Ukraine and the continuing effects of the COVID-19 pandemic; future credit performance of the Company’s customers, including the level of future delinquency and write-off rates; loss of, or reduction in demand for services from, significant brand partners or customers in the highly competitive markets in which the Company competes; the concentration of the Company’s business in U.S. consumer credit; increases or volatility in the Allowance for credit losses that may result from the application of the current expected credit loss (CECL) model; inaccuracies in the models and estimates on which the Company rely, including the amount of its Allowance for credit losses and its credit risk management models; increases in fraudulent activity; failure to identify, complete or successfully integrate or disaggregate business acquisitions, divestitures and other strategic initiatives, including failure to realize the intended benefits of the spinoff of the Company’s former LoyaltyOne segment; the extent to which the Company’s results are dependent upon its brand partners, including its brand partners’ financial performance and reputation, as well as the effective promotion and support of its products by brand partners; continued financial responsibility with respect to a divested business, including required equity ownership, guarantees, indemnities or other financial obligations; increases in the cost of doing business, including market interest rates; the Company’s level of indebtedness and inability to access financial or capital markets, including asset-backed securitization funding or deposits markets; restrictions that limit the ability of the Company’s subsidiary banks, Comenity Bank and Comenity Capital Bank (the “Banks”), to pay dividends to us; pending and future litigation; pending and future legislation, regulation, supervisory guidance and regulatory and legal actions including, but not limited to, those related to financial regulatory reform and consumer financial services practices, as well as any such actions with respect to late fees, interchange fees or other charges; increases in regulatory capital requirements or other support for the Banks; impacts arising from or relating to the transition of the Company’s credit card processing services to third party service providers that it completed in 2022; failures or breaches in the Company’s operational or security systems, including as a result of cyberattacks, unanticipated impacts from technology modernization projects or otherwise; loss of consumer information due to compromised physical or cyber security; any tax liability, disputes or other adverse impacts arising out of or related to the spinoff of the Company’s former LoyaltyOne segment or the recent bankruptcy filings of Loyalty Ventures Inc. and certain of its subsidiaries; and those factors identified in the Company’s filings with the SEC, including in the “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” sections of its Annual Report on Form 10-K for the year ended December 31, 2022 and its Quarterly Report on Form 10-Q for the quarter ended March 31, 2023.

If one or more of these or other risks or uncertainties materialize, or if the Company’s underlying assumptions prove to be incorrect, actual results may vary materially from what is projected. Further risks and uncertainties include, but are not limited to, the impact of strategic initiatives on the Company or its business if any transactions are undertaken, and whether the anticipated benefits of such transactions can be realized.

Any forward-looking statements contained in this report speak only as of the date made, and the Company undertakes no obligation, other than as required by applicable law, to update or revise any forward-looking statements, whether as a result of new information, subsequent events, anticipated or unanticipated circumstances or otherwise.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

Exhibit Number	Description
4.1	Indenture, dated as of June 13, 2023, among Bread Financial Holdings, Inc., the subsidiary guarantors party thereto and U.S. Bank Trust Company, National Association.
4.2	Form of 4.25% Convertible Senior Note due 2028 (included in Exhibit 4.1).
10.1	Purchase Agreement, dated June 8, 2023, among Bread Financial Holdings, Inc., the subsidiary guarantors party thereto and J.P. Morgan Securities LLC.
10.2	Credit Agreement, dated as of June 7, 2023, among Bread Financial Holdings, Inc., the subsidiary guarantors party thereto, JPMorgan Chase Bank, N.A, as administrative agent, and other financial institutions as lenders.
99.1	Form of Capped Call Confirmation.
99.2	Press release announcing the pricing of the convertible notes offering, dated June 8, 2023.
104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

Signatures

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

BREAD FINANCIAL HOLDINGS, INC.

By: /s/ Joseph L. Motes III
Name: Joseph L. Motes III
Title: Executive Vice President, Chief Administrative Officer, General Counsel and Secretary

Date: June 13, 2023

Exhibit 4.1

BREAD FINANCIAL HOLDINGS, INC.,

THE GUARANTOR PARTIES HERETO

AND

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION,

as Trustee

INDENTURE

Dated as of June 13, 2023

4.25% Convertible Senior Notes due 2028

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ARTICLE 13

CONVERSION OF NOTES

EXHIBIT

INDENTURE dated as of June 13, 2023 among Bread Financial Holdings, Inc., a Delaware corporation, as issuer (the "**Company**," as more fully set forth in Section 1.01), the Guarantors from time to time party hereto, and U.S. Bank Trust Company, National Association, a national banking association, as trustee (the "**Trustee**," as more fully set forth in Section 1.01).

W I T N E S S E T H:

WHEREAS the Company has duly authorized the issuance of its 4.25% Convertible Senior Notes due 2028 (the "**Notes**"), initially in an aggregate principal amount not to exceed $316,250,000, and in order to provide the terms and conditions upon which the Notes are to be authenticated, issued and delivered, the Company has duly authorized the execution and delivery of this Indenture; and

WHEREAS, the Form of Note, the certificate of authentication to be borne by each Note, the Form of Notice of Conversion, the Form of Fundamental Change Repurchase Notice and the Form of Assignment and Transfer to be borne by the Notes are to be substantially in the forms hereinafter provided.

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

That in order to declare the terms and conditions upon which the Notes are, and are to be, authenticated, issued and delivered, and in consideration of the premises and of the purchase and acceptance of the Notes by the Holders thereof, the Company covenants and agrees with the Trustee for the equal and proportionate benefit of the respective Holders from time to time of the Notes (except as otherwise provided below), as follows:

ARTICLE 1
DEFINITIONS

Section 1.01 Definitions. The terms defined in this Section 1.01 (except as herein otherwise expressly provided or unless the context otherwise requires) for all purposes of this Indenture and of any indenture supplemental hereto shall have the respective meanings specified in this Section 1.01. The words "herein," "hereof," "hereunder" and words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision. The terms defined in this Article include the plural as well as the singular.

"**Additional Interest**" means all amounts, if any, payable pursuant to Section 4.06(d), Section 4.06(e) and Section 6.03, as applicable.

"**Additional Shares**" shall have the meaning specified in Section 13.03(a).

"**Affiliate**" of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For the purposes of this definition, "control," when used with respect to any specified Person means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"**Applicable Law**" shall have the meaning specified in Section 16.17.

"**Bid Solicitation Agent**" means the Person appointed by the Company to solicit bids for the Trading Price of the Notes in accordance with Section 13.01(b)(i). The Company shall initially act as the Bid Solicitation Agent, although the Company may, from time to time, change the Bid Solicitation Agent without prior notice to the Holders.

"**Board of Directors**" means the board of directors of the Company or a committee of such board duly authorized to act for it hereunder, or with respect to the relevant corporate action or determination, as the case may be.

"**Board Resolution**" means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors, and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"**Business Combination Event**" shall have the meaning specified in Section 11.01.

"**Business Day**" means any day other than a Saturday or Sunday, that is neither a legal holiday nor a day on which commercial banks are authorized or required by law, regulation or executive order to close in The City of New York.

"**Capital Stock**" means, for any entity, any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) stock issued by that entity.

"**Cash Settlement**" shall have the meaning specified in Section 13.02(a).

"**Clause A Distribution**" shall have the meaning specified in Section 13.04(c).

"**Clause B Distribution**" shall have the meaning specified in Section 13.04(c).

"**Clause C Distribution**" shall have the meaning specified in Section 13.04(c).

The term "**close of business**" means 5:00 p.m., New York City time.

"**Closing Price**" means, with respect to the Common Stock or any other security for which a Closing Price is to be determined, on any date, the closing sale price per share (or if no closing sale price is reported, the average of the bid and asked prices or, if more than one in either case, the average of the average bid and the average asked prices) on that date as reported for composite transactions by The New York Stock Exchange or, if the Common Stock or such other security, as the case may be, is not then listed on The New York Stock Exchange, as reported for composite transactions by the principal United States national or regional securities exchange on which the Common Stock or such other security is traded. The Closing Price will be determined without reference to after-hours or extended market trading. If the Common Stock or such other security is not listed for trading on a United States national or regional securities exchange on the relevant date, the "**Closing Price**" shall be the last quoted bid price for the Common Stock or such other security in the over-the-counter market on the relevant date as reported by OTC Markets Group Inc. or a similar organization. If the Common Stock or such other security is not so quoted, the "**Closing Price**" shall be the average of the mid-point of the last bid and asked prices for the Common Stock or such other security on the relevant date from an independent nationally recognized investment banking firm selected by the Company for this purpose (which may be one of the Initial Purchasers or their Affiliates). Any such determination shall be conclusive absent manifest error.

"**Combination Settlement**" shall have the meaning specified in Section 13.02(a).

"**Commission**" means the U.S. Securities and Exchange Commission.

"**Common Equity**" of any Person means Capital Stock of such Person that is generally entitled (a) to vote in the election of directors of such Person or (b) if such Person is not a corporation, to vote or otherwise participate in the selection of the governing body, partners, managers or others that will control the management or policies of such Person.

"**Common Stock**" means the common stock of the Company, par value $0.01 per share, at the date of this Indenture, subject to Section 13.07.

"**Company**" shall have the meaning specified in the first paragraph of this Indenture, and subject to the provisions of Article 11, shall include its successors and assigns.

"**Company Order**" means a written order of the Company, signed by any of its Officers and delivered to the Trustee.

"**Conversion Agent**" shall have the meaning specified in Section 4.02.

"**Conversion Consideration**" shall have the meaning specified in Section 13.10.

"**Conversion Date**" shall have the meaning specified in Section 13.02(c).

"**Conversion Obligation**" shall have the meaning specified in Section 13.01(a).

"**Conversion Price**" means as of any time, $1,000, *divided by* the Conversion Rate as of such time.

"**Conversion Rate**" shall have the meaning specified in Section 13.01(a). Whenever the Conversion Rate as of a particular date is referred to herein without setting forth a particular time on such date, such reference will be deemed to be to the Conversion Rate immediately after the close of business on such date.

"**Conversion Reference Period**" with respect to any Note surrendered for conversion means: (i) subject to clause (ii), if the relevant Conversion Date occurs prior to March 15, 2028, the 50 consecutive VWAP Trading Day period beginning on, and including, the second VWAP Trading Day immediately succeeding such Conversion Date; (ii) if the relevant Conversion Date occurs on or after the date of the Company's issuance of a Redemption Notice pursuant to Section 15.02 and on or prior to the second Business Day immediately preceding the relevant Redemption Date, the 50 consecutive VWAP Trading Days beginning on, and including, the 51st Scheduled Trading Day immediately preceding such Redemption Date; and (iii) subject to clause (ii), if the relevant Conversion Date occurs on or after March 15, 2028, the 50 consecutive VWAP Trading Days beginning on, and including, the 51st Scheduled Trading Day immediately preceding the Maturity Date.

"**Corporate Event**" shall have the meaning specified in Section 13.01(b)(iii).

"**Corporate Trust Office**" means the designated office of the Trustee at which at any time the Indenture shall be administered, which office at the date hereof is located at U.S. Bank Trust Company, National Association, 13737 Noel Road, Suite 800, Dallas, Texas 75240, Attention: M. Herberger [Bread Financial Holdings, Inc.], or such other address in the continental United States as the Trustee may designate from time to time by notice to the Holders and the Company, or the principal corporate trust office of any successor trustee (or such other address as such successor trustee may designate from time to time by notice to the Holders and the Company).

"**Covered Debt Securities**" means (A) the Company's 4.750% Senior Notes due 2024, (B) the Company's 7.000% Senior Notes due 2026; (C) the Company's Amended and Restated Credit Agreement, by and among the Company as borrower, certain of the Company's Subsidiaries as Guarantors, the banks party thereto and Wells Fargo Bank, N.A. as administrative agent, dated June 14, 2017, as amended, supplemented or otherwise modified from time to time; (D) any series of debt securities issued by the Company in the form of senior unsecured notes or convertible or exchangeable notes (other than the Notes); and (E) one or more credit facilities with banks or other lenders providing for revolving loans or term loans or the issuance of letters of credit or bankers' acceptances or the like (other than the Notes); *provided* that, in the case of clauses (D) and (E), the aggregate principal amount of such series or amount outstanding under such facility, as applicable, shall not be less than $25 million.

"**Custodian**" means the Trustee, as custodian for The Depository Trust Company, with respect to the Global Notes, or any successor entity thereto.

"**Daily Conversion Value**" means, for each of the 50 consecutive VWAP Trading Days during the Conversion Reference Period, one-fiftieth (1/50th) of the product of (a) the Conversion Rate on such VWAP Trading Day and (b) the Daily VWAP for such VWAP Trading Day.

"**Daily Measurement Value**" means the Specified Dollar Amount (if any), *divided by* 50.

"**Daily Settlement Amount**," for each of the 50 consecutive VWAP Trading Days during the Conversion Reference Period, shall consist of:

(a) cash in an amount equal to the lesser of (i) the Daily Measurement Value and (ii) the Daily Conversion Value on such VWAP Trading Day; and

(b) if such Daily Conversion Value on such VWAP Trading Day exceeds the Daily Measurement Value, a number of shares of Common Stock equal to (i) the difference between such Daily Conversion Value and the Daily Measurement Value, *divided by* (ii) the Daily VWAP for such VWAP Trading Day.

"**Daily VWAP**" means, for each of the 50 consecutive VWAP Trading Days during the relevant Conversion Reference Period, the per share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "BFH <equity> AQR" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading of the primary trading session on such VWAP Trading Day (or if such volume-weighted average price is unavailable, the market value of one share of the Common Stock on such VWAP Trading Day determined, using a volume-weighted average method, by a nationally recognized independent investment banking firm retained for this purpose (which may be one of the Initial Purchasers or their Affiliates) by the Company). The "**Daily VWAP**" shall be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.

"**De-Legending Deadline Date**" means, with respect to any Note, the 15th day after the Free Trade Date of such Note; *provided, however*, that if such 15th day is after a Regular Record Date and on or before the fifth Business Day immediately after the next Interest Payment Date, then the De-Legending Deadline Date for such Note will instead be the fifth Business Day immediately after such Interest Payment Date.

"**Default**" means any event that is, or after notice or passage of time, or both, would be, an Event of Default.

"**Default Settlement Method**" means, initially, Combination Settlement with a Specified Dollar Amount of $1,000 per $1,000 principal amount of Notes; *provided*, *however*, that the Company may, from time to time, change the Default Settlement Method to any Settlement Method that the Company is then permitted to elect, by sending notice of the new Default Settlement Method to the Holders prior to March 15, 2028 as provided in the final paragraph of Section 13.02(a)(iii).

"**Defaulted Amounts**" means any amounts on any Note (including, without limitation, the Redemption Price, the Fundamental Change Repurchase Price, principal and interest) that are payable but are not punctually paid or duly provided for.

"**Deferral Exception**" shall have the meaning specified in Section 13.04(k).

"**Depositary**" means, with respect to each Global Note, the Person specified in Section 2.05(c) as the Depositary with respect to such Notes, until a successor shall have been appointed and become such pursuant to the applicable provisions of this Indenture, and thereafter, "**Depositary**" shall mean or include such successor.

"**Designated Financial Institution**" means shall have the meaning specified in Section 13.10.

"**Distributed Property**" shall have the meaning specified in Section 13.04(c).

"**Dividend Threshold**" shall have the meaning specified in Section 13.04(d).

"**Effective Date**" shall have the meaning specified in Section 13.03(c), except that, as used in Section 13.04 and Section 13.05, "**Effective Date**" means the first date on which shares of the Common Stock trade on the applicable exchange or in the applicable market, regular way, reflecting the relevant share split or share combination, as applicable.

"**Event of Default**" shall have the meaning specified in Section 6.01.

"**Ex-Dividend Date**" means the first date upon which a sale of the Common Stock does not automatically transfer the right to receive the relevant dividend or distribution from the seller of the Common Stock, regular way on the relevant exchange or in the relevant market for the Common Stock, to its buyer (in the form of due bills or otherwise). For the avoidance of doubt, any alternative trading convention on the applicable exchange or market in respect of the Common Stock under a separate ticker symbol or CUSIP number shall not be considered "regular way" for purposes of this definition.

"**Exchange Act**" means the Securities Exchange Act of 1934, as amended, (and any successor statute) and the rules and regulations promulgated thereunder.

"**Exchange Election**" shall have the meaning specified in Section 13.10.

"**Exempted Fundamental Change**" means a Fundamental Change that satisfies each of the conditions set forth in Section 14.01(f) and with respect to which the Company validly invokes the provisions of such Section 14.01(f).

"**Expiration Date**" shall have the meaning specified in Section 13.04(e).

"**Form of Assignment and Transfer**" means the "Form of Assignment and Transfer" attached as Attachment 3 to the Form of Note attached hereto as Exhibit A.

"**Form of Fundamental Change Repurchase Notice**" means the "Form of Fundamental Change Repurchase Notice" attached as Attachment 2 to the Form of Note attached hereto as Exhibit A.

"**Form of Note**" means the "Form of Note" attached hereto as Exhibit A.

"**Form of Notice of Conversion**" means the "Form of Notice of Conversion" attached as Attachment 1 to the Form of Note attached hereto as Exhibit A.

"**Free Trade Date**" means, with respect to any Note, the date that is one year after the Last Original Issuance Date of such Note.

"**Fundamental Change**" shall be deemed to have occurred if any of the following occurs:

(a) except in connection with a transaction described in clause (b) below, a "person" or "group" within the meaning of Section 13(d) of the Exchange Act, other than the Company, its Wholly Owned Subsidiaries and the employee benefit plans of the Company and its Wholly Owned Subsidiaries, files a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect "beneficial owner," as defined in Rule 13d-3 under the Exchange Act, of the Company's Common Stock representing more than 50% of the voting power of the Company's Common Stock;

(b) the consummation of i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination) as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets; ii) any share exchange, consolidation or merger of the Company pursuant to which the Common Stock will be converted into cash, securities or other property or assets; or iii) any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of the Company and its Subsidiaries, taken as a whole, to any Person other than one of the Company's Wholly Owned Subsidiaries; *provided, however*, that a transaction described in clause (i) or (ii) in which the holders of the Company's Common Equity immediately prior to such transaction own, directly or indirectly, more than 50% of the voting power of all classes of Common Equity of the continuing or surviving corporation or transferee or the parent thereof immediately after such transaction, with such holders' proportional voting power immediately after such transaction being in substantially the same proportions as their respective voting power before such transaction, shall not be a Fundamental Change;

(c) the stockholders of the Company approve any plan or proposal for the liquidation or dissolution of the Company; or

(d) the Common Stock ceases to be listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors);

provided, *however*, that a transaction or transactions described in clause (a) or (b) above shall not constitute a Fundamental Change, if at least 90% of the consideration received or to be received by the common stockholders of the Company, excluding cash payments for fractional shares and cash payments made pursuant to dissenters' appraisal rights, in connection with such transaction or transactions consists of shares of common stock that are listed or quoted on any of The New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or any of their respective successors) or will be so listed or quoted when issued or exchanged in connection with such transaction or transactions, and such transaction or transactions constitute a Share Exchange Event whose Reference Property is such consideration.

Solely for the purposes of this definition (but, for the avoidance of doubt, not for the "Make-Whole Fundamental Change" definition), any transaction or event described in both clause (a) and in clause (b)(i) or (ii) above (without regard to the proviso in clause (b)) will be deemed to occur solely pursuant to clause (b) above (subject to such proviso).

"**Fundamental Change Company Notice**" shall have the meaning specified in Section 14.01(c).

"**Fundamental Change Repurchase**" means any repurchase of Notes pursuant to Article 14.

"**Fundamental Change Repurchase Date**" shall have the meaning specified in Section 14.01(a).

"**Fundamental Change Repurchase Notice**" shall have the meaning specified in Section 14.01(b)(i).

"**Fundamental Change Repurchase Price**" shall have the meaning specified in Section 14.01(a).

The terms "**given**", "**mailed**", "**notify**", "**delivered**" or "**sent**" with respect to any notice to be given to a Holder pursuant to this Indenture, shall mean notice (1) delivered in person to the Depositary (or its designee) pursuant to the standing instructions from the Depositary or its designee, (2) mailed to such Holder by first-class mail (certified or registered, return receipt requested), postage prepaid, or overnight air courier guaranteeing next day delivery, at its address as it appears on the Note Register (in the case of a Physical Note), or (3) sent by facsimile or electronic transmission in PDF form, including by electronic mail in accordance with accepted practices or procedures at the Depositary (in the case of a Global Note), in each case accordance with Section 16.03. Notice so "given" shall be deemed to include any notice to be "mailed" or "delivered," as applicable, under this Indenture.

"**Global Note**" shall have the meaning specified in Section 2.05(b).

"**Guarantee**" means the guarantee by each Guarantor of the Company's obligations under this Indenture and the Notes pursuant to Article 17.

"**Guaranteed Obligations**" shall have the meaning specified in Section 17.01(a).

"**Guarantor**" means each Subsidiary of the Company that is listed as a Guarantor on the signature pages hereof, each other Person that becomes a Guarantor by executing an amended or supplemental indenture pursuant to Sections 10.01(b), 17.03 and 17.04 and, subject to Section 17.04, the successors and assigns of the foregoing, in each case, until the Guarantee of such Person has been released in accordance with the provisions of this Indenture.

"**Holder**," as applied to any Note, means any Person in whose name at the time a particular Note is registered on the Note Register.

"**Indenture**" means this instrument as originally executed or, if amended or supplemented as herein provided, as so amended or supplemented.

"**Initial Purchasers**" means J.P. Morgan Securities LLC, Truist Securities, Inc., BMO Capital Markets Corp., BNP Paribas Securities Corp., CIBC World Markets Corp., KeyBanc Capital Markets Inc., Scotia Capital (USA) Inc., RBC Capital Markets, LLC and U.S. Bancorp Investments, Inc.

"**Interest Payment Date**" means each June 15 and December 15 of each year, beginning on December 15, 2023 (or such other date as may be specified in the certificate representing the applicable Note).

"**Last Original Issuance Date**" means (a) with respect to any Notes issued pursuant to the Purchase Agreement, and any Notes issued in exchange therefor or in substitution thereof, the date of this Indenture; and (b) with respect to any Notes issued pursuant to Section 2.11, and any Notes issued in exchange therefor or in substitution thereof, either (i) the later of (x) the date such Notes are originally issued and (y) the last date any Notes are originally issued as part of the same offering pursuant to the exercise of an option granted to the initial purchaser(s) of such Notes to purchase additional Notes; or (ii) such other date as is specified in an Officer's Certificate delivered to the Trustee before the original issuance of such Notes.

"**Make-Whole Fundamental Change**" means any transaction or event that constitutes a Fundamental Change (as defined above and determined after giving effect to any exceptions to or exclusions from such definition, but without regard to the *proviso* in clause (b) of the definition thereof).

"**Market Disruption Event**" means (a) a failure by the primary U.S. national or regional securities exchange or market on which the Common Stock is listed or admitted for trading to open for trading during its regular trading session or (b) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Trading Day for the Common Stock for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Common Stock or in any options contracts or futures contracts relating to the Common Stock.

"**Maturity Date**" means June 15, 2028.

"**Measurement Period**" shall have the meaning specified in Section 13.01(b)(i).

"**Note**" or "**Notes**" shall have the meaning specified in the first paragraph of the recitals of this Indenture.

"**Note Register**" shall have the meaning specified in Section 2.05(a).

"**Note Registrar**" shall have the meaning specified in Section 2.05(a).

"**Notice of Conversion**" shall have the meaning specified in Section 13.02(b).

"**Notice of Default**" shall have the meaning specified in Section 6.01(g).

"**Offering Memorandum**" means the preliminary offering memorandum dated June 8, 2023, as supplemented by the related pricing term sheet dated June 8, 2023, relating to the offering and sale of the Notes.

"**Officer**" means, with respect to the Company or any Guarantor, the President, the Chief Executive Officer, the Chief Financial Officer, the Treasurer, any Assistant Treasurer, the General Counsel, any Assistant General Counsel, the Secretary, any Assistant Secretary, any Executive or Senior Vice President or any Vice President (whether or not designated by a number or numbers or word or words added before or after the title "Vice President").

"**Officer's Certificate**," when used with respect to the Company, means a certificate signed by an Officer and delivered to the Trustee. Each such certificate shall include the statements provided for in Section 16.06 if and to the extent required by the provisions of such Section. The Officer giving an Officer's Certificate pursuant to Section 4.08 shall be the treasurer or the principal executive, legal, financial or accounting officer of the Company.

The term "**open of business**" means 9:00 a.m., New York City time.

"**Opinion of Counsel**" means an opinion in writing signed by legal counsel, who may be an employee of or counsel to the Company, or other counsel acceptable to the Trustee, that is delivered to the Trustee. Each such opinion shall include the statements provided for in Section 16.06 if and to the extent required by the provisions of such Section 16.06.

"**Optional Redemption**" shall have the meaning specified in Section 15.01.

"**outstanding**," when used with reference to Notes, shall, subject to the provisions of Section 8.04, mean, as of any particular time, all Notes authenticated and delivered by the Trustee under this Indenture, except:

(a) Notes theretofore canceled by the Trustee or accepted by the Trustee for cancellation;

(b) Notes, or portions thereof, that have become due and payable and in respect of which monies in the necessary amount shall have been deposited in trust with the Trustee or with any Paying Agent (other than the Company) or shall have been set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent);

(c) Notes that have been paid pursuant to Section 2.07 or Notes in lieu of which, or in substitution for which, other Notes shall have been authenticated and delivered pursuant to the terms of Section 2.07 unless proof satisfactory to the Trustee is presented that any such Notes are held by protected purchasers in due course;

(d) Notes converted pursuant to Article 13 and required to be cancelled pursuant to Section 2.09; and

(f) Notes redeemed pursuant to Article 15.

"**Partial Redemption Limitation**" shall have the meaning specified in Section 15.02(d).

"**Paying Agent**" shall have the meaning specified in Section 4.02.

"**Person**" means an individual, a corporation, a limited liability company, an association, a partnership, a joint venture, a joint stock company, a trust, an unincorporated organization or a government or an agency or a political subdivision thereof.

"**Physical Notes**" means permanent certificated Notes in registered form issued in denominations of $1,000 principal amount and integral multiples thereof.

"**Predecessor Note**" of any particular Note means every previous Note evidencing all or a portion of the same debt as that evidenced by such particular Note; and, for the purposes of this definition, any Note authenticated and delivered under Section 2.07 in lieu of or in exchange for a mutilated, lost, destroyed or stolen Note shall be deemed to evidence the same debt as the mutilated, lost, destroyed or stolen Note that it replaces.

"**Purchase Agreement**" means that certain Purchase Agreement, dated as of June 8, 2023, among the Company, the Guarantors initially party to this Indenture and the Initial Purchasers.

"**Qualified Successor Entity**" means, with respect to a Business Combination Event, a corporation; *provided*, *however*, that a limited liability company, limited partnership or other similar entity will also constitute a Qualified Successor Entity with respect to such Business Combination Event if either (A) such Business Combination Event is an Exempted Fundamental Change; or (B) both of the following conditions are satisfied: (i) either (x) such limited liability company, limited partnership or other similar entity, as applicable, is treated as a corporation or is a direct or indirect, wholly owned subsidiary of, and disregarded as an entity separate from, a corporation, in each case for U.S. federal income tax purposes; or (y) the Company has received an opinion of a nationally recognized tax counsel to the effect that such Business Combination Event will not be treated as an exchange under Section 1001 of the Internal Revenue Code of 1986, as amended, for Holders or beneficial owners of the Notes; and (ii) such Business Combination Event constitutes a Share Exchange Event whose Reference Property consists solely of any combination of cash in U.S. dollars and shares of common stock of an entity that is (x) treated as a corporation for U.S. federal income tax purposes; (y) duly organized and existing under the laws of the United States of America, any State thereof or the District of Columbia; and (z) a direct or indirect parent of such limited liability company, limited partnership or other similar entity, as applicable.

"**Record Date**" means, with respect to any dividend, distribution or other transaction or event in which the holders of Common Stock (or other applicable security) have the right to receive any cash, securities or other property or in which the Common Stock (or such other security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock (or such other security) entitled to receive such cash, securities or other property (whether such date is fixed by the Board of Directors, by statute, by contract or otherwise).

"**Redemption Date**" shall have the meaning specified in Section 15.02(a).

"**Redemption Notice**" shall have the meaning specified in Section 15.02(a).

"**Redemption Price**" means, for any Notes to be redeemed pursuant to Section 15.01, 100% of the principal amount of such Notes, *plus* accrued and unpaid interest on such Notes, if any, to, but excluding, the related Redemption Date (unless such Redemption Date falls after a Regular Record Date but on or prior to the immediately succeeding Interest Payment Date, in which case any unpaid interest accrued to the Interest Payment Date will be paid by the Company on or, at the Company's election, before such Interest Payment Date, to Holders of record of such Notes as of the close of business on such Regular Record Date, and the Redemption Price will be equal to 100% of the principal amount of such Notes to be redeemed).

"**Reference Property**" shall have the meaning specified in Section 13.07(a).

"**Reference Property Unit**" shall have the meaning specified in Section 13.07(a).

"**Regular Record Date**," with respect to any Interest Payment Date, means the June 1 or December 1 (whether or not such day is a Business Day) immediately preceding the applicable June 15 or December 15 Interest Payment Date, respectively.

"**Resale Restriction Termination Date**" shall have the meaning specified in Section 2.05(c).

"**Responsible Officer**" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the Persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who, in each case, shall have direct responsibility for the administration of this Indenture.

"**Restricted Note Legend**" shall have the meaning specified in Section 2.05(c).

"**Restricted Securities**" shall have the meaning specified in Section 2.05(c).

"**Rule 144**" means Rule 144 as promulgated under the Securities Act.

"**Rule 144A**" means Rule 144A as promulgated under the Securities Act.

"**Scheduled Trading Day**" means a day that is scheduled to be a Trading Day on the principal U.S. national or regional securities exchange on which the Common Stock is listed or admitted for trading or, if the Common Stock is not so listed or admitted for trading on any such exchange, "**Scheduled Trading Day**" means a Business Day.

"**Securities Act**" means the Securities Act of 1933, as amended, (and any successor statute) and the rules and regulations promulgated thereunder.

"**Settlement Amount**" shall have the meaning specified in Section 13.02(a)(iv).

"**Settlement Method**" means, with respect to any conversion of Notes, Cash Settlement or Combination Settlement, as elected (or deemed to have been elected) by the Company.

"**Settlement Notice**" shall have the meaning specified in Section 13.02(a)(iii).

"**Share Exchange Event**" shall have the meaning specified in Section 13.07(a).

"**Significant Subsidiary**" means a Subsidiary of the Company that would constitute a "significant subsidiary" within the meaning of Article 1, Rule 1-02 of Regulation S-X promulgated under the Securities Act as in effect on the date of this Indenture; *provided, however*, that if a Subsidiary meets the criteria of clause (1)(iii), but not clause (1)(i) or (1)(ii), of the definition of "significant subsidiary" in Rule 1-02(w) (or, if applicable, the respective successor clauses to the aforementioned clauses), then such Subsidiary will be deemed not to be a Significant Subsidiary of that Person unless such Subsidiary's income from continuing operations before income taxes, exclusive of amounts attributable to any non-controlling interests, for the last completed fiscal year prior to the date of such determination exceeds $50 million (with such amount calculated pursuant to such rule).

"**Specified Courts**" shall have the meaning specified in Section 16.05.

"**Specified Dollar Amount**" means the maximum cash amount per $1,000 principal amount of Notes to be received upon conversion (excluding cash in lieu of any fractional share) as specified in the Settlement Notice related to any converted Notes or as otherwise deemed to have been elected; *provided*, *however*, that in no event will the Specified Dollar Amount be less than $1,000 per $1,000 principal amount of such Note.

"**Spin-Off**" shall have the meaning specified in Section 13.04(c).

"**Spin-Off Valuation Period**" shall have the meaning specified in Section 13.04(c).

"**Stock Price**" shall have the meaning specified in Section 13.03(c).

"**Subsidiary**" means, with respect to any Person, any corporation, association, partnership or other business entity of which more than 50% of the total voting power of shares of Capital Stock or other interests (including partnership interests) entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers, general partners or trustees thereof is at the time owned or controlled, directly or indirectly, by (i) such Person; (ii) such Person and one or more Subsidiaries of such Person; or (iii) one or more Subsidiaries of such Person.

"**Successor Entity**" shall have the meaning specified in Section 11.01(a).

"**Trading Day**" means a day on which (i) trading in the Common Stock (or other security for which a closing sale price must be determined) generally occurs on The New York Stock Exchange or, if the Common Stock (or such other security) is not then listed on The New York Stock Exchange, on the principal other U.S. national or regional securities exchange on which the Common Stock (or such other security) is then listed or, if the Common Stock (or such other security) is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock (or such other security) is then traded and (ii) a Closing Price for the Common Stock (or such other security) is available on such securities exchange or market; *provided* that if the Common Stock (or such other security) is not so listed or traded, "**Trading Day**" means a Business Day.

"**Trading Price**" of the Notes on any date of determination means the average of the secondary market bid quotations per $1,000 principal amount of the Notes obtained by the Bid Solicitation Agent for $5,000,000 (or such lesser amount as may then be outstanding) in aggregate principal amount of the Notes outstanding at approximately 3:30 p.m., New York City time, on such determination date from three independent nationally recognized securities dealers the Company selects (which may include one or more of the Initial Purchasers or their Affiliates); *provided* that (i) if three such bids cannot reasonably be obtained by the Bid Solicitation Agent, but two such bids are obtained, then the average of the two bids shall be used and (ii) if only one such bid can reasonably be obtained by the Bid Solicitation Agent, that one bid shall be used; *provided further* that if the Bid Solicitation Agent cannot reasonably obtain any such bids, then the Trading Price per $1,000 principal amount of Notes shall be deemed to be less than 98% of the product of the Closing Price of the Common Stock and the applicable Conversion Rate.

"**transfer**" shall have the meaning specified in Section 2.05(c).

"**Trigger Event**" shall have the meaning specified in Section 13.04(c).

"**Trust Indenture Act**" means the Trust Indenture Act of 1939, as amended, as it was in force at the date of execution of this Indenture; *provided*, *however*, that in the event the Trust Indenture Act of 1939 is amended after the date hereof, the term "Trust Indenture Act" shall mean, to the extent required by such amendment, the Trust Indenture Act of 1939, as so amended.

"**Trustee**" means the Person named as the "**Trustee**" in the first paragraph of this Indenture until a successor trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter "**Trustee**" shall mean or include each Person who is then a Trustee hereunder.

"**VWAP Trading Day**" means a day on which (i) there is no Market Disruption Event and (ii) trading in the Common Stock generally occurs on The New York Stock Exchange or, if the Common Stock is not then listed on The New York Stock Exchange, on the principal other U.S. national or regional securities exchange on which the Common Stock is then listed or, if the Common Stock is not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Common Stock is then listed or admitted for trading, except that if the Common Stock is not so listed or admitted for trading, "**VWAP Trading Day**" means a Business Day.

"**Wholly Owned Subsidiary**" means, with respect to any Person, any Subsidiary of such Person, except that, solely for purposes of this definition, the reference to "more than 50%" in the definition of "Subsidiary" shall be deemed replaced by a reference to "100%".

Section 1.02 References to Interest. Unless the context otherwise requires, any reference to interest on, or in respect of, any Note in this Indenture shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to any of Section 4.06(d), Section 4.06(e) or Section 6.03. Unless the context otherwise requires, any express mention of Additional Interest in any provision hereof shall not be construed as excluding Additional Interest in those provisions hereof where such express mention is not made.

ARTICLE 2
ISSUE, DESCRIPTION, EXECUTION, REGISTRATION AND EXCHANGE OF NOTES

Section 2.01 Designation and Amount. The Notes shall be designated as the "4.25% Convertible Senior Notes due 2028." The aggregate principal amount of Notes that may be authenticated and delivered under this Indenture is initially limited to $316,250,000, subject to Section 2.11 and except for Notes authenticated and delivered upon registration or transfer of, or in exchange for, or in lieu of other Notes to the extent expressly permitted hereunder.

Section 2.02 Form of Notes. The Notes and the Trustee's certificate of authentication to be borne by such Notes shall be substantially in the respective forms set forth in Exhibit A, the terms and provisions of which shall constitute, and are hereby expressly incorporated in and made a part of this Indenture. To the extent applicable, the Company and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby.

Any Global Note may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Indenture as may be required by the Custodian or the Depositary, or as may be required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange or automated quotation system upon which the Notes may be listed or traded or designated for issuance or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Notes are subject.

Any of the Notes may have such letters, numbers or other marks of identification and such notations, legends or endorsements as the Officers executing the same may approve (execution thereof to be conclusive evidence of such approval) and as are not inconsistent with the provisions of this Indenture, or as may be required to comply with any law or with any rule or regulation made pursuant thereto or with any rule or regulation of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, or to conform to usage or to indicate any special limitations or restrictions to which any particular Notes are subject.

Each Global Note shall represent such principal amount of the outstanding Notes as shall be specified therein and shall provide that it shall represent the aggregate principal amount of outstanding Notes from time to time endorsed thereon and that the aggregate principal amount of outstanding Notes represented thereby may from time to time be increased or reduced to reflect redemptions, repurchases, cancellations, conversions, transfers or exchanges permitted hereby. Any endorsement of a Global Note to reflect the amount of any increase or decrease in the amount of outstanding Notes represented thereby shall be made by the Trustee or the Custodian, at the direction of the Trustee, in such manner and upon instructions given by the Holder of such Notes in accordance with this Indenture. Payment of principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, a Global Note shall be made to the Holder of such Note on the date of payment, unless a record date or other means of determining Holders eligible to receive payment is provided for herein.

Section 2.03 Date and Denomination of Notes; Payments of Interest and Defaulted Amounts.

(a) The Notes shall be issuable in fully registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. Each Note shall be dated the date of its authentication. Accrued interest on the Notes shall be computed on the basis of a 360-day year composed of twelve 30-day months (and for partial months, on the basis of the number of days actually elapsed in a 30-day month) and shall accrue from the first original issue date for such Note or from the most recent date to which interest is paid or duly provided for.

(b) The Person in whose name any Note (or its Predecessor Note) is registered on the Note Register at the close of business on any Regular Record Date with respect to any Interest Payment Date shall be entitled to receive the interest payable on such Interest Payment Date. The principal amount of any Note (x) in the case of any Physical Note, shall be payable at the office or agency of the Company maintained by the Company for such purposes in the continental United States of America, which shall initially be the Corporate Trust Office, and (y) in the case of any Global Note, shall be payable by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Company shall pay interest (i) on any Physical Notes (A) to Holders holding Physical Notes having an aggregate principal amount of $5,000,000 or less, by check mailed to the Holders of these Notes at their address as it appears in the Note Register and (B) to Holders holding Physical Notes having an aggregate principal amount of more than $5,000,000, either by check mailed to each Holder or, upon application by such a Holder to the Note Registrar not later than the relevant Regular Record Date, by wire transfer in immediately available funds to that Holder's account within the United States, if such Holder has provided the Company, the Trustee or the Paying Agent (if other than the Trustee) with the requisite information necessary to make such wire transfer, which application shall remain in effect until the Holder notifies, in writing, the Note Registrar to the contrary or (ii) on any Global Note by wire transfer of immediately available funds to the account of the Depositary or its nominee.

(c) Any Defaulted Amounts shall forthwith cease to be payable to the Holder on the relevant payment date but shall accrue interest per annum at the rate borne by the Notes, subject to the enforceability thereof under applicable law, from, and including, such relevant payment date, and such Defaulted Amounts together with such interest thereon shall be paid by the Company, at its election in each case, as provided in clause (i) or (ii) below:

(i) The Company may elect to make payment of any Defaulted Amounts to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on a special record date for the payment of such Defaulted Amounts, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of the Defaulted Amounts proposed to be paid on each Note and the date of the proposed payment (which shall be not less than 25 days after the receipt by the Trustee of such notice, unless the Trustee shall consent to an earlier date), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount to be paid in respect of such Defaulted Amounts or shall make arrangements satisfactory to the Trustee for such deposit on or prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Amounts as in this clause provided. Thereupon the Company shall fix a special record date for the payment of such Defaulted Amounts which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment, and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Company shall promptly notify the Trustee in writing of such special record date at least five (5) Business Days before such notice is to be sent to the Holders and the Trustee, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Amounts and the special record date therefor to be sent to each Holder not less than 10 days prior to such special record date. Notice of the proposed payment of such Defaulted Amounts and the special record date therefor having been so sent, such Defaulted Amounts shall be paid to the Persons in whose names the Notes (or their respective Predecessor Notes) are registered at the close of business on such special record date and shall no longer be payable pursuant to the following clause (ii) of this Section 2.03(c). The Trustee shall have no responsibility whatsoever for the calculation of the Defaulted Amounts.

(ii) The Company may make payment of any Defaulted Amounts in any other lawful manner not inconsistent with the requirements of any securities exchange or automated quotation system on which the Notes may be listed or designated for issuance, and upon such notice as may be required by such exchange or automated quotation system, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this clause, such manner of payment shall be deemed practicable by the Trustee.

Section 2.04 Execution, Authentication and Delivery of Notes. The Notes shall be signed in the name and on behalf of the Company by the manual, facsimile or electronic signature of an Officer.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Notes executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Notes, and the Trustee in accordance with such Company Order shall authenticate and deliver such Notes, without any further action by the Company hereunder; *provided* that, subject to Section 17.05, the Trustee shall be entitled to receive an Officer's Certificate and an Opinion of Counsel of the Company with respect to the issuance, authentication and delivery of such Notes.

Only such Notes as shall bear thereon a certificate of authentication substantially in the form set forth on the Form of Note attached as Exhibit A hereto, executed manually by an authorized signatory of the Trustee (or an authenticating agent appointed by the Trustee as provided by Section 16.11), shall be entitled to the benefits of this Indenture or be valid or obligatory for any purpose. Such certificate by the Trustee (or such an authenticating agent) upon any Note executed by the Company shall be conclusive evidence that the Note so authenticated has been duly authenticated and delivered hereunder and that the Holder is entitled to the benefits of this Indenture.

In case any Officer of the Company who shall have signed any of the Notes shall cease to be such Officer before the Notes so signed shall have been authenticated and delivered by the Trustee, or disposed of by the Company, such Notes nevertheless may be authenticated and delivered or disposed of as though the person who signed such Notes had not ceased to be such Officer of the Company; and any Note may be signed on behalf of the Company by such persons as, at the actual date of the execution of such Note, shall be the Officers of the Company, although at the date of the execution of this Indenture any such person was not such an Officer.

Section 2.05 Exchange and Registration of Transfer of Notes; Restrictions on Transfer; Depositary.

(a) The Company shall cause to be kept at the Corporate Trust Office a register (the register maintained in such office or in any other office or agency of the Company designated pursuant to Section 4.02, the "**Note Register**") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Notes and of transfers of Notes. Such register shall be in written form or in any form capable of being converted into written form within a reasonable period of time. The Trustee is hereby initially appointed the "**Note Registrar**" for the purpose of registering Notes and transfers of Notes as herein provided. The Company may appoint one or more co-Note Registrars in accordance with Section 4.02.

Upon surrender for registration of transfer of any Note to the Note Registrar or any co-Note Registrar, and satisfaction of the requirements for such transfer set forth in this Section 2.05, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Notes of any authorized denominations and of a like aggregate principal amount and bearing such restrictive legends as may be required by this Indenture.

Notes may be exchanged for other Notes of any authorized denominations and of a like aggregate principal amount, upon surrender of the Notes to be exchanged at any such office or agency maintained by the Company pursuant to Section 4.02. Whenever any Notes are so surrendered for exchange, the Company shall execute, and the Trustee shall authenticate and deliver, the Notes that the Holder making the exchange is entitled to receive, bearing registration numbers not contemporaneously outstanding.

All Notes presented or surrendered for registration of transfer or for exchange, repurchase or conversion shall (if so required by the Company, the Trustee, the Note Registrar or any co-Note Registrar) be duly endorsed, or be accompanied by a written instrument or instruments of transfer in form satisfactory to the Company and duly executed, by the Holder thereof or its attorney-in-fact duly authorized in writing.

No service charge shall be imposed by the Company, the Guarantors, the Trustee, the Note Registrar, any co-Note Registrar or the Paying Agent for any exchange or registration of transfer of Notes, but the Company may require a Holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required in connection therewith as a result of the name of the Holder of new Notes issued upon such exchange or registration of transfer being different from the name of the Holder of the old Notes surrendered for exchange or registration of transfer.

None of the Company, the Guarantors, the Trustee, the Note Registrar or any co-Note Registrar shall be required to exchange or register a transfer of (i) any Notes surrendered for conversion or, if a portion of any Note is surrendered for conversion, such portion thereof surrendered for conversion, (ii) any Notes, or a portion of any Note, surrendered for repurchase (and not withdrawn) in accordance with Article 14 or (iii) any Notes selected for redemption in accordance with Article 15, except the unredeemed portion of any Note being redeemed in part.

All Notes issued upon any registration of transfer or exchange of Notes in accordance with this Indenture shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(b) So long as the Notes are eligible for book-entry settlement with the Depositary, unless otherwise required by law, subject to the fourth paragraph from the end of Section 2.05(c) all Notes shall be represented by one or more Notes in global form (each, a "**Global Note**") registered in the name of the Depositary or the nominee of the Depositary. The transfer and exchange of beneficial interests in a Global Note that does not involve the issuance of a Physical Note shall be effected through the Depositary (but not the Trustee or the Custodian) in accordance with this Indenture (including the restrictions on transfer set forth herein) and the procedures of the Depositary therefor.

(c) Subject to Section 2.06, Every Note that bears or is required under this Section 2.05(c) to bear the legend set forth in this Section 2.05(c) (together with any Common Stock issued upon conversion of the Notes that is required to bear the legend set forth in Section 2.05(d), collectively, the "**Restricted Securities**") shall be subject to the restrictions on transfer set forth in this Section 2.05(c) (including the legend set forth below), unless such restrictions on transfer shall be eliminated or otherwise waived by written consent of the Company, and the Holder of each such Restricted Security, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer. As used in this Section 2.05(c) and Section 2.05(d), the term "**transfer**" encompasses any sale, pledge, transfer or other disposition whatsoever of any Restricted Security.

Subject to Section 2.06, until the date (the "**Resale Restriction Termination Date**") that is the later of (1) the date that is one year after the Last Original Issuance Date of the Notes, or such shorter period of time as permitted by Rule 144 or any successor provision thereto, and (2) such later date, if any, as may be required by applicable law, any certificate evidencing such Note (and all securities issued in exchange therefor or substitution thereof, other than Common Stock, if any, issued upon conversion thereof, which shall bear the legend set forth in Section 2.05(d), if applicable) shall bear a legend (the "**Restricted Note Legend**") in substantially the following form (unless such Notes have been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or unless otherwise agreed by the Company in writing, with written notice thereof to the Trustee):

THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF BREAD FINANCIAL HOLDINGS, INC. (THE "**COMPANY**") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

No transfer of any Note prior to the Resale Restriction Termination Date will be registered by the Note Registrar unless the applicable box on the Form of Assignment and Transfer has been checked.

The Notes issued pursuant to the Purchase Agreement will initially be issued with a restricted CUSIP number.

Without limiting the generality of Section 2.06, any Note (or security issued in exchange or substitution therefor) (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred pursuant to a registration statement that has become effective or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (iii) that has been sold pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of such Note for exchange to the Note Registrar in accordance with the provisions of this Section 2.05, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the Restricted Note Legend and shall not be assigned a restricted CUSIP number. The Company shall be entitled to instruct the Custodian in writing to so surrender any Global Note as to which any of the conditions set forth in clause (i) through (iii) of the immediately preceding sentence have been satisfied, and, upon such instruction, the Custodian shall so surrender such Global Note for exchange; and any new Global Note so exchanged therefor shall not bear the Restricted Note Legend and shall not be assigned a restricted CUSIP number.

Notwithstanding any other provisions of this Indenture (other than the provisions set forth in this Section 2.05(c)), a Global Note may not be transferred as a whole or in part except (i) by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary and (ii) for exchange of a Global Note or a portion thereof for one or more Physical Notes in accordance with the second immediately succeeding paragraph.

The Depositary shall be a clearing agency registered under the Exchange Act. The Company initially appoints The Depository Trust Company to act as Depositary with respect to each Global Note. Initially, each Global Note shall be issued to the Depositary, registered in the name of Cede & Co., as the nominee of the Depositary, and deposited with the Trustee as Custodian.

If (i) the Depositary notifies the Company at any time that the Depositary is unwilling or unable to continue as depositary for the Global Notes and a successor depositary is not appointed within 90 days, (ii) the Depositary ceases to be registered as a clearing agency under the Exchange Act and a successor depositary is not appointed within 90 days, (iii) an Event of Default with respect to the Notes has occurred and is continuing, and subject to the Depositary's procedures, a beneficial owner of any Note requests that its beneficial interest therein be issued as a Physical Note or (iv) the Company and a beneficial owner of a Note agree, the Company shall execute, and the Trustee, upon receipt of an Officer's Certificate and a Company Order for the authentication and delivery of Notes, shall authenticate and deliver (x) in the case of clause (iii) or (iv), a Physical Note to such beneficial owner in a principal amount equal to the principal amount of such Note corresponding to such beneficial owner's beneficial interest and (y) in the case of clause (i) or (ii), Physical Notes to each beneficial owner of the related Global Notes (or a portion thereof) in an aggregate principal amount equal to the aggregate principal amount of such Global Notes in exchange for such Global Notes, and upon delivery of the Global Notes to the Trustee such Global Notes shall be canceled.

Physical Notes issued in exchange for all or a part of the Global Note pursuant to this Section 2.05(c) shall be registered in such names and in such authorized denominations as the Depositary, pursuant to instructions from its direct or indirect participants or otherwise, or, in the case of clause (iii) or (iv) of the immediately preceding paragraph, the relevant beneficial owner, shall instruct the Trustee. Upon execution and authentication, the Trustee shall deliver such Physical Notes to the Persons in whose names such Physical Notes are so registered.

At such time as all interests in a Global Note have been converted, canceled, repurchased, redeemed or transferred, such Global Note shall be, upon receipt thereof, canceled by the Trustee in accordance with standing procedures and existing instructions between the Depositary and the Custodian. At any time prior to such cancellation, if any interest in a Global Note is exchanged for Physical Notes, converted, canceled, repurchased, redeemed or transferred to a transferee who receives Physical Notes therefor or any Physical Note is exchanged or transferred for part of such Global Note, the principal amount of such Global Note shall, in accordance with the standing procedures and instructions existing between the Depositary and the Custodian, be appropriately reduced or increased, as the case may be, and an endorsement shall be made on such Global Note, by the Trustee or the Custodian, at the direction of the Trustee, to reflect such reduction or increase.

None of the Company, the Guarantors, the Trustee, the Paying Agent, the Conversion Agent or any agent of the Company, the Guarantors, or the Trustee shall have any responsibility or liability for any aspect of the records relating to or payments made on account of beneficial ownership interests of a Global Note or maintaining, supervising or reviewing any records relating to such beneficial ownership interests. Neither the Trustee nor any agent shall have any responsibility or liability for any actions taken or not taken by the Depositary with respect to Global Notes.

(d) Until the Resale Restriction Termination Date, any stock certificate representing Common Stock issued upon conversion of a Note shall bear a legend in substantially the following form (unless such Common Stock has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or such Common Stock has been issued upon conversion of a Note that has been transferred pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer, or pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, or unless otherwise agreed by the Company with written notice thereof to the Trustee and any transfer agent for the Common Stock):

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "**SECURITIES ACT**"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF BREAD FINANCIAL HOLDINGS, INC. (THE "**COMPANY**") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE OF THE SERIES OF NOTES UPON THE CONVERSION OF WHICH THIS SECURITY WAS ISSUED OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRANSFER AGENT FOR THE COMPANY'S COMMON STOCK RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

Any such Common Stock (i) as to which such restrictions on transfer shall have expired in accordance with their terms, (ii) that has been transferred (or issued upon conversion of a Note that has been transferred) pursuant to a registration statement that has become or been declared effective under the Securities Act and that continues to be effective at the time of such transfer or (iii) that has been sold (or issued upon conversion of a Note that has been sold) pursuant to the exemption from registration provided by Rule 144 or any similar provision then in force under the Securities Act, may, upon surrender of the certificates representing such shares of Common Stock for exchange in accordance with the procedures of the transfer agent for the Common Stock, be exchanged for a new certificate or certificates for a like aggregate number of shares of Common Stock, which shall not bear the restrictive legend required by this Section 2.05(d).

(e) The Company shall use commercially reasonable efforts to prevent any of its controlled Affiliates from acquiring any Note (or any beneficial interest therein), unless any Notes acquired by any of them are promptly sent to the Trustee for cancellation. The Company shall cause any Note that is repurchased or owned by it to be surrendered to the Trustee for cancellation in accordance with Section 2.09.

(f) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Depositary participants or beneficial owners of interests in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by the terms of, this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 2.06 Removal of Transfer Restrictions. Without limiting the generality of any other provision of this Indenture (including Section 4.06(d) and Section 4.06(e)), the Restricted Note Legend affixed to any Note will be deemed, pursuant to this Section 2.06 and the footnote to such Restricted Note Legend, to be removed therefrom upon the Company's delivery to the Trustee of notice, signed on behalf of the Company by one of its Officers, to such effect and stating that all conditions to such removal have been satisfied (and, for the avoidance of doubt, such notice need not be accompanied by an Officer's Certificate or an Opinion of Counsel in order to be effective to cause such Restricted Note Legend to be deemed to be removed from such Note). If such Note bears a "restricted" CUSIP or ISIN number at the time of such delivery, then, upon such delivery, such Note will be deemed, pursuant to this Section 2.06 and the footnotes to the CUSIP and ISIN numbers set forth on the face of the certificate representing such Note, to thereafter bear the "unrestricted" CUSIP and ISIN numbers identified in such footnotes; *provided*, *however*, that if such Note is a Global Note and the Depositary thereof requires a mandatory exchange or other procedure to cause such Global Note to be identified by "unrestricted" CUSIP and ISIN numbers in the facilities of such Depositary, then (a) the Company shall effect such exchange or procedure as soon as reasonably practicable; and (b) for purposes of Section 4.06(e), such Global Note shall not be deemed to be identified by "unrestricted" CUSIP and ISIN numbers until such time as such exchange or procedure is effected.

Section 2.07 Mutilated, Destroyed, Lost or Stolen Notes. In case any Note shall become mutilated or be destroyed, lost or stolen, the Company in its discretion may execute, and upon its written request the Trustee or an authenticating agent appointed by the Trustee shall authenticate and deliver, a new Note, bearing a registration number not contemporaneously outstanding, in exchange and substitution for the mutilated Note, or in lieu of and in substitution for the Note so destroyed, lost or stolen. In every case the applicant for a substituted Note shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless from any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, the applicant shall also furnish to the Company, to the Trustee and, if applicable, to such authenticating agent evidence to their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

The Trustee or such authenticating agent may authenticate any such substituted Note and deliver the same upon the receipt of a Company Order and such security or indemnity as the Trustee, the Company and, if applicable, such authenticating agent may require. No service charge shall be imposed by the Company, the Trustee, the Note Registrar, any co-Note Registrar or the Paying Agent upon the issuance of any substitute Note, but the Company may require a Holder to pay a sum sufficient to cover any transfer tax or other similar governmental charge required in connection therewith as a result of the name of the Holder of the new substitute Note being different from the name of the Holder of the old Note that became mutilated or was destroyed, lost or stolen. In case any Note that has matured or is about to mature or has been surrendered for required repurchase or for redemption or is about to be converted in accordance with Article 13 shall become mutilated or be destroyed, lost or stolen, the Company may, in its sole discretion, instead of issuing a substitute Note, pay or authorize the payment of or convert or authorize the conversion of the same (without surrender thereof except in the case of a mutilated Note), as the case may be, if the applicant for such payment or conversion shall furnish to the Company, to the Trustee and, if applicable, to such authenticating agent such security or indemnity as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or connected with such substitution, and, in every case of destruction, loss or theft, evidence satisfactory to the Company, the Trustee and, if applicable, any Paying Agent or Conversion Agent evidence of their satisfaction of the destruction, loss or theft of such Note and of the ownership thereof.

Every substitute Note issued pursuant to the provisions of this Section 2.07 by virtue of the fact that any Note is destroyed, lost or stolen shall constitute an additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Note shall be found at any time, and shall be entitled to all the benefits of (but shall be subject to all the limitations set forth in) this Indenture equally and proportionately with any and all other Notes duly issued hereunder. To the extent permitted by law, all Notes shall be held and owned upon the express condition that the foregoing provisions are exclusive with respect to the replacement, redemption, payment, conversion or repurchase of mutilated, destroyed, lost or stolen Notes and shall preclude any and all other rights or remedies notwithstanding any law or statute existing or hereafter enacted to the contrary with respect to the replacement, redemption, payment, conversion or repurchase of negotiable instruments or other securities without their surrender.

Section 2.08 Temporary Notes. Pending the preparation of Physical Notes, the Company may execute and the Trustee or an authenticating agent appointed by the Trustee shall, upon written request of the Company, authenticate and deliver temporary Notes (printed or lithographed). Temporary Notes shall be issuable in any authorized denomination, and substantially in the form of the Physical Notes but with such omissions, insertions and variations as may be appropriate for temporary Notes, all as may be determined by the Company. Every such temporary Note shall be executed by the Company and authenticated by the Trustee or such authenticating agent upon the same conditions and in substantially the same manner, and with the same effect, as the Physical Notes. Without unreasonable delay, the Company shall execute and deliver to the Trustee or such authenticating agent Physical Notes (other than any Global Note) and thereupon any or all temporary Notes (other than any Global Note) may be surrendered in exchange therefor, at each office or agency maintained by the Company pursuant to Section 4.02 and the Trustee or such authenticating agent upon receipt of a Company Order shall authenticate and deliver in exchange for such temporary Notes an equal aggregate principal amount of Physical Notes. Such exchange shall be made by the Company at its own expense and without any charge therefor. Until so exchanged, the temporary Notes shall in all respects be entitled to the same benefits and subject to the same limitations under this Indenture as Physical Notes authenticated and delivered hereunder.

*Section 2.09 Cancellation of Notes Paid, Converted, Etc.*The Company shall cause all Notes surrendered for payment at maturity, repurchase upon a Fundamental Change or Optional Redemption, registration of transfer or exchange (other than a transfer or exchange to, or for the benefit of, the Company or its Subsidiaries or other Affiliates) or conversion, in each case, if surrendered to any Person other than the Company's agents, Subsidiaries or Affiliates that the Company controls, to be delivered to the Trustee for cancellation. All Notes delivered to the Trustee for cancellation shall be canceled promptly by it, and no Notes shall be authenticated in exchange thereof except as expressly permitted by any of the provisions of this Indenture. The Trustee shall dispose of canceled Notes in accordance with its customary procedures and, after such disposition, shall deliver a certificate of such disposition to the Company, at the Company's written request in a Company Order.

Section 2.10 CUSIP Numbers. The Company in issuing the Notes may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use "CUSIP" numbers in all notices issued to Holders as a convenience to such Holders; *provided* that the Trustee shall have no liability for any defect in the "CUSIP" numbers as they appear on any Note, notice or elsewhere; *provided further* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or on such notice and that reliance may be placed only on the other identification numbers printed on the Notes. The Company shall promptly notify the Trustee in writing of any change in the "CUSIP" numbers.

Section 2.11 Additional Notes; Repurchases. The Company may, without the consent of, or notice to, the Holders and notwithstanding Section 2.01, reopen this Indenture and issue additional Notes hereunder with the same terms as the Notes initially issued hereunder (other than differences in the issue date, the issue price, interest accrued prior to the issue date of such additional Notes and, if applicable, restrictions on transfer in respect of such additional Note) in an unlimited aggregate principal amount; *provided* that if any such additional Notes (and any Notes that have been resold after they have been purchased or otherwise acquired by the Company or its Subsidiaries or other Affiliates) are not fungible with the Notes initially issued hereunder for U.S. federal income tax purposes or securities law purposes, such additional Notes (and such resold Notes) shall have one or more separate CUSIP numbers or no CUSIP number. For the avoidance of doubt, notwithstanding any other provision of this Indenture to the contrary, for purposes of Section 2.05(c), Section 2.05(d), Section 4.06(d) and Section 4.06(e), in the event additional Notes are issued pursuant to this Section 2.11, references to the "Last Original Issuance Date" of the Notes with respect to such additional Notes shall refer only to such additional Notes. Prior to the issuance of any such additional Notes, the Company shall deliver to the Trustee a Company Order, an Officer's Certificate and an Opinion of Counsel, such Officer's Certificate and Opinion of Counsel to cover such matters, in addition to those required by Section 16.06, as the Trustee shall reasonably request. In addition, the Company may, to the extent permitted by law, and directly or indirectly (regardless of whether such Notes are surrendered to the Company), repurchase Notes in the open market or otherwise, whether by the Company or its Subsidiaries or through a private or public tender or exchange offer or through counterparties to private agreements, including by cash-settled swaps or other derivatives, in each case, without the consent of or notice to the Holders. Any Notes that the Company or its Subsidiaries or other Affiliates have purchased or otherwise acquired (other than surrendered Notes referred to in Section 2.09) shall be deemed to remain outstanding, subject to Section 8.04, until such time as the Company delivers them to the Trustee for cancellation. However, subject to the terms of Section 8.04 of this Indenture, Notes that the Company or any of its Affiliates own will be deemed not to be outstanding for purposes of determining whether the Holders have concurred in any direction, waiver or consent.

ARTICLE 3
SATISFACTION AND DISCHARGE

Section 3.01 Satisfaction and Discharge. This Indenture shall upon request of the Company contained in an Officer's Certificate cease to be of further effect, and the Trustee, at the expense of the Company, shall execute such instruments reasonably requested by the Company acknowledging satisfaction and discharge of this Indenture and the obligations of the Guarantors with respect to the Notes and the Guarantees, when (a) (i) all Notes theretofore authenticated and delivered (other than Notes which have been destroyed, lost or stolen and which have been replaced, paid or converted as provided in Section 2.07) have been delivered to the Note Registrar for cancellation; or (ii) the Company has deposited with the Trustee or delivered to Holders, as applicable, after the Notes have become due and payable, whether on the Maturity Date, any Redemption Date, any Fundamental Change Repurchase Date, upon conversion or otherwise, cash or cash and, if applicable, shares of Common Stock or, if applicable, other Reference Property (in respect of conversions) sufficient to pay all of the outstanding Notes and all other sums due and payable under this Indenture by the Company; and (b) the Company has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with; *provided* that such counsel may rely, as to matters of fact, on a certificate or certificates of the Company's Officers. Notwithstanding the satisfaction and discharge of this Indenture, the obligations of the Company to the Trustee under Section 7.06 shall survive.

ARTICLE 4
Particular Covenants of the Company

Section 4.01 Payment of Principal and Interest. The Company covenants and agrees that it will cause to be paid the principal (including the Redemption Price or Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, each of the Notes at the places, at the respective times and in the manner provided herein and in the Notes.

Section 4.02 Maintenance of Office or Agency. The Company will maintain in the continental United States an office or agency where the Notes may be surrendered for registration of transfer or exchange or for presentation for payment or repurchase ("**Paying Agent**") or for conversion ("**Conversion Agent**") and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office.

The Company may also from time to time designate as co-Note Registrars one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; *provided* that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the continental United States for such purposes. The Company will give prompt written notice to the Trustee of any such designation or rescission and of any change in the location of any such other office or agency. The terms "**Paying Agent**" and "**Conversion Agent**" include any such additional or other offices or agencies, as applicable.

The Company hereby initially designates the Trustee as the Paying Agent, Note Registrar, Custodian and Conversion Agent and the Corporate Trust Office as the office or agency in the continental United States where Notes may be surrendered for registration of transfer or exchange or for presentation for payment, redemption or repurchase or for conversion and where notices and demands to or upon the Company in respect of the Notes and this Indenture may be served; *provided* that the Corporate Trust Office shall not be a place for service of legal process for the Company.

Section 4.03 Appointments to Fill Vacancies in Trustee's Office. The Company, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.09, a Trustee, so that there shall at all times be a Trustee hereunder.

Section 4.04 Provisions as to Paying Agent.

(a) If the Company shall appoint a Paying Agent other than the Trustee, the Company will cause such Paying Agent to execute and deliver to the Trustee an instrument in which such agent shall agree with the Trustee, subject to the provisions of this Section 4.04:

(i) that it will hold all sums held by it as such agent for the payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, the Notes in trust for the benefit of the Holders of the Notes;

(ii) that it will give the Trustee prompt notice of any failure by the Company to make any payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, the Notes when the same shall be due and payable; and

(iii) that at any time during the continuance of an Event of Default, upon request of the Trustee, it will forthwith pay to the Trustee all sums so held in trust.

The Company shall, on or before each due date of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or accrued and unpaid interest on, the Notes, deposit with the Paying Agent a sum sufficient to pay such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) or accrued and unpaid interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of any failure to take such action; *provided* that if such deposit is made on the due date, such deposit must be received by the Paying Agent by 11:00 a.m., New York City time, on such date.

(b) If the Company shall act as its own Paying Agent, it will, on or before each due date of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, and accrued and unpaid interest on, the Notes, set aside, segregate and hold in trust for the benefit of the Holders of the Notes a sum sufficient to pay such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) and accrued and unpaid interest so becoming due and will promptly notify the Trustee in writing of any failure to take such action and of any failure by the Company to make any payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or accrued and unpaid interest on, the Notes when the same shall become due and payable. On the occurrence of any Event of Default under Section 6.01(j) or Section 6.01(k) with respect to the Company, the Trustee shall automatically become the Paying Agent.

(c) Anything in this Section 4.04 to the contrary notwithstanding, the Company may, at any time, for the purpose of obtaining a satisfaction and discharge of this Indenture, or for any other reason, pay, cause to be paid or deliver to the Trustee all sums or amounts held in trust by the Company or any Paying Agent hereunder as required by this Section 4.04, such sums or amounts to be held by the Trustee upon the trusts herein contained and upon such payment or delivery by the Company or any Paying Agent to the Trustee, the Company or such Paying Agent shall be released from all further liability but only with respect to such sums or amounts.

Subject to applicable abandoned property laws, any money and shares of Common Stock deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, accrued and unpaid interest on and the consideration due upon conversion of any Note and remaining unclaimed for two years after such principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable), interest or consideration due upon conversion has become due and payable shall be paid to the Company on request of the Company contained in an Officer's Certificate, or (if then held by the Company) shall be discharged from such trust and the Trustee shall have no further liability with respect to such fund or property; and the Holder of such Note shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money and shares of Common Stock, and all liability of the Company as trustee thereof, shall thereupon cease; *provided, however*, that each of the Trustee and Paying Agent shall withhold paying such money or securities back to the Company until, at the Company's expense, they publish (in no event later than five days after the Company requests repayment) in a newspaper of general circulation in The City of New York, or mail or send to each registered Holder, a notice stating that such money or securities shall be paid back to the Company if unclaimed after a date no less than 30 days from the date of such publication or notification.

Section 4.05 Existence. Subject to Article 11, the Company shall do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 4.06 Rule 144A Information Requirement and Annual Reports; Additional Interest.

(a) At any time the Company is not subject to Section 13 or 15(d) of the Exchange Act, the Company shall, so long as any of the Notes or any shares of Common Stock issuable upon conversion thereof shall, at such time, constitute "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act (assuming such securities have not been owned by an Affiliate of the Company), promptly provide to the Trustee and any Holder or beneficial owner of such Notes or any shares of Common Stock issuable upon conversion of such Notes and, upon written request, any securities analyst or prospective investors in such Notes or such shares of Common Stock, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(b) The Company shall file with the Trustee, within 15 days after the same are required to be filed with the Commission, copies of any documents or reports that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act). Any such document or report that the Company files with the Commission via the Commission's EDGAR system shall be deemed to be filed with the Trustee for purposes of this Section 4.06(b) at the time such documents are filed via the EDGAR system; *provided* that the Trustee shall have no obligation to determine whether such documents or reports have been filed via the EDGAR system.

(c) Delivery of the reports and documents described in subsection (b) above to the Trustee is for informational purposes only, and the Trustee's receipt of such shall not constitute actual or constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to conclusively rely on an Officer's Certificate).

(d) If, at any time during the six-month period beginning on, and including, the date that is six months after the Last Original Issuance Date of any Note, the Company fails to timely file any document or report that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act, as applicable (after giving effect to all applicable grace periods thereunder and other than reports on Form 8-K), or such Note is not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates or Holders that were the Company's Affiliates at any time during the three months preceding (as a result of restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes, it being understood and agreed that the assignment of a restricted CUSIP number shall not constitute a restriction pursuant to U.S. securities laws or the terms of this Indenture or the Notes for purposes of this Section 4.06(d)), the Company shall pay Additional Interest on such Note. Such Additional Interest shall accrue on such Note (i) at the rate of 0.25% per annum of the principal amount of such Note outstanding for each day during the first 90 days of such period for which the Company's failure to file has occurred and is continuing or such Note is not otherwise freely tradable as described above by Holders other than the Company's Affiliates (or Holders that have been the Company's Affiliates at any time during the three months immediately preceding) and (ii) at the rate of 0.50% per annum of the principal amount of such Note outstanding for each day after the 90th day of such period for which the Company's failure to file has occurred and is continuing or such Note is not otherwise freely tradable as described above by Holders other than the Company's Affiliates (or Holders that were the Company's Affiliates at any time during the three months immediately preceding). For purposes of this Section 4.06(d) (and, for the avoidance of doubt, not for purposes of Section 4.06(e)), the existence of a customary legend on any certificate representing the Notes referring to transfer restrictions under the Securities Act (including the Restricted Note Legend) will not be deemed to cause the Notes not to be "freely tradable" as provided above. As used in this Section 4.06(d), documents or reports that the Company is required to "file" with the Commission pursuant to Section 13 or 15(d) of the Exchange Act do not include documents or reports that the Company furnishes to the Commission pursuant to Section 13 or 15(d) of the Exchange Act.

(e) If, and for so long as, the Restricted Note Legend has not been removed (including pursuant to Section 2.06), any Note is assigned a restricted CUSIP or any Note is not otherwise freely tradable pursuant to Rule 144 by Holders other than the Company's Affiliates or Holders that were the Company's Affiliates at any time during the three months preceding (without restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes) as of the De-Legending Deadline Date for such Note, the Company shall pay Additional Interest on such Note (i) at a rate equal to 0.25% per annum of the principal amount of such Note outstanding for each day during the period beginning on, and including, the De-Legending Deadline Date and ending on the earlier of (x) the 90th day immediately following the De-Legending Deadline Date and (y) the date on which the Restricted Note Legend has been removed in accordance with Section 2.05(c) or Section 2.06, such Note is assigned an unrestricted CUSIP number and such Note is freely tradable as described above by Holders other than the Company's Affiliates (or Holders that were the Company's Affiliates at any time during the three months immediately preceding) and (ii) at a rate equal to 0.50% per annum of the principal amount of such Note outstanding for each day during the period beginning on, and including, the 91st day immediately following the De-Legending Deadline Date and ending on the date on which the Restricted Note Legend has been removed from such Note, such Note is assigned an unrestricted CUSIP number and such Note is freely tradable as described above by Holders other than the Company's Affiliates (or Holders that were the Company's Affiliates at any time during the three months immediately preceding) without restrictions pursuant to U.S. securities laws or the terms of this Indenture or the Notes.

(f) Additional Interest will be payable in arrears on each Interest Payment Date following accrual in the same manner as regular interest on the Notes.

(g) In no event shall any Additional Interest that may accrue pursuant to Section 4.06(d) or Section 4.06(e), together with any interest that may accrue in the event the Company elects to pay Additional Interest in respect of an Event of Default relating to its failure to comply with its obligations as set forth under Section 6.03, accrue at a combined rate in excess of 0.50% per annum, regardless of the number of events or circumstances giving rise to the requirement to pay such Additional Interest. For the avoidance of doubt, any Additional Interest that accrues on a Note pursuant to Section 4.06(d) shall be in addition to the stated interest that accrues on such Note and, subject to the preceding sentence, in addition to any Additional Interest that accrues on such Note pursuant to Section 6.03.

(h) If Additional Interest is payable by the Company pursuant to Section 4.06(d) or Section 4.06(e), the Company shall deliver to the Trustee an Officer's Certificate to that effect stating (i) the amount of such Additional Interest that is payable and (ii) the date on which such Additional Interest is payable. Unless and until a Responsible Officer of the Trustee receives at the Corporate Trust Office such a certificate, the Trustee may assume without inquiry that no such Additional Interest is payable and the Trustee shall not have any duty to verify the Company's calculation of Additional Interest. If the Company has paid Additional Interest directly to the Persons entitled to it, the Company shall deliver to the Trustee an Officer's Certificate setting forth the particulars of such payment.

(i) Notwithstanding anything to the contrary in this Section 4.06, the Company shall not be required to pay Additional Interest pursuant to Section 4.06(d) or Section 4.06(e) (i) on any date on which (w) the Company shall have filed a shelf registration statement for the resale of the Notes and any shares of Common Stock issuable upon conversion of the Notes, (x) such shelf registration statement is effective and usable by Holders identified therein as selling security holders for the resale of the Notes and any shares of Common Stock issued upon conversion of the Notes, (y) the Holders of Notes may register the resale of their Notes under such shelf registration statement on terms customary for the resale of convertible securities offered in reliance on Rule 144A and (z) the Notes and/or shares of Common Stock sold pursuant to such shelf registration statement become freely tradable pursuant to Rule 144 as a result of such sale or (ii) once the Company shall have complied with the requirements set forth in clause (i) above for a period of one year.

Section 4.07 Stay, Extension and Usury Laws. The Company covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law or other law that would prohibit or forgive the Company from paying all or any portion of the principal of or interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or that may affect the covenants or the performance of this Indenture; and the Company (to the extent it may lawfully do so) hereby expressly waives all benefit or advantage of any such law, and covenants that it will not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 4.08 Compliance Certificate; Statements as to Defaults. The Company shall deliver to the Trustee within 120 days after the end of each fiscal year of the Company (beginning with the fiscal year ending on December 31, 2023) an Officer's Certificate stating whether the signers thereof have knowledge of any failure by the Company to comply with all conditions and covenants then required to be performed under this Indenture and, if so, specifying each such failure and the nature thereof.

In addition, the Company shall deliver to the Trustee, as soon as possible, and in any event within 30 days after the occurrence of any Event of Default or Default, an Officer's Certificate setting forth the details of such Event of Default or Default, its status and the action that the Company is taking or proposing to take in respect thereof.

Section 4.09 Further Instruments and Acts. Upon request of the Trustee, the Company will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

ARTICLE 5
LISTS OF HOLDERS AND REPORTS BY THE COMPANY AND THE TRUSTEE

Section 5.01 Lists of Holders. At any time the Trustee is not acting as Note Registrar, the Company shall furnish or cause to be furnished to the Trustee, semi-annually, not more than 15 days after each June 1 and December 1 in each year beginning with December 1, 2023, and at such other times as the Trustee may request in writing, within 30 days after receipt by the Company of any such request (or such lesser time as the Trustee may reasonably request in order to enable it to timely provide any notice to be provided by it hereunder), a list in such form as the Trustee may reasonably require of the names and addresses of the Holders as of a date not more than 15 days (or such other date as the Trustee may reasonably request in order to so provide any such notices) prior to the time such information is furnished.

Section 5.02 Preservation and Disclosure of Lists. The Trustee shall preserve, in as current a form as is reasonably practicable, all information as to the names and addresses of the Holders contained in the most recent list furnished to it as provided in Section 5.01 or maintained by the Trustee in its capacity as Note Registrar, if so acting. The Trustee may destroy any list furnished to it as provided in Section 5.01 upon receipt of a new list so furnished.

ARTICLE 6
DEFAULTS AND REMEDIES

Section 6.01 Events of Default. Each of the following events shall be an "**Event of Default**" with respect to the Notes:

(a) default in the payment of principal of any Note when due on the Maturity Date, upon Optional Redemption, upon Fundamental Change Repurchase or otherwise;

(b) default in the payment of any interest on any Note when due and payable, and such default continues for a period of 30 days past the applicable due date;

(c) failure by the Company to issue a Fundamental Change Company Notice in accordance with Section 14.01(c) or notice of a Make-Whole Fundamental Change or a Share Exchange Event in accordance with Section 13.01(b)(iii), as required by this Indenture, and in each case, such failure continues for three (3) Business Days;

(d) failure by the Company or any Guarantor to comply with its obligations under Article 11;

(e) following the exercise by the Holder of the right to convert a Note in accordance with Article 13 hereof, failure by the Company to deliver the applicable Conversion Obligation when due and such failure continues for a period of three (3) Business Days;

(f) default by the Company in its obligation to repurchase any Note, or any portion thereof, surrendered for repurchase pursuant to and in accordance with Article 14;

(g) failure by the Company to perform or observe any other covenant or agreement in the Notes or this Indenture, or in Guarantor's obligations or agreements, and such failure continues for 60 days after receipt by the Company of written notice from the Trustee to the Company or from the Holders of at least 25% in principal amount of the Notes then outstanding to the Trustee and the Company (such written notice with respect to any default, a "**Notice of Default**");

(h) failure to pay when due at maturity (which failure continues after any applicable grace or notice period), or a default that results in the acceleration of any indebtedness for borrowed money of the Company or any Significant Subsidiary of the Company (other than indebtedness that is non-recourse to the Company or any Subsidiary of the Company) in an aggregate amount of $50 million (or its foreign currency equivalent) or more, unless the acceleration is rescinded, stayed or annulled, or such failure to pay is not cured or waived, within 30 days after receipt by the Company of a Notice of Default from the Trustee, or by the Company and the Trustee from the Holders of at least 25% in principal amount of the Notes then outstanding;

(i) one or more final judgments for the payment of money in an aggregate amount in excess of $50 million (or its foreign currency equivalent) (to the extent not covered by independent third-party insurance as to which the insurer does not dispute coverage) shall be rendered against the Company or any Significant Subsidiary of the Company and the same shall remain unpaid or undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed;

(j) commencement by the Company, any Significant Subsidiary of the Company, or any group of Guarantors that, taken together, would constitute a Significant Subsidiary, of a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to the Company, any such Significant Subsidiary or any such group of Guarantors or its respective debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company, any such Significant Subsidiary or any such group of Guarantors or any substantial part of its respective property, or consent, by the Company, any of its Significant Subsidiaries or any such group of Guarantors, to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, or the making, by the Company, any of its Significant Subsidiaries or any such group of Guarantors, of a general assignment for the benefit of creditors, or failure, by the Company, any of its Significant Subsidiaries or any such group of Guarantors, generally to pay its debts as they become due;

(k) commencement of an involuntary case or other proceeding against the Company, any Significant Subsidiary of the Company, or any group of Guarantors that, taken together, would constitute a Significant Subsidiary, seeking liquidation, reorganization or other relief with respect to the Company, such Significant Subsidiary or such group of Guarantors or its respective debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of the Company, such Significant Subsidiary or such group of Guarantors or any substantial part of its respective property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of 30 consecutive days; or

(l) except as expressly permitted by this Indenture, any Guarantee of any Guarantor that is a Significant Subsidiary, or Guarantees of any group of Guarantors that, taken together, would constitute a Significant Subsidiary, ceases to be in full force and effect or any Guarantor, or group of Guarantors that, taken together, would constitute a Significant Subsidiary, denies or disaffirms its obligations under its Guarantee, and, in the case of any such denial or disaffirmation, such default continues for a period of 10 days.

The foregoing shall constitute Events of Default whatever the reason for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

Section 6.02 Acceleration; Rescission and Annulment. If one or more Events of Default shall have occurred and be continuing, then, and in each and every such case (other than an Event of Default specified in Section 6.01(j) or Section 6.01(k) with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company or any group of Guarantors that, taken together, would constitute a Significant Subsidiary)), unless the principal of all of the Notes shall have already become due and payable, either the Trustee or the Holders of at least 25% in aggregate principal amount of the Notes then outstanding determined in accordance with Section 8.04, by notice in writing to the Company (and to the Trustee if given by Holders), may declare 100% of the principal of, and accrued and unpaid interest on, all the Notes then outstanding to be immediately due and payable, and upon any such declaration the same shall become and shall automatically be immediately due and payable. If an Event of Default specified in Section 6.01(j) or Section 6.01(k) with respect to the Company (and not solely with respect to a Significant Subsidiary of the Company or any group of Guarantors that, taken together, would constitute a Significant Subsidiary) occurs and is continuing, 100% of the principal of, and accrued and unpaid interest, if any, on, all Notes then outstanding shall become and shall automatically be immediately due and payable without any further action or notice by any Person.

The immediately preceding paragraph, however, is subject to the conditions that if, at any time after the principal of the Notes shall have been so declared due and payable, and before any judgment or decree for the payment of the monies due shall have been obtained or entered as hereinafter provided, the Company shall pay or shall deposit with the Trustee a sum sufficient to pay installments of accrued and unpaid interest upon all Notes and the principal of any and all Notes that shall have become due otherwise than by acceleration (with interest on overdue installments of accrued and unpaid interest to the extent that payment of such interest is enforceable under applicable law, and on such principal at the rate borne by the Notes at such time) and amounts due to the Trustee pursuant to Section 7.06, and if (1) rescission would not conflict with any judgment or decree of a court of competent jurisdiction and (2) any and all existing Events of Default under this Indenture, other than the nonpayment of the principal of and accrued and unpaid interest, if any, on Notes that shall have become due solely by such acceleration, shall have been cured or waived pursuant to Section 6.09, then and in every such case (except as provided in the immediately succeeding sentence) the Holders of a majority in aggregate principal amount of the Notes then outstanding, by written notice to the Company and to the Trustee, may waive all Defaults or Events of Default with respect to the Notes and rescind and annul such declaration and its consequences and such Default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured for every purpose of this Indenture; but no such waiver or rescission and annulment shall extend to or shall affect any subsequent Default or Event of Default, or shall impair any right consequent thereon. Notwithstanding anything to the contrary herein, no such waiver or rescission and annulment shall extend to or shall affect any Default or Event of Default resulting from (i) the nonpayment of the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, or accrued and unpaid interest on, any Notes, (ii) a failure to repurchase or redeem any Notes when required, (iii) a failure to pay and, if applicable, or deliver the consideration due upon conversion of the Notes or (iv) a default in respect of a covenant or provision hereof which under Article 10 cannot be modified or amended without the consent of each Holder of an outstanding Note affected.

Section 6.03 Additional Interest.

(a) Notwithstanding anything in this Indenture or in the Notes to the contrary (but subject to the last sentence of this paragraph), to the extent the Company elects, the sole remedy for an Event of Default relating to the Company's failure to comply with its obligations as set forth in Section 4.06(b) shall for the first 365 days after the occurrence of such an Event of Default consist exclusively of the right to receive Additional Interest on the Notes at a rate equal to (i) 0.25% per annum of the principal amount of the Notes outstanding for each day during the first 180 days after the occurrence of such an Event of Default and (ii) 0.50% per annum of the principal amount of the Notes outstanding from the 181st day to, but not including, the 365th day following the occurrence of such Event of Default. Additional Interest payable pursuant to this Section 6.03 shall be payable in the same manner as Additional Interest payable pursuant to Section 4.06(d) and Section 4.06(e). On the 365th day after such Event of Default (if the Event of Default relating to the Company's failure to file is not cured or waived prior to such 365th day), such Additional Interest shall cease to accrue and the Notes shall be immediately subject to acceleration as provided in Section 6.02. The provisions of this paragraph will not affect the rights of Holders of Notes in the event of the occurrence of any Event of Default other than the Company's failure to comply with its obligations as set forth in Section 4.06(b). In the event the Company does not elect to pay Additional Interest following an Event of Default in accordance with this Section 6.03 or the Company elected to make such payment but does not pay the Additional Interest when due, the Notes shall be immediately subject to acceleration as provided in Section 6.02.

In order to elect to pay Additional Interest as the sole remedy during the first 365 days after the occurrence of any Event of Default described in the immediately preceding paragraph, the Company must notify all Holders of the Notes and, in writing, the Trustee and the Paying Agent, of such election prior to the beginning of such 365-day period. Upon the failure to timely give such notice, the Notes shall be immediately subject to acceleration as provided in Section 6.02.

(b) In no event shall any Additional Interest that may accrue in the event the Company elects to pay Additional Interest in respect of an Event of Default relating to its failure to comply with its obligations under Section 4.06(b) as set forth in this Section 6.03, together with any interest that may accrue pursuant to Section 4.06(d) or Section 4.06(e), accrue at a combined rate in excess of 0.50% per annum, regardless of the number of events or circumstances giving rise to the requirement to pay such Additional Interest. For the avoidance of doubt, any Additional Interest that accrues on a Note pursuant to this Section 6.03 shall be in addition to the stated interest that accrues on such Note and, subject to the preceding sentence, in addition to any Additional Interest that accrues on such Note pursuant to Section 4.06(d).

(c) The Trustee shall have no duty to calculate or verify the calculation of Additional Interest.

Section 6.04 Payments of Notes on Default; Suit Therefor. If an Event of Default described in clause (a) or (b) of Section 6.01 shall have occurred, the Company shall, upon demand of the Trustee, pay to the Trustee, for the benefit of the Holders of the Notes, the whole amount then due and payable on the Notes for principal and interest, if any, with interest on any overdue principal and interest, if any, at the rate borne by the Notes at such time, and, in addition thereto, such further amount as shall be sufficient to cover any amounts due to the Trustee under Section 7.06. If the Company shall fail to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company or any other obligor upon the Notes and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company or any other obligor upon the Notes, wherever situated.

In the event there shall be pending proceedings for the bankruptcy or for the reorganization of the Company or any other obligor on the Notes under Title 11 of the United States Code, or any other applicable law, or in case a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official shall have been appointed for or taken possession of the Company or such other obligor, the property of the Company or such other obligor, or in the event of any other judicial proceedings relative to the Company or such other obligor upon the Notes, or to the creditors or property of the Company or such other obligor, the Trustee, irrespective of whether the principal of the Notes shall then be due and payable as therein expressed or by declaration or otherwise and irrespective of whether the Trustee shall have made any demand pursuant to the provisions of this Section 6.04, shall be entitled and empowered, by intervention in such proceedings or otherwise, to file and prove a claim or claims for the whole amount of principal and accrued and unpaid interest, if any, in respect of the Notes, and, in case of any judicial proceedings, to file such proofs of claim and other papers or documents and to take such other actions as it may deem necessary or advisable in order to have the claims of the Trustee (including any claim for the compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceedings relative to the Company or any other obligor on the Notes, its or their creditors, or its or their property, and to collect and receive any monies or other property payable or deliverable on any such claims, and to distribute the same after the deduction of any amounts due to the Trustee under Section 7.06; and any receiver, assignee or trustee in bankruptcy or reorganization, liquidator, custodian or similar official is hereby authorized by each of the Holders to make such payments to the Trustee, as administrative expenses, and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for compensation, expenses, advances and disbursements, including agents and counsel fees, and including any other amounts due to the Trustee under Section 7.06, incurred by it up to the date of such distribution. To the extent that such payment of compensation, expenses, advances and disbursements out of the estate in any such proceedings shall be denied for any reason, payment of the same shall be secured by a lien on, and shall be paid out of, any and all distributions, dividends, monies, securities and other property that the Holders of the Notes may be entitled to receive in such proceedings, whether in liquidation or under any plan of reorganization or arrangement or otherwise.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting such Holder or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

All rights of action and of asserting claims under this Indenture, or under any of the Notes, may be enforced by the Trustee without the possession of any of the Notes, or the production thereof at any trial or other proceeding relative thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Notes.

In any proceedings brought by the Trustee (and in any proceedings involving the interpretation of any provision of this Indenture to which the Trustee shall be a party) the Trustee shall be held to represent all the Holders of the Notes, and it shall not be necessary to make any Holders of the Notes parties to any such proceedings.

In case the Trustee shall have proceeded to enforce any right under this Indenture and such proceedings shall have been discontinued or abandoned because of any waiver pursuant to Section 6.09 or any rescission and annulment pursuant to Section 6.02 or for any other reason or shall have been determined adversely to the Trustee, then and in every such case the Company, the Holders and the Trustee shall, subject to any determination in such proceeding, be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Company, the Holders and the Trustee shall continue as though no such proceeding had been instituted.

Section 6.05 Application of Monies Collected by Trustee. Any monies or property collected by the Trustee pursuant to this Article 6 with respect to the Notes shall be applied in the following order, at the date or dates fixed by the Trustee for the distribution of such monies or property, upon presentation of the several Notes, and stamping thereon the payment, if only partially paid, and upon surrender thereof, if fully paid:

First, to the payment of all amounts due the Trustee (including any other role or capacities in which the Trustee acts with respect to the Notes) under Section 7.06;

Second, in case the principal of the outstanding Notes shall not have become due and be unpaid, to the payment of interest on, and any cash due upon conversion of, the Notes in default in the order of the date due of the payments of such interest and cash due upon conversion, as the case may be, with interest (to the extent that such interest has been collected by the Trustee) upon such overdue payments at the rate borne by the Notes at such time, such payments to be made ratably to the Persons entitled thereto;

Third, in case the principal of the outstanding Notes shall have become due, by declaration or otherwise, and be unpaid, to the payment of the whole amount (including, if applicable, the payment of the Redemption Price, the Fundamental Change Repurchase Price and any cash due upon conversion) then owing and unpaid upon the Notes for principal and interest, if any, with interest on the overdue principal and, to the extent that such interest has been collected by the Trustee, upon overdue installments of interest at the rate borne by the Notes at such time, and in case such monies shall be insufficient to pay in full the whole amounts so due and unpaid upon the Notes, then to the payment of such principal (including, if applicable, the Redemption Price, the Fundamental Change Repurchase Price and the cash due upon conversion) and interest without preference or priority of principal over interest, or of interest over principal or of any installment of interest over any other installment of interest, or of any Note over any other Note, ratably to the aggregate of such principal (including, if applicable, the Redemption Price, the Fundamental Change Repurchase Price and any cash due upon conversion) and accrued and unpaid interest; and

Fourth, to the payment of the remainder, if any, to the Company.

Section 6.06 Proceedings by Holders. Except to enforce the right to receive payment of principal (including, if applicable, the Redemption Price and the Fundamental Change Repurchase Price) or interest when due, or the right to receive payment or delivery of the consideration due upon conversion, no Holder of any Note shall have any right by virtue of or by availing of any provision of this Indenture to institute any suit, action or proceeding in equity or at law upon or under or with respect to this Indenture, or for the appointment of a receiver, trustee, liquidator, custodian or other similar official, or for any other remedy hereunder, unless:

(a) such Holder previously shall have given to the Trustee written notice of an Event of Default and of the continuance thereof, as herein provided;

(b) Holders of at least 25% in aggregate principal amount of the Notes then outstanding shall have made written request upon the Trustee to institute such action, suit or proceeding in its own name as Trustee hereunder;

(c) such Holders shall have offered to the Trustee such security or indemnity satisfactory to it against all costs, liability or expenses to be incurred therein or thereby;

(d) the Trustee for 60 days after its receipt of such notice, request and offer of such security or indemnity, shall have neglected or refused to institute any such action, suit or proceeding; and

(e) no direction that, in the opinion of the Trustee, is inconsistent with such written request shall have been given to the Trustee by the Holders of a majority of the aggregate principal amount of the Notes then outstanding within such 60-day period pursuant to Section 6.09,

it being understood and intended, and being expressly covenanted by the taker and Holder of every Note with every other taker and Holder and the Trustee that no one or more Holders shall have any right in any manner whatever by virtue of or by availing of any provision of this Indenture to affect, disturb or prejudice the rights of any other Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such actions or forbearances are unduly prejudicial to such Holders), or to obtain or seek to obtain priority over or preference to any other such Holder, or to enforce any right under this Indenture, except in the manner herein provided and for the equal, ratable and common benefit of all Holders (except as otherwise provided herein). For the protection and enforcement of this Section 6.06, each and every Holder and the Trustee shall be entitled to such relief as can be given either at law or in equity.

Notwithstanding any other provision of this Indenture and any provision of any Note or any Guarantee, each Holder shall have the right to receive payment or delivery, as the case may be, of (x) the principal (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable) of, (y) accrued and unpaid interest, if any, on, and (z) the consideration due upon conversion of, such Note, on or after the respective due dates expressed or provided for in such Note or in this Indenture, or to institute suit for the enforcement of any such payment or delivery, as the case may be, on or after such respective dates against the Company.

Section 6.07 Proceedings by Trustee. In case of an Event of Default, the Trustee may in its discretion proceed to protect and enforce the rights vested in it by this Indenture by such appropriate judicial proceedings as are necessary to protect and enforce any of such rights, either by suit in equity or by action at law or by proceeding in bankruptcy or otherwise, whether for the specific enforcement of any covenant or agreement contained in this Indenture or in aid of the exercise of any power granted in this Indenture, or to enforce any other legal or equitable right vested in the Trustee by this Indenture or by law.

Section 6.08 Remedies Cumulative and Continuing. Except as provided in the last paragraph of Section 2.07, all powers and remedies given by this Article 6 to the Trustee or to the Holders shall, to the extent permitted by law, be deemed cumulative and not exclusive of any thereof or of any other powers and remedies available to the Trustee or the Holders of the Notes, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements contained in this Indenture, and no delay or omission of the Trustee or of any Holder of any of the Notes to exercise any right or power accruing upon any Default or Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Default or Event of Default or any acquiescence therein; and, subject to the provisions of Section 6.06, every power and remedy given by this Article 6 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as shall be deemed expedient, by the Trustee or by the Holders. The Trustee may maintain a proceeding even if it does not possess any Notes or does not produce any Notes in the proceeding.

Section 6.09 Direction of Proceedings and Waiver of Defaults by Majority of Holders. Subject to the Trustee's right to receive security or indemnity from the relevant Holders as described herein, the Holders of a majority of the aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 8.04 shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee with respect to the Notes; *provided*, *however*, that (a) such direction shall not be in conflict with any rule of law or with this Indenture, and (b) the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction. The Trustee may refuse to follow any direction that it determines is unduly prejudicial to the rights of any other Holder (it being understood that the Trustee does not have an affirmative duty to ascertain whether or not such directions are unduly prejudicial to such Holder) or that would involve the Trustee in personal liability. The Holders of a majority in aggregate principal amount of the Notes at the time outstanding determined in accordance with Section 8.04 may on behalf of the Holders of all of the Notes waive any past Default or Event of Default hereunder and its consequences except (i) a default in the payment of accrued and unpaid interest, if any, on, or the principal (including any Redemption Price and any Fundamental Change Repurchase Price) of, the Notes when due that has not been cured pursuant to the provisions of Section 6.01, (ii) a failure by the Company to pay or deliver, as the case may be, the consideration due upon conversion of the Notes or (iii) a default in respect of a covenant or provision hereof which under Article 10 cannot be modified or amended without the consent of each Holder of an outstanding Note affected. Upon any such waiver the Company, the Trustee and the Holders of the Notes shall be restored to their former positions and rights hereunder; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon. Whenever any Default or Event of Default hereunder shall have been waived as permitted by this Section 6.09, said Default or Event of Default shall for all purposes of the Notes and this Indenture be deemed to have been cured and to be not continuing; but no such waiver shall extend to any subsequent or other Default or Event of Default or impair any right consequent thereon.

Section 6.10 Notice of Defaults. The Trustee shall, within 90 days after the occurrence and continuance of a Default of which a Responsible Officer has actual knowledge (or, if it is not known to a Responsible Officer at such time, promptly (and in any event within 10 Business Days) after it becomes known to a Responsible Officer), send to all Holders as the names and addresses of such Holders appear upon the Note Register, notice of all Defaults known to a Responsible Officer, unless such Defaults shall have been cured or waived before the giving of such notice; *provided* that, except in the case of a Default in the payment of the principal of (including the Redemption Price and the Fundamental Change Repurchase Price, if applicable), or accrued and unpaid interest on, any of the Notes or a Default in the payment or delivery of the consideration due upon conversion, the Trustee shall be protected in withholding such notice if and so long as it in good faith determines that the withholding of such notice is in the interests of the Holders.

Section 6.11 Undertaking to Pay Costs. All parties to this Indenture agree, and each Holder of any Note by its acceptance thereof shall be deemed to have agreed, that any court may, in its discretion, require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken or omitted by it as Trustee, the filing by any party litigant in such suit of an undertaking to pay the costs of such suit and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees and expenses, against any party litigant in such suit, having due regard to the merits and good faith of the claims or defenses made by such party litigant; *provided* that the provisions of this Section 6.11 (to the extent permitted by law) shall not apply to any suit instituted by the Trustee, to any suit instituted by any Holder, or group of Holders, holding in the aggregate more than 10% in principal amount of the Notes at the time outstanding determined in accordance with Section 8.04, or to any suit instituted by any Holder for the enforcement of the payment of the principal of or accrued and unpaid interest, if any, on any Note (including, but not limited to, the Redemption Price and the Fundamental Change Repurchase Price, if applicable) on or after the due date expressed or provided for in such Note or to any suit for the enforcement of the right to convert any Note, or receive the consideration due upon conversion, in accordance with the provisions of Article 13.

ARTICLE 7
CONCERNING THE TRUSTEE

Section 7.01 Duties and Responsibilities of Trustee. The Trustee, prior to the occurrence of an Event of Default of which a Responsible Officer of the Trustee has written notice or actual knowledge and after the curing or waiver of all Events of Default that may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In the event an Event of Default has occurred and is continuing of which a Responsible Officer of the Trustee has written notice or actual knowledge, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of such person's own affairs; *provided* that if an Event of Default occurs and is continuing, the Trustee will be under no obligation to exercise any of the rights or powers under this Indenture at the request or direction of any of the Holders unless such Holders have offered and, if requested, provided to the Trustee indemnity or security satisfactory to it against any costs, liability or expense that might be incurred by it in compliance with such request or direction.

No provision of this Indenture shall be construed to relieve the Trustee from liability for its own grossly negligent action, its own grossly negligent failure to act or its own willful misconduct, except that:

(a) prior to the occurrence of an Event of Default of which a Responsible Officer of the Trustee has written notice or actual knowledge and after the curing or waiving of all Events of Default that may have occurred:

(i) the duties and obligations of the Trustee shall be determined solely by the express provisions of this Indenture, and the Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith and willful misconduct on the part of the Trustee, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but, in the case of any such certificates or opinions that by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture (but need not confirm or investigate the accuracy of any mathematical calculations or other facts stated therein);

(b) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer or Officers of the Trustee, unless it shall be proved, as determined by a court of competent jurisdiction by a final and non-appealable judgment, that the Trustee was grossly negligent in ascertaining the pertinent facts;

(c) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of not less than a majority of the aggregate principal amount of the Notes at the time outstanding determined as provided in Section 8.04 relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(d) whether or not therein provided, every provision of this Indenture relating to the conduct or affecting the liability of, or affording protection to, the Trustee shall be subject to the provisions of this Section;

(e) the Trustee shall not be liable in respect of any payment (as to the correctness of amount, entitlement to receive or any other matters relating to payment) or notice effected by the Company or any Paying Agent or any records maintained by any co-Note Registrar with respect to the Notes;

(f) if any party fails to deliver a notice relating to an event the fact of which, pursuant to this Indenture, requires notice to be sent to the Trustee, the Trustee may conclusively rely on its failure to receive such notice as reason to act as if no such event occurred, unless a Responsible Officer of the Trustee had actual knowledge of such event;

(g) in the absence of specific written investment direction from the Company, all cash received by the Trustee shall be placed in a non-interest bearing trust account, and in no event shall the Trustee be liable for the selection of investments or for investment losses or other costs, fees or expenses incurred in connection therewith or for losses incurred as a result of the liquidation of any such investment prior to its maturity date or the failure of the party directing such investments prior to its maturity date or the failure of the party directing such investment to provide timely written investment direction, and the Trustee shall have no obligation to invest or reinvest any amounts held hereunder in the absence of such specific written investment direction from the Company (but it is understood and agreed that the Trustee or its Affiliates are permitted to receive additional compensation or fees (that could be deemed to be in the Trustee's economic self-interest) associated with any investments hereunder);

(h) in the event that the Trustee is also acting as Custodian, Note Registrar, Paying Agent, Conversion Agent, Bid Solicitation Agent or transfer agent hereunder, the rights and protections afforded to the Trustee pursuant to this Article 7, including, without limitation, its right to be indemnified, shall also be afforded to such Custodian, Note Registrar, Paying Agent, Conversion Agent, Bid Solicitation Agent or transfer agent; and

(i) any of the Trustee, its officers, directors, employees and affiliates may become the owner of, or acquire any interest in, any Notes with the same rights that they would have if the Trustee were not appointed hereunder, and may engage or be interested in any financial or other transaction with the Company and may act on, or as depositary, trustee or Trustee for, any committee or body of holders of Notes or in connection with any other obligations of the Company as freely as if the Trustee were not appointed hereunder.

None of the provisions contained in this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur personal financial liability in the performance of any of its duties or in the exercise of any of its rights or powers. The Trustee will be under no obligation to exercise any of its rights and powers under this Indenture at the request or direction of the Holders unless such Holder has offered (and, if requested, provided) to the Trustee security or indemnity satisfactory to it against any loss, liability or expense.

Section 7.02 Reliance on Documents, Opinions, Etc. Except as otherwise provided in Section 7.01:

(a) the Trustee may conclusively rely and shall be fully protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, note, coupon or other paper or document, whether sent by letter, email, facsimile or other electronic communication, believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties, even if it contains errors or is later deemed not authentic;

(b) any request, direction, order or demand of the Company mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof be herein specifically prescribed); and any Board Resolution may be evidenced to the Trustee by a copy thereof certified by the Secretary or an Assistant Secretary of the Company;

(c) whenever in the administration of this Indenture, the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action, in the absence of gross negligence or willful misconduct on its part, the Trustee may conclusively rely upon an Officer's Certificate;

(d) the Trustee may consult with counsel and other professional advisors of its own choosing and require an Opinion of Counsel (at the expense of the Company) and any advice of such counsel or other professional advisors or Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken or omitted by it hereunder in good faith and in accordance with such advice or Opinion of Counsel, and the Trustee shall not be responsible for the content of any Opinion of Counsel in connection with this Indenture, whether delivered to it or on its behalf;

(e) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney at the expense of the Company and shall incur no liability of any kind by reason of such inquiry or investigation;

(f) the Trustee shall not be bound to make any investigation as to the performance or observance of any of the covenants, agreements or other terms or conditions set forth in this Indenture;

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents, custodians, nominees or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent, custodian, nominee or attorney appointed by it with due care hereunder;

(h) the permissive rights of the Trustee enumerated herein shall not be construed as duties;

(i) the Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder;

(j) the Holders shall not have the right to compel disclosure of information made available to the Trustee in connection with this Indenture, unless otherwise required by applicable law or the express terms of this Indenture;

(k) the Trustee shall have the right to participate in defense of any claim against it, even if defense is assumed by an indemnifying party;

(l) the Trustee shall have no duty to make any documents available to the Holders unless otherwise required by applicable law or the express terms of this Indenture, *provided* that the Trustee shall provide a copy of this Indenture to a Holder upon proof that such Person is a Holder;

(m) the Trustee may request that the Company deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture;

(n) with respect to payments due with respect to the Notes, the Trustee (in its capacity as Trustee or as Paying Agent) shall only be obligated to pay amounts which it has actually received; and

(o) the Trustee shall be entitled to take any action or to refuse to take any action which the Trustee regards as necessary for the Trustee to comply with any applicable law.

In no event shall the Trustee be liable for any special, indirect, punitive or consequential loss or damage, even if the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action. The Trustee shall not be charged with knowledge of any Default or Event of Default or any other fact, unless either (1) a Responsible Officer shall have actual knowledge of such Default or Event of Default or (2) written notice of such Default or Event of Default shall have been received by the Trustee at the Corporate Trust Office of the Trustee, from the Company or any Holder of the Notes, and such notice references the Notes and this Indenture, and states that it is a “notice of default.”

*Section 7.03 No Responsibility for Recitals, Etc.*The recitals contained herein and in the Notes shall be taken as the statements of the Company, and the Trustee assumes no responsibility for the correctness of the same. The Trustee makes no representations as to the validity or sufficiency of this Indenture or of the Notes or other transaction documents. The Trustee shall not be accountable for the use or application by the Company of any Notes or the proceeds of any Notes authenticated and delivered by the Trustee in conformity with the provisions of this Indenture or any money paid to the Company or upon the Company's direction under any provision of the Indenture. The Trustee shall have no responsibility or liability with respect to any information, statement or recital in the Offering Memorandum or other disclosure material prepared or distributed with respect to the issuance of Notes.

Section 7.04 Trustee, Paying Agents, Conversion Agents, Bid Solicitation Agent or Note Registrar May Own Notes. The Trustee, any Paying Agent, any Conversion Agent, Bid Solicitation Agent or Note Registrar, in its individual or any other capacity, may become the owner or pledgee of Notes with the same rights it would have if it were not the Trustee, Paying Agent, Conversion Agent, Bid Solicitation Agent or Note Registrar.

Section 7.05 Monies and Shares of Common Stock to Be Held in Trust. All monies and shares of Common Stock received by the Trustee shall, until used or applied as herein provided, be held in trust for the purposes for which they were received. Money and shares of Common Stock held by the Trustee in trust hereunder need not be segregated from other funds or property except to the extent required by law. The Trustee shall be under no liability for interest on any money or shares of Common Stock received by it hereunder and will not be deemed an investment manager. The Trustee shall not be obligated to take possession of any Common Stock, whether on conversion or in connection with any discharge of this Indenture pursuant to Article 3 hereof, but shall satisfy its obligation as Conversion Agent by working through the stock transfer agent of the Company from time to time as directed by the Company.

Section 7.06 Compensation and Expenses of Trustee. The Company covenants and agrees to pay to the Trustee, in any capacity under this Indenture, from time to time, and the Trustee shall be entitled to, such compensation for all services rendered by it hereunder in any capacity (which shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust) as mutually agreed to in writing between the Trustee and the Company, and the Company will pay or reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances reasonably incurred or made by the Trustee in accordance with any of the provisions of this Indenture in any capacity thereunder (including (a) the reasonable compensation and the expenses and disbursements of its agents and counsel and of all Persons not regularly in its employ and (b) stamp, issue, registration, documentary or other taxes and duties) except any such expense, disbursement or advance as shall have been caused by its gross negligence or willful misconduct. The Company also covenants to indemnify the Trustee or any predecessor Trustee in any capacity under this Indenture and any other document or transaction entered into in connection herewith and its agents and any authenticating agent for, and to hold them harmless against, any loss, claim, damage, liability or expense incurred without gross negligence or willful misconduct on the part of the Trustee, its officers, directors, agents or employees, or such agent or authenticating agent, as the case may be, as determined by a court of competent jurisdiction by a final and non-appealable judgment, and arising out of or in connection with the acceptance or administration of this Indenture or in any other capacity hereunder, including the costs and expenses of defending themselves against any claim of liability in the premises. The obligations of the Company under this Section 7.06 to compensate or indemnify the Trustee and to pay or reimburse the Trustee for expenses, disbursements and advances shall be secured by a senior lien to which the Notes are hereby made subordinate on all money or property held or collected by the Trustee, except, subject to the effect of Section 6.05, funds held in trust herewith for the benefit of the Holders of particular Notes. The Trustee's right to receive payment of any amounts due under this Section 7.06 shall not be subordinate to any other liability or indebtedness of the Company. The obligation of the Company under this Section 7.06 shall survive the satisfaction and discharge of this Indenture and the earlier resignation or removal or the Trustee. The Company need not pay for any settlement made without its consent, which consent shall not be unreasonably withheld or delayed. The indemnification provided in this Section 7.06 shall extend to the officers, directors, agents and employees of the Trustee.

Without prejudice to any other rights available to the Trustee under applicable law, when the Trustee and its agents and any authenticating agent incur expenses or render services after an Event of Default specified in Section 6.01(j) or Section 6.01(k) occurs, the expenses and the compensation for the services are intended to constitute expenses of administration under any bankruptcy, insolvency or similar laws.

Section 7.07 Officer's Certificate as Evidence. Except as otherwise provided in Section 7.01, whenever in the administration of the provisions of this Indenture the Trustee shall deem it necessary or desirable that a matter be proved or established prior to taking or omitting any action hereunder, such matter (unless other evidence in respect thereof be herein specifically prescribed) may, in the absence of gross negligence or willful misconduct on the part of the Trustee, be deemed to be conclusively proved and established by an Officer's Certificate delivered to the Trustee, and such Officer's Certificate, in the absence of gross negligence or willful misconduct on the part of the Trustee, shall be full warrant to the Trustee for any action taken or omitted by it under the provisions of this Indenture upon the faith thereof.

Section 7.08 Eligibility of Trustee. There shall at all times be a Trustee hereunder which shall be a Person that is eligible pursuant to the Trust Indenture Act (as if the Trust Indenture Act were applicable hereto) to act as such and has a combined capital and surplus of at least $50,000,000. If such Person publishes reports of condition at least annually, pursuant to law or to the requirements of any supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Person shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 7.09 Resignation or Removal of Trustee.

(a) The Trustee may at any time resign by giving written notice of such resignation to the Company and by delivering notice thereof to the Holders. Upon receiving such notice of resignation, the Company shall promptly appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the resigning Trustee and one copy to the successor trustee. If no successor trustee shall have been so appointed and have accepted appointment within 60 days after the delivering of such notice of resignation to the Holders, the resigning Trustee may, upon ten Business Days' notice to the Company and the Holders, petition any court of competent jurisdiction, at the expense of the Company, for the appointment of a successor trustee, or any Holder who has been a bona fide holder of a Note or Notes for at least six months (or since the date of this Indenture) may, subject to the provisions of Section 6.11, on behalf of himself or herself and all others similarly situated, petition any such court for the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, appoint a successor trustee.

(b) In case at any time any of the following shall occur:

(i) the Trustee shall cease to be eligible in accordance with the provisions of Section 7.08 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(ii) the Trustee shall become incapable of acting, or shall be adjudged a bankrupt or insolvent, or a receiver of the Trustee or of its property shall be appointed, or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in either case, the Company may by a Board Resolution remove the Trustee and appoint a successor trustee by written instrument, in duplicate, executed by order of the Board of Directors, one copy of which instrument shall be delivered to the Trustee so removed and one copy to the successor trustee, or, subject to the provisions of Section 6.11, any Holder who has been a bona fide holder of a Note or Notes for at least six months (or since the date of this Indenture) may, on behalf of himself or herself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor trustee. Such court may thereupon, after such notice, if any, as it may deem proper and prescribe, remove the Trustee and appoint a successor trustee. If the Trustee is removed, but no successor trustee has been appointed and accepted such appointment, the removed Trustee may, upon the terms and conditions and otherwise as in Section 7.09(a) provided, petition, at the expense of the Company, any court of competent jurisdiction for an appointment of a successor trustee.

(c) The Holders of a majority in aggregate principal amount of the Notes at the time outstanding, as determined in accordance with Section 8.04, may at any time remove the Trustee and nominate a successor trustee that shall be deemed appointed as successor trustee unless within ten days after notice to the Company of such nomination the Company objects thereto, in which case the Trustee so removed or any Holder, upon the terms and conditions and otherwise as in Section 7.09(a) provided, may petition any court of competent jurisdiction for an appointment of a successor trustee.

(d) Any resignation or removal of the Trustee and appointment of a successor trustee pursuant to any of the provisions of this Section 7.09 shall become effective upon acceptance of appointment by the successor trustee as provided in Section 7.10.

Section 7.10 Acceptance by Successor Trustee. Any successor trustee appointed as provided in Section 7.09 shall execute, acknowledge and deliver to the Company and to its predecessor trustee an instrument accepting such appointment hereunder, and thereupon the resignation or removal of the predecessor trustee shall become effective and such successor trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, duties and obligations of its predecessor hereunder, with like effect as if originally named as Trustee herein; but, nevertheless, on the written request of the Company or of the successor trustee, the trustee ceasing to act shall, upon payment of any amounts then due it pursuant to the provisions of Section 7.06, execute and deliver an instrument transferring to such successor trustee all the rights and powers of the trustee so ceasing to act. Upon request of any such successor trustee, the Company shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor trustee all such rights and powers. Any trustee ceasing to act shall, nevertheless, retain a senior claim to which the Notes are hereby made subordinate on all money or property held or collected by such trustee as such, except for funds held in trust for the benefit of Holders of particular Notes, to secure any amounts then due it pursuant to the provisions of Section 7.06.

No successor trustee shall accept appointment as provided in this Section 7.10 unless at the time of such acceptance such successor trustee shall be eligible under the provisions of Section 7.08.

Upon acceptance of appointment by a successor trustee as provided in this Section 7.10, each of the Company and the successor trustee, at the written direction and at the expense of the Company, shall send or cause to be sent notice of the succession of such trustee hereunder to the Holders. If the Company fails to send such notice within ten days after acceptance of appointment by the successor trustee, the successor trustee shall cause such notice to be sent at the expense of the Company.

*Section 7.11 Succession by Merger, Etc.*Any corporation or other entity into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee (including the administration of this Indenture), shall be the successor to the Trustee hereunder without the execution or filing of any paper or any further act on the part of any of the parties hereto; *provided* that in the case of any corporation or other entity succeeding to all or substantially all of the corporate trust business of the Trustee such corporation or other entity shall be eligible under the provisions of Section 7.08.

In case at the time such successor to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee or authenticating agent appointed by such predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee or an authenticating agent appointed by such successor trustee may authenticate such Notes either in the name of any predecessor trustee hereunder or in the name of the successor trustee; and in all such cases such certificates shall have the full force which it is anywhere in the Notes or in this Indenture provided that the certificate of the Trustee shall have; *provided*, *however*, that the right to adopt the certificate of authentication of any predecessor trustee or to authenticate Notes in the name of any predecessor trustee shall apply only to its successor or successors by merger, conversion or consolidation.

Section 7.12 Trustee's Application for Instructions from the Company. Any application by the Trustee for written instructions from the Company may, at the option of the Trustee, set forth in writing any action proposed to be taken or omitted by the Trustee under this Indenture and the date on and/or after which such action shall be taken or such omission shall be effective. The Trustee shall not be liable for any action taken by, or omission of, the Trustee in accordance with a proposal included in such application on or after the date specified in such application (which date shall not be less than three Business Days after the notice to the Company has been deemed given pursuant to Section 7.03, unless, prior to taking any such action (or the effective date in the case of any omission), the Trustee shall have received written instructions in accordance with this Indenture in response to such application specifying the action to be taken or omitted.

ARTICLE 8
CONCERNING THE HOLDERS

Section 8.01 Action by Holders. Whenever in this Indenture it is provided that the Holders of a specified percentage of the aggregate principal amount of the Notes may take any action (including the making of any demand or request, the giving of any notice, consent or waiver or the taking of any other action), the fact that at the time of taking any such action, the Holders of such specified percentage have joined therein may be evidenced (a) by any instrument or any number of instruments of similar tenor executed by Holders in person or by agent or proxy appointed in writing, or (b) by the record of the Holders voting in favor thereof at any meeting of Holders duly called and held in accordance with the provisions of Article 9, or (c) by a combination of such instrument or instruments and any such record of such a meeting of Holders. Whenever the Company or the Trustee solicits the taking of any action by the Holders of the Notes, the Company or the Trustee may, but shall not be required to, fix in advance of such solicitation, a date as the record date for determining Holders entitled to take such action. The record date if one is selected shall be not more than fifteen days prior to the date of commencement of solicitation of such action.

Section 8.02 Proof of Execution by Holders. Subject to the provisions of Section 7.01, Section 7.02 and Section 9.05, proof of the execution of any instrument by a Holder or its agent or proxy shall be sufficient if made in accordance with such reasonable rules and regulations as may be prescribed by the Trustee or in such manner as shall be satisfactory to the Trustee. The holding of Notes shall be proved by the Note Register or by a certificate of the Note Registrar. The record of any Holders' meeting shall be proved in the manner provided in Section 9.06.

Section 8.03 Who Are Deemed Absolute Owners. The Company, the Guarantors, the Trustee, any authenticating agent, any Paying Agent, any Conversion Agent and any Note Registrar may deem the Person in whose name a Note shall be registered upon the Note Register to be, and may treat it as, the absolute owner of such Note (whether or not such Note shall be overdue and notwithstanding any notation of ownership or other writing thereon made by any Person other than the Company or any Note Registrar) for the purpose of receiving payment of or on account of the principal (including any Redemption Price and any Fundamental Change Repurchase Price, if applicable) of and (subject to Section 2.03) accrued and unpaid interest on such Note, for conversion of such Note and for all other purposes; and neither the Company nor the Trustee nor any Paying Agent nor any Conversion Agent nor any Note Registrar shall be affected by any notice to the contrary. The sole registered holder of a Global Note shall be the Depositary or its nominee. All such payments or deliveries so made to any Holder for the time being, or upon its order, shall be valid, and, to the extent of the sums or shares of Common Stock so paid or delivered, effectual to satisfy and discharge the liability for monies payable or shares deliverable upon any such Note. Notwithstanding anything to the contrary in this Indenture or the Notes following an Event of Default, any holder of a beneficial interest in a Global Note may directly enforce against the Company, without the consent, solicitation, proxy, authorization or any other action of the Depositary or any other Person, such holder's right to exchange such beneficial interest for a Note in certificated form in accordance with the provisions of this Indenture.

Section 8.04 *Company-Owned Notes Disregarded*. Without limiting Section 2.11, in determining whether the Holders of the requisite aggregate principal amount of Notes have concurred in any direction, consent, waiver or other action under this Indenture, Notes that are owned by the Company, by any Subsidiary thereof or by any Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or any Subsidiary thereof shall be disregarded and deemed not to be outstanding for the purpose of any such determination; *provided* that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, consent, waiver or other action only Notes that a Responsible Officer actually knows are so owned shall be so disregarded. Notes so owned that have been pledged in good faith may be regarded as outstanding for the purposes of this Section 8.04 if the pledgee shall establish to the satisfaction of the Trustee the pledgee's right to so act with respect to such Notes and that the pledgee is not the Company, a Subsidiary thereof or a Person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company or a Subsidiary thereof. In the case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee. Upon request of the Trustee, the Company shall furnish to the Trustee promptly an Officer's Certificate listing and identifying all Notes, if any, known by the Company to be owned or held by or for the account of any of the above described Persons; and, subject to Section 7.01, the Trustee shall be entitled to accept such Officer's Certificate as conclusive evidence of the facts therein set forth and of the fact that all Notes not listed therein are outstanding for the purpose of any such determination.

Section 8.05 *Revocation of Consents; Future Holders Bound*. At any time prior to (but not after) the evidencing to the Trustee, as provided in Section 8.01, of the taking of any action by the Holders of the percentage of the aggregate principal amount of the Notes specified in this Indenture in connection with such action, any Holder of a Note that is shown by the evidence to be included in the Notes the Holders of which have consented to such action may, by filing written notice with the Trustee at its Corporate Trust Office and upon proof of holding as provided in Section 8.02, revoke such action so far as concerns such Note. Except as aforesaid, any such action taken by the Holder of any Note shall be conclusive and binding upon such Holder and upon all future Holders and owners of such Note and of any Notes issued in exchange or substitution therefor or upon registration of transfer thereof, irrespective of whether any notation in regard thereto is made upon such Note or any Note issued in exchange or substitution therefor or upon registration of transfer thereof.

ARTICLE 9
HOLDERS' MEETINGS

Section 9.01 *Purpose of Meetings*. A meeting of Holders may be called at any time and from time to time pursuant to the provisions of this Article 9 for any of the following purposes:

(a) to give any notice to the Company or to the Trustee or to give any directions to the Trustee permitted under this Indenture, or to consent to the waiving of any Default or Event of Default hereunder (in each case, as permitted under this Indenture) and its consequences, or to take any other action authorized to be taken by Holders pursuant to any of the provisions of Article 6;

(b) to remove the Trustee and nominate a successor trustee pursuant to the provisions of Article 7;

(c) to consent to the execution of an indenture or indentures supplemental hereto pursuant to the provisions of Section 10.02; or

(d) to take any other action authorized to be taken by or on behalf of the Holders of any specified aggregate principal amount of the Notes under any other provision of this Indenture or under applicable law.

Section 9.02 Call of Meetings by Trustee. The Trustee may at any time call a meeting of Holders to take any action specified in Section 9.01, to be held at such time and at such place as the Trustee shall determine. Notice of every meeting of the Holders, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting and the establishment of any record date pursuant to Section 8.01, shall be sent to Holders of such Notes. Such notice shall also be sent to the Company. Such notices sent be mailed not less than 20 nor more than 90 days prior to the date fixed for the meeting.

Any meeting of Holders shall be valid without notice if the Holders of all Notes then outstanding are present in person or by proxy or if notice is waived before or after the meeting by the Holders of all Notes then outstanding, and if the Company and the Trustee are either present by duly authorized representatives or have, before or after the meeting, waived notice.

Section 9.03 Call of Meetings by Company or Holders. In case at any time the Company, pursuant to a Board Resolution, or the Holders of at least 10% of the aggregate principal amount of the Notes then outstanding, shall have requested the Trustee to call a meeting of Holders, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have sent the notice of such meeting within 20 days after receipt of such request, then the Company or such Holders may determine the time and the place for such meeting and may call such meeting to take any action authorized in Section 9.01, by sending notice thereof as provided in Section 9.02.

Section 9.04 Qualifications for Voting. To be entitled to vote at any meeting of Holders a Person shall (a) be a Holder of one or more Notes on the record date pertaining to such meeting or (b) be a Person appointed by an instrument in writing as proxy by a Holder of one or more Notes on the record date pertaining to such meeting. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel and any representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

Section 9.05 Regulations. Notwithstanding any other provisions of this Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders, in regard to proof of the holding of Notes and of the appointment of proxies, and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall think fit.

The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders as provided in Section 9.03, in which case the Company or the Holders calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Holders of a majority in aggregate principal amount of the Notes represented at the meeting and entitled to vote at the meeting.

Subject to the provisions of Section 8.04, at any meeting of Holders each Holder or proxyholder shall be entitled to one vote for each $1,000 principal amount of Notes held or represented by him or her; *provided*, *however*, that no vote shall be cast or counted at any meeting in respect of any Note challenged as not outstanding and ruled by the chairman of the meeting to be not outstanding. The chairman of the meeting shall have no right to vote other than by virtue of Notes held by it or instruments in writing as aforesaid duly designating it as the proxy to vote on behalf of other Holders. Any meeting of Holders duly called pursuant to the provisions of Section 9.02 or Section 9.03 may be adjourned from time to time by the Holders of a majority of the aggregate principal amount of Notes represented at the meeting, whether or not constituting a quorum, and the meeting may be held as so adjourned without further notice.

Section 9.06 *Voting*. The vote upon any resolution submitted to any meeting of Holders shall be by written ballot on which shall be subscribed the signatures of the Holders or of their representatives by proxy and the outstanding aggregate principal amount of the Notes held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record in duplicate of the proceedings of each meeting of Holders shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more Persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was sent as provided in Section 9.02. The record shall show the aggregate principal amount of the Notes voting in favor of or against any resolution. The record shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one of the duplicates shall be delivered to the Company and the other to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting.

Any record so signed and verified shall be conclusive evidence of the matters therein stated.

Section 9.07 *No Delay of Rights by Meeting*. Nothing contained in this Article 9 shall be deemed or construed to authorize or permit, by reason of any call of a meeting of Holders or any rights expressly or impliedly conferred hereunder to make such call, any hindrance or delay in the exercise of any right or rights conferred upon or reserved to the Trustee or to the Holders under any of the provisions of this Indenture or of the Notes.

ARTICLE 10
AMENDMENTS, SUPPLEMENTS AND WAIVERS

Section 10.01 Without Consent of Holders. Notwithstanding anything to the contrary in this Indenture or the Notes, the Company, the Guarantors and the Trustee, at the Company's expense, may from time to time and at any time amend or supplement this Indenture, the Notes or the Guarantees, without the consent of any Holder, for one or more of the following purposes:

(a) to add additional Guarantees with respect to the Company's obligations under this Indenture or the Notes or secure the Notes or any Guarantees;

(b) to evidence the assumption by a Successor Entity of the obligations of the Company or any Guarantor under this Indenture pursuant to Article 11;

(c) in connection with any Share Exchange Event, to provide that the Notes are convertible into Reference Property, subject to the provisions of Section 13.02, and make such related changes to the terms of the Notes to the extent expressly required by Section 13.07;

(d) to irrevocably elect or eliminate any Settlement Method or irrevocably elect a Specified Dollar Amount to be applicable to Combination Settlements; *provided*, *however*, that (1) no such election or elimination shall affect any Settlement Method theretofore elected (or deemed to be elected) with respect to the conversion of any Note pursuant to the provisions of Article 13; and (2) such irrevocable election or elimination can in no event result in a Specified Dollar Amount of less than $1,000 per $1,000 principal amount of Notes applying to the conversion of any Note;

(e) to surrender any right or power herein or under the Guarantees conferred upon the Company or any Guarantor;

(f) to add to the covenants or Events of Default of the Company or any Guarantor for the benefit of the Holders;

(g) to cure any ambiguity or correct or supplement any defect or inconsistency in this Indenture, *provided* that such action shall not adversely affect the interests of the Holders of the Notes in any material respect;

(h) to modify or amend this Indenture to permit the qualification of this Indenture or any indenture supplemental thereto under the Trust Indenture Act;

(i) to establish the form of the Notes, if issued in definitive form;

(j) to provide for the acceptance of the appointment under this Indenture of a successor Trustee, Registrar, Paying Agent, Bid Solicitation Agent or Conversion Agent or to facilitate the administration of the trusts under this Indenture by more than one Trustee in accordance with the terms of this Indenture;

(k) to conform, as necessary, the provisions of this Indenture or the Notes to the "Description of notes" section of the Offering Memorandum, as set forth in an Officer's Certificate;

(l) to provide for conversion rights of Holders of Notes if any reclassification or change of the Common Stock or any merger, consolidation or sale of all or substantially all of the Company's assets occurs;

(m) to change the Conversion Rate in accordance with this Indenture;

(n) to eliminate, terminate or release a Guarantee in accordance with this Indenture;

(o) to provide for the issuance of additional Notes in accordance with this Indenture;

(p) to comply with the rules of any applicable securities depositary, including the Depositary, so long as such amendment does not adversely affect the rights of any Holder in any material respect; or

(q) to make any other change that does not adversely affect the rights of any Holder.

Upon the written request of the Company, the Trustee is hereby authorized to join with the Company in the execution of any such supplemental indenture, to make any further appropriate agreements and stipulations that may be therein contained, but the Trustee shall not be obligated to, but may in its discretion, enter into any supplemental indenture that affects the Trustee's own rights, duties or immunities under this Indenture or otherwise.

Any supplemental indenture authorized by the provisions of this Section 10.01 may be executed by the Company and the Trustee without the consent of the Holders of any of the Notes at the time outstanding, notwithstanding any of the provisions of Section 10.02.

Section 10.02 With Consent of Holders. With the consent (evidenced as provided in Article 8) of the Holders of at least a majority of the aggregate principal amount of the Notes then outstanding (determined in accordance with Article 8 and including, without limitation, consents obtained in connection with a repurchase of, or tender or exchange offer for, Notes), the Company, at the Company's expense, may from time to time and at any time enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture, the Notes, the Guarantees or any supplemental indenture or of modifying in any manner the rights of the Holders; *provided*, *however*, that, without the consent of each Holder of an outstanding Note affected, no such supplemental indenture shall:

(a) reduce the principal amount of, or change the Maturity Date or an Interest Payment Date of, any Note;

(b) reduce or alter the manner of calculating the interest rate or extend the stated time for payment of interest on any Note;

(c) reduce the Redemption Price or the Fundamental Change Repurchase Price of any Note, or change the time at which or circumstances under which any Note may or shall be repurchased or redeemed;

(d) impair the right of any Holder to institute suit for the enforcement of any payment on or with respect to such Holder's Notes;

(e) change the currency of payment of the Notes or interest on any Note;

(f) make any change that adversely affects the repurchase option of a Holder pursuant to Article 14 or the right of a Holder to convert any Note or reduce the consideration receivable upon conversion of any Note except as otherwise permitted by this Indenture;

(g) change the Company's obligation to maintain an office or agency as described in Section 4.02;

(h) modify any of the provisions of this Article 10, or reduce the percentage of the aggregate principal amount of outstanding Notes required to amend, modify or supplement this Indenture or the Notes or waive an Event of Default, except to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each outstanding Note affected thereby;

(i) reduce the percentage of Notes whose Holders must consent to an amendment; or

(j) modify or amend the terms and conditions of the obligations of the Guarantors, as Guarantors of the Notes, in any manner that is materially adverse to the rights of the Holders, as such, other than any elimination, termination or release of a guarantee in accordance with this Indenture.

Upon the written request of the Company, and upon the filing with the Trustee of evidence of the consent of requisite Holders as aforesaid and subject to Section 10.05, the Trustee shall join with the Company in the execution of such supplemental indenture unless such supplemental indenture affects the Trustee's own rights, duties, liabilities or immunities under this Indenture or otherwise, in which case the Trustee may in its discretion, but shall not be obligated to, enter into such supplemental indenture.

Holders do not need under this Section 10.02 to approve the particular form of any proposed supplemental indenture. It shall be sufficient if such Holders approve the substance thereof. After any such supplemental indenture under Section 10.01 or under this Section 10.02 becomes effective, the Company shall send to the Holders a notice briefly describing such supplemental indenture. However, the failure to give such notice to all the Holders, or any defect in the notice, will not impair or affect the validity of the supplemental indenture.

Section 10.03 Effect of Supplemental Indentures. Upon the execution of any supplemental indenture pursuant to the provisions of this Article 10, this Indenture and the Notes shall be and be deemed to be modified and amended in accordance therewith and the respective rights, limitation of rights, obligations, duties and immunities under this Indenture of the Trustee, the Company and the Holders shall thereafter be determined, exercised and enforced hereunder subject in all respects to such modifications and amendments and all the terms and conditions of any such supplemental indenture shall be and be deemed to be part of the terms and conditions of this Indenture for any and all purposes.

Section 10.04 Notation on Notes. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to the provisions of this Article 10 may, at the Company's request and expense, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company or the Trustee shall so determine, new Notes so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any modification of this Indenture contained in any such supplemental indenture may, at the Company's expense, be prepared and executed by the Company, authenticated by the Trustee (or an authenticating agent duly appointed by the Trustee pursuant to Section 16.11) and delivered in exchange for the Notes then outstanding, upon surrender of such Notes then outstanding.

Section 10.05 Evidence of Compliance of Supplemental Indenture to Be Furnished to Trustee. In addition to the documents required by Section 16.06, the Trustee shall receive an Officer's Certificate and an Opinion of Counsel as conclusive evidence that any supplemental indenture executed pursuant hereto is permitted or authorized by this Indenture. The Trustee shall have no responsibility for determining whether any amendment or supplemental indenture will or may have an adverse effect on any Holder.

ARTICLE 11
CONSOLIDATION, MERGER, SALE, CONVEYANCE AND LEASE

Section 11.01 Company May Consolidate, Etc. on Certain Terms. Subject to the provisions of Section 11.02, the Company shall not in any transaction or series of transactions consolidate with or merge with or into any other Person (other than a merger of a Subsidiary of the Company into the Company in which the Company is the continuing Person), or sell, assign, convey, transfer, lease or otherwise dispose of all or substantially all of the assets of the Company or its Subsidiaries, taken as a whole, to another Person (except in the case of a conveyance, transfer, sale, lease or other disposition of all or substantially all of the Company's assets to solely one or more of the Company's Wholly Owned Subsidiaries) (a "**Business Combination Event**"), unless:

(a) the resulting, surviving or transferee Person (x) is the Company or (y) if not the Company, is a Qualified Successor Entity (such Qualified Successor Entity, the "**Successor Entity**") duly organized and existing under the laws of the United States of America, any State thereof or the District of Columbia that expressly assumes (by executing and delivering to the Trustee, at or before the effective time of such Business Combination Event, a supplemental indenture) all of the obligations of the Company under the Notes and this Indenture; and

(b) immediately after giving effect to such Business Combination Event, no Default or Event of Default shall have occurred and be continuing under this Indenture.

For purposes of this Section 11.01, the conveyance, transfer, sale, lease or other disposition of all or substantially all of the assets of one or more Subsidiaries of the Company to another Person, which assets, if held by the Company instead of such Subsidiaries, would constitute all or substantially all of the assets of the Company on a consolidated basis, shall be deemed to be the conveyance, transfer, sale, lease or other disposition of all or substantially all of the assets of the Company to another Person. The provisions of this Article 11 shall not apply to the Company's conveyance, transfer, sale, lease or other disposition of all or substantially all of its assets to solely one or more of the Company's Wholly Owned Subsidiaries.

Section 11.02 Successor Entity to Be Substituted. In case of any such consolidation, merger, conveyance, transfer, sale, lease or other disposition and upon the assumption by the Successor Entity, by supplemental indenture, executed and delivered to the Trustee and satisfactory in form to the Trustee, of the due and punctual payment of the principal of and accrued and unpaid interest on all of the Notes, the due and punctual delivery or payment, as the case may be, of any consideration due upon conversion of the Notes and the due and punctual performance of all of the covenants and conditions of this Indenture to be performed by the Company, such Successor Entity (if not the Company) shall succeed to, and may exercise every right and power of, the Company under this Indenture and the Notes, and, except in the case of a lease, the predecessor Company will be discharged from its obligations under this Indenture and the Notes. Such Successor Entity thereupon may cause to be signed, and may issue either in its own name or in the name of the Company any or all of the Notes issuable hereunder which theretofore shall not have been signed by the Company and delivered to the Trustee; and, upon the order of such Successor Entity instead of the Company and subject to all the terms, conditions and limitations in this Indenture prescribed, the Trustee shall authenticate and shall deliver, or cause to be authenticated and delivered, any Notes that previously shall have been signed and delivered by the Officers of the Company to the Trustee for authentication, and any Notes that such Successor Entity thereafter shall cause to be signed and delivered to the Trustee for that purpose. All the Notes so issued shall in all respects have the same legal rank and benefit under this Indenture as the Notes theretofore or thereafter issued in accordance with the terms of this Indenture as though all of such Notes had been issued at the date of the execution hereof. In the event of any such consolidation, merger, conveyance, transfer, sale or other disposition (but not in the case of a lease), upon compliance with this Article 11 the Person named as the "Company" in the first paragraph of this Indenture (or any successor that shall thereafter have become such in the manner prescribed in this Article 11) may be dissolved, wound up and liquidated at any time thereafter and, except in the case of a lease, such Person shall be released from its liabilities as obligor and maker of the Notes and from its obligations under this Indenture and the Notes.

In case of any such consolidation, merger, conveyance, transfer, sale, lease or other disposition, such changes in phraseology and form (but not in substance) may be made in the Notes thereafter to be issued as may be appropriate.

Section 11.03 Officer's Certificate and Opinion of Counsel to Be Given to Trustee. No such consolidation, merger, conveyance, transfer, sale, lease or other disposition shall be effective unless the Trustee shall receive an Officer's Certificate and an Opinion of Counsel, each stating that such consolidation, merger, sale, conveyance, assignment, transfer, lease or other disposition complies with the requirements of this Indenture and that such supplemental indenture, if a supplemental indenture is required in connection with such transaction, constitutes the legal, valid and binding obligation of the surviving entity subject to customary exceptions.

ARTICLE 12
IMMUNITY OF INCORPORATORS, STOCKHOLDERS, OFFICERS AND DIRECTORS

Section 12.01 Indenture, Guarantees and Notes Solely Corporate Obligations. No recourse for the payment of the principal of or accrued and unpaid interest on any Note, nor for any claim based thereon or otherwise in respect thereof, and no recourse under or upon any obligation, covenant or agreement of the Company or any Guarantor in this Indenture, the Guarantees or any supplemental indenture, or in any Note, nor because of the creation of any indebtedness represented thereby, shall be had against any incorporator, stockholder, employee, agent, Officer or director or Subsidiary, as such, past, present or future, of the Company or any Guarantor or of any successor entity, either directly or through the Company or any Guarantor or any successor entity, whether by virtue of any constitution, statute or rule of law, or by the enforcement of any assessment or penalty or otherwise; it being expressly understood that all such liability is hereby expressly waived and released as a condition of, and as a consideration for, the execution of this Indenture, the Guarantees, and the issue of the Notes.

ARTICLE 13
CONVERSION OF NOTES

Section 13.01 Conversion Privilege

(a) Subject to and upon compliance with the provisions of this Article 13, each Holder of a Note shall have the right, at such Holder's option, to convert all or any portion (if the portion to be converted is $1,000 principal amount or an integral multiple thereof) of such Note (i) subject to satisfaction of the conditions described in Section 13.01(b), at any time prior to the close of business on the Business Day immediately preceding March 15, 2028 under the circumstances and during the periods set forth in Section 13.01(b), and (ii) regardless of the conditions described in Section 13.01(b), on or after March 15, 2028 and prior to the close of business on the second Scheduled Trading Day immediately preceding the Maturity Date, in each case, at an initial conversion rate of 26.0247 shares of Common Stock (subject to adjustment as provided in this Article 13, the "**Conversion Rate**") per $1,000 principal amount of Notes (subject to, and in accordance with, the settlement provisions of Section 13.02, the "**Conversion Obligation**").

(b) (i) Prior to the close of business on the Business Day immediately preceding March 15, 2028, a Holder may surrender all or any portion of its Notes for conversion at any time during the five Business Day period immediately after any ten consecutive Trading Day period (the "**Measurement Period**") in which the Trading Price per $1,000 principal amount of Notes, as determined following a request by a Holder of Notes in accordance with this subsection (b)(i), for each Trading Day of the Measurement Period was less than 98% of the product of the Closing Price of the Common Stock and the Conversion Rate on each such Trading Day. The Trading Prices shall be determined by the Bid Solicitation Agent pursuant to this subsection (b)(i) and the definition of Trading Price set forth in this Indenture. Unless the Company is acting as Bid Solicitation Agent, the Company shall provide written notice to the Bid Solicitation Agent of the three independent nationally recognized securities dealers selected by the Company (which may include one or more of the Initial Purchasers or their Affiliates) pursuant to the definition of Trading Price, along with appropriate contact information for each. The Bid Solicitation Agent (if not the Company) shall have no obligation to determine the Trading Price per $1,000 principal amount of Notes unless the Company has requested such determination, and the Company shall have no obligation to make such request (or, if the Company is acting as Bid Solicitation Agent, the Company shall have no obligation to determine the Trading Price per $1,000 principal amount of Notes) unless a Holder of at least $2.0 million in aggregate principal amount of the Notes provides the Company with reasonable evidence that the Trading Price per $1,000 principal amount of Notes would be less than 98% of the product of the Closing Price of the Common Stock and the Conversion Rate, at which time the Company shall (if the Company is acting as Bid Solicitation Agent) or the Company shall instruct the Bid Solicitation Agent (if the Company is not acting as Bid Solicitation Agent), in writing, to determine the Trading Price per $1,000 principal amount of Notes beginning on the next Trading Day and on each successive Trading Day until the Trading Price per $1,000 principal amount of Notes is greater than or equal to 98% of the product of the Closing Price of the Common Stock and the Conversion Rate and the Company will instruct the three independent nationally recognized securities dealers to deliver bids to the Bid Solicitation Agent. If the Company does not instruct the Bid Solicitation Agent in writing to determine the Trading Price per $1,000 principal amount of Notes when obligated as provided in the preceding sentence, or if the Company instructs the Bid Solicitation Agent in writing to obtain bids and the Bid Solicitation Agent fails to make such determination, or if the Company is acting as Bid Solicitation Agent and the Company fails to determine the Trading Price per $1,000 principal amount of Notes when the Company is required to do so, then, in each case, the Trading Price per $1,000 principal amount of Notes shall be deemed to be less than 98% of the product of the Closing Price of the Common Stock and the Conversion Rate on each Trading Day of such failure. In the event that the Company is not acting as Bid Solicitation Agent and the Bid Solicitation Agent is required to determine the Trading Price, but cannot, in its own determination, act in such capacity, the Bid Solicitation Agent shall notify the Company and the Company shall promptly appoint a substitute Bid Solicitation Agent. If the Trading Price condition set forth above has been met, the Company shall so notify the Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing. If, at any time after the Trading Price condition set forth above has been met, the Trading Price per $1,000 principal amount of Notes is greater than or equal to 98% of the product of the Closing Price of the Common Stock and the Conversion Rate for such date, the Company shall so notify the Holders of the Notes, the Trustee and the Conversion Agent (if other than the Trustee) as described in the preceding sentence.

(ii) If, prior to the close of business on the Business Day immediately preceding March 15, 2028, the Company elects to:

(A) distribute to all holders of the Common Stock any rights or warrants (other than any issuance of rights, options or warrants issued under a stockholder rights plan that are (1) transferable with shares of the Common Stock, including upon conversion of a Note, and (2) not exercisable until the occurrence of a Trigger Event; *provided* that any such rights, options or warrants will be deemed distributed under this Section 13.01(b)(ii)(A) upon the separation of such rights, options or warrants from the Common Stock, or upon the occurrence of a Trigger Event) entitling them to purchase, for a period of not more than 60 calendar days after the Ex-Dividend Date for such distribution, shares of the Common Stock at a price per share that is less than the average of the Closing Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the declaration date for such distribution; or

(B) distribute to all holders of the Common Stock the Company's assets (including cash), debt securities or rights or warrants to purchase securities of the Company, which distribution has a per share value, as determined in good faith by the Company, exceeding 10% of the Closing Price of the Common Stock on the Trading Day immediately preceding the date of announcement for such distribution,

then, in either case, the Company shall notify in writing all Holders of the Notes, the Trustee and the Conversion Agent (if other than the Trustee) of such distribution, and of the related right to convert the Notes, at least 60 Scheduled Trading Days prior to the Ex-Dividend Date for such distribution. Notwithstanding anything to the contrary in this Indenture or the Notes, in the case of any separation of rights, options or warrants or the occurrence of a Trigger Event of the type described in Section 13.01(b)(ii)(A), the Company shall not be required to provide any related notice of convertibility pursuant to the preceding provisions before the Business Day after the first date on which the Company becomes aware that such separation or Trigger Event has occurred.

Once the Company has given such notice, a Holder may surrender all or any portion of its Notes for conversion at any time until the earlier of (1) the close of business on the Business Day immediately preceding the Ex-Dividend Date for such distribution and (2) the Company's announcement that such distribution will not take place, in each case, even if the Notes are not otherwise convertible at such time; *provided* that no Holder of a Note shall have the right to convert if the Holder otherwise would participate in such distribution without conversion in respect of Notes held by such Holder as if such Holder held a number of shares of Common Stock equal to the Conversion Rate for each $1,000 principal amount of Notes it holds.

(iii) If a transaction or event that constitutes a Fundamental Change or a Make-Whole Fundamental Change occurs prior to the close of business on the Business Day immediately preceding March 15, 2028, or if the Company is a party to a Share Exchange Event (other than a Share Exchange Event that is solely to change the jurisdiction of the Company's organization and that does not constitute a Fundamental Change or a Make-Whole Fundamental Change) that occurs prior to the close of business on the Business Day immediately preceding March 15, 2028 (each such Fundamental Change, Make-Whole Fundamental Change or Share Exchange Event, a "**Corporate Event**"), in each case, regardless of whether a Holder has the right to require the Company to repurchase the Notes pursuant to Section 14.01, all or any portion of a Holder's Notes may be surrendered for conversion at any time from the effective date of such Corporate Event until 35 Trading Days after such effective date or, if such Corporate Event constitutes a Fundamental Change (other than an Exempted Fundamental Change), until the related Fundamental Change Repurchase Date. The Company shall notify Holders, the Trustee and the Conversion Agent (if other than the Trustee) in writing of any Corporate Event and the corresponding right to convert the Notes as promptly as practicable following the effective date of such Corporate Event. If the Company does not provide such notice by the second Business Day after such effective date, then the last day on which the Notes are convertible will be extended by the number of Business Days from, and including, the second Business Day after such effective date to, but excluding, the date the Company provides such notice.

(iv) Prior to the close of business on the Business Day immediately preceding March 15, 2028, a Holder may surrender all or any portion of its Notes for conversion at any time during any fiscal quarter commencing after the fiscal quarter ending on September 30, 2023 (and only during such fiscal quarter), if the Closing Price of the Common Stock for at least 20 Trading Days (whether or not consecutive) during the period of 30 consecutive Trading Days ending on, and including, the last Trading Day of the immediately preceding fiscal quarter is greater than or equal to 130% of the Conversion Price on each applicable Trading Day.

(v) If the Company calls any Notes for Optional Redemption pursuant to Article 15, then a Holder of Notes called for Optional Redemption (including, for the avoidance of doubt, any such Notes deemed called pursuant to the third paragraph of Section 15.02(d)) may surrender all or any portion of such Notes for conversion at any time prior to the close of business on the second Business Day immediately preceding the related Redemption Date, even if the Notes are not otherwise convertible at such time. After that time, the right to convert any such Notes pursuant to this subsection (b)(v) shall expire, unless the Company defaults in the payment of the Redemption Price, in which case a Holder of such Notes may convert all or any portion of such Notes until the close of business on the Business Day immediately preceding the date on which the Redemption Price has been paid or duly provided for.

Section 13.02 Conversion Procedure; Settlement Upon Conversion

(a) The Company shall have the right to elect a Settlement Method applicable to any conversion of a Note subject to the conditions set forth in this Section 13.02. Subject to this Section 13.02, Section 13.03(b) and Section 13.07(a), upon surrender of a Holder's Note for conversion, the Company shall settle such conversion by paying and, if applicable, delivering, as the case may be, either solely cash as provided in Section 13.02(a)(iv)(A) (a "**Cash Settlement**") or a combination of cash and shares of Common Stock as provided in Section 13.02(a)(iv)(B) (a "**Combination Settlement**").

(i) All conversions for which the relevant Conversion Date occurs on or after the Company's issuance of a Redemption Notice with respect to the Notes and on or prior to the second Business Day immediately preceding the related Redemption Date and all conversions for which the relevant Conversion Date occurs on or after March 15, 2028 shall be settled using the same Settlement Method.

(ii) Except for any conversions for which the relevant Conversion Date occurs after the Company's issuance of a Redemption Notice with respect to the Notes and on or prior to the second Business Day immediately preceding the related Redemption Date and any conversions for which the relevant Conversion Date occurs on or after March 15, 2028, the Company shall use the same Settlement Method for all conversions with the same Conversion Date, but the Company shall not have any obligation to use the same Settlement Method with respect to conversions with different Conversion Dates.

(iii) If, in respect of any Conversion Date (or the period described in the fourth immediately succeeding set of parentheses, as the case may be), the Company elects to deliver a notice (the "**Settlement Notice**") of the relevant Settlement Method in respect of such Conversion Date (or such period, as the case may be), the Company shall inform the Trustee, the Conversion Agent (if other than the Trustee), and the Holders so converting no later than the close of business on the first VWAP Trading Day immediately following the relevant Conversion Date (or, in the case of any conversions for which the relevant Conversion Date occurs (x) on or after the date of issuance of a Redemption Notice with respect to the Notes and on or before the second Business Day immediately preceding the related Redemption Date, in such Redemption Notice or (y) on or after March 15, 2028, no later than March 15, 2028). With respect to any conversion, if the Company does not elect a Settlement Method prior to the deadline set forth in the immediately preceding sentence, then the Company shall be deemed to have elected the Default Settlement Method with respect to such conversion. If the Company chooses Combination Settlement, it will specify the applicable Specified Dollar Amount; *provided*, that in no event will the Company elect (whether directly or by eliminating all other Settlement Methods) Combination Settlement with a Specified Dollar Amount that is less than $1,000 per $1,000 principal amount of Notes. However, if the Company delivers a Settlement Notice electing Combination Settlement in respect of its Conversion Obligation but does not indicate a Specified Dollar Amount per $1,000 principal amount of Notes in such Settlement Notice, the Specified Dollar Amount per $1,000 principal amount of Notes shall be deemed to be $1,000. For the avoidance of doubt, the Company's failure to timely elect a Settlement Method or specify the applicable Specified Dollar Amount will not constitute a Default under this Indenture. Notwithstanding anything to the contrary herein, if the Company calls any Notes for redemption pursuant to Article 15 and the related Redemption Date is on or after March 15, 2028, then the Settlement Method that shall apply to all conversions with a Conversion Date that occurs on or after the date the Company sends the related Redemption Notice and on or before the second Business Day immediately preceding the such Redemption Date shall be set forth in such Redemption Notice and shall be the same Settlement Method that applies to all conversions with a Conversion Date that occurs on or after March 15, 2028.

The Company may, from time to time, change the Default Settlement Method prior to March 15, 2028 to any Settlement Method that the Company is then permitted to elect by sending notice of the new Default Settlement Method to the Holders and shall promptly send notice of any such change to the Trustee and the Conversion Agent (if other than the Trustee); and the Company may, by notice to the Holders prior to March 15, 2028, elect to irrevocably fix the Settlement Method or to irrevocably elect Combination Settlement and eliminate a Specified Dollar Amount or range of Specified Dollar Amounts (*provided* the Company is then otherwise permitted to elect the Settlement Method so irrevocably elected or the Settlement Method(s) remaining after such irrevocable elimination, as applicable) and the Company shall promptly send notice of the same to the Trustee and the Conversion Agent (if other than the Trustee). If the Company makes such an irrevocable election, then such election shall apply to all conversions of Notes with a Conversion Date that is on or after the date the Company sends such notice. In addition, if the Company irrevocably elects Combination Settlement and eliminates a Specified Dollar Amount or range of Specified Dollar Amounts, then the Company shall, if needed, simultaneously change the Default Settlement Method to Combination Settlement with a Specified Dollar Amount that is consistent with such irrevocable election. However, in all cases, no such irrevocable election or change of Default Settlement Method, as the case may be, will affect any Settlement Method theretofore elected (or deemed to be elected) with respect to any Note pursuant to this Indenture, and in no event may the Company elect (whether directly or by eliminating all other Settlement Methods) Combination Settlement with a Specified Dollar Amount that is less than $1,000 per $1,000 principal amount of Notes. For the avoidance of doubt, any such irrevocable election, if made, will be effective without the need to amend this Indenture or the Notes, including pursuant to Section 10.01(d) (but the Company may nonetheless choose to execute such an amendment at its option). If the Company changes the Default Settlement Method, if the Company irrevocably fixes the Settlement Method pursuant to the provisions described in this paragraph or if the Company irrevocably elects Combination Settlement and eliminates a Specified Dollar Amount or range of Specified Dollar Amounts, in each case, then promptly (but in any event within two (2) Business Days of providing notice to Holders and Trustee of such change or election) the Company shall either post the Default Settlement Method or such irrevocable election, as the case may be, on its website or disclose the same in a current report on Form 8-K (or any successor form) that is filed with, or furnished to, the Commission.

(iv) Subject to this Section 13.02, Section 13.03(b) and Section 13.07, the type and amount of consideration (the "**Settlement Amount**") due in respect of each $1,000 principal amount of Notes to be converted shall be computed as follows:

(A) if Cash Settlement applies, the Company shall pay to the converting Holder in respect of each $1,000 principal amount of Notes being converted cash in an amount equal to the sum of the Daily Conversion Values for each of the 50 consecutive VWAP Trading Days during the related Conversion Reference Period; and

(B) if Combination Settlement applies, the Company shall pay or deliver, as the case may be, in respect of each $1,000 principal amount of Notes being converted, a Settlement Amount equal to the sum of the Daily Settlement Amounts for each of the 50 consecutive VWAP Trading Days during the related Conversion Reference Period.

(v) The Daily Settlement Amounts (if applicable) and the Daily Conversion Values (if applicable) shall be determined by the Company promptly following the last day of the Conversion Reference Period. Promptly after such determination of the Daily Settlement Amounts or the Daily Conversion Values, as the case may be, and the amount of cash payable in lieu of delivering any fractional share of Common Stock, the Company shall notify the Trustee and the Conversion Agent (if other than the Trustee) in writing of the Daily Settlement Amounts or the Daily Conversion Values, as the case may be, and the amount of cash payable in lieu of delivering fractional shares of Common Stock. The Trustee and the Conversion Agent (if other than the Trustee) shall have no responsibility for any such determination.

(b) Subject to Section 13.02(e), before any Holder of a Note shall be entitled to convert a Note as set forth above, such Holder shall (i) in the case of a Physical Note (1) complete, manually sign and deliver an irrevocable notice to the Conversion Agent as set forth in the Form of Notice of Conversion (or a facsimile thereof) (a "**Notice of Conversion**") at the office of the Conversion Agent and state in writing therein the principal amount of Notes to be converted and the name or names (with addresses) in which such Holder wishes the certificate or certificates for any shares of Common Stock to be delivered upon settlement of the Conversion Obligation to be registered, (2) surrender such Notes, duly endorsed to the Company or in blank (and accompanied by appropriate endorsement and transfer documents), at the office of the Conversion Agent, (3) if required, furnish appropriate endorsements and transfer documents, (4) if required, pay all transfer or similar taxes as set forth in Section 13.02(d) and Section 13.02(e) and (5) if required, pay funds equal to interest payable on the next Interest Payment Date to which such Holder is not entitled as set forth in Section 13.02(h) and (ii) in the case of a Global Note, comply with the procedures of the Depositary in effect at that time and comply with Section 13.02(b)(3), (4) and (5). The Trustee (and if different, the Conversion Agent) shall notify the Company of any conversion pursuant to this Article 13 on the Conversion Date for such conversion. No Notice of Conversion with respect to any Notes may be surrendered by a Holder thereof if such Holder has also delivered a Fundamental Change Repurchase Notice to the Company in respect of such Notes and has not validly withdrawn such Fundamental Change Repurchase Notice in accordance with Section 14.02. A Holder of a Note may obtain copies of the required Form of Notice of Conversion from the Conversion Agent.

If more than one Note shall be surrendered for conversion at one time by the same Holder, the Conversion Obligation with respect to such Notes shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted thereby) so surrendered.

(c) A Note shall be deemed to have been converted immediately prior to the close of business on the date (the "**Conversion Date**") that the Holder has complied with the requirements set forth in subsection (b) above. Except as set forth in Section 13.03(b) and Section 13.07(a), the Company shall pay or deliver, as the case may be, the consideration due in respect of the Conversion Obligation on the second Business Day immediately following the last VWAP Trading Day of the Conversion Reference Period. If any shares of Common Stock are due to converting Holders, the Company shall issue or cause to be issued, and deliver to the Conversion Agent or to such Holder, or such Holder's nominee or nominees, a book-entry transfer of such shares of Common Stock through the Depositary for the full number of shares of Common Stock to which such Holder shall be entitled in satisfaction of the Company's Conversion Obligation.

(d) In case any Note shall be surrendered for partial conversion, the Company shall execute and the Trustee shall authenticate and deliver to or upon the written order of the Holder of the Note so surrendered a new Note or Notes in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Note, without payment of any service charge by the converting Holder but, if required by the Company or Trustee, with payment of a sum sufficient to cover any transfer tax or other similar governmental charge required by law or that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such conversion being different from the name of the Holder of the old Notes surrendered for such conversion.

(e) If a Holder submits a Note for conversion, the Company shall pay any documentary, stamp or similar issue or transfer tax due on the issue or delivery of any shares of Common Stock upon conversion, unless the tax is due because the Holder requests such shares to be issued or delivered in a name other than the Holder's name, in which case the Holder shall pay that tax. The Conversion Agent may refuse to deliver the certificates representing the shares of Common Stock being issued in a name other than the Holder's name until the Trustee receives a sum sufficient to pay any tax that is due by such Holder in accordance with the immediately preceding sentence.

(f) Except as provided in Section 13.04, no adjustment shall be made for dividends on any shares of Common Stock issued upon the conversion of any Note as provided in this Article 13.

(g) Upon the conversion of an interest in a Global Note, the Trustee, or the Custodian at the direction of the Trustee, shall make a notation on such Global Note as to the reduction in the principal amount represented thereby. The Company shall notify the Trustee in writing of any conversion of Notes effected through any Conversion Agent other than the Trustee.

(h) Upon conversion, a Holder shall not receive any separate cash payment for accrued and unpaid interest, if any, except as set forth below. The Company's settlement of the full Conversion Obligation shall be deemed to satisfy in full its obligation to pay the principal amount of the Note and accrued and unpaid interest, if any, to, but not including, the relevant Conversion Date. As a result, accrued and unpaid interest, if any, to, but not including, the relevant Conversion Date shall be deemed to be paid in full rather than cancelled, extinguished or forfeited. Upon a conversion of Notes into a combination of cash and shares of Common Stock, accrued and unpaid interest will be deemed to be paid first out of the cash paid upon such conversion. Notwithstanding the foregoing, if Notes are converted with a Conversion Date occurring after a Regular Record Date but prior to the next Interest Payment Date, Holders of such Notes as of the close of business on such Regular Record Date will receive, on or, at the Company's election, before such Interest Payment Date, the full amount of interest payable on such Notes on such Interest Payment Date notwithstanding the conversion. Notes that are converted with a Conversion Date occurring after a Regular Record Date bur prior to the next Interest Payment Date, upon their surrender for such conversion, must be accompanied by funds equal to the amount of interest payable on such Notes so converted on such Interest Payment Date; *provided* that no such payment shall be required (1) if such Conversion Date is after the Regular Record Date immediately preceding the Maturity Date; (2) if the Company has specified a Redemption Date that is after such Regular Record Date and on or prior to the second Business Day immediately following such Interest Payment Date; (3) if the Company has specified a Fundamental Change Repurchase Date that is after such Regular Record Date and on or prior to the Business Day immediately following such Interest Payment Date; or (4) to the extent of any Defaulted Amounts, if any Defaulted Amounts exist at the time of conversion with respect to such Notes. Therefore, for the avoidance of doubt, all Holders of record as of the close of business on the Regular Record Date immediately preceding the Maturity Date shall receive the full interest payment due on the Maturity Date regardless of whether their Notes have been converted following such Regular Record Date.

(i) The Person in whose name the shares of Common Stock shall be issuable upon conversion shall become the stockholder of record as of the close of business on the last VWAP Trading Day of the relevant Conversion Reference Period. Upon a conversion of Notes, such Person shall no longer be a Holder of such Notes surrendered for conversion.

(j) The Company shall not issue any fractional share of Common Stock upon conversion of the Notes and shall instead pay cash in lieu of delivering any fractional share of Common Stock issuable upon conversion based on the Daily VWAP for the last VWAP Trading Day of the relevant Conversion Reference Period. For each Note surrendered for conversion, if the Company has elected Combination Settlement, the full number of shares that shall be issued upon conversion thereof shall be computed on the basis of the aggregate Daily Settlement Amounts for the relevant Conversion Reference Period and any fractional shares remaining after such computation shall be paid in cash.

Section 13.03 Increased Conversion Rate Applicable to Certain Notes Surrendered in Connection with Make-Whole Fundamental Changes or a Redemption Notice

(a) If (i) (A) the Effective Date of a Make-Whole Fundamental Change occurs prior to the Maturity Date or (B) the Company delivers a Redemption Notice with respect to any Notes pursuant to Section 15.02 and, in each case, (ii) a Holder elects to convert its Notes in connection with such Make-Whole Fundamental Change or a Holder of any Notes called for redemption pursuant to such Redemption Notice (including, for the avoidance of doubt, any Notes deemed called for redemption pursuant to the third paragraph of Section 15.02(d)) converts such Notes in connection with such Redemption Notice, as applicable, the Company shall, under the circumstances described below, increase the Conversion Rate for the Notes so surrendered for conversion by a number of additional shares of Common Stock (the "**Additional Shares**"), as provided below. A conversion of Notes shall be deemed for these purposes to be "in connection with" such Make-Whole Fundamental Change if the relevant Conversion Date occurs during the period from, and including, the Effective Date of the Make-Whole Fundamental Change up to, and including, the Business Day immediately prior to the related Fundamental Change Repurchase Date (or, in the case of an Exempted Fundamental Change or a Make-Whole Fundamental Change that would have been a Fundamental Change but for the *proviso* in clause (b) of the definition thereof, the 35th Trading Day immediately following the Effective Date of such Make-Whole Fundamental Change). A conversion of Notes called (or deemed called) for Optional Redemption shall be deemed for these purposes to be "in connection with" the related Redemption Notice if the relevant Conversion Date occurs during the period from, and including, the date of such Redemption Notice to, and including, the close of business on the second Business Day immediately preceding the related Redemption Date.

(b) Upon surrender of Notes for conversion in connection with a Make-Whole Fundamental Change pursuant to Section 13.01(b)(iii) or a Redemption Notice pursuant to Section 13.01(b)(v), the Company shall, at its option, satisfy the related Conversion Obligation by Cash Settlement or Combination Settlement in accordance with Section 13.02; *provided, however*, that if, following a Make-Whole Fundamental Change described in clause (b) of the definition of Fundamental Change, the Reference Property is composed entirely of cash, for any conversion of Notes following the Effective Date of such Make-Whole Fundamental Change, the Conversion Obligation shall be calculated based solely on the Stock Price for the transaction and shall be deemed to be an amount of cash per $1,000 principal amount of converted Notes equal to the Conversion Rate (including any adjustment for Additional Shares), *multiplied by* such Stock Price. In such event, the Conversion Obligation shall be paid to Holders in cash on the second Business Day following the Conversion Date. The Company shall notify the Holders of Notes, the Trustee and the Conversion Agent (if other than the Trustee) of the Effective Date of any Make-Whole Fundamental Change no later than fifteen days after such Effective Date.

(c) The number of Additional Shares, if any, by which the Conversion Rate shall be increased shall be determined by reference to the table below, based on the date on which the Make-Whole Fundamental Change occurs or becomes effective, or the date of the relevant Redemption Notice, as the case may be (such date, as applicable, the "**Effective Date**") and the price paid (or deemed to be paid) per share of the Common Stock in the Make-Whole Fundamental Change or determined with respect to the Optional Redemption, as the case may be (the "**Stock Price**"). If all holders of the Common Stock receive in exchange for their Common Stock only cash in a Make-Whole Fundamental Change described in clause (b) of the Fundamental Change definition, the Stock Price shall be the cash amount paid per share. Otherwise, the Stock Price shall be the average of the Closing Prices of the Common Stock on the five Trading Days immediately prior to, but not including, the applicable Effective Date. The Company shall make appropriate adjustments to the Stock Price, in its good faith determination, to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date, Effective Date (as such term is used in Section 13.04) or Expiration Date (as such term is used in Section 13.04) of the event occurs during such five consecutive Trading Day period. Notwithstanding anything to the contrary, if the conversion of a Note would be deemed to be "in connection with" both a Make-Whole Fundamental Change and a Redemption Notice as provided herein, then, solely for purposes of that conversion, such Conversion Date will be deemed to occur only with respect to the event having the earlier Effective Date as determined hereunder. In that circumstance, the Make-Whole Fundamental Change or the Redemption Notice, as the case may be, having the later Effective Date will be deemed not to occur solely for purposes of such conversion.

(d) The Stock Prices set forth in the first row of the table below (i.e., the column headers) shall be adjusted as of any date on which the Conversion Rate of the Notes is adjusted as described in Section 13.04. The adjusted Stock Prices shall equal the Stock Prices applicable immediately prior to such adjustment, *multiplied by* a fraction, the numerator of which is the Conversion Rate immediately prior to such adjustment giving rise to the Stock Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of Additional Shares set forth in the table below shall be adjusted in the same manner and at the same time as the Conversion Rate as set forth in Section 13.04.

(e) The following table sets forth the number of Additional Shares of Common Stock by which the Conversion Rate shall be increased per $1,000 principal amount of Notes pursuant to this Section 13.03 for each Stock Price and Effective Date set forth below:

	Stock Price									
Effective Date	**$30.74**	**$35.00**	**$38.43**	**$45.00**	**$49.95**	**$55.00**	**$60.00**	**$75.00**	**$90.00**	**$180.00**
June 13, 2023	6.5062	4.9454	4.0330	2.8238	2.2118	1.7542	1.4147	0.7907	0.4699	0.0000
June 15, 2024	6.5062	4.9454	4.0330	2.8158	2.1664	1.6895	1.3420	0.7232	0.4190	0.0000
June 15, 2025	6.5062	4.9454	4.0133	2.6296	1.9656	1.4920	1.1568	0.5887	0.3279	0.0000
June 15, 2026	6.5062	4.8397	3.6667	2.2327	1.5842	1.1458	0.8520	0.3965	0.2104	0.0000
June 15, 2027	6.5062	4.2171	2.9232	1.4898	0.9337	0.6067	0.4155	0.1725	0.0916	0.0000
June 15, 2028	6.5062	2.5466	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact Stock Prices and Effective Dates may not be set forth in the table above, in which case:

(i) if the Stock Price is between two Stock Prices in the table above or the Effective Date is between two Effective Dates in the table above, the number of Additional Shares by which the Conversion Rate will be increased shall be determined by a straight-line interpolation between the number of Additional Shares set forth for the higher and lower Stock Prices and the later and earlier Effective Dates, as applicable, based on a 365- or 366-day year, as applicable;

(ii) if the Stock Price is greater than $180.00 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above pursuant to subsection (d) above), no Additional Shares shall be added to the Conversion Rate; and

(iii) if the Stock Price is less than $30.74 per share (subject to adjustment in the same manner as the Stock Prices set forth in the column headings of the table above pursuant to subsection (d) above), no Additional Shares shall be added to the Conversion Rate.

Notwithstanding the foregoing, in no event shall the number of shares of Common Stock issuable upon conversion exceed 32.5309 shares of Common Stock per $1,000 principal amount of Notes, subject to adjustment in the same manner as the Conversion Rate pursuant to Section 13.04.

For the avoidance of doubt, if the Company calls less than all of the outstanding Notes for Optional Redemption, then the Notes not selected for Optional Redemption will not be entitled to an increase to the Conversion Rate, pursuant to the provisions above, in connection with such Optional Redemption, except to the extent provided in the third paragraph of Section 15.02(d).

(f) Nothing in this Section 13.03 shall prevent an adjustment to the Conversion Rate pursuant to Section 13.04 in respect of a Make-Whole Fundamental Change.

Section 13.04 Adjustment of Conversion Rate. The Conversion Rate shall be adjusted from time to time by the Company if any of the following events occurs, except that the Company shall not make any adjustments to the Conversion Rate if Holders of the Notes participate (other than in the case of (x) a share split or share combination or (y) a tender or exchange offer), at the same time and upon the same terms as holders of the Common Stock and solely as a result of holding the Notes, in any of the transactions described in this Section 13.04, without having to convert their Notes, as if they held a number of shares of Common Stock equal to the Conversion Rate immediately prior to the event that otherwise would result in an adjustment pursuant to this Section 13.04, *multiplied by* the principal amount (expressed in thousands) of Notes held by such Holder.

(a) If the Company issues shares of Common Stock as a dividend or distribution on shares of the Common Stock, or if the Company effects a share split or share combination, the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{OS'}{OS_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date of such dividend or distribution, or immediately prior to the open of business on the Effective Date of such share split or share combination, as applicable;

CR’ = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date or Effective Date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the open of business on such Ex-Dividend Date or Effective Date, as applicable; and

OS' = the number of shares of Common Stock outstanding immediately after giving effect to such dividend, distribution, share split or share combination.

Any adjustment made under this Section 13.04(a) shall become effective immediately after (x) the open of business on the Ex-Dividend Date for such dividend or distribution or (y) the open of business on the Effective Date for such share split or share combination, as applicable. If any dividend or distribution of the type described in this Section 13.04(a) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the Board of Directors determines not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(b) If the Company distributes to all holders of the Common Stock any rights, options or warrants (other than pursuant to a stockholder rights plan) entitling them to purchase, for a period of not more than 60 calendar days after the Ex-Dividend Date of such distribution, shares of the Common Stock at a price per share that is less than the average of the Closing Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the declaration date for such distribution, the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{OS_0 + X}{OS_0 + Y}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

CR' = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date;

OS_0 = the number of shares of Common Stock outstanding immediately prior to the open of business on such Ex-Dividend Date;

X = the total number of shares of Common Stock issuable pursuant to such rights or warrants; and

Y = the number of shares of Common Stock equal to the aggregate price payable to exercise such rights, options or warrants, *divided by* the average of the Closing Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

Any increase made under this Section 13.04(b) shall be made successively whenever any such rights, options or warrants are distributed and shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If any right, options or warrant described in this Section 13.04(b) is not exercised or converted prior to the expiration of the exercisability or convertibility thereof, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect if such right or warrant had not been so distributed. If such rights or warrants are not so distributed, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if such Ex-Dividend Date for such distribution had not occurred.

For purposes of this Section 13.04(b) and for the purpose of Section 13.01(b)(ii)(A), in determining whether any rights, options or warrants entitle the holders to subscribe for or purchase shares of the Common Stock at less than such average of the Closing Prices of the Common Stock for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the declaration date for such distribution, and in determining the aggregate exercise or conversion price payable for such shares of Common Stock, there shall be taken into account any consideration received by the Company for such rights, options or warrants and any amount payable on exercise or conversion thereof, with the value of such consideration, if other than cash, to be determined in good faith by the Company.

(c) If the Company distributes shares of its Capital Stock, evidences of its indebtedness or other assets or property of the Company or rights, options or warrants to acquire its Capital Stock or other securities, to all holders of the Common Stock, excluding (i) dividends or distributions for which an adjustment to the Conversion Rate is required (or would be required without regard to the Deferral Exception) pursuant to Section 13.04(a) or Section 13.04(b), (ii) dividends or distributions paid exclusively in cash, as to which Section 13.04(d) shall apply, (iii) rights issued pursuant to a stockholder rights plan, except to the extent set forth in Section 13.09, (iv) a distribution in exchange for or upon conversion of the Common Stock pursuant to a Share Exchange Event, as to which Section 13.07 shall apply, (v) a distribution solely pursuant to a tender offer or exchange offer for shares of Common Stock, as to which the provisions described below in Section 13.04(e) shall apply, and (vi) Spin-Offs as to which the provisions set forth below in this Section 13.04(c) shall apply (any of such shares of Capital Stock, evidences of indebtedness or other assets or property or rights, options or warrants to acquire Capital Stock or other securities, the "**Distributed Property**"), then the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{SP_0}{SP_0 - FMV}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such distribution;

CR' = the Conversion Rate in effect immediately after the open of business on such Ex-Dividend Date;

SP_0 = the average of the Closing Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined in good faith by the Company) of the Distributed Property with respect to each outstanding share of the Common Stock on the Ex-Dividend Date for such distribution.

Any increase made under the portion of this Section 13.04(c) above shall become effective immediately after the open of business on the Ex-Dividend Date for such distribution. If such distribution is not so paid or made, the Conversion Rate shall be decreased to the Conversion Rate that would then be in effect if such distribution had not been declared. Notwithstanding the foregoing, if "FMV" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, in respect of each $1,000 principal amount thereof, at the same time and upon the same terms as holders of the Common Stock receive the Distributed Property, the amount and kind of Distributed Property such Holder would have received if such Holder owned a number of shares of Common Stock equal to the Conversion Rate in effect on the Ex-Dividend Date for the distribution. If the Company determines the "FMV" (as defined above) of any distribution for purposes of this Section 13.04(c) by reference to the actual or when-issued trading market for any securities, it shall in doing so consider the prices in such market over the same period used in computing the Closing Prices of the Common Stock over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

With respect to an adjustment pursuant to this Section 13.04(c) where there has been a payment of a dividend or other distribution on the Common Stock of shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit of the Company, that are, or, when issued, will be, listed or admitted for trading on a U.S. national securities exchange (a "**Spin-Off**"), the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{FMV_0 + MP_0}{MP_0}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the last Trading Day of the Spin-Off Valuation Period;

CR' = the Conversion Rate in effect immediately after the close of business on the last Trading Day of the Spin-Off Valuation Period;

FMV_0 = the average of the Closing Prices of the Capital Stock or similar equity interest distributed to holders of the Common Stock applicable to one share of the Common Stock (determined by reference to the definitions of Closing Price and Trading Day as set forth in Section 1.01, as if references therein to Common Stock were to such Capital Stock or similar equity interest) over the first 10 consecutive Trading Day period immediately following, and including, the Ex-Dividend Date of the Spin-Off (the "**Spin-Off Valuation Period**"); and

MP_0 = the average of the Closing Prices of the Common Stock for each Trading Day of the Spin-Off Valuation Period.

The increase to the Conversion Rate under the preceding paragraph shall become effective immediately after the close of business on the last Trading Day of the Spin-Off Valuation Period; *provided* that for any VWAP Trading Day that falls within any Conversion Reference Period during the Spin-Off Valuation Period, then, solely for purposes of determining the Conversion Rate for such VWAP Trading Day for such conversion, such Spin-Off Valuation Period will be deemed to consist of the Trading Days occurring in the period from, and including, the Ex-Dividend Date for such Spin-Off to, and including, such VWAP Trading Day.

If any dividend or distribution described in this Section 13.04(c) is declared but not paid or made, the Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

For purposes of this Section 13.04(c) (and subject in all respect to Section 13.09), rights, options or warrants distributed by the Company to all holders of the Common Stock entitling them to subscribe for or purchase shares of the Company's Capital Stock, including Common Stock (either initially or under certain circumstances), which rights, options or warrants, until the occurrence of a specified event or events ("**Trigger Event**"): (i) are deemed to be transferred with such shares of the Common Stock; (ii) are not exercisable; and (iii) are also issued in respect of future issuances of the Common Stock, shall be deemed not to have been distributed for purposes of this Section 13.04(c) (and no adjustment to the Conversion Rate under this Section 13.04(c) will be required) until the occurrence of the earliest Trigger Event, whereupon such rights, options or warrants shall be deemed to have been distributed and an appropriate adjustment (if any is required) to the Conversion Rate shall be made under this Section 13.04(c). If any such right, option or warrant, including any such existing rights, options or warrants distributed prior to the date of this Indenture, are subject to events, upon the occurrence of which such rights, options or warrants become exercisable to purchase different securities, evidences of indebtedness or other assets, then the date of the occurrence of any and each such event shall be deemed to be the date of distribution and Ex-Dividend Date with respect to new rights, options or warrants with such rights (in which case the existing rights, options or warrants shall be deemed to terminate and expire on such date without exercise by any of the holders thereof). In addition, in the event of any distribution (or deemed distribution) of rights, options or warrants, or any Trigger Event or other event (of the type described in the immediately preceding sentence) with respect thereto that was counted for purposes of calculating a distribution amount for which an adjustment to the Conversion Rate under this Section 13.04(c) was made, (1) in the case of any such rights, options or warrants that shall all have been redeemed or purchased without exercise by any holders thereof, upon such final redemption or purchase (x) the Conversion Rate shall be readjusted as if such rights, options or warrants had not been distributed and (y) the Conversion Rate shall then again be readjusted to give effect to such distribution, deemed distribution or Trigger Event, as the case may be, as though it were a cash distribution, equal to the per share redemption or purchase price received by a holder or holders of Common Stock with respect to such rights, options or warrants (assuming such holder had retained such rights, options or warrants), made to all holders of Common Stock as of the date of such redemption or purchase, and (2) in the case of such rights, options or warrants that shall have expired or been terminated without exercise by any holders thereof, the Conversion Rate shall be readjusted as if such rights, options and warrants had not been distributed.

For purposes of Section 13.04(a), Section 13.04(b) and this Section 13.04(c), if any dividend or distribution to which this Section 13.04(c) is applicable also includes one or both of:

(A) a dividend or distribution of shares of Common Stock to which Section 13.04(a) is applicable (the "**Clause A Distribution**"); or

(B) a dividend or distribution of rights, options or warrants to which Section 13.04(b) is applicable (the "**Clause B Distribution**"),

then, in either case, (1) such dividend or distribution, other than the Clause A Distribution and the Clause B Distribution, shall be deemed to be a dividend or distribution to which this Section 13.04(c) is applicable (the "**Clause C Distribution**") and any Conversion Rate adjustment required by this Section 13.04(c) with respect to such Clause C Distribution shall then be made, and (2) the Clause A Distribution and Clause B Distribution shall be deemed to immediately follow the Clause C Distribution and any Conversion Rate adjustment required by Section 13.04(a) and Section 13.04(b) with respect thereto shall then be made, except that, if determined by the Company (I) the "Ex-Dividend Date" of the Clause A Distribution and the Clause B Distribution shall be deemed to be the Ex-Dividend Date of the Clause C Distribution and (II) any shares of Common Stock included in the Clause A Distribution or Clause B Distribution shall be deemed not to be "outstanding immediately prior to the open of business on such Ex-Dividend Date or Effective Date" within the meaning of Section 13.04(a) or "outstanding immediately prior to the open of business on such Ex-Dividend Date" within the meaning of Section 13.04(b).

(d) If any cash dividend or distribution is made to all holders of the Common Stock (other than a regular quarterly cash dividend that does not exceed the Dividend Threshold per share of Common Stock), the Conversion Rate shall be adjusted based on the following formula:

$$CR' = CR_0 \times \frac{SP_0 - T}{SP_0 - C}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the open of business on the Ex-Dividend Date for such dividend or distribution;

CR' = the Conversion Rate in effect immediately after the open of business on the Ex-Dividend Date for such dividend or distribution;

SP_0 = the Closing Price of the Common Stock on the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution;

T = an amount (subject to the proviso below, the "**Dividend Threshold**") initially equal to $0.21 per share of Common Stock; *provided, however*, that (x) if such dividend or distribution is not a regular quarterly cash dividend on the Common Stock, then T will be deemed to be zero per share of Common Stock with respect to such dividend or distribution; and (y) the Dividend Threshold will be adjusted in the same manner as, and at the same time and for the same events for which, the Conversion Price is adjusted as a result of the operation of Sections 13.04(a), 13.04(b) and 13.04(c) above and Section 13.04(e) below; and

C = the amount in cash per share the Company distributes to holders of the Common Stock.

Any increase pursuant to this Section 13.04(d) shall become effective immediately after the open of business on the Ex-Dividend Date for such dividend or distribution. If such dividend or distribution is declared but not so paid or made, the Conversion Rate shall be decreased, effective as of the date the Board of Directors determines not to pay or make such dividend or distribution, to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. Notwithstanding the foregoing, if "C" (as defined above) is equal to or greater than "SP_0" (as defined above), in lieu of the foregoing increase, each Holder of a Note shall receive, for each $1,000 principal amount of Notes, at the same time and upon the same terms as holders of shares of the Common Stock, the amount of cash that such Holder would have received if such Holder owned a number of shares of Common Stock equal to the Conversion Rate on the Ex-Dividend Date for such cash dividend or distribution.

(e) If the Company or any of its Subsidiaries make a payment in respect of a tender offer or exchange offer for the Common Stock (other than solely pursuant to an odd-lot tender offer pursuant to Rule 13e-4(h)(5) under the Exchange Act (or any successor rule)), to the extent that the cash and value (determined as of the expiration time by the Company in good faith) of any other consideration included in the payment per share of the Common Stock exceeds the Closing Price of the Common Stock on the Trading Day next succeeding the last date (such last date, the "**Expiration Date**") on which tenders or exchanges may be made pursuant to such tender or exchange offer, the Conversion Rate shall be increased based on the following formula:

$$CR' = CR_0 \times \frac{AC + (SP' \times OS')}{OS_0 \times SP'}$$

where,

CR_0 = the Conversion Rate in effect immediately prior to the close of business on the tenth Trading Day immediately following such Expiration Date;

CR' = the Conversion Rate in effect immediately after the close of business on the tenth Trading Day immediately following such Expiration Date;

AC = the aggregate value of all cash and any other consideration (as determined in good faith by the Company) paid or payable for shares of Common Stock purchased in such tender or exchange offer;

OS_0 = the number of shares of Common Stock outstanding immediately prior to such Expiration Date (including the shares of Common Stock purchased or exchanged pursuant to such tender or exchange offer);

OS’ = the number of shares of Common Stock outstanding immediately after such Expiration Date (excluding the shares of Common Stock purchased or exchanged pursuant to such tender or exchange offer); and

SP’ = the average of the Closing Prices of the Common Stock over the 10 consecutive Trading Days commencing on, and including, the Trading Day next succeeding such Expiration Date.

The increase to the Conversion Rate under this Section 13.04(e) shall become effective immediately after the close of business on the tenth Trading Day immediately following such Expiration Date; *provided* that for any VWAP Trading Day that falls within the relevant Conversion Reference Period for such conversion and within the 10 Trading Days immediately following, and including, the Trading Day next succeeding such Expiration Date, each reference to “10” or “tenth” in the preceding paragraph shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding such Expiration Date to, and including, such VWAP Trading Day in determining the Conversion Rate as of such VWAP Trading Day. If the Company or one of its Subsidiaries is obligated to purchase shares of Common Stock pursuant to any such tender or exchange offer, but the Company or such Subsidiary is permanently prevented by applicable law from effecting all or any such purchases or all or any portion of such purchases are rescinded, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made or had only been made in respect of the purchases that had been effected.

(f) Notwithstanding this Section 13.04 or any other provision of this Indenture or the Notes, if, in respect of any conversion of the Notes to which Combination Settlement applies, on any VWAP Trading Day during the relevant Conversion Reference Period, shares of the Common Stock are deliverable as part of the Daily Settlement Amount for such VWAP Trading Day, any adjustment to the Conversion Rate described in clauses (a), (b), (c), (d) or (e) of this Section 13.04 becomes effective on any Ex-Dividend Date, and the Holder of such Notes would (i) receive shares of the Common Stock in respect of such VWAP Trading Day based on an adjusted Conversion Rate and (ii) be a record holder of such shares of Common Stock as of the Record Date for the relevant dividend, distribution or other event giving rise to the adjustment to the Conversion Rate, then, notwithstanding the Conversion Rate adjustment provisions in this Section 13.04, in lieu of receiving shares of Common Stock at such an adjusted Conversion Rate, such Holder shall receive a number of shares of Common Stock based on the unadjusted Conversion Rate and such shares of Common Stock shall participate in the related dividend, distribution or other event giving rise to such adjustment.

(g) If, in the case of any conversion of a Note, where Combination Settlement applies and on any VWAP Trading Day during the Conversion Reference Period corresponding to the Conversion Date for such Note, shares of Common Stock are deliverable as part of the Daily Settlement Amount for such VWAP Trading Day and:

(i) the related Record Date for any issuance, dividend or distribution, the Effective Date for any share split or combination or the Expiration Date for any tender or exchange offer by the Company or its Subsidiaries that, in each case, would require an adjustment to the Conversion Rate pursuant to any of clauses (a), (b), (c), (d) or (e) of this Section 13.04 occurs on or prior to such VWAP Trading Day;

(ii) the applicable Conversion Rate for such VWAP Trading Day will not reflect such adjustment; and

(iii) the shares of Common Stock that the Company shall deliver to the converting Holder in respect of such VWAP Trading Day are not entitled to participate in the relevant event (because such shares were not held by such Holder on the related Record Date, Effective Date, Expiration Date or otherwise),

then, solely for purposes of such conversion, the Company shall, without duplication, give effect to such adjustment in respect of such VWAP Trading Day. In such case, if the date the Company is otherwise required to deliver the consideration due upon such conversion is before the first date on which the amount of such adjustment can be determined, then the Company shall delay the settlement of such conversion until the second Business Day after such first date.

(h) Except as stated herein, the Company shall not adjust the Conversion Rate for the issuance of shares of the Common Stock or any securities convertible into or exchangeable for shares of the Common Stock or the right to purchase shares of the Common Stock or such convertible or exchangeable securities. If, however, the application of the formulas in clauses (a), (b), (c), (d) and (e) of this Section 13.04 would result in a decrease in the Conversion Rate, no adjustment to the Conversion Rate shall be made (except on account of share combinations and reversals of adjustments as and to the extent specifically provided in this Section 13.04, and without limiting the operation of any provision of Section 13.04 providing for the readjustment of the Conversion Rate).

(i) In addition to those adjustments required by clauses (a), (b), (c), (d) and (e) of this Section 13.04, and to the extent permitted by applicable law and subject to the applicable rules of any exchange on which any of the Company's securities are then listed, the Company from time to time may increase the Conversion Rate by any amount for a period of at least 20 Business Days if the Company has determined that such increase would be in the Company's best interest. If the Company makes such a determination, it shall be conclusive. In addition, to the extent permitted by applicable law and subject to the applicable rules of any exchange on which any of the Company's securities are then listed, the Company may (but is not required to) in its sole discretion increase the Conversion Rate as the Company deems advisable to avoid or diminish any income tax to holders of Common Stock resulting from any dividend or distribution of Capital Stock issuable upon conversion of the Notes (or rights to acquire such Capital Stock) or any similar event. Whenever the Conversion Rate is increased pursuant to this Section 13.04(i), the Company shall give in writing to the Trustee and the Conversion Agent (if other than the Trustee) and send to the Holder of each Note a written notice of the increase no later than the first day on which such increased Conversion Rate takes effect, and such notice shall state the increased Conversion Rate and the period during which it will be in effect.

(j) Notwithstanding anything to the contrary in this Article 13, the Conversion Rate shall not be adjusted:

(i) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Company's securities and the investment of additional optional amounts in shares of Common Stock under any plan;

(ii) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program or employee stock purchase plan of or assumed by the Company or any of the Company's Subsidiaries;

(iii) upon the issuance of any shares of the Common Stock pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in clause (ii) of this subsection and outstanding as of the date the Notes were first issued;

(iv) solely for a change in the par value of the Common Stock; or

(v) for accrued and unpaid interest, if any.

(k) All calculations and other determinations under this Article 13 shall be made by the Company and shall be made to the nearest one-ten thousandth (1/10,000th) of a share. The Company shall not adjust the Conversion Rate pursuant to this Section 13.04 unless the adjustment would result in a change of at least 1% in the then-effective Conversion Rate. However, the Company shall carry forward any adjustment that it would otherwise have to make and take that adjustment into account in any subsequent adjustment. Notwithstanding the foregoing, all such carried-forward adjustments shall be made with respect to the Notes (i) in connection with any subsequent adjustment to the Conversion Rate that (taken together with such carried-forward adjustments) would result in a change of at least 1% in the Conversion Rate, (ii) on each VWAP Trading Day of any Conversion Reference Period related to the conversion of Notes, (iii) on the date any Fundamental Change or Make-Whole Fundamental Change occurs, (iv) on the date the Company delivers a Redemption Notice for all or any Notes and (v) on March 15, 2028. The Company's ability to defer adjustments as described above is herein referred to as the "**Deferral Exception**."

(l) Whenever the Conversion Rate is adjusted as herein provided, the Company shall promptly file with the Trustee (and the Conversion Agent if not the Trustee) an Officer's Certificate setting forth the Conversion Rate after such adjustment and setting forth a brief statement of the facts requiring such adjustment. Unless and until a Responsible Officer of the Trustee shall have received such Officer's Certificate, the Trustee shall not be deemed to have knowledge of any adjustment of the Conversion Rate and may assume without inquiry that the last Conversion Rate of which it has knowledge is still in effect. Promptly after delivery of such certificate, the Company shall prepare a notice of such adjustment of the Conversion Rate setting forth the adjusted Conversion Rate and the date on which each adjustment becomes effective and shall send such notice of such adjustment of the Conversion Rate to each Holder at its last address appearing on the Note Register of this Indenture. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(m) For purposes of this Section 13.04, the number of shares of Common Stock at any time outstanding shall not include shares of Common Stock held in the treasury of the Company so long as the Company does not pay any dividend or make any distribution on shares of Common Stock held in the treasury of the Company, but shall include shares of Common Stock issuable in respect of scrip certificates issued in lieu of fractions of shares of Common Stock.

Section 13.05 Adjustments of Prices Whenever any provision of this Indenture requires the Company to calculate the Closing Prices, the Daily VWAPs, the Daily Conversion Values or the Daily Settlement Amounts over a span of multiple days (including a Conversion Reference Period and the period, if any, for determining the Stock Price for purposes of a Make-Whole Fundamental Change or a Redemption Notice), the Company shall make appropriate adjustments to each to account for any adjustment to the Conversion Rate that becomes effective, or any event requiring an adjustment to the Conversion Rate where the Ex-Dividend Date, Effective Date or Expiration Date, as the case may be, of the event occurs, at any time during the period when the Closing Prices, the Daily VWAPs, the Daily Conversion Values or the Daily Settlement Amounts are to be calculated.

Section 13.06 Shares to Be Fully Paid, Etc. The Company shall provide, free from preemptive rights, out of its authorized but unissued shares or shares held in treasury (except that any shares of Common Stock delivered by a Designated Financial Institution pursuant to Section 13.10 need not be a newly issued or treasury share), sufficient shares of Common Stock to provide for conversion of the Notes from time to time as such Notes are presented for conversion (assuming that at the time of computation of such number of shares, all such Notes would be converted by a single Holder). The Company covenants that all shares of Common Stock issued upon conversion of Notes, if any, will be fully paid and non-assessable by the Company and free from all taxes, liens and charges with respect to the issue thereof. The Company further covenants that if at any time the Common Stock shall be listed on any national securities exchange or automated quotation system the Company will use commercially reasonable efforts to list and keep listed, so long as the Common Stock shall be so listed on such exchange or automated quotation system, any Common Stock issuable upon conversion of the Notes.

Section 13.07 Effect of Recapitalizations, Reclassifications and Changes of the Common Stock

(a) In the case of:

(i) any recapitalization, reclassification or change of the Common Stock (other than changes resulting from a subdivision or combination),

(ii) any consolidation, merger, binding share exchange or combination involving the Company, or

(iii) any sale, lease or other conveyance to another Person or entity of all or substantially all of the Company's assets,

in each case, as a result of which the Common Stock would be converted into, or exchanged for, stock, other securities, other property or assets (including cash or any combination thereof) (any such event, a "**Share Exchange Event**", and such stock, other securities, other property or assets, the "**Reference Property**," and the amount and kind of Reference Property that a holder of one share of Common Stock would be entitled to receive on account of such Share Exchange Event (without giving effect to any arrangement not to issue or deliver a fractional portion of any security or other property) a "**Reference Property Unit**"), then, at and after the effective time of such Share Exchange Event, (A) the consideration due upon conversion of any Note, and the conditions to any such conversion, shall be determined in the same manner as if each reference to any number of shares of Common Stock in Article 13 (or in any related definitions or provisions) were instead a reference to the same number of Reference Property Units; (B) the Daily VWAP shall be calculated based on the value of a Reference Property Unit; (C) for purposes of the definitions of "Fundamental Change" and "Make-Whole Fundamental Change," the term "Common Stock" shall be deemed to mean Common Equity (or ADRs or other interests in respect of Common Equity), if any, forming part of such Reference Property; and (D) for purposes of Article 15, each reference to any number of shares of Common Stock in Article 15 (or in any related definitions) will instead be deemed to be a reference to the same number of Reference Property Units. In addition, prior to or at the effective time of such Share Exchange Event, the Company or the successor or purchasing Person, as the case may be, shall execute with the Trustee a supplemental indenture permitted under Section 10.01(c) providing that the Notes will be convertible as described in this Section 13.07.

If the Share Exchange Event causes the Common Stock to be converted into, or exchanged for, the right to receive more than a single type of consideration (determined based in part upon any form of stockholder election), then the composition of the Reference Property Unit shall be deemed to be the weighted average of the types and amounts of consideration actually received by all holders of Common Stock. The Company shall notify Holders and, in writing, the Trustee and the Conversion Agent (if other than the Trustee) of such composition of the Reference Property Unit as soon as practicable after such determination is made. If the holders of the Common Stock receive only cash in such Share Exchange Event, then for all conversions for which the relevant Conversion Date occurs on or after the effective date of such Share Exchange Event (i) the consideration due upon conversion of each $1,000 principal amount of Notes shall be solely cash in an amount equal to the Conversion Rate in effect on the Conversion Date (as may be increased by any Additional Shares pursuant to Section 13.03), *multiplied by* the price paid per share of Common Stock in such Share Exchange Event and (ii) the Company shall satisfy the Conversion Obligation by paying cash to converting Holders on or before the second Business Day immediately following the relevant Conversion Date.

Such supplemental indenture providing that the Notes will be convertible as described in the second immediately preceding paragraph shall, to the extent applicable, also provide for anti-dilution and other adjustments that shall be as nearly equivalent as is possible to the adjustments provided for in this Article 13 (including giving effect, in the reasonable discretion of the Company, to the Dividend Threshold in a manner that is reasonably designed to preserve the economic interests of the Holders). If, in the case of any Share Exchange Event, the Reference Property includes shares of stock, securities or other property or assets (including cash or any combination thereof) of a Person other than the Company or the successor or purchasing entity, as the case may be, in such Share Exchange Event, then such supplemental indenture shall also be executed by such other Person and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Company shall reasonably consider necessary by reason of the foregoing, including the provisions providing for the purchase rights set forth in Article 14.

(b) When the Company executes a supplemental indenture pursuant to subsection (a) of this Section 13.07, the Company shall promptly file with the Trustee an Officer's Certificate briefly stating the reasons therefor, the kind or amount of cash, securities or property or asset that will comprise a Reference Property Unit after any such Share Exchange Event, any adjustment to be made with respect thereto and that all conditions precedent have been complied with, and shall promptly send notice thereof to all Holders. The Company shall cause notice of the execution of such supplemental indenture to be sent to each Holder within 20 days after execution thereof. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

(c) The Company shall not become a party to any Share Exchange Event unless its terms are consistent with this Section 13.07. None of the foregoing provisions shall affect the right of a holder of Notes to convert its Notes into cash, and, if applicable, shares of Common Stock, as set forth in Section 13.01 and Section 13.02, prior to the effective date of such Share Exchange Event.

(d) The above provisions of this Section shall similarly apply to successive Share Exchange Events.

Section 13.08 Responsibility of Trustee The Trustee and any other Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine the Conversion Rate (or any adjustment thereto) or whether any facts exist that may require any adjustment (including any increase) of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, or of any securities, property or cash that may at any time be issued or delivered upon the conversion of any Note; and the Trustee and any other Conversion Agent make no representations with respect thereto. Neither the Trustee nor any Conversion Agent shall be responsible for any failure of the Company to issue, transfer or deliver any shares of Common Stock or stock certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Company contained in this Article. Without limiting the generality of the foregoing, neither the Trustee nor any Conversion Agent shall be under any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 13.07 relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of their Notes after any event referred to in such Section 13.07 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 7.01, may accept (without any independent investigation) as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officer's Certificate (which the Company shall be obligated to file with the Trustee prior to the execution of any such supplemental indenture) with respect thereto. Neither the Trustee nor the Conversion Agent shall be responsible for determining whether any event contemplated by Section 13.01(b) has occurred that makes the Notes eligible for conversion or no longer eligible therefor until the Company has delivered to the Trustee and the Conversion Agent the notices referred to in Section 13.01(b) with respect to the commencement or termination of such conversion rights, on which notices the Trustee and the Conversion Agent may conclusively rely, and the Company agrees to deliver such notices to the Trustee and the Conversion Agent immediately after the occurrence of any such event or at such other times as shall be provided for in Section 13.01(b). Except as otherwise expressly provided herein, neither the Trustee nor any other agent acting under this Indenture (other than the Company, if acting in such capacity) shall have any obligation to make any calculation or to determine whether the Notes may be surrendered for conversion pursuant to this Indenture, or to notify the Company or the Depositary or any of the Holders if the Notes have become convertible pursuant to the terms of this Indenture.

Section 13.09 Stockholder Rights Plans To the extent that the Company has a stockholder rights plan in effect upon conversion of the Notes into Common Stock, a Holder who converts Notes shall receive, in addition to the Common Stock, the rights under the rights plan (and the certificates representing the Common Stock upon such conversion shall bear such legends, if any, in each case as may be provided by the terms of any such stockholder rights plan, as the same may be amended from time to time), unless prior to any conversion, the rights have separated from the Common Stock, in which case the Conversion Rate shall be adjusted at the time of separation as if the Company distributed to all holders of Common Stock Distributed Property as described in Section 13.04(c) above, subject to readjustment in the event of the expiration, termination or redemption of such rights. A further adjustment shall occur as described in Section 13.04(c) if such rights become exercisable to purchase different securities, evidences of indebtedness or assets or property, subject to readjustment in the event of the expiration, termination or redemption of such rights. Notwithstanding anything to the contrary, the adoption or distribution of rights pursuant to a rights plan will not result in an adjustment to the Conversion Rate pursuant to Section 13.04 or this Section 13.09 except to the extent described in the preceding two sentences.

Section 13.10 Exchange in Lieu of Conversion Notwithstanding anything to the contrary in this Article 13, and subject to the terms of this Section 13.10, when a Holder surrenders its Note for conversion, the Company may, at its election (an "**Exchange Election**"), direct the Conversion Agent to deliver, on or prior to the Trading Day immediately following the Conversion Date, such Notes to one or more financial institutions designated by the Company (each, a "**Designated Financial Institution**") for exchange in lieu of conversion. In order to accept any Notes surrendered for conversion, the Designated Financial Institution(s) must agree to timely pay, or pay and deliver, as the case may be, the conversion consideration due upon such conversion in the same manner and at the same time as the Company would have been required to do so, or such other amount agreed to by the Holder and the Designated Financial Institution(s) (the "**Conversion Consideration**"). To make such election, the Company must notify in writing, by the close of business on the Trading Day immediately following the relevant Conversion Date, the Trustee, the Conversion Agent (if other than the Trustee) and the Holder surrendering its Notes for conversion that the Company has made the Exchange Election, and the Company must notify the Designated Financial Institution(s) of the relevant deadline for delivery of the consideration due upon conversion and the type of Conversion Consideration to be paid and/or delivered, as the case may be.

Any Notes delivered to the Designated Financial Institution(s) shall remain outstanding, subject to applicable Depositary procedures. If the Designated Financial Institution(s) agree(s) to accept any Notes for exchange but does not timely pay and, if applicable, deliver, as the case may be, the related Conversion Consideration, or if such Designated Financial Institution(s) do(es) not accept the Notes for exchange, the Company shall pay and, if applicable, deliver, as the case may be, the relevant Conversion Consideration, as, and at the time, required pursuant to this Indenture as if the Company had not made the Exchange Election.

Section 13.11 Reserve of Common Stock Issued Upon Conversion At all times when any Notes are outstanding, the Company will reserve (out of its authorized but unissued shares of Common Stock that are not reserved for other purposes) a number of shares of Common Stock equal to the product of (i) the number of all then-outstanding Notes; and (ii) the Conversion Rate then in effect (assuming, for these purposes, that the Conversion Rate is increased by the maximum amount pursuant to which the Conversion Rate may be increased pursuant to Section 13.03).

ARTICLE 14
REPURCHASE OF NOTES AT OPTION OF HOLDERS

Section 14.01 Repurchase at Option of Holders Upon a Fundamental Change

(a) If a Fundamental Change occurs at any time, each Holder shall have the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes, or any portion thereof that is equal to $1,000 or an integral multiple of $1,000, on the date (the "**Fundamental Change Repurchase Date**") specified by the Company that is no less than 20 and no more than 35 Business Days after the date of the Fundamental Change Company Notice at a repurchase price equal to 100% of the principal amount thereof, *plus* any accrued and unpaid interest thereon to, but not including, the Fundamental Change Repurchase Date (the "**Fundamental Change Repurchase Price**"), unless the Fundamental Change Repurchase Date falls after a Regular Record Date but on or prior to the immediately succeeding Interest Payment Date to which such Regular Record Date relates, in which case the Company shall instead pay, on or, at the Company's election, before such Interest Payment Date, the full amount of such accrued and unpaid interest due on such Interest Payment Date to Holders of record as of the close of business on such Regular Record Date, and the Fundamental Change Repurchase Price shall be equal to 100% of the principal amount of Notes to be repurchased pursuant to this Article 14. The Fundamental Change Repurchase Date shall be subject to postponement in order to allow the Company to comply with any change in applicable law after the date of this Indenture.

(b) Repurchases of Notes under this Section 14.01 shall be made, at the option of the Holder thereof, upon:

(i) delivery to the Paying Agent by a Holder of a duly completed notice (the "**Fundamental Change Repurchase Notice**") in the form set forth in Attachment 2 to the Form of Note attached hereto as Exhibit A, if the Notes are Physical Notes, or in compliance with the Depositary's procedures for surrendering interests in Global Notes, if the Notes are Global Notes, in each case, on or before the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date; and

(ii) delivery of the Notes, if the Notes are Physical Notes, to the Paying Agent at any time after delivery of the Fundamental Change Repurchase Notice (together with all necessary endorsements for transfer) at the Corporate Trust Office of the Paying Agent, or book-entry transfer of the Notes, if the Notes are Global Notes, in compliance with the procedures of the Depositary, in each case such delivery being a condition to receipt by the Holder of the Fundamental Change Repurchase Price therefor.

The Fundamental Change Repurchase Notice in respect of any Notes to be repurchased shall state:

(i) if Physical Notes have been issued, the certificate numbers of the Notes to be delivered for repurchase;

(ii) the portion of the principal amount of Notes to be repurchased, which must be $1,000 or an integral multiple thereof; and

(iii) that the Notes are to be repurchased by the Company pursuant to the applicable provisions of the Notes and this Indenture;

provided, *however*, that if the Notes are Global Notes, the Fundamental Change Repurchase Notice must comply with appropriate Depositary procedures.

Notwithstanding anything herein to the contrary, any Holder delivering to the Paying Agent the Fundamental Change Repurchase Notice contemplated by this Section 14.01 shall have the right to withdraw, in whole or in part, such Fundamental Change Repurchase Notice by delivery of a written notice of withdrawal to the Paying Agent in accordance with Section 14.02 prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date.

The Paying Agent shall promptly notify the Company of the receipt by it of any Fundamental Change Repurchase Notice or written notice of withdrawal thereof.

(c) No later than 20 calendar days after the occurrence of the effective date of a Fundamental Change, the Company shall provide to all Holders of Notes, the Trustee, the Conversion Agent (if not the Trustee), and the Paying Agent (if not the Trustee), a notice in writing (the "**Fundamental Change Company Notice**") of the occurrence of the effective date of the Fundamental Change and of the repurchase right at the option of the Holders arising as a result thereof and the procedures that each Holder of a Note must follow to require the Company to repurchase such Note. In the case of Physical Notes, such notice shall be by first class mail or, in the case of Global Notes, such notice shall be delivered in accordance with the applicable procedures of the Depositary. Each Fundamental Change Company Notice shall specify:

(i) the events causing the Fundamental Change;

(ii) the date of the Fundamental Change;

(iii) the last date on which a Holder may exercise the repurchase right pursuant to this Article 14;

(iv) the Fundamental Change Repurchase Price;

(v) the Fundamental Change Repurchase Date;

(vi) the name and address of the Paying Agent and the Conversion Agent, if applicable;

(vii) the Conversion Rate and, if applicable, any adjustments to the Conversion Rate;

(viii) that the Notes with respect to which a Fundamental Change Repurchase Notice has been delivered by a Holder may be converted only if the Holder withdraws the Fundamental Change Repurchase Notice in accordance with the terms of this Indenture; and

(ix) the procedures that Holders must follow to require the Company to repurchase their Notes.

No failure of the Company to give the foregoing notices and no defect therein shall limit the Holders' repurchase rights or affect the validity of the proceedings for the repurchase of the Notes pursuant to this Section 14.01.

At the Company's written request, given at least three (3) Business Days before such notice is to be sent (or such shorter period as shall be acceptable to the Trustee), the Trustee shall give such notice in the Company's name and at the Company's expense; *provided*, *however*, that, in all cases, the text of such Fundamental Change Company Notice shall be prepared by the Company.

(d) Notwithstanding the foregoing, no Notes may be repurchased by the Company on any date at the option of the Holders upon a Fundamental Change if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to such date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes). The Paying Agent will promptly return to the respective Holders thereof any Physical Notes held by it during the acceleration of the Notes (except in the case of an acceleration resulting from a Default by the Company in the payment of the Fundamental Change Repurchase Price with respect to such Notes), or any instructions for book-entry transfer of the Notes in compliance with the procedures of the Depositary shall be deemed to have been cancelled, and, upon such return or cancellation, as the case may be, the Fundamental Change Repurchase Notice with respect thereto shall be deemed to have been withdrawn.

(e) Notwithstanding anything to the contrary in this Indenture, the Company shall be deemed to satisfy its obligations to repurchase Notes upon a Fundamental Change pursuant to this Article 14 if one or more third parties conduct the repurchase offer and repurchase Notes surrendered for repurchase in a manner that would have satisfied the Company's obligations to do the same if conducted directly by the Company.

(f) Notwithstanding anything to the contrary in this Indenture, the Company shall not be required to send a Fundamental Change Company Notice, or offer to repurchase or repurchase any Notes pursuant to this Article 14, in connection with a Fundamental Change occurring pursuant to clause (b)(i) or (b)(ii) (or pursuant to clause (a) that also constitutes a Fundamental Change pursuant to clause (b)(i) or (b)(ii)) of the definition thereof, if:

(i) such Fundamental Change constitutes a Share Exchange Event for which the resulting Reference Property consists entirely of cash in U.S. dollars;

(ii) immediately after such Fundamental Change, the Notes become convertible (pursuant to the provisions described in Section 13.07 and, if applicable, Section 13.03) into consideration that consists solely of U.S. dollars in an amount per $1,000 principal amount of Notes that equals or exceeds the Fundamental Change Repurchase Price per $1,000 principal amount of Notes (calculated assuming a Fundamental Change Repurchase Date that results in a Fundamental Change Repurchase Price that includes the maximum amount of accrued interest); and

(iii) the Company timely sends the notice relating to such Fundamental Change required pursuant to Section 13.01(b)(iii).

Section 14.02 Withdrawal of Fundamental Change Repurchase Notice. A Fundamental Change Repurchase Notice may be withdrawn (in whole or in part) by means of a written notice of withdrawal delivered to the Corporate Trust Office of the Paying Agent in accordance with this Section 14.02 at any time prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date, specifying:

(a) the principal amount of the Notes with respect to which such notice of withdrawal is being submitted,

(b) if Physical Notes have been issued, the certificate number of the Note in respect of which such notice of withdrawal is being submitted, and

(c) the principal amount of such Note, if any, that remains subject to the original Fundamental Change Repurchase Notice, which portion must be in principal amounts of $1,000 or an integral multiple of $1,000;

provided, however, that if the Notes are Global Notes, the notice of withdrawal must comply with appropriate procedures of the Depositary.

Section 14.03 Deposit of Fundamental Change Repurchase Price

(a) The Company shall deposit with the Trustee (or other Paying Agent appointed by the Company, or if the Company is acting as its own Paying Agent, set aside, segregate and hold in trust as provided in Section 4.04) on or prior to 11:00 a.m., New York City time, on the Fundamental Change Repurchase Date an amount of money sufficient to repurchase all of the Notes to be repurchased at the appropriate Fundamental Change Repurchase Price. Subject to receipt of funds and/or Notes by the Trustee (or other Paying Agent appointed by the Company), payment for Notes surrendered for repurchase (and not withdrawn prior to the close of business on the Business Day immediately preceding the Fundamental Change Repurchase Date) will be made on the later of (i) the Fundamental Change Repurchase Date (*provided* the Holder has satisfied the conditions in Section 14.01) and (ii) the time of book-entry transfer or the delivery of such Note to the Trustee (or other Paying Agent appointed by the Company) by the Holder thereof in the manner required by Section 14.01 by mailing checks for the amount payable to the Holders of such Notes entitled thereto as they shall appear in the Note Register; *provided, however,* that payments to the Depositary shall be made by wire transfer of immediately available funds to the account of the Depositary or its nominee. The Trustee shall, promptly after such payment and upon written demand by the Company, return to the Company any funds in excess of the Fundamental Change Repurchase Price.

(b) If by 11:00 a.m. New York City time, on the Fundamental Change Repurchase Date, the Trustee (or other Paying Agent appointed by the Company) holds money sufficient to make payment on all the Notes or portions thereof that are to be repurchased on such Fundamental Change Repurchase Date, then, with respect to the Notes that have been properly surrendered for repurchase and have not been validly withdrawn, immediately after the Fundamental Change Repurchase Date ii) such Notes will cease to be outstanding, iii) interest will cease to accrue on such Notes (whether or not book-entry transfer of the Notes has been made or the Notes have been delivered to the Trustee or Paying Agent) and iv) all other rights of the Holders of such Notes will terminate, other than the right to receive the Fundamental Change Repurchase Price and, if applicable, accrued and unpaid interest, upon book-entry transfer of such Notes or delivery of such Notes to the Trustee or Paying Agent.

(c) Upon surrender of a Note that is to be repurchased in part pursuant to Section 14.01, the Company shall execute and the Trustee shall authenticate and deliver to the Holder a new Note in an authorized denomination equal in principal amount to the unrepurchased portion of the Note surrendered.

Section 14.04 Covenant to Comply with Applicable Laws Upon Repurchase of Notes

. In connection with any repurchase offer, the Company will, if required:

(a) comply with the provisions of Rule 13e-4, Rule 14e-1 and any other tender offer rules under the Exchange Act;

(b) file a Schedule TO or any other required schedule under the Exchange Act; and

(c) otherwise comply with all federal and state securities laws in connection with any offer by the Company to repurchase the Notes;

in each case, so as to permit the rights and obligations under this Article 14 to be exercised in the time and in the manner specified in this Article 14.

ARTICLE 15
OPTIONAL REDEMPTION

Section 15.01 Optional Redemption. No sinking fund is provided for the Notes. The Notes shall not be redeemable by the Company prior to June 21, 2026. On or after June 21, 2026, the Company may redeem (an "**Optional Redemption**") for cash all or any portion of the Notes (subject to the Partial Redemption Limitation), at the Company's option, on a Redemption Date occurring on or after June 21, 2026 and before the 51st Scheduled Trading Day before the Maturity Date, at the Redemption Price, but only if the Closing Price of the Common Stock has been at least 130% of the Conversion Price then in effect for each of at least 20 Trading Days (whether or not consecutive), including the Trading Day immediately preceding the date on which the Company provides the Redemption Notice in accordance with Section 15.02, during the 30 consecutive Trading Days ending on, and including, the Trading Day immediately preceding the date on which the Company provides such Redemption Notice in accordance with Section 15.02.

Section 15.02 Notice of Optional Redemption; Selection of Notes

(a) If the Company exercises its Optional Redemption right to redeem all or any part of the Notes pursuant to Section 15.01, it shall fix a date for redemption (each, a "**Redemption Date**") and it or, at its written request received by the Trustee not less than 63 Scheduled Trading Days prior to the Redemption Date (or such shorter period of time as may be acceptable to the Trustee), the Trustee, in the name of and at the expense of the Company, shall deliver or cause to be delivered a notice of such Optional Redemption (a "**Redemption Notice**") not less than 60 nor more than 75 Scheduled Trading Days prior to the Redemption Date to each Holder of Notes so to be redeemed as a whole or in part; *provided*, *however*, that, if the Company shall give such notice, it shall also give written notice of the Redemption Date to the Trustee and the Paying Agent (if other than the Trustee). The Redemption Date must be a Business Day. Upon surrender of a Note that is to be redeemed in part pursuant to this Article 15, the Company shall execute and the Trustee, upon receipt of a Company Order, shall authenticate and deliver to the Holder a new Note in principal amount equal to the unredeemed portion of the Note surrendered.

(b) A Redemption Notice, if delivered in the manner herein provided, shall be conclusively presumed to have been duly given, whether or not the Holder receives such Redemption Notice. In any case, failure to send such Redemption Notice or any defect in the Redemption Notice to the Holder of any Note designated for redemption as a whole or in part shall not affect the validity of the proceedings for the redemption of any other Note. A Redemption Notice, once sent, shall be irrevocable.

(c) Each Redemption Notice shall specify:

(i) the Redemption Date;

(ii) the Redemption Price;

(iii) that on the Redemption Date, the Redemption Price will become due and payable upon each Note to be redeemed, and that interest thereon, if any, shall cease to accrue on and after the Redemption Date (except, if applicable, as provided in the parenthetical in the definition of Redemption Price);

(iv) that Holders of Notes called for Optional Redemption (or deemed called for Optional Redemption pursuant to the third paragraph of Section 15.02(d)) may surrender their Notes for conversion at any time prior to the close of business on the second Business Day immediately preceding the Redemption Date;

(v) the procedures a converting Holder must follow to convert its Notes and the Settlement Method and Specified Dollar Amount (if applicable) for Conversion Dates occurring during the period set forth in Section 13.01(b)(v);

(vi) the Conversion Rate and, if applicable, the number of Additional Shares added to the Conversion Rate pursuant to Section 13.03;

(vii) the CUSIP, ISIN or other similar numbers, if any, assigned to such Notes; and

(viii) in case the Notes are to be redeemed in part only, that upon surrender of any Note to be redeemed in part, a new Note in principal amount equal to the unredeemed portion thereof shall be issued.

(d) If the Company elects to redeem fewer than all of the outstanding Notes, at least $100,000,000 aggregate principal amount of Notes must be outstanding and not subject to Optional Redemption as of, and after giving effect to, delivery of the relevant Redemption Notice (such requirement, the "**Partial Redemption Limitation**"). If the Company is to redeem fewer than all of the outstanding Notes and the Notes to be redeemed are Global Notes, the Notes or portions thereof to be redeemed shall be selected by the Depositary in accordance with the applicable procedures of the Depositary. If the Company is to redeem fewer than all of the outstanding Notes and the Notes to be redeemed are not Global Notes, the Trustee shall select the Notes or portions thereof to be redeemed on a *pro rata* basis or by another method the Trustee considers to be fair and appropriate; *provided* that, in each case, Notes will be selected for Optional Redemption only in principal amounts of $1,000 or integral multiples of $1,000 in excess thereof.

If any Note selected for partial redemption is submitted for conversion in part after such selection, the portion of the Note submitted for conversion shall be deemed to be from the portion selected for Optional Redemption. In the event of any redemption in part, the Company shall not be required to register the transfer of or exchange for other Notes any Note so selected for redemption, in whole or in part, except the unredeemed portion of any Note being redeemed in part.

If the Company elects to call fewer than all of the outstanding Notes for Optional Redemption, and the Holder of any Note, or any owner of a beneficial interest in any Global Note, is reasonably not able to determine, before the close of business on the 52nd Scheduled Trading Day immediately preceding the relevant Redemption Date, whether such Note or beneficial interest, as applicable, is to be redeemed pursuant to such Optional Redemption, then such Holder or owner, as applicable, will be entitled to convert such Note or beneficial interest, as applicable, at any time before the close of business on the second Business Day immediately preceding such Redemption Date, and each such conversion shall be deemed to be of a Note called for redemption for purposes of this Article 15, Section 13.01(b)(v) and Section 13.03. The Trustee shall not be obligated to make any determination in connection with the foregoing.

Section 15.03 Payment of Notes Called for Redemption

(a) If any Redemption Notice has been given in respect of the Notes in accordance with Section 15.02, the Notes shall become due and payable on the Redemption Date at the place or places stated in the Redemption Notice and at the applicable Redemption Price. On presentation of the Notes at the place or places stated in the Redemption Notice, the Notes shall be paid and redeemed by the Company at the applicable Redemption Price.

(b) Subject to receipt of funds by the Paying Agent, payment for the Notes to be redeemed shall be made on the Redemption Date for such Notes. The Paying Agent shall, promptly after such payment and upon written demand by the Company, return to the Company any funds deposited pursuant to Section 4.04 in excess of the Redemption Price.

Section 15.04 Restrictions on Redemption. The Company may not redeem any Notes on any date if the principal amount of the Notes has been accelerated in accordance with the terms of this Indenture, and such acceleration has not been rescinded, on or prior to the Redemption Date (except in the case of an acceleration resulting from a Default by the Company in the payment of the Redemption Price with respect to such Notes).

ARTICLE 16
MISCELLANEOUS PROVISIONS

Section 16.01 Provisions Binding on Company's Successors. All the covenants, stipulations, promises and agreements of the Company contained in this Indenture shall bind its successors and assigns whether so expressed or not.

Section 16.02 Official Acts by Successor Entity. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or Officer of the Company shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation or other entity that shall at the time be the lawful sole successor of the Company. Any act or proceeding by any provision of this Indenture authorized or required to be done or performed by any board, committee or Officer of a Guarantor shall and may be done and performed with like force and effect by the like board, committee or officer of any corporation or other entity that shall at the time be the lawful sole successor of such Guarantor.

Section 16.03 Addresses for Notices, Etc Except as otherwise expressly provided herein, all notices and other communications provided for hereunder shall be sufficient if in writing and in English and (1) delivered in person, (2) mailed by first-class mail (certified or registered, return receipt requested), postage prepaid, or overnight air courier guaranteeing next day delivery or (3) sent by facsimile or electronic transmission in PDF form. Any notice or demand that by any provision of this Indenture is required or permitted to be given or served by the Trustee or by the Holders on the Company shall be deemed to have been sufficiently given or made for all purposes if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed (until another address is filed by the Company with the Trustee) to Bread Financial Holdings, Inc., 3095 Loyalty Circle Columbus, Ohio 43219, Attention: General Counsel. Any notice, direction, request or demand hereunder to or upon the Trustee shall be deemed to have been sufficiently given or made, for all purposes, when received by the Trustee, if given or served by being deposited postage prepaid by registered or certified mail in a post office letter box addressed to the Corporate Trust Office.

The Trustee, by notice to the Company, may designate additional or different addresses for subsequent notices or communications.

Any notice or communication delivered or to be delivered to a Holder of Physical Notes shall be mailed to it by first class mail, postage prepaid, at its address as it appears on the Note Register and shall be sufficiently given to it if so mailed within the time prescribed; *provided* that notices given to Holders of Global Notes may be given through the facilities of the Depositary or any successor depositary, and any notice given in such manner will be deemed to have been given in writing. Any notice or communication delivered or to be delivered to a Holder of Global Notes shall be delivered in accordance with the applicable procedures of the Depositary and shall be sufficiently given to it if so delivered within the time prescribed.

Failure to send a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is sent in the manner provided above, it is duly given, whether or not the addressee receives it.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice to Holders by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

All notices, approvals, consents, requests and any communications hereunder must be in writing (*provided* that any communication sent to Trustee hereunder that is required to be signed must be in the form of a document that is signed manually or by way of a digital signature provided by DocuSign (or such other digital signature provider as specified in writing to Trustee by the Company)), in English. The Company agrees to assume all risks arising out of the use of digital signatures and electronic methods to submit communications to Trustee, including, without limitation, the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

Section 16.04 Governing Law. THIS INDENTURE, THE GUARANTEES AND THE NOTES, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS INDENTURE, THE GUARANTEES OR THE NOTES, WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

Section 16.05 Submission to Jurisdiction. Any legal suit, action or proceeding arising out of or based upon this Indenture or the transactions contemplated by this Indenture may be instituted in the federal courts of the United States of America located in the City of New York or the courts of the State of New York, in each case located in the City of New York (collectively, the "**Specified Courts**"), and each party irrevocably submits to the non-exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of any process, *summons*, notice or document by mail (to the extent allowed under any applicable statute or rule of court) to such party's address set forth in Section 16.03 will be effective service of process for any such suit, action or proceeding brought in any such court. Each of the Company, each Guarantor, the Trustee and each Holder (by its acceptance of any Note) irrevocably and unconditionally waives any objection to the laying of venue of any suit, action or other proceeding in the Specified Courts and irrevocably and unconditionally waives and agrees not to plead or claim any such suit, action or other proceeding has been brought in an inconvenient forum.

Section 16.06 Evidence of Compliance with Conditions Precedent; Certificates and Opinions of Counsel to Trustee. Upon any application or demand by the Company to the Trustee to take any action under any of the provisions of this Indenture (other than the initial application for authentication of Notes), the Company shall, if requested by the Trustee, furnish to the Trustee an Officer's Certificate and an Opinion of Counsel stating that such action is permitted by the terms of this Indenture.

Each Officer's Certificate and Opinion of Counsel provided for, by or on behalf of the Company in this Indenture and delivered to the Trustee with respect to compliance with this Indenture (other than the Officer's Certificates provided for in Section 4.08) shall include (a) a statement that the person signing such certificate is familiar with the requested action and this Indenture; (b) a brief statement as to the nature and scope of the examination or investigation upon which the statement contained in such certificate is based; (c) a statement that, in the judgment of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed judgment as to whether or not such action is permitted by this Indenture; and (d) a statement as to whether or not, in the judgment of such person, such action is permitted by this Indenture.

Section 16.07 Legal Holidays. In any case where any Interest Payment Date, the Maturity Date, any Fundamental Change Repurchase Date, any Redemption Date or any settlement date falls on a day that is not a Business Day, then any action to be taken on such date need not be taken on such date, but may be taken on the next succeeding Business Day with the same force and effect as if taken on such date, and no interest shall accrue for the period from and after such Interest Payment Date, Maturity Date, Fundamental Change Repurchase Date, Redemption Date or settlement date, as the case may be, to that next succeeding Business Day. Solely for purposes of the immediately preceding sentence, a day on which the applicable place of payment is authorized or required by law or executive order to close or be closed will be deemed not to be a "**Business Day**."

Section 16.08 No Security Interest Created. Nothing in this Indenture or in the Notes, expressed or implied, shall be construed to constitute a security interest under the Uniform Commercial Code or similar legislation, as now or hereafter enacted and in effect, in any jurisdiction.

Section 16.09 Benefits of Indenture. Nothing in this Indenture or in the Notes, expressed or implied, shall give to any Person, other than the Holders, the parties hereto, any Paying Agent, any Conversion Agent, any authenticating agent, any Note Registrar and their successors hereunder, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 16.10 Table of Contents, Headings, Etc. The table of contents and the titles and headings of the articles and sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof, and shall in no way modify or restrict any of the terms or provisions hereof.

Section 16.11 Authenticating Agent. The Trustee may appoint an authenticating agent that shall be authorized to act on its behalf and subject to its direction in the authentication and delivery of Notes in connection with the original issuance thereof and transfers and exchanges of Notes hereunder, including under Section 2.04, Section 2.05, Section 2.07, Section 2.08, Section 10.04 and Section 14.03 as fully to all intents and purposes as though the authenticating agent had been expressly authorized by this Indenture and those Sections to authenticate and deliver Notes. For all purposes of this Indenture, the authentication and delivery of Notes by the authenticating agent shall be deemed to be authentication and delivery of such Notes "by the Trustee" and a certificate of authentication executed on behalf of the Trustee by an authenticating agent shall be deemed to satisfy any requirement hereunder or in the Notes for the Trustee's certificate of authentication. Such authenticating agent shall at all times be a Person eligible to serve as trustee hereunder pursuant to Section 7.08.

Any corporation or other entity into which any authenticating agent may be merged or converted or with which it may be consolidated, or any corporation or other entity resulting from any merger, consolidation or conversion to which any authenticating agent shall be a party, or any corporation or other entity succeeding to all or substantially all of the corporate trust business of any authenticating agent, shall be the successor of the authenticating agent hereunder, if such successor corporation or other entity is otherwise eligible under this Section 16.11, without the execution or filing of any paper or any further act on the part of the parties hereto or the authenticating agent or such successor corporation or other entity.

Any authenticating agent may at any time resign by giving written notice of resignation to the Trustee and to the Company. The Trustee may at any time terminate the agency of any authenticating agent by giving written notice of termination to such authenticating agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any authenticating agent shall cease to be eligible under this Section, the Trustee may appoint a successor authenticating agent (which may be the Trustee), shall give written notice of such appointment to the Company and shall send notice of such appointment to all Holders.

The Company agrees to pay to the authenticating agent from time to time reasonable compensation for its services although the Company may terminate the authenticating agent, if it determines such agent's fees to be unreasonable.

The provisions of Section 7.02, Section 7.03, Section 7.04, Section 8.03 and this Section 16.11 shall be applicable to any authenticating agent.

If an authenticating agent is appointed pursuant to this Section 16.11, the Notes may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

_____,
as Authenticating Agent, certifies that this is one of the Notes described in the within-named Indenture.

By: _____
Authorized Signatory

Section 16.12 Execution in Counterparts. This Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Indenture and of signature pages by facsimile, PDF or other electronic transmission shall constitute effective execution and delivery of this Indenture as to the parties hereto and may be used in lieu of the original Indenture for all purposes. Signatures of the parties hereto transmitted by facsimile, PDF or other electronic transmission (including any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) shall constitute effective execution and delivery of this Indenture as to the other parties hereto shall be deemed to be their original signatures for all purposes.

Section 16.13 Severability. In the event any provision of this Indenture or in the Notes shall be invalid, illegal or unenforceable, then (to the extent permitted by law) the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.

Section 16.14 Waiver of Jury Trial. EACH OF THE COMPANY, EACH GUARANTOR AND THE TRUSTEE HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES, THE GUARANTEES OR THE TRANSACTIONS CONTEMPLATED BY THIS INDENTURE, THE NOTES OR THE GUARANTEE.

Section 16.15 Force Majeure. In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Trustee shall use reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances.

Section 16.16 Calculations. Except as otherwise provided herein, the Company shall be responsible for making all calculations called for under the Notes. These calculations include, but are not limited to, determinations of the Closing Prices and/or Daily VWAPs of the Common Stock, the Stock Price, the Trading Price of the Notes, the Daily Conversion Values, the Conversion Price, the Daily Settlement Amounts, any Redemption Price or Fundamental Change Repurchase Price, accrued interest payable on the Notes and the Conversion Rate of the Notes. The Company shall make all these calculations in good faith and, absent manifest error, the Company's calculations shall be final and binding on Holders of Notes. Upon request from the Trustee or the Conversion Agent, the Company shall provide a schedule of its calculations to the Trustee or the Conversion Agent, as the case may be, and each of the Trustee and Conversion Agent is entitled to rely conclusively upon the accuracy of the Company's calculations without independent verification. The Trustee shall forward the Company's calculations to any Holder of Notes upon the request of that Holder at the sole cost and expense of the Company.

Section 16.17 Applicable Law. In order to comply with laws, rules, regulations and executive orders in effect from time to time applicable to banking institutions, including those relating to the funding of terrorist activities and money laundering ("**Applicable Law**"), the Trustee is required to obtain, verify and record certain information relating to individuals and entities which maintain a business relationship with the Trustee. Accordingly, the Company agrees to provide to the Trustee upon its reasonable request from time to time such identifying information and documentation as may be available to the Company in order to enable the Trustee to comply with Applicable Law.

Section 16.18 Tax Matters. Notwithstanding any other provision of this Indenture, if the Company or other applicable withholding agent pays withholding taxes or backup withholding on behalf of a Holder or beneficial owner as a result of an adjustment to the Conversion Rate, the Company or other applicable withholding agent may, at its option, set off such payments against, or withhold the required amounts from, payments of cash and shares of Common Stock on the Notes (or any payments on the Company's Common Stock) to, sales proceeds received by, or other funds or assets of, such Holder or beneficial owner. The Company shall give the Trustee notice of any such withholding or the set off of any such payments.

Section 17.01 Guarantees.

(a) *Generally*. By its execution of this Indenture (or any amended or supplemental indenture pursuant to Section 10.01(b)), each Guarantor acknowledges and agrees that it receives substantial benefits from the Company and that such Guarantor is providing its Guarantee for good and valuable consideration, including such substantial benefits. Subject to this Article 17, each of the Guarantors hereby, jointly and severally, fully and unconditionally guarantees, to each Holder of a Note authenticated and delivered by the Trustee and to the Trustee and its successors and assigns, regardless of the validity or enforceability of this Indenture, the Notes or the obligations of the Company under this Indenture or the Notes, that:

(i) the principal of, any interest on, and any Conversion Consideration for, the Notes will be promptly paid and, if applicable, delivered in full when due, whether at maturity, by acceleration, on a Fundamental Change Repurchase Date, upon Optional Redemption or otherwise, and interest on the overdue principal of, any interest on, or any Conversion Consideration for, the Notes, if lawful, and all other obligations of the Company to the Holders or the Trustee under this Indenture or the Notes, will be promptly paid or delivered in full or performed, as applicable, in each case in accordance with this Indenture and the Notes; and

(ii) in case of any extension of time of payment or renewal of any Notes or any of such other obligations, that the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at stated maturity, by acceleration, on a Fundamental Change Repurchase Date, upon Optional Redemption or otherwise,

(collectively, the "**Guaranteed Obligations**"), in each case subject to Section 17.03.

Upon the failure of any payment when due of any amount so guaranteed, and upon the failure of any performance so guaranteed, for whatever reason, Guarantors will be jointly and severally obligated to pay or perform, as applicable, the same immediately. Each Guarantor agrees that this is a guarantee of payment and not a guarantee of collection.

(b) *Guarantee Is Unconditional; Waiver of Diligence, Presentment, Etc*. Each Guarantor agrees that its Guarantee of the Guaranteed Obligations is unconditional, regardless of the validity or enforceability of this Indenture, the Notes or the obligations of the Company under this Indenture or the Notes, the absence of any action to enforce the same, any waiver or consent by any Holder with respect to any provisions of this Indenture or the Notes, the recovery of any judgment against the Company, any action to enforce the same or any other circumstance that might otherwise constitute a legal or equitable discharge or defense of a guarantor. Each Guarantor waives diligence, presentment, demand of payment, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest, notice and all demands whatsoever, and covenants that this Guarantee will not be discharged except by complete performance of the obligations contained in this Indenture and the Notes.

(c) *Reinstatement of Guarantee Upon Return of Payments*. If any Holder or the Trustee is required by any court or otherwise to return, to the Company, the Guarantors or any custodian, trustee, liquidator or other similar official acting in relation to the Company or the Guarantors, any consideration paid or delivered by the Company or the Guarantors to such Holder or the Trustee, then each Guarantee, to the extent theretofore discharged, will be reinstated in full force and effect.

(d) *Subrogation*. Each Guarantor agrees that any right of subrogation, reimbursement or contribution it may have in relation to the Holders or in respect of any Guaranteed Obligations will be subordinated to, and will not be enforceable until payment in full of, all Guaranteed Obligations. Each Guarantor further agrees that, as between the Guarantors, on the one hand, and the Holders and the Trustee, on the other hand, (i) the maturity of the Guaranteed Obligations may be accelerated as provided in Article 6, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations; and (ii) if any Guaranteed Obligations are accelerated pursuant to Article 6, then such Guaranteed Obligations will, whether or not due and payable, immediately become due and payable by the Guarantors. Each Guarantor will have the right to seek contribution from any non-paying Guarantor, but only if the exercise of such right does not impair the rights of the Holders under any Guarantee.

Section 17.02 Limitation on Guarantor Liability. Each Guarantor, and, by its acceptance of any Note, each Holder, confirms that each Guarantor and the Holders intend that the Guarantee of each Guarantor not constitute a fraudulent transfer or conveyance for purposes of Bankruptcy Law, the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act or any similar federal or state law to the extent applicable to any Guarantee. Each of the Trustee, the Holders and each Guarantor irrevocably agrees that the obligations of each Guarantor under its Guarantee will be limited to the maximum amount that will, after giving effect to such maximum amount and all other contingent and fixed liabilities of such Guarantor that are relevant under such laws, and after giving effect to any collections from, rights to receive contribution from or payments made by or on behalf of any other Guarantor in respect of the obligations of such other Guarantor under its Guarantee, result in the obligations of such Guarantor under its Guarantee not constituting a fraudulent transfer or conveyance.

Section 17.03 Execution and Delivery of Guarantee. The execution by each Guarantor of this Indenture (or an amended or supplemental indenture pursuant to Section 10.01(b) or 17.05) evidences the Guarantee of such Guarantor, whereupon each Note then or thereafter outstanding will also represent, and will be entitled to the benefits of, such Guarantee. A Guarantee's validity will not be affected by the failure of any Officer of a Guarantor executing this Indenture or any such amended or supplemental indenture on such Guarantor's behalf to hold, at the time any Note is authenticated, the same or any other office at such Guarantor, and each Guarantee will be valid and enforceable even if no notation, certificate or other instrument is set upon or attached to, or otherwise executed and delivered to the Holder of, any Note.

Section 17.04 Future Subsidiary Guarantors. If, after the first original issue date of any Notes, any Wholly Owned Subsidiary of the Company that is organized and existing under the laws of the United States of America, any State thereof or the District of Columbia guarantees, or is issuer, co-issuer or co-obligor (as applicable) of, any Covered Debt Securities, then the Company will, as soon as reasonably practicable but no later than thirty (30) Business Days after such Wholly Owned Subsidiary guarantees, or becomes issuer, co-issuer or co-obligor (as applicable) of, such Covered Debt Securities, cause such Wholly Owned Subsidiary to execute an amended or supplemental indenture pursuant to Section 10.01(b) causing such Wholly Owned Subsidiary to become a Subsidiary Guarantor under this Indenture.

Section 17.05 Application of Certain Provisions to the Guarantors

(a) *Officer's Certificates and Opinions of Counsel*. Upon any request or application by any Guarantor to the Trustee to take any action under this Indenture, the Trustee will be entitled to receive an Officer's Certificate and an Opinion of Counsel pursuant to Section 16.06 with the same effect as if each reference to the Company in Section 16.06 or in the definitions of "Officer," "Officer's Certificate" or "Opinion of Counsel" were instead a reference to such Guarantor.

(b) *Company Order*. A Company Order may be given by any Guarantor with the same effect as if each reference to the Company in the definitions of "Company Order" or "Officer" were instead a reference to such Guarantor.

Section 17.06 Discharge of Guarantees and Release of Guarantors. The Guarantee of any Guarantor shall be automatically released and such Guarantor's obligations under such Guarantee and this Indenture shall be automatically released and discharged, and, in each case, be of no future force and effect, and such Guarantor will no longer be deemed to be a Guarantor under this Indenture, upon the occurrence of any of the following: (A) when the Company's obligations under this Indenture are discharged in accordance with Section 3.01; (B) upon the consolidation, merger, amalgamation or combination of such Guarantor into the Company or another Guarantor (with such other Guarantor as the surviving entity); (C) upon the liquidation or dissolution of such Guarantor; (D) at such time as such Guarantor no longer guarantees any Covered Debt Securities or is no longer issuer, co-issuer or co-obligor (as applicable) of any Covered Debt Securities; (E) at such time as no Covered Debt Securities of such Guarantor are outstanding; or (F) upon the sale or transfer or disposition of all the equity interests in, or all or substantially all the assets of, such Guarantor or if such equity interests or assets are transferred by merger, consolidation or otherwise, in each case to a non-affiliate. Holders may exercise their remedies against the Guarantors without first having to proceed directly against the Company consistent with the terms of this Indenture. Upon delivery of a Company Order, the Trustee will acknowledge the release of any Guarantor from its Guaranteed Obligations under its Guarantee, *provided* that an Officer's Certificate and, if requested by the Trustee, an Opinion of Counsel have been provided to the Trustee relating to such release.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed as of the date first written above

BREAD FINANCIAL HOLDINGS, INC.,

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Executive Vice President, Chief Financial Officer

BREAD FINANCIAL PAYMENTS, INC., as Guarantor

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Executive Vice President, Chief Financial Officer

COMENITY SERVICING LLC, as Guarantor

By: /s/ Michael Blackham
Name: Michael Blackham
Title: Vice President, Treasurer

LON INC., as Guarantor

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Chief Financial Officer_

LON OPERATIONS LLC, as Guarantor

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Chief Financial Officer

U.S. Bank Trust Company, National Association, as Trustee

By: /s/ Michael K. Herberger
Name: Michael K. Herberger
Title: Vice President

EXHIBIT A

[FORM OF FACE OF NOTE]

[INCLUDE FOLLOWING LEGEND IF A GLOBAL NOTE]

[UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO THE COMPANY OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE, OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT HEREUNDER IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.]

[INCLUDE FOLLOWING LEGEND IF A RESTRICTED SECURITY]

[THIS SECURITY AND THE COMMON STOCK, IF ANY, ISSUABLE UPON CONVERSION OF THIS SECURITY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

(2) AGREES FOR THE BENEFIT OF BREAD FINANCIAL HOLDINGS, INC. (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ORIGINAL ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THERETO AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO THE COMPANY OR ANY SUBSIDIARY THEREOF, OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

(C) TO A QUALIFIED INSTITUTIONAL BUYER IN COMPLIANCE WITH RULE 144A UNDER THE SECURITIES ACT, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT (IF AVAILABLE) OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (2)(D) ABOVE, THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.[1]]

[1] This paragraph and the immediately preceding paragraph will be deemed to be removed from the face of this Note at such time when the Company delivers written notice to the Trustee of such deemed removal pursuant to Section 2.06 of the within-mentioned Indenture.

Bread Financial Holdings, Inc.

4.25% Convertible Senior Note due 2028

No. [_____] [Initially][2] $[_____]

CUSIP No. [_____][*Insert for a "restricted" CUSIP number*: 3]
ISIN No. [_____] [*Insert for a "restricted" CUSIP number*: 7]

Bread Financial Holdings, Inc., a corporation duly organized and validly existing under the laws of the State of Delaware (the "**Company**," which term includes any successor corporation or other entity under the Indenture referred to on the reverse hereof), for value received hereby promises to pay to [CEDE & CO.][4] [_____][5], or registered assigns, the principal sum [as set forth in the "Schedule of Exchanges of Notes" attached hereto][6] [of $[_____]][7], which amount, taken together with the principal amounts of all other outstanding Notes, shall not, unless permitted by the Indenture, exceed $316,250,000 in aggregate at any time, in accordance with the rules and procedures of the Depositary, on June 15, 2028, and interest thereon as set forth below.

This Note shall bear interest at the rate of 4.25% per year from [_____], 20[__], or from the most recent date to which interest had been paid or provided for to, but excluding, the next scheduled Interest Payment Date until June 15, 2028. Interest is payable semi-annually in arrears on each June 15 and December 15, commencing on December 15, 2023, to Holders of record at the close of business on the preceding June 1 and December 1 (whether or not such day is a Business Day), respectively. Additional Interest will be payable as set forth in Section 4.06(d), Section 4.06(e) and Section 6.03 of the within-mentioned Indenture, and any reference to interest on, or in respect of, any Note therein shall be deemed to include Additional Interest if, in such context, Additional Interest is, was or would be payable pursuant to any of such Section 4.06(d), Section 4.06(e) or Section 6.03, and any express mention of the payment of Additional Interest in any provision therein shall not be construed as excluding Additional Interest in those provisions thereof where such express mention is not made.

Any Defaulted Amounts shall accrue interest per annum at the rate borne by the Notes, subject to the enforceability thereof under applicable law, from, and including, the relevant payment date to, but excluding, the date on which such Defaulted Amounts shall have been paid by the Company, at its election, in accordance with Section 2.03(c) of the Indenture.

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2 Include if a global note.
3 This Note will be deemed to be identified by CUSIP No. [___] and ISIN No. [___] from and after such time when the Company delivers, pursuant to Section 2.06 of the within-mentioned Indenture, written notice to the Trustee of the deemed removal of the Restricted Note Legend affixed to this Note.
4 Include if a global note.
5 Include if a physical note.
6 Include if a global note.
7 Include if a physical note.

The Company shall pay or cause the Paying Agent to pay the principal of and interest on this Note, if and so long as such Note is a Global Note, in immediately available funds to the Depositary or its nominee, as the case may be, as the registered Holder of such Note. As provided in and subject to the provisions of the Indenture, the Company shall pay or cause the Paying Agent to pay the principal of any Notes (other than Notes that are Global Notes) at the office or agency designated by the Company for that purpose. The Company has initially designated the Trustee as its Paying Agent and Note Registrar in respect of the Notes and its agency in its Corporate Trust Office located in the United States of America as a place where Notes may be presented for payment or for registration of transfer and exchange.

Reference is made to the further provisions of this Note set forth on the reverse hereof, including, without limitation, provisions giving the Holder of this Note the right to convert this Note into cash, and, if applicable, shares of Common Stock, on the terms and subject to the limitations set forth in the Indenture. Such further provisions shall for all purposes have the same effect as though fully set forth at this place.

This Note, and any claim, controversy or dispute arising under or related to this Note, shall be construed in accordance with and governed by the laws of the State of New York.

In the case of any conflict between this Note and the Indenture, the provisions of the Indenture shall control and govern.

This Note shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been signed manually by the Trustee or a duly authorized authenticating agent under the Indenture.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Company has caused this Note to be duly executed.

BREAD FINANCIAL HOLDINGS, INC.

By: _____

Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

U.S. Bank Trust Company, National Association as Trustee, certifies that this is one of the Notes described in the within-named Indenture.

By: _____
Authorized Signatory

Dated: _____

[FORM OF REVERSE OF NOTE]

Bread Financial Holdings, Inc.
4.25% Convertible Senior Note due 2028

This Note is one of a duly authorized issue of Notes of the Company, designated as its 4.25% Convertible Senior Notes due 2028 (the "**Notes**"), limited to the aggregate principal amount of $316,250,000 all issued or to be issued under and pursuant to an Indenture dated as of June 13, 2023 (the "**Indenture**"), among the Company, the Guarantors party thereto and U.S. Bank Trust Company, National Association (the "**Trustee**"), to which Indenture and all indentures supplemental thereto reference is hereby made for a description of the rights, limitations of rights, obligations, duties and immunities thereunder of the Trustee, the Company, the Guarantors and the Holders of the Notes. Additional Notes may be issued in an unlimited aggregate principal amount, subject to certain conditions specified in the Indenture. Capitalized terms used in this Note and not defined in this Note shall have the respective meanings set forth in the Indenture.

The Company's obligations under the Indenture and the Notes are fully and unconditionally guaranteed by the Guarantors as provided in Article 17 of the Indenture.

In case certain Events of Default shall have occurred and be continuing, the principal of, and interest on, all Notes may be declared, by either the Trustee or Holders of at least 25% in aggregate principal amount of Notes then outstanding, and upon said declaration shall become, due and payable, in the manner, with the effect and subject to the conditions and certain exceptions set forth in the Indenture.

Subject to the terms and conditions of the Indenture, the Company will make all payments and deliveries in respect of the Fundamental Change Repurchase Price on the Fundamental Change Repurchase Date, the Redemption Price on the Redemption Date and the principal amount on the Maturity Date, as the case may be, to the Holder who surrenders a Note to a Paying Agent to collect such payments in respect of the Note. The Company will pay cash amounts in money of the United States that at the time of payment is legal tender for payment of public and private debts.

The Indenture contains provisions permitting the Company, the Guarantors and the Trustee in certain circumstances, without the consent of the Holders of the Notes, and in certain other circumstances, with the consent of the Holders of not less than a majority in aggregate principal amount of the Notes at the time outstanding, evidenced as in the Indenture provided, to execute supplemental indentures modifying the terms of the Indenture, the Notes or the Guarantees as described therein. It is also provided in the Indenture that, subject to certain exceptions, the Holders of a majority in aggregate principal amount of the Notes at the time outstanding may on behalf of the Holders of all of the Notes waive any past Default or Event of Default under the Indenture and its consequences.

No reference herein to the Indenture and no provision of this Note, of any Guarantee or of the Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay or deliver, as the case may be, the principal (including the Fundamental Change Repurchase Price and the Redemption Price, if applicable) of, accrued and unpaid interest on, and the consideration due upon conversion of, this Note at the place, at the respective times, at the rate and in the lawful money herein prescribed.

The Notes are issuable in registered form without coupons in denominations of $1,000 principal amount and integral multiples thereof. At the office or agency of the Company referred to on the face hereof, and in the manner and subject to the limitations provided in the Indenture, Notes may be exchanged for a like aggregate principal amount of Notes of other authorized denominations, without payment of any service charge but, if required by the Company or Trustee, with payment of a sum sufficient to cover any transfer tax or other similar governmental charge that may be imposed in connection therewith as a result of the name of the Holder of the new Notes issued upon such exchange of Notes being different from the name of the Holder of the old Notes surrendered for such exchange.

The Notes shall be redeemable at the Company's option on or after June 21, 2026 in accordance with the terms and subject to the conditions specified in the Indenture. No sinking fund is provided for the Notes.

Upon the occurrence of a Fundamental Change, the Holder has the right, at such Holder's option, to require the Company to repurchase for cash all of such Holder's Notes or any portion thereof (in principal amounts of $1,000 or integral multiples thereof) on the Fundamental Change Repurchase Date at a price equal to the Fundamental Change Repurchase Price.

Subject to the provisions of the Indenture, the Holder hereof has the right, at its option, during certain periods and upon the occurrence of certain conditions specified in the Indenture, prior to the close of business on the second Scheduled Trading Day immediately preceding the Maturity Date, to convert any Notes or portion thereof that is $1,000 or an integral multiple thereof, into cash, and, if applicable, shares of Common Stock, at the Company's election, at the Conversion Rate specified in the Indenture, as adjusted from time to time as provided in the Indenture.

ABBREVIATIONS

The following abbreviations, when used in the inscription of the face of this Note, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM = as tenants in common

UNIF GIFT MIN ACT = Uniform Gifts to Minors Act

CUST = Custodian

TEN ENT = as tenants by the entireties

JT TEN = joint tenants with right of survivorship and not as tenants in common

Additional abbreviations may also be used though not in the above list.

SCHEDULE A[8]

SCHEDULE OF EXCHANGES OF NOTES

Bread Financial Holdings, Inc.
4.25% Convertible Senior Notes due 2028

The initial principal amount of this Global Note is [_____] DOLLARS ($[_____]). The following increases or decreases in this Global Note have been made:

Date of exchange	Amount of decrease in principal amount of this Global Note	Amount of increase in principal amount of this Global Note	Principal amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Custodian

[8] Include if a global note.

ATTACHMENT 1

[FORM OF NOTICE OF CONVERSION]

Bread Financial Holdings, Inc.
4.25% Convertible Senior Notes due 2028

To: U.S. Bank Trust Company, National Association, as Trustee

The undersigned registered owner of this Note hereby exercises the option to convert this Note, or the portion hereof (that is $1,000 principal amount or an integral multiple thereof) below designated, into cash, and, if applicable, shares of Common Stock, in accordance with the terms of the Indenture referred to in this Note, and directs that any cash payable and any shares of Common Stock issuable and deliverable upon such conversion, together with any cash for any fractional share, and any Notes representing any unconverted principal amount hereof, be issued and delivered to the registered Holder hereof unless a different name has been indicated below. If any shares of Common Stock or any portion of this Note not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all documentary, stamp or similar issue or transfer taxes, if any in accordance with Section 13.02(d) and Section 13.02(e) of the Indenture. Any amount required to be paid to the undersigned on account of interest accompanies this Note. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

Dated: _____ _____

_____
Signature(s)

_____
Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if shares of Common Stock are to be issued, or Notes are to be delivered, other than to and in the name of the registered holder.

Fill in for registration of shares if to be issued, and Notes if to be delivered, other than to and in the name of the registered holder:

_____
(Name)

_____
(Street Address)

_____
(City, State and Zip Code)
Please print name and address

Principal amount to be converted (if less than all): $_____,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

_____
Social Security or Other Taxpayer Identification Number

ATTACHMENT 2

[FORM OF FUNDAMENTAL CHANGE REPURCHASE NOTICE]

Bread Financial Holdings, Inc.
4.25% Convertible Senior Notes due 2028

To: U.S. Bank Trust Company, National Association, as Trustee

The undersigned registered owner of this Note hereby acknowledges receipt of a notice from Bread Financial Holdings, Inc. (the "**Company**") as to the occurrence of a Fundamental Change with respect to the Company and specifying the Fundamental Change Repurchase Date and requests and instructs the Company to pay to the registered holder hereof in accordance with Section 14.01 of the Indenture referred to in this Note (1) the entire principal amount of this Note, or the portion thereof (that is $1,000 principal amount or an integral multiple thereof) below designated, and (2) if such Fundamental Change Repurchase Date does not fall during the period after a Regular Record Date and on or prior to the corresponding Interest Payment Date, accrued and unpaid interest, if any, thereon to, but excluding, such Fundamental Change Repurchase Date. Capitalized terms used herein but not defined shall have the meanings ascribed to such terms in the Indenture.

In the case of Physical Notes, the certificate numbers of the Notes to be repurchased are as set forth below:

Dated: _____

_____
Signature(s)

_____
Social Security or Other Taxpayer Identification Number

Principal amount to be repaid (if less than all): $_____,000

NOTICE: The above signature(s) of the Holder(s) hereof must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever
.

ATTACHMENT 3

[FORM OF ASSIGNMENT AND TRANSFER]

Bread Financial Holdings, Inc.
4.25% Convertible Senior Notes due 2028

For value received _____ hereby sell(s), assign(s) and transfer(s) unto _____ (Please insert social security or Taxpayer Identification Number of assignee) the within Note, and hereby irrevocably constitutes and appoints _____ attorney to transfer the said Note on the books of the Company, with full power of substitution in the premises.

In connection with any transfer of the within Note occurring prior to the Resale Restriction Termination Date, as defined in the Indenture governing such Note, the undersigned confirms that such Note is being transferred:

☐ To Bread Financial Holdings, Inc. or a subsidiary thereof; or

☐ Pursuant to a registration statement that has become or been declared effective under the Securities Act of 1933, as amended; or

☐ Pursuant to and in compliance with Rule 144A under the Securities Act of 1933, as amended; or

☐ Pursuant to and in compliance with Rule 144 under the Securities Act of 1933, as amended, if available, or any other available exemption from the registration requirements of the Securities Act of 1933, as amended.

Dated: _____

_____

_____
Signature(s)

_____
Signature Guarantee

Signature(s) must be guaranteed by an eligible Guarantor Institution (banks, stock brokers, savings and loan associations and credit unions) with membership in an approved signature guarantee medallion program pursuant to Securities and Exchange Commission Rule 17Ad-15 if Notes are to be delivered, other than to and in the name of the registered holder.

NOTICE: The signature on the assignment must correspond with the name as written upon the face of the Note in every particular without alteration or enlargement or any change whatever.

FORM OF SUPPLEMENTAL INDENTURE TO BE DELIVERED BY SUBSEQUENT GUARANTORS

Supplemental Indenture, dated as of [_____], 20[__] (this "Supplemental Indenture"), among [_____] (the "Additional Guarantor"), a subsidiary of Bread Financial Holdings, Inc., a Delaware corporation (or its permitted successor) (the "Company"), the Company, the other Guarantors (as defined in the Indenture referred to herein) and U.S. Bank Trust Company, National Association, a national banking association, as trustee under the Indenture referred to below (the "Trustee").

W I T N E S E T H

WHEREAS, the Company has heretofore executed and delivered to the Trustee an indenture, dated as of June 13, 2023 (the "Indenture"), providing for the issuance of 4.25% Convertible Senior Notes due 2028 (the "Notes");

WHEREAS, the Indenture provides that under certain circumstances the Additional Guarantor shall execute and deliver to the Trustee a supplemental indenture pursuant to which the Additional Guarantor shall unconditionally guarantee all of the Company's obligations under the Notes and the Indenture on the terms and conditions set forth herein (the "Guarantee"); and

WHEREAS, pursuant to Section 10.01 of the Indenture, the Trustee is authorized to execute and deliver this Supplemental Indenture.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Company, the Additional Guarantor and the Trustee mutually covenant and agree for the equal and ratable benefit of the Holders of the Notes as follows:

1. *Capitalized Terms*. Capitalized terms used herein without definition shall have the meanings assigned to them in the Indenture.

2. *Agreement to Guarantee*. The Additional Guarantor hereby becomes a party to the Indenture as a Guarantor and as such shall have all of the rights and be subject to all of the obligations and agreements of a Guarantor under the Indenture. The Additional Guarantor hereby agrees, on a joint and several basis with all the existing Guarantors, to provide an unconditional Guarantee on the terms and subject to the conditions set forth in the Guarantee and in the Indenture including but not limited to Article 17 thereof.

3. *Ratification of Indenture – Supplemental Indentures Part of Indenture*. Except as expressly amended hereby, the Indenture is in all respects ratified and confirmed and all the terms, conditions and provisions thereof shall remain in full force and effect. This Supplemental Indenture shall form a part of the Indenture for all purposes, and every Holder of Notes heretofore or hereafter authenticated and delivered shall be bound hereby.

4. *No Recourse Against Others*. No past, present or future director, officer, employee, incorporator, stockholder or agent of the Additional Guarantor, as such, shall have any liability for any obligations of the Company or any Additional Guarantor under the Notes, any Guarantees, the Indenture or this Supplemental Indenture or for any claim based on, in respect of, or by reason of, such obligations or their creation. Each Holder of the Notes by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for issuance of the Notes. Such waiver may not be effective to waive liabilities under the federal securities laws and it is the view of the Commission that such a waiver is against public policy.

5. *GOVERNING LAW*. THIS SUPPLEMENTAL INDENTURE, AND ANY CLAIM, CONTROVERSY OR DISPUTE ARISING UNDER OR RELATED TO THIS SUPPLEMENTAL INDENTURE, SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

6. *Severability Clause*. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby and such provision shall be ineffective only to the extent of such invalidity, illegality or unenforceability.

7. *Counterparts*. This Supplemental Indenture may be executed in any number of counterparts, each of which shall be an original, but such counterparts shall together constitute but one and the same instrument. The exchange of copies of this Supplemental Indenture and of signature pages by facsimile, PDF or other electronic transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the parties hereto and may be used in lieu of the original Supplemental Indenture and signature pages for all purposes. Signatures of the parties hereto transmitted by facsimile, PDF or other electronic transmission shall constitute effective execution and delivery of this Supplemental Indenture as to the other parties hereto shall be deemed to be their original signatures for all purposes.

8. *Effect of Headings*. The Section headings herein are for convenience only and shall not affect the construction hereof.

9. *The Trustee*. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture or for or in respect of the recitals contained herein, all of which recitals are made solely by the Additional Guarantor and the Company.

IN WITNESS WHEREOF, the parties hereto have caused this Supplemental Indenture to be duly executed and attested, all as of the date first above written.

Dated: [_____], 202[_]

[ADDITIONAL GUARANTOR]

By: _____
Name:
Title:

BREAD FINANCIAL HOLDINGS, INC.

By: _____
Name:
Title:

U.S. BANK TRUST COMPANY, NATIONAL ASSOCIATION, as Trustee

By: _____
Name:
Title:

Exhibit 10.1

BREAD FINANCIAL HOLDINGS, INC.

4.25% Convertible Senior Notes due 2028

Purchase Agreement

June 8, 2023

J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

As Representative of the
several Initial Purchasers listed
in Schedule 1 hereto

Ladies and Gentlemen:

Bread Financial Holdings, Inc., a Delaware corporation (the "Company"), proposes to issue and sell to the several initial purchasers listed in Schedule 1 hereto (the "Initial Purchasers"), for whom you are acting as representative (the "Representative"), $275,000,000 principal amount of its 4.25% Convertible Senior Notes due 2028 (the "Firm Securities") and, at the option of the Initial Purchasers, up to an additional $41,250,000 principal amount of its 4.25% Convertible Senior Notes due 2028 (the "Option Securities") if and to the extent that the Initial Purchasers shall have determined to exercise the option to purchase such 4.25% Convertible Senior Notes due 2028 granted to the Initial Purchasers in Section 2 hereof. The Firm Securities and the Option Securities are herein referred to as the "Notes". Subject to the terms of the Indenture (as defined below), the Notes will be convertible into cash up to the aggregate principal amount of such Notes to be converted and cash, shares (the "Underlying Securities") of common stock of the Company, par value $0.01 per share (the "Common Stock"), or a combination of cash and Underlying Securities, at the Company's election, in respect of the remainder, if any, of the Company's conversion obligation in excess of the aggregate principal amount of such Notes being converted. The Securities (as defined below) will be issued pursuant to an Indenture to be dated as of the Closing Date (as defined in Section 2(e) hereof) (the "Indenture"), among the Company, the Guarantors (as defined below) and U.S. Bank Trust Company, National Association, as trustee (the "Trustee").

The payment of principal of, premium, if any, and interest on the Notes will be fully and unconditionally guaranteed on a senior unsecured basis, jointly and severally by (i) the entities listed on the signature pages hereof as "Guarantors" and (ii) any subsidiary of the Company formed or acquired after the Closing Date that executes a supplemental indenture by which such subsidiary is added as a guarantor under the Indenture, and their respective successors and assigns (collectively, the "Guarantors"), in each case pursuant to the terms of the Indenture that provide for such guarantees (the "Guarantees"). The Notes and the Guarantees are herein referred to as the "Securities".

In connection with the offering of the Firm Securities, the Company is separately entering into privately negotiated capped call transactions with certain financial institutions (in this capacity, each a "Capped Call Counterparty") pursuant to capped call confirmations (each such capped call confirmation, a "Base Capped Call Confirmation"), dated the date hereof, and in connection with the issuance of any Option Securities, the Company and the Capped Call Counterparties may enter into additional capped call transactions, in each case pursuant to an additional capped call confirmation (each such additional capped call confirmation, an "Additional Capped Call Confirmation"), each to be dated the date on which the option granted to purchase such Option Securities is exercised (the Additional Capped Call Confirmations, together with the Base Capped Call Confirmations, the "Capped Call Confirmations").

Each of the Company and the Guarantors, jointly and severally, hereby confirms its agreement with the several Initial Purchasers concerning the purchase and sale of the Securities, as follows:

1. Offering Memorandum and Transaction Information. The Securities will be sold to the Initial Purchasers without being registered under the Securities Act of 1933, as amended (the "Securities Act"), in reliance upon an exemption therefrom. The Company has prepared a preliminary offering memorandum dated June 8, 2023 (the "Preliminary Offering Memorandum") and will prepare an offering memorandum dated the date hereof (the "Offering Memorandum") setting forth information concerning the Company, the Securities and the Underlying Securities. Copies of the Preliminary Offering Memorandum have been, and copies of the Offering Memorandum will be, delivered by the Company to the Initial Purchasers pursuant to the terms of this purchase agreement (this "Agreement"). The Company hereby confirms that it has authorized the use of the Preliminary Offering Memorandum, the other Time of Sale Information (as defined below) and the Offering Memorandum in connection with the offering and resale of the Securities by the Initial Purchasers in the manner contemplated by this Agreement. References herein to the Preliminary Offering Memorandum, the Time of Sale Information and the Offering Memorandum shall be deemed to refer to and include any document incorporated by reference therein and any reference to "amend," "amendment" or "supplement" with respect to the Preliminary Offering Memorandum or the Offering Memorandum shall be deemed to refer to and include any documents filed after such date and incorporated by reference therein.

At or prior to the time when sales of the Securities were first made (the "Time of Sale"), the Company had prepared the following information (collectively, the "Time of Sale Information"): the Preliminary Offering Memorandum, as supplemented and amended by the written communications listed on Annex A hereto.

2. Purchase and Resale of the Securities. (a) The Company agrees to issue and sell the Firm Securities to the several Initial Purchasers as provided in this Agreement, and each Initial Purchaser, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase from the Company the respective principal amount of Firm Securities set forth opposite such Initial Purchaser's name in Schedule 1 hereto at a price equal to 97.0% of the principal amount thereof (the "Purchase Price") plus accrued interest, if any, from June 13, 2023 to the Closing Date (as defined below).

In addition, the Company agrees to issue and sell the Option Securities to the several Initial Purchasers as provided in this Agreement, and the Initial Purchasers, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, shall have the option to purchase, severally and not jointly, from the Company, for the sole purpose of covering sales of Securities in excess of the aggregate amount of the Firm Securities, the Option Securities at the Purchase Price plus accrued interest, if any, from June 13, 2023 to the date of payment and delivery.

If any Option Securities are to be purchased, the principal amount of Option Securities to be purchased by each Initial Purchaser shall be the principal amount of Option Securities which bears the same ratio to the aggregate principal amount of Option Securities being purchased as the principal amount of Firm Securities set forth opposite the name of such Initial Purchaser in Schedule 1 hereto (or such amount increased as set forth in Section 10 hereof) bears to the aggregate principal amount of Firm Securities being purchased from the Company by the several Initial Purchasers, subject, however, to such adjustments to eliminate Securities in denominations other than $1,000 as the Representative in its sole discretion shall make.

The Initial Purchasers may exercise the option to purchase the Option Securities at any time in whole, or from time to time in part, by written notice from the Representative to the Company; provided that any Additional Closing Date (as defined below) shall occur within a period of thirteen calendar days from, and including, the Closing Date. Such notice shall set forth the aggregate principal amount of Option Securities plus accrued interest as to which the option is being exercised and the date and time when the Option Securities are to be delivered and paid for which, subject to the next sentence, may be the same date and time as the Closing Date (as hereinafter defined) but shall not be earlier than the Closing Date nor later than the tenth full business day (as hereinafter defined) after the date of such notice (unless such time and date are postponed in accordance with the provisions of Section 10 hereof) nor later than the thirteenth calendar day from, and including, the Closing Date. Any such notice shall be given at least two business days prior to the date and time of delivery specified therein; provided that one business day's notice shall be sufficient with respect to any Option Securities to be delivered on the Closing Date.

(b) The Company and the Guarantors understand that the Initial Purchasers intend to offer the Securities for resale on the terms set forth herein and in the Time of Sale Information. Each Initial Purchaser, severally and not jointly, represents, warrants and agrees that:

(i) it is a qualified institutional buyer within the meaning of Rule 144A under the Securities Act (a "QIB") and an accredited investor within the meaning of Rule 501(a) of Regulation D under the Securities Act ("Regulation D");

(ii) it has not solicited offers for, or offered or sold, and will not solicit offers for, or offer or sell, the Securities by means of any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D or in any manner involving a public offering within the meaning of Section 4(a)(2) of the Securities Act; and

(iii) it has not solicited offers for, or offered or sold, and will not solicit offers for, or offer or sell, the Securities as part of their initial offering except: to persons whom it reasonably believes to be QIBs in transactions pursuant to Rule 144A under the Securities Act ("Rule 144A") and in connection with each such sale, it has taken or will take reasonable steps to ensure that the purchaser of the Securities is aware that such sale is being made in reliance on Rule 144A.

(c) Each Initial Purchaser acknowledges and agrees that the Company and the Guarantors and, for purposes of the "no registration" opinions to be delivered to the Initial Purchasers pursuant to Sections 6(g) and 6(h), counsel for the Company and the Guarantors and counsel for the Initial Purchasers, respectively, may rely upon the accuracy of the representations and warranties of the Initial Purchasers, and compliance by the Initial Purchasers with their agreements, contained in paragraph (b) above, and each Initial Purchaser hereby consents to such reliance.

(d) The Company and the Guarantors acknowledge and agree that the Initial Purchasers may offer and sell Securities to or through any affiliate of an Initial Purchaser and that any such affiliate may offer and sell Securities purchased by it to or through any Initial Purchaser.

(e) Payment for the Securities shall be made by wire transfer in immediately available funds to the account specified by the Company to the Representative in the case of the Firm Securities at the offices of Latham & Watkins LLP at 10:00 A.M. New York City time on June 13, 2023, or at such other time or place on the same or such other date, not later than the fifth business day thereafter, as the Representative and the Company may agree upon in writing or, in the case of any Option Securities, on the date and at the time and place specified by the Representative in the written notice of the Initial Purchasers' election to purchase such Option Securities (provided that any Additional Closing Date (as hereinafter defined) must occur during the thirteen calendar day period from, and including, the Closing Date (as hereinafter defined)). The time and date of such payment and delivery for the Firm Securities is referred to herein as the "Closing Date" and the time and date for such payment and delivery for the Option Securities, if other than the Closing Date, is herein referred to as the "Additional Closing Date".

Payment for the Securities to be purchased on the Closing Date or the Additional Closing Date, as the case may be, shall be made against delivery to the nominee of The Depository Trust Company ("DTC"), for the respective accounts of the several Initial Purchasers of the Securities to be purchased on such date of one or more global notes representing the Securities (collectively, the "Global Note"), with any transfer taxes payable in connection with the sale of such Securities duly paid by the Company. The Global Note will be made available for inspection by the Representative at the office of J.P. Morgan Securities LLC set forth above not later than 1:00 P.M., New York City time, on the business day prior to the Closing Date or the Additional Closing Date, as the case may be.

(f) The Company and the Guarantors acknowledge and agree that each Initial Purchaser is acting solely in the capacity of an arm's length contractual counterparty to the Company and the Guarantors with respect to the offering of Securities contemplated hereby (including in connection with determining the terms of the offering) and not as a financial advisor or a fiduciary to, or an agent of, the Company, the Guarantors or any other person. Additionally, neither the Representative nor any other Initial Purchaser is advising the Company, the Guarantors or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. Each of the Company and the Guarantors shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Initial Purchasers shall have no responsibility or liability to the Company or the Guarantors with respect thereto. Any review by the Representative or any Initial Purchaser of the Company and the Guarantors, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Representative or such Initial Purchaser and shall not be on behalf of the Company, the Guarantors or any other person.

3. Representations and Warranties of the Company and the Guarantors. Each of the Company and the Guarantors, jointly and severally, represents and warrants to each Initial Purchaser that:

(a) *Preliminary Offering Memorandum.* The Preliminary Offering Memorandum, as of its date, did not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Initial Purchaser furnished to the Company in writing by such Initial Purchaser through the Representative expressly for use in any Preliminary Offering Memorandum, it being understood and agreed that the only such information furnished by any Initial Purchaser consists of the information described as such in Section 7(b) hereof.

(b) *Time of Sale Information*. The Time of Sale Information, at the Time of Sale, did not, and at the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation or warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Initial Purchaser furnished to the Company in writing by such Initial Purchaser through the Representative expressly for use in such Time of Sale Information, it being understood and agreed that the only such information furnished by any Initial Purchaser consists of the information described as such in Section 7(b) hereof. No statement of material fact included in the Offering Memorandum has been omitted from the Time of Sale Information and no statement of material fact included in the Time of Sale Information that is required to be included in the Offering Memorandum has been omitted therefrom.

(c) *Additional Written Communications.* The Company (including its agents and representatives, other than the Initial Purchasers in their capacity as such) and the Guarantors have not prepared, made, used, authorized, approved or referred to and will not prepare, make, use, authorize, approve or refer to any "written communication" (as defined in Rule 405 under the Securities Act) that constitutes an offer to sell or solicitation of an offer to buy the Securities (each such communication by the Company, the Guarantors or their respective agents and representatives (other than a communication referred to in clauses (i), (ii) and (iii) below) an "Issuer Written Communication") other than (i) the Preliminary Offering Memorandum, (ii) the Offering Memorandum, (iii) the documents listed on Annex A hereto, including a term sheet substantially in the form of Annex B hereto, which constitute part of the Time of Sale Information, and (iv) each electronic road show and any other written communications approved in writing in advance by the Representative. Each such Issuer Written Communication does not conflict with the information contained in the Time of Sale Information, and when taken together with the Time of Sale Information, did not, and at the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation or warranty with respect to any statements or omissions made in each such Issuer Written Communication in reliance upon and in conformity with information relating to any Initial Purchaser furnished to the Company in writing by such Initial Purchaser through the Representative expressly for use in such Issuer Written Communication, it being understood and agreed that the only such information furnished by any Initial Purchaser consists of the information described as such in Section 7(b) hereof.

(d) *Offering Memorandum.* As of the date of the Offering Memorandum and as of the Closing Date and as of the Additional Closing Date, as the case may be, the Offering Memorandum does not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with information relating to any Initial Purchaser furnished to the Company in writing by such Initial Purchaser through the Representative expressly for use in the Offering Memorandum, it being understood and agreed that the only such information furnished by any Initial Purchaser consists of the information described as such in Section 7(b) hereof.

(e) *Incorporated Documents.* The documents incorporated by reference in the Offering Memorandum or the Time of Sale Information, when they were filed with the U.S. Securities and Exchange Commission (the "Commission") conformed or will conform, as the case may be, in all material respects to the requirements of the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Exchange Act") and such documents did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(f) *Financial Statements.* The financial statements and the related notes thereto of the Company and its consolidated subsidiaries included or incorporated by reference in the Time of Sale Information and the Offering Memorandum present fairly the financial position of the Company and its consolidated subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in conformity with generally accepted accounting principles ("GAAP") in the United States applied on a consistent basis throughout the periods covered thereby; and the other financial information included or incorporated by reference in each of the Time of Sale Information and the Offering Memorandum has been derived from the accounting records of the Company and its consolidated subsidiaries and presents fairly the information shown thereby.

(g) *No Material Adverse Effect.* Except as otherwise disclosed in the Time of Sale Information and the Offering Memorandum (exclusive of any amendment or supplement thereto), subsequent to the respective dates as of which information is given in the Time of Sale Information and the Offering Memorandum (exclusive of any amendment or supplement thereto): (i) there has been no material adverse effect, or any development that would reasonably be expected to result in a material adverse effect, in the condition, financial or otherwise, or in the earnings, business, operations or prospects, whether or not arising from transactions in the ordinary course of business, of the Company and its subsidiaries, considered as one entity (any such change is called a "Material Adverse Effect"); (ii) the Company and its subsidiaries, considered as one entity, have not incurred any material liability or obligation, indirect, direct or contingent, not in the ordinary course of business nor entered into any material transaction or agreement not in the ordinary course of business; and (iii) there has been no dividend or distribution of any kind declared, paid or made by the Company, other than the dividends on its common stock declared and/or paid by the Company and cash related to dividend equivalent rights paid by the Company or, except for dividends paid to the Company or other subsidiaries, any of its subsidiaries on any class of their respective capital stock or repurchase or redemption by the Company or any of its subsidiaries of any class of their respective capital stock.

(h) *Incorporation and Good Standing of the Company, its Subsidiaries and the Guarantors.* Each of the Company, the Guarantors and the Company's subsidiaries listed on Schedule 2 hereto (each, a "Subsidiary" and collectively, the "Subsidiaries") has been duly incorporated, formed or organized, as applicable, and is validly existing as a corporation, limited partnership or a limited liability company, as applicable, in good standing under the laws of the jurisdiction of its incorporation, formation or organization, as applicable, and has corporate, limited partnership or limited liability company, as applicable, power and authority to own or lease, as the case may be, and operate its properties and to conduct its business as described in the Time of Sale Information and the Offering Memorandum and, in the case of the Company and the Guarantors, to enter into and perform its obligations under each of the Transaction Documents (as defined below) to which it is a party. The Company, each Guarantor and each of the Company's Subsidiaries is duly qualified as a foreign corporation, limited partnership or limited liability company, as applicable, to transact business and is in good standing or equivalent status in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except for such jurisdictions where the failure to so qualify or to be in good standing would not, individually or in the aggregate, result in a Material Adverse Effect. All of the issued and outstanding capital stock or other ownership interest of each Guarantor and each Subsidiary has been duly authorized and validly issued, is fully paid and nonassessable and is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance or claim, except as would not result in a Material Adverse Effect. The Company does not own or control, directly or indirectly, any corporation, association or other entity other than the subsidiaries listed in Schedule 3 hereto.

(i) *Capitalization.* The Company has an authorized capitalization as set forth in the Time of Sale Information and the Offering Memorandum under the heading "Capitalization"; all the outstanding shares of capital stock of the Company have been duly and validly authorized and issued and are fully paid and non-assessable and are not subject to any preemptive or similar rights, which right is created either by the Company, pursuant to an agreement to which the Company or any of its subsidiaries is a party or under the Delaware General Corporation Law; except as described in or expressly contemplated by the Time of Sale Information and the Offering Memorandum, there are no outstanding rights (including, without limitation, preemptive rights, which right is created either by the Company, pursuant to an agreement to the Company or any of its subsidiaries is a party or under the Delaware General Corporation Law), warrants or options to acquire, or instruments convertible into or exchangeable for, any shares of capital stock or other equity interest in the Company or any of its subsidiaries, or any contract, commitment, agreement, understanding or arrangement of any kind relating to the issuance of any capital stock of the Company or any such subsidiary, any such convertible or exchangeable securities or any such rights, warrants or options; the capital stock of the Company conforms in all material respects to the description thereof contained in the Time of Sale Information and the Offering Memorandum; and all the outstanding shares of capital stock or other equity interests of each subsidiary owned, directly or indirectly, by the Company have been duly and validly authorized and issued, are fully paid and non-assessable and are owned directly or indirectly by the Company, free and clear of any lien, charge, encumbrance, security interest, restriction on voting or transfer or any other claim of any third party.

(j) *Stock Options.* With respect to the stock options (the "Stock Options") granted pursuant to the stock-based compensation plans of the Company and its subsidiaries (the "Company Stock Plans"), (i) each Stock Option intended to qualify as an "incentive stock option" under Section 422 of the Code so qualifies, (ii) each grant of a Stock Option was duly authorized no later than the date on which the grant of such Stock Option was by its terms to be effective (the "Grant Date") by all necessary corporate action, including, as applicable, approval by the board of directors of the Company (or a duly constituted and authorized committee thereof) and any required stockholder approval by the necessary number of votes or written consents, and the award agreement governing such grant (if any) was duly executed and delivered by each party thereto, (iii) each such grant was made in accordance with the terms of the Company Stock Plans, the Exchange Act and all other applicable laws and regulatory rules or requirements, including the rules of the New York Stock Exchange (the "Exchange") and any other exchange on which Company securities are traded, (iv) the per share exercise price of each Stock Option was equal to the fair market value of a share of Common Stock on the applicable Grant Date and (v) each such grant was properly accounted for in accordance with GAAP in the financial statements (including the related notes) of the Company and disclosed in the Company's filings with the Commission in accordance with the Exchange Act and all other applicable laws. The Company has not knowingly granted, and there is no and has been no policy or practice of the Company of granting, Stock Options prior to, or otherwise coordinate the grant of Stock Options with, the release or other public announcement of material information regarding the Company or its subsidiaries or their results of operations or prospects.

(k) *Due Authorization.* The Company has full right (or will have, in the case of any Additional Capped Call Confirmations), power and authority to execute and deliver this Agreement, the Indenture, the Capped Call Confirmations, and the Securities, (collectively, the "Transaction Documents") and to perform its obligations hereunder and thereunder (including the issuance of any Common Stock upon conversion of the Notes); and all action required to be taken for the due and proper authorization, execution and delivery by it of each of the Transaction Documents and the consummation by it of the transactions contemplated thereby or by the Time of Sale Information and the Offering Memorandum has been duly and validly taken.

(l) *The Indenture*. The Indenture (including the Guarantees) has been duly authorized by the Company and the Guarantors, respectively, and, when duly executed and delivered in accordance with its terms by each of the parties thereto, will constitute a valid and legally binding agreement of the Company and the Guarantors enforceable against the Company and the Guarantors in accordance with its terms, except as enforceability may be limited by (i) the effect of bankruptcy, insolvency, reorganization, moratorium, arrangement or similar laws affecting the rights and remedies of creditors generally including the effect of statutory or other laws regarding fraudulent transfers or preferential transfers, and (ii) general principles of equity, including concepts of materiality, reasonableness, good faith and fair dealing and the possible unavailability of specific performance, injunctive relief or other equitable remedies regardless of whether enforceability is considered in a proceeding in equity or at law (collectively, the "Enforceability Exceptions").

(m) *Purchase Agreement.* This Agreement has been duly authorized, executed and delivered by the Company and the Guarantors.

(n) [Reserved].

(o) *Capped Call Confirmations.* Each Base Capped Call Confirmation has been, and each Additional Capped Call Confirmation on the date of its execution will have been, duly authorized, executed and delivered by the Company, and, assuming due execution and delivery thereof by the Capped Call Counterparties, constitutes, or will constitute, as the case may be, a valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject to the Enforceability Exceptions.

(p) *The Notes.* The Notes to be issued and sold by the Company hereunder have been duly authorized by the Company and, when duly executed, authenticated, issued and delivered as provided in the Indenture and paid for as provided herein, will be duly and validly issued and outstanding and will constitute valid and legally binding obligations of the Company enforceable against the Company in accordance with their terms and will be entitled to the benefits of the Indenture, subject to the Enforceability Exceptions.

(q) *The Underlying Securities*. A number of shares of Common Stock equal to the product of (x) the number of all then-outstanding Notes and (y) the Conversion Rate then in effect (assuming, for these purposes, that the "Conversion Rate" (as defined in the Indenture) is increased by the maximum amount pursuant to which the Conversion Rate may be increased in connection with a "Make-Whole Fundamental Change" (as defined in the Indenture)) (the "Maximum Number of Shares") has been duly authorized and reserved for issuance upon conversion of the Notes by all necessary corporate action and such shares, when issued upon such conversion, will be validly issued and will be fully paid and non-assessable and will conform in all material respects to the description of the capital stock of the Company contained in the Time of Sale Information and the Offering Memorandum, no holder of such shares will be subject to personal liability by reason of being such a holder, and the issuance of the Underlying Securities will not be subject to the preemptive or other similar rights of any securityholder of the Company, which right is created either by the Company, pursuant to an agreement to which the Company or any of its subsidiaries is a party or under the Delaware General Corporation Law. Notwithstanding anything to the contrary, once the latest possible date on which the option to purchase the Option Securities can be settled pursuant to this Agreement has passed, the Maximum Number of Shares will not include any shares of Common Stock potentially underlying any Option Securities not issued pursuant to this Agreement.

(r) *Descriptions of the Transaction Documents and Common Stock.* Each Transaction Document conforms in all material respects to the description thereof contained in each of the Time of Sale Information and the Offering Memorandum. The Common Stock conforms in all material respects to the description thereof contained in each of the Time of Sale Information and the Offering Memorandum under the caption "Description of Capital Stock."

(s) *Non-Contravention of Existing Agreements; No Further Authorizations or Approvals Required*. Neither the Company, the Guarantors nor any of the Company's Subsidiaries is (i) in violation of its charter, bylaws or other constitutive document or (ii) in default (or, with the giving of notice or lapse of time, would be in default) ("Default") under any indenture, mortgage, loan or credit agreement, note, contract, franchise, lease or other instrument to which the Company, any Guarantor or any of the Company's Subsidiaries is a party or by which it or any of them may be bound ("Existing Agreement"), except, in the case of clause (ii) above, for such Defaults or violations as would not, individually or in the aggregate, result in a Material Adverse Effect. The execution, delivery and performance of the Transaction Documents by the Company and the Guarantors party thereto, and the issuance and delivery of the Securities, and consummation of the transactions contemplated hereby and thereby and by the Time of Sale Information and the Offering Memorandum (i) will not result in any violation of the provisions of the charter, bylaws or other constitutive document of the Company or any Guarantor, (ii) will not conflict with or constitute a breach of, or Default or a Debt Repayment Triggering Event (as defined below) under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any Guarantor pursuant to, or require the consent of any other party to, any Existing Agreement, and (iii) will not result in any violation of any law, administrative regulation or administrative or court decree applicable to the Company or any Guarantor, except, in the case of clauses (ii) and (iii), for such conflicts, breaches, Defaults, liens, charges, encumbrances or violations as would not, individually or in the aggregate, result in a Material Adverse Effect. No consent, approval, authorization or other order of, or registration or filing with, any court or other governmental or regulatory authority or agency is required for the execution, delivery and performance of the Transaction Documents by the Company and the Guarantors to the extent a party thereto, or the issuance and delivery of the Securities, or consummation of the transactions contemplated hereby and thereby and by the Time of Sale Information and the Offering Memorandum, except such as (i) have been obtained, or prior to the Closing Date, will have been obtained or made and (ii) may be required under any applicable state or foreign securities laws in any jurisdiction in which the Securities are offered and sold in connection with the transactions contemplated hereby. As used herein, a "Debt Repayment Triggering Event" means any event or condition which gives, or with the giving of notice or lapse of time would give, the holder of any note, debenture or other evidence of indebtedness (or any person acting on such holder's behalf) the right to require the repurchase, redemption or repayment of all or a portion of such indebtedness by the Company or any of the Guarantors.

(t) *No Material Actions or Proceedings.* Except as disclosed in the Time of Sale Information and the Offering Memorandum, there are no legal or governmental actions, suits or proceedings pending or, to the best of the Company's and the Guarantors' knowledge, threatened (i) against or affecting the Company or any of its subsidiaries or (ii) which has as the subject thereof any property owned or leased by, the Company or any of its subsidiaries, where, in each case, such action, suit or proceeding, if determined adversely to the Company or such subsidiary, would result in a Material Adverse Effect or adversely affect the consummation of the transactions contemplated by this Agreement. No labor dispute with the employees of the Company or any of its subsidiaries exists or, to the best of the Company's and the Guarantors' knowledge, is threatened or imminent, and the Company and the Guarantors are not aware of any existing, threatened or imminent labor disputes with the employees of any principal supplier of the Company, in each case that would result in a Material Adverse Effect.

(u) *Independent Accountants.* Deloitte & Touche LLP, who have certified certain financial statements of the Company and its subsidiaries, is an independent registered public accounting firm with respect to the Company and its subsidiaries within the applicable rules and regulations adopted by the Commission and the Public Company Accounting Oversight Board (United States) and as required by the Securities Act.

(v) *Title to Properties.* The Company and each of its subsidiaries has good and marketable title to all the properties and assets reflected as owned in the financial statements referred to in Section 3(f) hereof, in each case free and clear of any security interests, mortgages, liens, encumbrances, equities, claims and other defects, except as disclosed in the Time of Sale Information and the Offering Memorandum, and except as such do not materially and adversely affect the value of such property and do not materially interfere with the use made or proposed to be made of such property by the Company or such subsidiary or would not have, individually or in the aggregate, a Material Adverse Effect. The real property, improvements, equipment and personal property held under lease by the Company or any subsidiary are held under valid and enforceable leases, with such exceptions as do not materially interfere with the use made or proposed to be made of such real property, improvements, equipment or personal property by the Company or such subsidiary or would not have, singly or in the aggregate, a Material Adverse Effect.

(w) [Reserved].

(x) *Intellectual Property Rights.* The Company and its subsidiaries own or otherwise have a valid right to use all patents, patent applications, trademarks and service marks, trade names, trade dress, Internet domain names, copyrights, rights in data and databases, inventions, processes, designs, trade secrets, software, technology, know-how and other intellectual property and other proprietary rights (collectively, "Intellectual Property Rights") reasonably necessary to conduct their businesses as now conducted and as proposed to be conducted in the Time of Sale Information and the Offering Memorandum. Except as disclosed in the Time of Sale Information and the Offering Memorandum, (a) no party has been granted an exclusive license or other exclusive right to use any portion of any Intellectual Property owned by the Company or any of its subsidiaries; (b) there is no infringement, misappropriation, dilution or other violation by third parties of any Intellectual Property owned by or exclusively licensed to the Company or any of its subsidiaries; (c) there is no pending or threatened action, suit, proceeding or claim by others challenging the Company's or any of its subsidiaries' Intellectual Property Rights, and the Company is unaware of any facts that would form a reasonable basis for any such claim; (d) there is no pending or threatened action, suit, proceeding or claim by others challenging the enforceability, validity, registration or scope of any Intellectual Property owned or exclusively licensed to the Company or any of its subsidiaries, and the Company is unaware of any facts that would form a reasonable basis for any such claim; and (e) there is no pending or threatened action, suit, proceeding or claim by others that the business of the Company or any of its subsidiaries as now conducted or as proposed to be conducted in the Time of Sale Information and the Offering Memorandum infringes, misappropriates, dilutes or otherwise violates any Intellectual Property Rights of others, and the Company is unaware of any other fact that would form a reasonable basis for any such claim, except with respect to clauses (a), (b), (c), (d) and (e), for such licenses, infringements, actions, suits, proceedings or claims as would not, individually or in the aggregate, result in a Material Adverse Effect. Except as disclosed in the Time of Sale Information and the Offering Memorandum, and except as would not, individually or in the aggregate, result in a Material Adverse Effect, the conduct of the business of the Company or any of its subsidiaries, as currently conducted and as proposed to be conducted in the Time of Sale Information and the Offering Memorandum, does not and will not infringe, misappropriate, dilute, violate or otherwise conflict with the Intellectual Property Rights of others.

(y) *Open Source Software*. The Company and its subsidiaries use and have used any and all software and other materials distributed under a "free," "open source," or similar licensing model (including but not limited to the MIT License, Apache License, GNU General Public License, GNU Lesser General Public License and GNU Affero General Public License) ("Open Source Software") in compliance with all license terms applicable to such Open Source Software; and (ii) neither the Company nor any of its subsidiaries uses or distributes or has used or distributed any Open Source Software in any manner that requires or has required (A) the Company or any of its subsidiaries to permit reverse engineering of any software code or other technology owned or purported to be owned by the Company or any of its subsidiaries or (B) any software code or other technology owned or purported to be owned by the Company or any of its subsidiaries to be (1) disclosed or distributed in source code form, (2) licensed for the purpose of making derivative works or (3) redistributed at no charge.

(z) *No Undisclosed Relationships.* No relationship, direct or indirect, exists between or among the Company or any of its subsidiaries, on the one hand, and the directors, officers, stockholders, customers, suppliers or other affiliates of the Company or any of its subsidiaries, on the other, that would be required by the Securities Act to be described in a registration statement to be filed with the Commission and that is not so described in the each of Time of Sale Information and the Offering Memorandum.

(aa) *Investment Company Act.* Each of the Company and the Guarantors is not and, immediately after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the Time of Sale Information and the Offering Memorandum and the entry into the Capped Call Confirmations will not be, required to register as an "investment company" or an entity "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Investment Company Act").

(bb) *Tax Law Compliance.* The Company and each of its subsidiaries have filed all federal, state, local and foreign tax returns required to be filed by them (taking into account valid extensions), and have paid all federal, state, local and foreign taxes (including any related interest, penalties or additions to tax) that are due and payable (whether or not shown on any tax return, including in their capacity as a withholding agent), except those, if any (i) which are being contested in good faith by appropriate proceedings diligently conducted that stay the enforcement of the tax in question and for which adequate reserves have been provided in accordance with GAAP or (ii) with respect to which the failure to make such filing or payment could not individually or in the aggregate have a Material Adverse Effect. The Company has made adequate charges, accruals and reserves in accordance with GAAP in the applicable financial statements referred to in Section 3(f) hereof in respect of all federal, state, local and foreign taxes for all current or prior periods as to which the tax liability of the Company or any of its subsidiaries has not been finally determined. There is no current, pending or, to the knowledge of the Company and the Guarantors, threatened tax audit, assessment, deficiency or other claim against the Company or any of its subsidiaries that would, individually or in the aggregate, if determined adversely, result in a Material Adverse Effect.

(cc) *All Necessary Permits, etc.* The Company and each subsidiary possess such valid and current certificates, authorizations or permits issued by the appropriate state, federal or foreign regulatory agencies or bodies necessary to conduct their respective businesses, as described in the Time of Sale Information and the Offering Memorandum, except where failure to possess the same would not result in a Material Adverse Effect, and neither the Company nor any subsidiary has received any notice of proceedings relating to the revocation or modification of, or non-compliance with, any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would result in a Material Adverse Effect.

(dd) *Compliance with Labor Laws*. Except as would not, individually or in the aggregate, result in a Material Adverse Effect, (i) there is (A) no unfair labor practice complaint pending or, to the best of the Company's and the Guarantors' knowledge, threatened against the Company or any of its subsidiaries before the U.S. National Labor Relations Board, and no grievance or arbitration proceeding arising out of or under collective bargaining agreements pending, or to the best of the Company's and the Guarantors' knowledge, threatened, against the Company or any of its subsidiaries, (B) no strike, labor dispute, slowdown or stoppage pending or, to the best of the Company's and the Guarantors' knowledge, threatened against the Company or any of its subsidiaries and (C) no union representation question existing with respect to the employees of the Company or any of its subsidiaries and, to the best of the Company's and the Guarantors' knowledge, no union organizing activities taking place and (ii) there has been no violation of any federal, state or local law relating to discrimination in hiring, promotion or pay of employees or of any applicable wage or hour laws.

(ee) *Compliance with and Liability Under Environmental Laws.* Except as would not, individually or in the aggregate, result in a Material Adverse Effect: (i) each of the Company and its subsidiaries and their respective operations and facilities are in compliance with, and not subject to any known liabilities under, applicable Environmental Laws, which compliance includes, without limitation, having obtained and being in compliance with any permits, licenses or other governmental authorizations or approvals, and having made all filings and provided all financial assurances and notices, required for the ownership and operation of the business, properties and facilities of the Company or its subsidiaries under applicable Environmental Laws, and compliance with the terms and conditions thereof; (ii) neither the Company nor any of its subsidiaries has received any written communication, whether from a governmental authority, citizens group, employee or otherwise, that alleges that the Company or any of its subsidiaries is in violation of any Environmental Law; (iii) there is no claim, action or cause of action filed with a court or governmental authority, no investigation with respect to which the Company or any of its subsidiaries has received written notice, and no written notice by any person or entity alleging actual or potential liability on the part of the Company or any of its subsidiaries based on or pursuant to any Environmental Law pending or, to the best of the Company's and the Guarantors' knowledge, threatened against the Company or any of its subsidiaries or any person or entity whose liability under or pursuant to any Environmental Law the Company or any of its subsidiaries has retained or assumed either contractually or by operation of law; (iv) neither the Company nor any of its subsidiaries is conducting or paying for, in whole or in part, any investigation, response or other corrective action pursuant to any Environmental Law at any site or facility, nor is any of them subject or a party to any order, judgment, decree, contract or agreement which imposes any obligation or liability under any Environmental Law; (v) no lien, charge, encumbrance or restriction has been recorded pursuant to any Environmental Law with respect to any assets, facility or property owned, operated or leased by the Company or any of its subsidiaries; and (vi) to the best of the Company's and the Guarantors' knowledge, there are no past or present actions, activities, circumstances, conditions or occurrences, including, without limitation, the Release or threatened Release of any Material of Environmental Concern, that could reasonably be expected to result in a violation of or liability under any Environmental Law on the part of the Company or any of its subsidiaries, including without limitation, any such liability which the Company or any of its subsidiaries has retained or assumed either contractually or by operation of law.

For purposes of this Agreement, "Environment" means ambient air, indoor air, surface water, groundwater, drinking water, soil, surface and subsurface strata, and natural resources such as wetlands, flora and fauna. "Environmental Laws" means the common law and all federal, state, local and foreign laws or regulations, ordinances, codes, orders, decrees, judgments and injunctions issued, promulgated or entered thereunder, relating to pollution or protection of the Environment or human health, including without limitation, those relating to (i) the Release or threatened Release of Materials of Environmental Concern; and (ii) the manufacture, processing, distribution, use, generation, treatment, storage, transport, handling or recycling of Materials of Environmental Concern. "Materials of Environmental Concern" means any substance, material, pollutant, contaminant, chemical, waste, compound, or constituent, in any form, including without limitation, petroleum and petroleum products, subject to regulation or which can give rise to liability under any Environmental Law. "Release" means any release, spill, emission, discharge, deposit, disposal, leaking, pumping, pouring, dumping, emptying, injection or leaching into the Environment, or into, from or through any building, structure or facility.

(ff) *ERISA Compliance.* Except as would not result in a Material Adverse Effect, the Company, and its subsidiaries and any "employee benefit plan" (as defined under the U.S. Employee Retirement Income Security Act of 1974, as amended, "ERISA," which term, as used herein, includes the regulations and published interpretations thereunder) established or maintained by the Company, its subsidiaries or their ERISA Affiliates (as defined below) are in compliance with ERISA and, the Company is in compliance with its obligations under ERISA with respect to each "multiemployer plan" (as defined in Section 4001 of ERISA) to which the Company, its subsidiaries or an ERISA Affiliate contributes (a "Multiemployer Plan"). "ERISA Affiliate" means, with respect to the Company or a subsidiary, any member of any group of organizations described in Section 414 of the Internal Revenue Code of 1986, as amended, the "Code," which term, as used herein, includes the regulations and published interpretations thereunder. None of the following events has occurred within the prior six years or exists: (i) an audit or investigation by the U.S. Internal Revenue Service, the U.S. Department of Labor, the U.S. Pension Benefit Guaranty Corporation or any other U.S. federal or state governmental agency or any foreign regulatory agency with respect to the employment or compensation of employees by the Company or any of its subsidiaries that would result in a Material Adverse Effect or (ii) any breach of any contractual obligation, or any violation of law or applicable qualification standards, with respect to the employment or compensation of employees by the Company or any of its subsidiaries that would result in a Material Adverse Effect. Except, in each case, as would not, individually or in the aggregate, result in a Material Adverse Effect, none of the following events has occurred within the prior six years or is reasonably likely to occur: (i) a failure to fulfill the obligations, if any, under the minimum funding standards of Section 302 of ERISA with respect to a Plan, determined without regard to any waiver of such obligations or extension of any amortization period; (ii) a material increase in the aggregate amount of contributions required to be made to all Plans in the current fiscal year of the Company and its subsidiaries compared to the amount of such contributions made in the Company and its subsidiaries' most recently completed fiscal year; (iii) a material increase in the Company and its subsidiaries' "accumulated post-retirement benefit obligations" (within the meaning of Statement of Financial Accounting Standards 106) compared to the amount of such obligations in the Company and its subsidiaries' most recently completed fiscal year; (iv) any event or condition giving rise to a liability under Title IV of ERISA; or (v) the filing of a claim by one or more employees or former employees of the Company or any of its subsidiaries related to its or their employment. For purposes of this paragraph, the term "Plan" means a plan (within the meaning of Section 3(3) of ERISA) subject to Title IV of ERISA with respect to which the Company or any of its subsidiaries may have any liability. Each "employee benefit plan" established or maintained by the Company, its subsidiaries or any of their ERISA Affiliates that is intended to be qualified under Section 401 of the Code is so qualified and nothing has occurred, whether by action or failure to act, which would reasonably be expected to cause the loss of such qualification.

(gg) *Disclosure Controls*. The Company and its subsidiaries maintain an effective system of "disclosure controls and procedures" (as defined in Rule 13a-15(e) of the Exchange Act) that is designed to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the Commission's rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure. The Company and its subsidiaries have carried out evaluations of the effectiveness of their disclosure controls and procedures as required by Rule 13a-15 of the Exchange Act.

(hh) *Accounting Controls.* The Company maintains a system of "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) of the Company and its subsidiaries that complies with the requirements of the Exchange Act and has been designed by, or under the supervision of, its principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. The Company maintains a system of accounting controls of the Company and its subsidiaries that is in compliance with the Sarbanes-Oxley Act and is sufficient to provide reasonable assurances that: (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences; and (v) the interactive data in eXtensible Business Reporting Language incorporated by reference in the Time of Sale Information and the Offering Memorandum fairly present in all material respects the information called for by, and are prepared in accordance with, the Commission's rules and guidelines applicable thereto. As of December 31, 2022 and March 31, 2023, the Company had not identified, and since March 31, 2023 the Company has not identified, a material weakness in the Company's internal controls over financial reporting.

(ii) *eXtensible Business Reporting Language.* The interactive data in eXtensible Business Reporting Language included or incorporated by reference in the Time of Sale Information and the Offering Memorandum fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(jj) *Insurance.* Each of the Company and its subsidiaries is insured by recognized, financially sound institutions with policies in such amounts and with such deductibles and covering such risks as are generally deemed adequate and customary for their businesses including, without limitation, policies covering real and personal property owned or leased by the Company and its subsidiaries against theft, damage, destruction and acts of vandalism. All policies of insurance and fidelity or surety bonds insuring the Company or any of its subsidiaries or their respective businesses, assets, employees, officers and directors are in full force and effect; the Company and its subsidiaries are in compliance with the terms of such policies and instruments in all material respects. The Company has no reason to believe that it or any of its subsidiaries will not be able (i) to renew its existing insurance coverage as and when such policies expire or (ii) to obtain comparable coverage from similar institutions as may be necessary or appropriate to conduct its business as now conducted and at a cost that would not result in a Material Adverse Effect. Neither of the Company nor any subsidiary has been denied any insurance coverage which it has sought or for which it has applied.

(kk) *No Unlawful Contributions or Other Payments.* Neither the Company nor any of its subsidiaries nor to the knowledge of the Company and the Guarantors, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity, (ii) is aware of or has taken any action, directly or indirectly, that would result in a violation by such person or entity of the FCPA (as defined below), any applicable law or regulation implementing the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions or the UK Bribery Act (as defined below) or any other applicable anti-bribery or anti-corruption law or regulation (together the "Anti-Bribery and Corruption Laws"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA or other applicable anti-bribery or anti-corruption law) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the Anti-Bribery and Corruption Laws or (iii) has made, offered, agreed, requested or taken an act in furtherance of any unlawful bribe or other unlawful benefit, including, without limitation, any rebate, payoff, influence payment, kickback or other unlawful or improper payment or benefit. The Company, its subsidiaries and, to the knowledge of the Company and the Guarantors, its affiliates have conducted their businesses in compliance with the Anti-Bribery and Corruption Laws and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith. To the Company's knowledge, no actions or investigations by any governmental or regulatory agency are ongoing or threatened against the Company or its subsidiaries, or any of their directors, officers or employees or anyone acting on their behalf in relation to a breach of the Anti-Bribery and Corruption Laws. "FCPA" means U.S. Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder. "UK Bribery Act" means the Bribery Act 2010 of the United Kingdom, as amended, and the rules and regulations thereunder.

(ll) *No Conflict with Money Laundering Laws*. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the U.S. Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of all applicable jurisdictions, the rules and regulations thereunder and any related or similar rules, regulations or guidelines issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or U.S. governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company and the Guarantors, threatened.

(mm) *No Conflicts with Sanctions Laws*. Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company and the Guarantors, any director, officer, agent, employee, authorized representative or Affiliate of the Company or any of its subsidiaries is currently the subject of any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Treasury Department, the U.S. Department of Commerce, the U.S. Department of State, the United Nations Security Council, the European Union or any member state thereof or His Majesty's Treasury, or other relevant sanctions authority (collectively, "Sanctions"), nor is the Company or any of its subsidiaries located, organized or resident in a country or territory that is the subject of Sanctions. The Company will not, directly or indirectly, use the proceeds of the offering, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person, (i) to fund any activities of or business with any person that, at the time of such funding, is the subject of Sanctions, or is in the Crimea, Kherson and Zaporizhzhia regions of the Ukraine, Cuba, Iran, Syria, North Korea or in any other country or territory, that, at the time of such funding, is the subject of Sanctions (each, a "Sanctioned Country"), (ii) to fund or facilitate any activities of or business in any Sanctioned Country or (iii) in any other manner that will result in a violation by any person (including any person participating in the offering, whether as underwriter, initial purchaser, advisor, investor or otherwise) of Sanctions. The Company and its subsidiaries have not, in the past five years, knowingly engaged in, and are not now knowingly engaged in, any dealings or transactions with any person that at the time of the dealing or transaction is or was the subject of Sanctions or with any Sanctioned Country, provided, however, that with respect to any subsidiary acquired by the Company during such five-year period, this representation is made to the knowledge of the Company and the Guarantors as to the time period prior to which such entity has been the Company's subsidiary.

(nn) *No Restrictions on Subsidiaries*. No subsidiary of the Company is currently prohibited, directly or indirectly, under any agreement or other instrument to which it is a party or is subject, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock or similar ownership interest, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's properties or assets to the Company or any other subsidiary of the Company.

(oo) *Compliance with Laws*. The Company and its subsidiaries have been and are in compliance with all applicable laws, rules and regulations, ordinances, codes, rulings or other similar requirements enacted, adopted, promulgated or applied by a governmental, quasi-governmental or regulatory authority or regulatory agency, except where failure to be so in compliance would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect. No event has occurred, and no condition exists, that would reasonably be expected to (with or without notice or lapse of time) constitute or result directly or indirectly in the violation of any applicable laws, rules and regulations ordinances, codes, rulings or other similar requirements enacted, adopted, promulgated or applied by a governmental, quasi-governmental or regulatory authority or regulatory agency, except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(pp) *No Broker's Fees.* Neither the Company, the Guarantors nor any of the Company's subsidiaries is a party to any contract, agreement or understanding with any person (other than this Agreement) that would give rise to a valid claim against any of them or any Initial Purchaser for a brokerage commission, finder's fee or like payment in connection with the offering and sale of the Securities.

(qq) *Rule 144A Eligibility*. On the Closing Date, the Securities will not be of the same class as securities listed on a national securities exchange registered under Section 6 of the Exchange Act or quoted in an automated inter-dealer quotation system.

(rr) *No Integration*. Neither the Company nor any of its affiliates (as defined in Rule 501(b) of Regulation D) has, directly or through any agent, sold, offered for sale, solicited offers to buy or otherwise negotiated in respect of, any security (as defined in the Securities Act), that is or will be integrated with the sale of the Securities in a manner that would require registration of the Securities under the Securities Act.

(ss) *No General Solicitation or Directed Selling Efforts*. None of the Company or any of its affiliates or any other person acting on its or their behalf (other than the Initial Purchasers, as to which no representation is made) has (i) solicited offers for, or offered or sold, the Securities by means of any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D or in any manner involving a public offering within the meaning of Section 4(a)(2) of the Securities Act or (ii) engaged in any directed selling efforts within the meaning of Regulation S under the Securities Act ("Regulation S"), and all such persons have complied with the offering restrictions requirement of Regulation S.

(tt) *Securities Law Exemptions*. Assuming the accuracy of the representations and warranties of the Initial Purchasers contained in Section 2(b) and their compliance with their agreements set forth therein, it is not necessary, in connection with the issuance and sale of the Securities to the Initial Purchasers and the offer, resale and delivery of the Securities by the Initial Purchasers in the manner contemplated by this Agreement, the Time of Sale Information and the Offering Memorandum, to register the Securities or the Underlying Securities under the Securities Act or to qualify the Indenture under the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission thereunder.

(uu) *No Stabilization.* None of the Company or any of the Guarantors have taken, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities (it being understood, for the avoidance of doubt, that the Company contemplates effecting the transactions contemplated by the Capped Call Confirmations).

(vv) *Margin Regulations*. Neither the issuance, sale and delivery of the Securities nor the application of the proceeds thereof by the Company as described in the Time of Sale Information and the Offering Memorandum will violate Regulation T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of such Board of Governors.

(ww) *Derivative Instruments*. Any and all material swaps, caps, floors, futures, forward contracts, option agreements (other than options issued under the Company's shareholder-approved benefit plans) and other derivative financial instruments, contracts or arrangements, whether entered into for the account of the Company or one of its subsidiaries or for the account of a customer of the Company or one of its subsidiaries, were entered into in the ordinary course of business (it being understood that the Company intends to enter into the Capped Call Transactions as provided herein) and in accordance with applicable laws, rules, regulations and policies of all applicable regulatory agencies and with counterparties believed by the Company to be financially responsible. The Company and each of its subsidiaries have duly performed in all material respects all of their obligations thereunder to the extent that such obligations to perform have accrued, and there are no breaches, violations or defaults or allegations or assertions of such by any party thereunder except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

(xx) *Forward-Looking Statements.* No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained or incorporated by reference in any of the Time of Sale Information or the Offering Memorandum has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(yy) *Statistical and Market Data.* Nothing has come to the attention of the Company or the Guarantors that has caused the Company or Guarantors to believe that the statistical and market-related data included or incorporated by reference in the Time of Sale Information and the Offering Memorandum is not based on or derived from sources that are reliable and accurate in all material respects.

(zz) *Compliance with Security, Privacy and Data Protection Laws; Cybersecurity.* (A) To the knowledge of the Company, there has been no security breach or incident, unauthorized, unlawful or accidental use, access or disclosure, or other compromise or processing of or relating to any of the Company's or its subsidiaries' information technology and computer systems, networks, hardware, software, data and databases (including personal data, personal information, regulated information or any other data and information of their respective customers, employees, suppliers, vendors and any third party data maintained, processed or stored by the Company and its subsidiaries, and any such data processed or stored by third parties on behalf of the Company and its subsidiaries), equipment or technology (collectively, "IT Systems and Data") ("Security Incident"); (B) neither the Company nor any of its subsidiaries have been notified of (or have, or been required to have made any notification of), and each of them have no knowledge of any event or condition that would reasonably be expected to result in, any Security Incident, ; (C) the Company and its subsidiaries have implemented appropriate controls, policies, procedures, and technological safeguards to maintain and protect the integrity, continuous operation, redundancy and security of their IT Systems and Data reasonably consistent with industry standards and practices, or as required by applicable regulatory standards; and (D) the Company, and each of its subsidiaries, is in compliance in all material respects with all applicable laws, contractual obligations and its internal and published corporate policies and procedures, concerning the (1) processing, privacy and/or security of IT Systems and Data , including, where applicable, any state data breach notification laws, state social security number protection laws, the U.S. Federal Trade Commission Act, as amended (15 U.S.C. Sections 41-58), the Gramm-Leach-Bliley Act, and state consumer protection Laws. The Company's e-mail direct marketing activities have not violated in any material respect the CAN-SPAM Act or any other U.S. federal or state law or regulation applicable to electronic direct marketing. Neither the Company nor any of its subsidiaries have received any claims, complaints or other correspondence nor been the subject of any litigation, investigation or other proceedings with respect to a Security Incident or its processing with respect to its IT Systems and Data.

(aaa) *Sarbanes-Oxley Act*. There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002, as amended and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(bbb) *Compliance with Banking Regulation*. Each of Comenity Bank (f/k/a World Financial Network Bank) and Comenity Capital Bank (f/k/a World Financial Capital Bank) (collectively, the "Banks") is an indirect wholly-owned subsidiary of the Company. No charge, investigation or proceeding for the termination or revocation of the charter or good standing of either Bank is pending or, to the best knowledge of the Company and the Guarantors, threatened. The deposit accounts and deposits of each Bank are duly and adequately insured by the Federal Deposit Insurance Corporation (the "FDIC") to the full extent of FDIC insurance limits. No charge, investigation or proceeding for the termination or revocation of either Banks' FDIC insurance is pending or, to the best knowledge of the Company and the Guarantors, threatened. Neither the Company nor either Bank is subject to any order of the FDIC or any state or foreign banking departments with jurisdiction over either Bank or its operations, nor, except as set forth in the Time of Sale Information and the Offering Memorandum, is the Company or either Bank subject to any agreement or consent order related to compliance with U.S. banking laws and regulations with, or, except as disclosed and provided in writing to the Representative, any board resolution adopted at the instigation of, any such regulatory authorities. Each Bank has conducted and is conducting its business so as to comply in all material respects with all applicable U.S. federal, foreign and state laws, rules, regulations, decisions, directives and orders of, and agreements with, the FDIC and any state or foreign banking departments with jurisdiction over such Bank or its operations. No material charge, investigation or proceeding with respect to, or relating to, either Bank is pending or, to the best knowledge of the Company and the Guarantors, threatened, by or before any regulatory, administrative or U.S. governmental agency, body or authority. Each Bank is in compliance with all applicable capital requirements. Each Bank is well capitalized as defined in FDIC regulations, with capital ratios as of the relevant dates as set forth in the Company's Annual Report on Form 10-K for the year ended December 31, 2022 and Quarterly Report on Form 10-Q for the quarter ended March 31, 2023 incorporated by reference into the Time of Sale Information and the Offering Memorandum. Except as would not result in a Material Adverse Effect, whether singly or in the aggregate, the credit card accounts (the "Accounts") originated by either Bank, whether securitized by such Bank or retained for such Bank's own account, whether as seller's interest or otherwise, have been created, maintained by such Bank and serviced in compliance with applicable U.S. federal and state laws and regulations and the standard policies and procedures of such Bank relating to the administration of the Accounts including, but not limited to, the solicitation, credit approval, processing, servicing, collection and other administration and management of the Accounts, as such policies and procedures may have been modified from time to time. The interest rates, fees and charges in connection with the Accounts comply in all material respects with applicable U.S. federal and state laws and regulations and, except as would not reasonably be expected to result in a Material Adverse Effect, whether singly or in the aggregate, with each agreement between such Bank and a cardholder containing the terms and conditions of the Account. All applications for Accounts have been conducted and evaluated and applicants notified in a manner which is in compliance, in all material respects, with all applicable provisions of the U.S. Equal Credit Opportunity Act and its implementing regulations, as amended. All disclosures made in connection with the Accounts are and have been in compliance, in all material respects, with the applicable provisions of the U.S. Consumer Credit Protection Act and its implementing regulations, as amended. Each of the Banks is in compliance, in all material respects, with the U.S. Truth in Lending Act and the U.S. Fair Credit Reporting Act, as amended by the U.S. Credit Card Accountability Responsibility and Disclosure Act of 2009. The Company is not required to register as a bank holding company under the U.S. Bank Holding Company Act of 1956, as amended. Each of the Company and its subsidiaries are in compliance in all material respects with all rules and regulations that are in effect and applicable to them pursuant to the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act, including but not limited to rules and regulations regarding asset-backed securities issued by the Commission. Neither the Company nor the Guarantors has knowledge of any facts and circumstances, or has any reason to believe that any facts or circumstances exist, that would cause Comenity Bank to be deemed not to be in satisfactory compliance with the Competitive Equality Banking Act and the regulations promulgated thereunder.

4. Further Agreements of the Company and the Guarantors. Each of the Company and the Guarantors, jointly and severally, covenant and agree with each Initial Purchaser that:

(a) *Delivery of Copies.* The Company will deliver to the Initial Purchasers as many copies of the Preliminary Offering Memorandum, any other Time of Sale Information, any Issuer Written Communication and the Offering Memorandum (including all amendments and supplements thereto) as the Representative may reasonably request.

(b) *Offering Memorandum, Amendments or Supplements*. Before finalizing the Offering Memorandum or making or distributing any amendment or supplement to any of the Time of Sale Information or the Offering Memorandum or filing with the Commission any document that will be incorporated by reference therein, the Company and the Guarantors will furnish to the Representative and counsel for the Initial Purchasers a copy of the proposed Offering Memorandum or such amendment or supplement or document to be incorporated by reference therein for review, and will not distribute any such proposed Offering Memorandum, amendment or supplement or file any such document with the Commission to which the Representative reasonably objects.

(c) *Additional Written Communications.* Before making, preparing, using, authorizing, approving or referring to any Issuer Written Communication, the Company and the Guarantors will furnish to the Representative and counsel for the Initial Purchasers a copy of such written communication for review and will not make, prepare, use, authorize, approve or refer to any such written communication to which the Representative reasonably objects.

(d) *Notice to the Representative.* The Company and the Guarantors will advise the Representative promptly, and confirm such advice in writing, (i) of the issuance by any governmental or regulatory authority of any order preventing or suspending the use of any of the Time of Sale Information, any Issuer Written Communication, or the Offering Memorandum or the initiation or threatening of any proceeding for that purpose; (ii) of the occurrence or development of any event at any time prior to the completion of the initial offering of the Securities as a result of which any of the Time of Sale Information, any Issuer Written Communication, or the Offering Memorandum as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing when such Time of Sale Information, Issuer Written Communication or the Offering Memorandum is delivered to a purchaser, not misleading; and (iii) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Securities for offer and sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and each of the Company and the Guarantors will use its reasonable best efforts to prevent the issuance of any such order preventing or suspending the use of any of the Time of Sale Information, any Issuer Written Communication or the Offering Memorandum or suspending any such qualification of the Securities and, if any such order is issued, will obtain as soon as possible the withdrawal thereof.

(e) *Ongoing Compliance of the Offering Memorandum and Time of Sale Information.* (1) If at any time prior to the completion of the initial offering of the Securities (i) any event or development shall occur or condition shall exist as a result of which the Offering Memorandum as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Offering Memorandum is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Offering Memorandum to comply with law, the Company will immediately notify the Initial Purchasers thereof and forthwith prepare and, subject to paragraph (b) above, furnish to the Initial Purchasers such amendments or supplements to the Offering Memorandum (or any document to be filed with the Commission and incorporated by reference therein) as may be necessary so that the statements in the Offering Memorandum as so amended or supplemented (or including such document to be incorporated by reference therein) will not, in the light of the circumstances existing when the Offering Memorandum is delivered to a purchaser, be misleading or so that the Offering Memorandum will comply with law and (2) if at any time prior to the Closing Date (i) any event or development shall occur or condition shall exist as a result of which any of the Time of Sale Information as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading or (ii) it is necessary to amend or supplement any of the Time of Sale Information to comply with law, the Company will immediately notify the Initial Purchasers thereof and forthwith prepare and, subject to paragraph (b) above, furnish to the Initial Purchasers such amendments or supplements to any of the Time of Sale Information (or any document to be filed with the Commission and incorporated by reference therein) as may be necessary so that the statements in any of the Time of Sale Information as so amended or supplemented will not, in light of the circumstances under which they were made, be misleading.

(f) *Blue Sky Compliance.* The Company and the Guarantors will qualify the Securities for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representative shall reasonably request and will continue such qualifications in effect so long as required for the offering and resale of the Securities; provided that none of the Company or any of the Guarantors shall be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

(g) *Clear Market.* For a period of 60 days after the date of the offering of the Securities, the Company will not (i) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, or submit to, or file with, the Commission a registration statement under the Securities Act relating to, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock, or publicly disclose the intention to undertake any of the foregoing, or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Common Stock or any such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of Common Stock or such other securities, in cash or otherwise, without the prior written consent of the Representative, other than the Securities to be sold hereunder and any shares of Common Stock of the Company issued upon the exercise of options granted under existing employee stock option plans; provided, however, that the preceding restrictions will not apply to the entry into, and the consummation of the transactions contemplated by the Transaction Documents (including, without limitation, the Securities being sold hereunder and the issuance of any Underlying Securities upon conversion thereof, and the Company's performance of its obligations and exercise of its rights under the Capped Call Confirmations).

(h) *Use of Proceeds.* The Company will apply the net proceeds from the sale of the Notes as described in each of the Time of Sale Information and the Offering Memorandum under the heading "Use of proceeds".

(i) *No Stabilization.* None of the Company or any of the Guarantors will take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Securities and will not take any action prohibited by Regulation M under the Exchange Act in connection with the distribution of the Securities contemplated hereby (it being understood, for the avoidance of doubt, that the Company contemplates effecting the transactions contemplated by the Capped Call Confirmations).

(j) *Underlying Securities*. The Company will reserve and keep available for issuance for so long as any Notes are outstanding, free of preemptive rights, a number of shares of Common Stock equal to the Maximum Number of Shares (subject to reduction as any Notes are converted, redeemed or otherwise retired) for the purpose of enabling the Company to satisfy any obligations to issue the Underlying Securities upon conversion of the Notes. The Company will use reasonable best efforts to cause and maintain the listing of a number of shares of Common Stock equal to the Maximum Number of Shares on the Exchange.

(k) *Supplying Information*. While the Securities remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, the Company will, during any period in which the Company is not subject to and in compliance with Section 13 or 15(d) of the Exchange Act, furnish to holders of the Securities, prospective purchasers of the Securities designated by such holders and securities analysts, in each case upon request, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(l) *DTC*. The Company will assist the Initial Purchasers in arranging for the Securities to be eligible for clearance and settlement through DTC.

(m) *No Resales by the Company*. During the period from the Closing Date until one year after the Closing Date or the Additional Closing Date, if applicable, the Company will not, and will not permit any of its affiliates to, resell any of the Securities that have been acquired by any of them, except for Securities purchased by the Company or any of its affiliates and resold in a transaction registered under the Securities Act or otherwise in a transaction following which such Securities will not be "restricted securities" within the meaning of Rule 144 under the Securities Act.

(n) *No Integration*. Neither the Company nor any of its affiliates (as defined in Rule 501(b) of Regulation D) will, directly or through any agent, sell, offer for sale, solicit offers to buy or otherwise negotiate in respect of, any security (as defined in the Securities Act), that is or will be integrated with the sale of the Securities in a manner that would require registration of the Securities under the Securities Act.

(o) *No General Solicitation or Directed Selling Efforts*. None of the Company or any of its affiliates or any other person acting on its or their behalf (other than the Initial Purchasers, as to which no covenant is given) will (i) solicit offers for, or offer or sell, the Securities by means of any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D or in any manner involving a public offering within the meaning of Section 4(a)(2) of the Securities Act or (ii) engage in any directed selling efforts within the meaning of Regulation S, and all such persons will comply with the offering restrictions requirement of Regulation S.

5. Certain Agreements of the Initial Purchasers. Each Initial Purchaser hereby represents and agrees that it has not and will not use, authorize use of, refer to, or participate in the planning for use of, any written communication that constitutes an offer to sell or the solicitation of an offer to buy the Securities other than (i) the Preliminary Offering Memorandum and the Offering Memorandum, (ii) a written communication that contains no "issuer information" (as defined in Rule 433(h)(2) under the Securities Act) that was not included (including through incorporation by reference) in the Time of Sale Information or the Offering Memorandum, (iii) any written communication listed on Annex A, (iv) any written communication prepared by such Initial Purchaser and approved by the Company and the Guarantors in advance in writing or (v) any written communication relating to or that contains the terms of the Securities and/or other information that was included (including through incorporation by reference) in the Time of Sale Information or the Offering Memorandum.

6. Conditions of Initial Purchasers' Obligations. The obligation of each Initial Purchaser to purchase the Firm Securities on the Closing Date or the Option Securities on the Additional Closing Date, as the case may be as provided herein is subject to the performance by each of the Company and the Guarantors of its covenants and other obligations hereunder and to the following additional conditions:

(a) *Representations and Warranties.* The representations and warranties of the Company and the Guarantors contained herein shall be true and correct on the date hereof and on and as of the Closing Date or the Additional Closing Date, as the case may be; and the statements of each of the Company, the Guarantors, and its respective officers made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Closing Date or the Additional Closing Date, as the case may be.

(b) *No Downgrade.* Subsequent to the earlier of (A) the Time of Sale and (B) the execution and delivery of this Agreement, (i) no downgrading shall have occurred in the rating accorded any securities or preferred stock issued or guaranteed by the Company or any of its subsidiaries by any "nationally recognized statistical rating organization", as such term is defined under Section 3(a)(62) under the Exchange Act and (ii) no such organization shall have publicly announced that it has under surveillance or review, or has changed its outlook with respect to, its rating of any securities or preferred stock issued or guaranteed by the Company or any of its subsidiaries (other than an announcement with positive implications of a possible upgrading).

(c) *No Material Adverse Effect.* No Material Adverse Effect shall have occurred or shall exist, which event or condition is not described in the Time of Sale Information (excluding any amendment or supplement thereto) and the Offering Memorandum (excluding any amendment or supplement thereto) and the effect of which in the judgment of the Representative makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Time of Sale Information and the Offering Memorandum.

(d) *Officers' Certificate.* The Representative shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, a certificate of the chief financial officer or chief accounting officer of the Company and one additional senior executive officer of the Company who is satisfactory to the Representative (i) confirming that such officers have carefully reviewed the Time of Sale Information and the Offering Memorandum and, to the knowledge of such officers, the representations set forth in Sections 3(b) and 3(d) hereof are true and correct, (ii) confirming that the other representations and warranties of the Company and the Guarantors in this Agreement are true and correct and that the Company and the Guarantors have complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to such Closing Date and (iii) to the effect set forth in paragraphs (b) and (c) above.

(e) *Comfort Letters.* On the date of this Agreement and on the Closing Date or the Additional Closing Date, as the case may be, Deloitte & Touche LLP shall have furnished to the Representative, at the request of the Company, letters, dated the respective dates of delivery thereof and addressed to the Initial Purchasers, in form and substance reasonably satisfactory to the Representative, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained or incorporated by reference in the Time of Sale Information and the Offering Memorandum; provided, that the letter delivered on the Closing Date or the Additional Closing Date, as the case may be shall use a "cut-off" date no more than three business days prior to such Closing Date or such Additional Closing Date, as the case may be.

(f) *Chief Financial Officer's Certificate.* On the date of this Agreement and on the Closing Date or the Additional Closing Date, as the case may be, the Company shall have furnished to the Representative a certificate, dated the respective dates of delivery thereof and addressed to the Initial Purchasers, of its chief financial officer with respect to certain financial data contained in the Time of Sale Information and the Offering Memorandum, providing "management comfort" with respect to such information, in form and substance reasonably satisfactory to the Representative.

(g) *Opinion and 10b-5 Statement of Counsel for the Company and certain of the Guarantors.* Davis Polk & Wardwell LLP, counsel for the Company, shall have furnished to the Representative, at the request of the Company, their written opinion and 10b-5 statement, dated the Closing Date or the Additional Closing Date, as the case may be, and addressed to the Initial Purchasers, in form and substance reasonably satisfactory to the Representative.

(h) *Opinion of Company Counsel*. The Representative shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, an opinion from Joseph Motes, Executive Vice President, Chief Administrative Officer, General Counsel and Secretary, dated the Closing Date or the Additional Closing Date, as the case may be, and addressed to the Initial Purchasers, in form and substance reasonably satisfactory to the Representative.

(i) *Opinion and 10b-5 Statement of Counsel for the Initial Purchasers.* The Representative shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, an opinion and 10b-5 statement of Latham & Watkins LLP, counsel for the Initial Purchasers, with respect to such matters as the Representative may reasonably request, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(j) *No Legal Impediment to Issuance.* No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Closing Date or the Additional Closing Date, as the case may be, prevent the issuance or sale of the Securities; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of the Closing Date or the Additional Closing Date, as the case may be, prevent the issuance or sale of the Securities.

(k) *Good Standing*. The Representative shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, satisfactory evidence of the good standing of the Company and its Subsidiaries in their respective jurisdictions of organization and their good standing in such other jurisdictions as the Representative may reasonably request, in each case in writing or any standard form of telecommunication from the appropriate governmental authorities of such jurisdictions.

(l) *DTC*. The Securities shall be eligible for clearance and settlement through DTC.

(m) *Indenture and Securities.* The Indenture shall have been duly executed and delivered by a duly authorized officer of the Company, the Guarantors and the Trustee, and the Securities shall have been duly executed and delivered by a duly authorized officer of the Company and duly authenticated by the Trustee.

(n) *Exchange Listing.* An application for the listing of the Underlying Securities shall have been submitted to the Exchange.

(o) *Lock-up Agreements*. The "lock-up" agreements, each substantially in the form of Exhibit B hereto, between you and certain shareholders, officers and directors of the Company relating to sales and certain other dispositions of shares of Common Stock or certain other securities, delivered to you on or before the date hereof, shall be full force and effect on the Closing Date or Additional Closing Date, as the case may be.

(p) *Additional Documents.* On or prior to the Closing Date or the Additional Closing Date, as the case may be, the Company and the Guarantors shall have furnished to the Representative such further certificates and documents as the Representative may reasonably request.

All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Initial Purchasers.

7. Indemnification and Contribution.

(a) *Indemnification of the Initial Purchasers.* Each of the Company and the Guarantors, jointly and severally, agrees to indemnify and hold harmless each Initial Purchaser, its affiliates, directors and officers and each person, if any, who controls such Initial Purchaser within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, legal fees and other expenses reasonably incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Offering Memorandum, any of the other Time of Sale Information, any Issuer Written Communication, any road show as defined in Rule 433(h) under the Securities Act (a "road show") or the Offering Memorandum (or any amendment or supplement thereto) or any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, in each case except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to any Initial Purchaser furnished to the Company in writing by such Initial Purchaser through the Representative expressly for use therein, it being understood and agreed that the only such information furnished by any Initial Purchaser consists of the information described as such in subsection (b) below.

(b) *Indemnification of the Company and the Guarantors.* Each Initial Purchaser agrees, severally and not jointly, to indemnify and hold harmless each of the Company, the Guarantors, its respective directors and officers and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information relating to such Initial Purchaser furnished to the Company in writing by such Initial Purchaser through the Representative expressly for use in the Preliminary Offering Memorandum, any of the other Time of Sale Information (including any of the other Time of Sale Information that has subsequently been amended), any Issuer Written Communication, any road show or the Offering Memorandum (or any amendment or supplement thereto), it being understood and agreed that the only such information furnished by any Initial Purchaser consists of the following information in the Offering Memorandum furnished on behalf of each Initial Purchaser: the information contained in the first sentence of the fourth paragraph in the caption “Plan of distribution” and the third and fourth sentences of the third paragraph of the subsection “General” in the caption “Plan of distribution.”

(c) *Notice and Procedures.* If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to either paragraph (a) or (b) above, such person (the "Indemnified Person") shall promptly notify the person against whom such indemnification may be sought (the "Indemnifying Person") in writing; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under paragraph (a) or (b) above except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under paragraph (a) or (b) above. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Peson thereof, the Indemnifying Person shall retain counsel reasonably satisfactory to the Indemnified Person (who shall not, without the consent of the Indemnified Person, be counsel to the Indemnifying Person) to represent the Indemnified Person and any others entitled to indemnification pursuant to this Section that the Indemnifying Person may designate in such proceeding and shall pay the fees and expenses in such proceeding and shall pay the fees and expenses of such counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be paid or reimbursed as they are incurred. Any such separate firm for any Initial Purchaser, its affiliates, directors and officers and any control persons of such Initial Purchaser shall be designated in writing by J.P. Morgan Securities LLC and any such separate firm for the Company, its directors, its officers and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that an Indemnifying Person reimburse the Indemnified Person for fees and expenses of counsel as contemplated by this paragraph, the Indemnifying Person shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 60 days after receipt by the Indemnifying Person of such request and (ii) the Indemnifying Person shall not have reimbursed the Indemni-fied Person in accordance with such request prior to the date of such settlement. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person, in form and substance reasonably satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) *Contribution.* If the indemnification provided for in paragraphs (a) or (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Guarantors, on the one hand, and the Initial Purchasers, on the other, from the offering of the Securities or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company and the Guarantors, on the one hand, and the Initial Purchasers, on the other, in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company and the Guarantors, on the one hand, and the Initial Purchasers, on the other, shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company from the sale of the Securities and the total discounts and commissions received by the Initial Purchasers in connection therewith, as provided in this Agreement, bear to the aggregate offering price of the Securities. The relative fault of the Company and the Guarantors, on the one hand, and the Initial Purchasers, on the other, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company and the Guarantors or by the Initial Purchasers and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) *Limitation on Liability.* The Company, the Guarantors and the Initial Purchasers agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Initial Purchasers were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of this Section 7, in no event shall an Initial Purchaser be required to contribute any amount in excess of the amount by which the total discounts and commissions received by such Initial Purchaser with respect to the offering of the Securities exceeds the amount of any damages that such Initial Purchaser has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Initial Purchasers' obligations to contribute pursuant to this Section 7 are several in proportion to their respective purchase obligations hereunder and not joint.

(f) *Non-Exclusive Remedies.* The remedies provided for in this Section 7 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity.

8. Effectiveness of Agreement. This Agreement shall become effective as of the date first written above.

9. Termination. This Agreement may be terminated in the absolute discretion of the Representative, by notice to the Company, if after the execution and delivery of this Agreement and on or prior to the Closing Date or, in the case of the Option Securities, prior to the Additional Closing Date (i) trading generally shall have been suspended or materially limited on the New York Stock Exchange or The Nasdaq Global Market; (ii) trading of any securities issued or guaranteed by the Company shall have been suspended on any exchange or in any over-the-counter market; (iii) a general moratorium on commercial banking activities shall have been declared by federal or New York State authorities; or (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States, that, in the judgment of the Representative, is material and adverse and makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Securities on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Time of Sale Information and the Offering Memorandum.

10. Defaulting Initial Purchaser. (a) If, on the Closing Date or the Additional Closing Date, as the case may be, any Initial Purchaser defaults on its obligation to purchase the Securities that it has agreed to purchase hereunder on such date, the non-defaulting Initial Purchasers may in their discretion arrange for the purchase of such Securities by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Initial Purchaser, the non-defaulting Initial Purchasers do not arrange for the purchase of such Securities, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Initial Purchasers to purchase such Securities on such terms. If other persons become obligated or agree to purchase the Securities of a defaulting Initial Purchaser, either the non-defaulting Initial Purchasers or the Company may postpone the Closing Date or the Additional Closing Date, as the case may be, for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Initial Purchasers may be necessary in the Time of Sale Information, the Offering Memorandum or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Time of Sale Information or the Offering Memorandum that effects any such changes. As used in this Agreement, the term "Initial Purchaser" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule 1 hereto that, pursuant to this Section 10, purchases Securities that a defaulting Initial Purchaser agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Initial Purchaser or Initial Purchasers by the non-defaulting Initial Purchasers and the Company as provided in paragraph (a) above, the aggregate principal amount of such Securities that remain unpurchased on the Closing Date or the Additional Closing Date, as the case may be does not exceed one-eleventh of the aggregate principal amount of such Securities to be purchased on such date, then the Company shall have the right to require each non-defaulting Initial Purchaser to purchase the principal amount of Securities that such Initial Purchaser agreed to purchase hereunder on such date plus such Initial Purchaser's pro rata share (based on the principal amount of Securities that such Initial Purchaser agreed to purchase on such date) of the Securities of such defaulting Initial Purchaser or Initial Purchasers for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Securities of a defaulting Initial Purchaser or Initial Purchasers by the non-defaulting Initial Purchasers and the Company as provided in paragraph (a) above, the aggregate principal amount of such Securities that remain unpurchased on the Closing Date or the Additional Closing Date, as the case may be, exceeds one-eleventh of the aggregate principal amount of Securities to be purchased on such date, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement or, with respect to any Additional Closing Date, the obligation of the Initial Purchasers to purchase Securities on the Additional Closing Date, as the case may be, shall terminate without liability on the part of the non-defaulting Initial Purchasers. Any termination of this Agreement pursuant to this Section 10 shall be without liability on the part of the Company, except that the Company will continue to be liable for the payment of expenses as set forth in Section 11 hereof and except that the provisions of Section 7 hereof shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Initial Purchaser of any liability it may have to the Company or any non-defaulting Initial Purchaser for damages caused by its default.

11. Payment of Expenses. (a) Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, each of the Company and the Guarantors, jointly and severally, will pay or cause to be paid all reasonable costs and expenses incident to the performance of its obligations hereunder, including without limitation, (i) the costs incident to the authorization, issuance, sale, preparation, delivery and initial resale of the Securities and issuance of any Underlying Securities upon conversion and in each case any taxes payable in that connection (except as described in the Time of Sale Information with respect to transfer or similar taxes payable by the holders on the issuance or delivery of any Underlying Securities to a person other than the holder upon conversion); (ii) the costs incident to the preparation and printing of the Preliminary Offering Memorandum, any other Time of Sale Information, any Issuer Written Communication, and the Offering Memorandum (including any amendments and supplements thereto) and the distribution thereof; (iii) the costs of reproducing and distributing each of the Transaction Documents; (iv) the fees and expenses of the Company's and the Guarantors' counsel and independent accountants; (v) the fees and expenses incurred in connection with the registration or qualification and determination of eligibility for investment of the Securities under the laws of such jurisdictions as the Representative may designate and the preparation, printing and distribution of a Blue Sky Memorandum (including the related fees and expenses of counsel for the Initial Purchasers); (vi) any fees charged by rating agencies for rating the Securities; (vii) the fees and expenses of the Trustee and any paying agent (including related fees and expenses of any counsel to such parties); (viii) all expenses and application fees incurred in connection with the approval of the Securities for book-entry transfer by DTC; (ix) all expenses incurred by the Company in connection with any "road show" presentation to potential investors; and (x) all expenses and application fees related to the listing of the Maximum Number of Shares on the Exchange.

(b) If (i) this Agreement is terminated pursuant to Section 9, (ii) the Company for any reason fails to tender the Securities for delivery to the Initial Purchasers or (iii) the Initial Purchasers decline to purchase the Securities for any reason permitted under this Agreement, the Company and the Guarantors agree, jointly and severally, to reimburse the Initial Purchasers for all out-of-pocket costs and expenses (including the fees and expenses of their counsel) reasonably incurred by the Initial Purchasers in connection with this Agreement and the offering contemplated hereby.

12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and the officers and directors and any controlling persons referred to in Section 7 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Securities from any Initial Purchaser shall be deemed to be a successor merely by reason of such purchase.

13. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company, the Guarantors and the Initial Purchasers contained in this Agreement or made by or on behalf of the Company, the Guarantors or the Initial Purchasers pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Securities and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company, the Guarantors or the Initial Purchasers.

14. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term "affiliate" has the meaning set forth in Rule 405 under the Securities Act; (b) the term "business day" means any day other than a day on which banks are permitted or required to be closed in New York City; and (c) the term "subsidiary" refers to the entities listed in Schedule 2 hereto.

15. Compliance with USA Patriot Act. In accordance with the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), the Initial Purchasers are required to obtain, verify and record information that identifies their respective clients, including the Company and the Guarantors, which information may include the name and address of their respective clients, as well as other information that will allow the Initial Purchasers to properly identify their respective clients.

16. Miscellaneous. (a) *Notices.* All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Initial Purchasers shall be given to the Representative c/o J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179 (fax: (212) 622-8358); Attention: Equity Syndicate Desk. Notices to the Company and the Guarantors shall be given to it at 3095 Loyalty Circle, Columbus Ohio 43219 (phone: (614) 729-4000); Attention: Joseph L. Motes III.

(b) *Governing Law.* This Agreement and any claim, controversy or dispute arising under or related to this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(c) *Waiver of Jury Trial.* Each of the parties hereto hereby waives any right to trial by jury in any suit or proceeding arising out of or relating to this Agreement.

(d) *Submission to Jurisdiction.* The Company hereby submits to the exclusive jurisdiction of the U.S. federal and New York state courts in the Borough of Manhattan in The City of New York in any suit or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby. The Company waives any objection which it may now or hereafter have to the laying of venue of any such suit or proceeding in such courts. The Company agrees that final judgment in any such suit, action or proceeding brought in such court shall be conclusive and binding upon the Company and may be enforced in any court to the jurisdiction of which Company is subject by a suit upon such judgment.

(e) *Recognition of the U.S. Special Resolution Regimes*.

(i) In the event that any Initial Purchaser that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from such Initial Purchaser of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(ii) In the event that any Initial Purchaser that is a Covered Entity or a BHC Act Affiliate of such Initial Purchaser becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against such Initial Purchaser are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

As used in this Section 16(e):

"BHC Act Affiliate" has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

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

"U.S. Special Resolution Regime" means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

(f) *Counterparts.* This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument. Electronic signatures complying with the New York Electronic Signatures and Records Act (N.Y. State Tech §§ 301-309), as amended from time to time, or other applicable law will be deemed original signatures for purposes of this Agreement. Transmission by telecopy, electronic mail or other transmission method of an executed counterpart of this Agreement will constitute due and sufficient delivery of such counterpart.

(g) *Amendments or Waivers.* No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(h) *Headings.* The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

(i) *Xtract Research LLC.* The Company hereby agrees that the Initial Purchasers may provide copies of the Preliminary Offering Memorandum and the Offering Memorandum relating to the offering of the Securities and any other agreements or documents relating thereto, including, without limitation, trust indentures, to Xtract Research LLC ("Xtract") following the completion of the offering for inclusion in an online research service sponsored by Xtract, access to which is restricted to "qualified institutional buyers" as defined in Rule 144A under the Securities Act.

[*Signature pages to follow*]

If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

Very truly yours,

BREAD FINANCIAL HOLDINGS, INC.

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Executive Vice President, Chief Financial Officer

GUARANTORS

BREAD FINANCIAL PAYMENTS, INC.,

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Executive Vice President, Chief Financial Officer

COMENITY SERVICING LLC

By: /s/ Mike Blackham
Name: Mike Blackham
Title: Vice President, Treasurer

LON INC

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Chief Financial Officer

LON OPERATIONS LLC

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Chief Financial Officer

Accepted: As of the date first written above

J.P. MORGAN SECURITIES LLC

For itself and on behalf of the
several Initial Purchasers listed
in Schedule 1 hereto.

By: /s/ Gaurav Maria
Name: Gaurav Maria
Title: Authorized Signatory, J.P. Morgan Securities LLC

Schedule 1

Initial Purchasers	Principal Amount of Firm Securities to be Purchased
J.P. Morgan Securities LLC	$ 110,000,000.00
Truist Securities, Inc.	$ 21,698,000.00
BMO Capital Markets Corp.	$ 21,698,000.00
BNP Paribas Securities Corp.	$ 21,698,000.00
CIBC World Markets Corp.	$ 21,698,000.00
KeyBanc Capital Markets Inc.	$ 21,698,000.00
Scotia Capital (USA) Inc.	$ 21,698,000.00
RBC Capital Markets, LLC	$ 17,406,000.00
U.S. Bancorp Investments, Inc.	$ 17,406,000.00
	$ 275,000,000.00

Schedule 2

Significant Subsidiaries

- ADS Card Services Foreign Holdings B.V.
- ALLDATA Card Services India LLP
- Bread Financial Canada Co.
- Bread Financial Payments, Inc.
- Bread Reinsurance Ltd.
- Comenity Bank
- Comenity Canada L.P.
- Comenity Capital Bank
- Comenity Capital Credit Company, LLC
- Comenity Servicing LLC
- Lon Administration LLC
- Lon Holdings LLC
- Lon Inc.
- Lon Operations LLC
- WFC Card Services Holdings Inc.
- WFN Credit Company, LLC
- World Financial Capital Credit Company

Schedule 3

Subsidiaries

- ADS Card Services Foreign Holdings B.V.
- ALLDATA Card Services India LLP
- Bread Financial Canada Co.
- Bread Financial Payments, Inc.
- Bread Reinsurance Ltd.
- Comenity Bank
- Comenity Canada L.P.
- Comenity Capital Bank
- Comenity Capital Credit Company, LLC
- Comenity Servicing LLC
- Lon Administration LLC
- Lon Holdings LLC
- Lon Inc.
- Lon Operations LLC
- WFC Card Services Holdings Inc.
- WFN Credit Company, LLC
- World Financial Capital Credit Company, LLC

Annex A

a. Time of Sale Information

Term sheet containing the terms of the Securities, substantially in the form of Annex B.

Annex B

Pricing Term Sheet

[ATTACHED]

PRICING TERM SHEET **STRICTLY CONFIDENTIAL**

DATED JUNE 8, 2023

BREAD FINANCIAL HOLDINGS, INC.

$275,000,000

4.25% Convertible Senior Notes due 2028

The information in this pricing term sheet supplements Bread Financial Holdings, Inc.'s preliminary offering memorandum, dated June 8, 2023 (the "Preliminary Offering Memorandum"), and supersedes the information in the Preliminary Offering Memorandum to the extent inconsistent with the information in the Preliminary Offering Memorandum. In all other respects, this pricing term sheet is qualified in its entirety by reference to the Preliminary Offering Memorandum, including all documents incorporated by reference therein. References in this pricing term sheet to "we," "our" and "us" refer only to Bread Financial Holdings, Inc. and not to any of its subsidiaries. Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Offering Memorandum. All references to dollar amounts are references to U.S. dollars.

Issuer:	Bread Financial Holdings, Inc., a Delaware corporation.
Guarantors:	Certain of our existing and future domestic subsidiaries. See "Description of notes—Guarantees" in the Preliminary Offering Memorandum.
Ticker/exchange for common stock:	"BFH" / The New York Stock Exchange ("NYSE").
Notes:	4.25% Convertible Senior Notes due 2028 (the "notes").
Principal amount:	$275,000,000 aggregate principal amount of notes.
Option to purchase additional notes:	$41,250,000 aggregate principal amount of notes.
Denominations:	$1,000 and integral multiples of $1,000 in excess thereof.
Ranking:	Senior unsecured.
Maturity:	June 15, 2028, unless earlier repurchased, redeemed or converted.
Redemption at our option:	We may not redeem the notes prior to June 21, 2026. We may redeem for cash all or any portion of the notes (subject to the limitation described in the second succeeding sentence), at our option, on a redemption date occurring on or after June 21, 2026 and before the 51st scheduled trading day before the maturity date, but only if the last reported sale price of our common stock has been at least 130% of the conversion price then in effect for each of at least 20 trading days (whether or not consecutive), including the trading day immediately preceding the date on which we provide notice of such redemption, during the 30 consecutive trading days ending on, and including, the trading day immediately preceding the date on which we provide notice of such redemption. The redemption price will equal 100% of the principal amount of the notes to be redeemed, *plus* accrued and unpaid interest to, but excluding, the redemption date. If we elect to redeem fewer than all of the outstanding notes, at least $100 million aggregate principal amount of notes must be outstanding and not subject to redemption as of, and after giving effect to, delivery of the relevant redemption notice. No "sinking fund" is provided for the notes, which means that we are not required to redeem or retire the notes periodically. See "Description of notes—Optional redemption on or after June 21, 2026" in the Preliminary Offering Memorandum.

Fundamental change:	If a "fundamental change" (as defined in the Preliminary Offering Memorandum under the caption "Description of notes—Repurchase of notes by us at option of holder upon a fundamental change") occurs prior to the maturity date of the notes, then, subject to a limited exception described in the Preliminary Offering Memorandum, each holder will have the right, subject to certain conditions, to require us to repurchase for cash all or a portion of its notes in principal amounts of $1,000 or an integral multiple thereof. The fundamental change repurchase price will be equal to 100% of the principal amount of the notes being repurchased, *plus* accrued and unpaid interest on the notes up to, but excluding, the fundamental change repurchase date. See "Description of notes—Repurchase of notes by us at option of holder upon a fundamental change" in the Preliminary Offering Memorandum.
Interest and interest payment dates:	4.25% per year. Interest will accrue from June 13, 2023 and will be payable semi-annually in arrears in cash on June 15 and December 15 of each year, beginning on December 15, 2023. We will pay additional interest, if any, at our election as the sole remedy relating to the failure to comply with our reporting obligations as described under "Description of notes—Events of default; notice and waiver" in the Preliminary Offering Memorandum and under the circumstances described under "Description of notes—No registration rights; additional interest" in the Preliminary Offering Memorandum.
Regular record dates:	June 1 and December 1 of each year, immediately preceding the June 15 and December 15 interest payment date, as the case may be.
Issue price:	100% of principal, *plus* accrued interest, if any, from June 13, 2023.
Last reported sale price of our common stock on NYSE on June 8, 2023:	$30.74 per share.
Initial conversion rate:	26.0247 shares of our common stock per $1,000 principal amount of the notes, subject to adjustment as described in the Preliminary Offering Memorandum.
Initial conversion price:	Approximately $38.43 per share of our common stock, subject to adjustment as described in the Preliminary Offering Memorandum.
Conversion premium:	Approximately 25.0% above the last reported sale price of our common stock on NYSE on June 8, 2023.
Settlement method:	Cash up to the aggregate principal amount of the notes to be converted, and cash, shares of our common stock or a combination of cash and shares of our common stock, at our election, in respect of the remainder, if any of our conversion obligation in excess of the aggregate principal amount of the notes being converted. See "Description of notes—Conversion rights—Payment upon conversion" in the Preliminary Offering Memorandum.

Lead bookrunning manager:	J.P. Morgan Securities LLC
Additional bookrunners:	Truist Securities, Inc. BMO Capital Markets Corp. BNP Paribas Securities Corp. CIBC World Markets Corp. KeyBanc Capital Markets Inc. Scotia Capital (USA) Inc. RBC Capital Markets, LLC U.S. Bancorp Investments, Inc.
Pricing date:	June 8, 2023.
Trade date:	June 9, 2023.
Expected settlement date:	June 13, 2023.
CUSIP number (144A):	018581 AM0
ISIN (144A):	US018581AM03
Use of proceeds:	We estimate that the net proceeds from this offering will be approximately $265.5 million after deducting the initial purchasers' discounts and our estimated offering expenses, or approximately $305.5 million if the initial purchasers exercise their option to purchase additional notes in full. We intend to use $34.1 million of the net proceeds from this offering to fund the cost of entering into capped call transactions described in the Preliminary Offering Memorandum. We intend to use the remainder of the net proceeds from this offering to repay in part the outstanding loans under the Existing Credit Agreement (as defined in the Preliminary Offering Memorandum). If the initial purchasers exercise their option to purchase additional notes, then we intend to use a portion of the additional net proceeds from the sale of the additional notes to fund the cost of entering into additional capped call transactions and the remaining net proceeds to further repay in part the outstanding loans under the Existing Credit Agreement. See "Use of proceeds" in the Preliminary Offering Memorandum.
Cap price:	The cap price of the capped call transactions will initially be $61.48 per share, which represents a premium of approximately 100% above the last reported sale price of our common stock on NYSE on June 8, 2023, and is subject to customary adjustments under the terms of the capped call transactions. See "Description of the concurrent capped call transactions" in the Preliminary Offering Memorandum.

Increase in conversion rate upon conversion upon a make-whole fundamental change or notice of redemption:

If (i) the "effective date" of a "make-whole fundamental change" (each as defined in the Preliminary Offering Memorandum) occurs prior to the maturity date of the notes or (ii) we give a notice of redemption calling any notes for redemption as described in the Preliminary Offering Memorandum under the caption "—Optional redemption on or after June 21, 2026" and, in each case, any notes are converted in connection with such make-whole fundamental change or any notes called (or deemed called) for redemption are converted in connection with such redemption notice, as applicable, then we will, under certain circumstances, increase the conversion rate for the notes so surrendered for conversion by a number of additional shares of common stock (the "additional shares"). The number of additional shares, if any, by which the conversion rate will be increased will be determined by reference to the table below, based on the effective date of a make-whole fundamental change, or the date of the redemption notice, as the case may be, and the "stock price" (as defined in the Preliminary Offering Memorandum). See "Description of notes—Conversion rights—Increase in conversion rate upon conversion upon a make-whole fundamental change or notice of redemption" in the Preliminary Offering Memorandum.

The following table sets forth the hypothetical stock price, effective date and number of additional shares per $1,000 principal amount of notes:

	Stock price									
Effective date	**$ 30.74**	**$ 35.00**	**$ 38.43**	**$ 45.00**	**$ 49.95**	**$ 55.00**	**$ 60.00**	**$ 75.00**	**$ 90.00**	**$ 180.00**
June 13, 2023	6.5062	4.9454	4.0330	2.8238	2.2118	1.7542	1.4147	0.7907	0.4699	0.0000
June 15, 2024	6.5062	4.9454	4.0330	2.8158	2.1664	1.6895	1.3420	0.7232	0.4190	0.0000
June 15, 2025	6.5062	4.9454	4.0133	2.6296	1.9656	1.4920	1.1568	0.5887	0.3279	0.0000
June 15, 2026	6.5062	4.8397	3.6667	2.2327	1.5842	1.1458	0.8520	0.3965	0.2104	0.0000
June 15, 2027	6.5062	4.2171	2.9232	1.4898	0.9337	0.6067	0.4155	0.1725	0.0916	0.0000
June 15, 2028	6.5062	2.5466	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact stock prices and effective dates may not be set forth in the table above, in which case:

- if the stock price is between two stock prices in the table or the effective date is between two effective dates in the table, the number of additional shares by which the conversion rate will be increased will be determined by a straight-line interpolation between the number of additional shares set forth for the higher and lower stock prices and the later and earlier effective dates, as applicable, based on a 365- or 366-day year, as applicable;

- if the stock price is in excess of $180.00 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate; and

- if the stock price is less than $30.74 per share (subject to adjustment in the same manner as the stock prices set forth in the column headings of the table above), no additional shares will be added to the conversion rate.

Notwithstanding the foregoing, in no event will the conversion rate per $1,000 principal amount of notes exceed 32.5309 shares of our common stock, subject to adjustment in the same manner as the conversion rate as set forth in the Preliminary Offering Memorandum under the caption "Description of notes—Conversion rights—Conversion rate adjustments."

AMENDMENTS TO THE PRELIMINARY OFFERING MEMORANDUM

In addition to the pricing information above, this pricing term sheet amends and updates certain sections of the Preliminary Offering Memorandum, as described above. Section references in the amended sections below refer to the sections of the Preliminary Offering Memorandum as amended and supplemented by this pricing term sheet. All conforming and consequential changes, and any other amendments set out in this pricing term sheet, are hereby deemed to be made.

PLAN OF DISTRIBUTION

The following changes shall be made under the heading "General":

Some of the initial purchasers and their affiliates have engaged in, and may in the future engage in, investment banking, commercial banking, financial advisory and other commercial dealings in the ordinary course of business with us or our affiliates. They have received, or may in the future receive, customary fees and commissions for these transactions. For example, J.P. Morgan Securities LLC**, Truist Securities, Inc., BMO Capital Markets Corp., BNP Paribas Securities Corp., CIBC World Markets Corp., KeyBanc Capital Markets Inc., Scotia Capital (USA) Inc., RBC Capital Markets, LLC and U.S. Bancorp Investments, Inc. are** ~~is~~ acting as dealer-manager**s** in connection with the Tender Offer**,** ~~and~~ JPMorgan Chase Bank, N.A. will serve as **joint lead arranger, joint bookrunner and** administrative agent of the New Credit Agreement **and affiliates of Truist Securities, Inc., BMO Capital Markets Corp., BNP Paribas Securities Corp., CIBC World Markets Corp., KeyBanc Capital Markets Inc., Scotia Capital (USA) Inc., RBC Capital Markets, LLC and U.S. Bancorp Investments, Inc. will serve as joint lead arrangers and joint bookrunners of the New Credit Agreement. In addition, U.S. Bank National Association, an affiliate of U.S. Bancorp Investments, Inc., will serve as the trustee under the indenture governing the notes**. In addition, certain of the initial purchasers and/or certain of their affiliates are lenders under our Existing Credit Agreement and/or may act as option counterparties in connection with the concurrent capped call transactions described herein and, as such, may receive a portion of the net proceeds of this offering. See "Description of the concurrent capped call transactions" and "Summary—Refinancing."

FORM OF LOCK-UP AGREEMENT

[ATTACHED]

FORM OF LOCK-UP AGREEMENT

[●], 2023

J.P. Morgan Securities LLC
383 Madison Avenue
New York, NY 10179
as Representative of the serval initial purchasers

Re: Bread Financial Holdings, Inc. – Lock-Up Agreement

Ladies and Gentlemen:

The undersigned understands that you, as representative (the "Representative") of the several initial purchasers (the "Initial Purchasers"), propose to enter into a Purchase Agreement (the "Purchase Agreement") with Bread Financial Holdings, Inc., a Delaware corporation (the "Company") providing for the purchase and resale (the "Placement") by the Initial Purchasers of the Company's convertible senior notes due 2028 (the "Securities"). The Securities are convertible into cash and, if applicable, shares of common stock, par value $0.01 per share (the "Common Stock"), of the Company. Unless otherwise defined herein, terms defined in the Purchase Agreement are used herein as defined therein.

In consideration of the Initial Purchasers' agreement to purchase and make the Placement of the Securities, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned hereby agrees that, without the prior written consent of the Representative on behalf of the Initial Purchasers, the undersigned will not, and will not cause any direct or indirect affiliate to, during the period beginning on the date of this letter agreement (this "Letter Agreement") and ending at the close of business 60 days after the date of the final offering memorandum (the "Restricted Period") relating to the Placement of the Securities (1) offer, pledge, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, lend, or otherwise transfer or dispose of, directly or indirectly, any shares of Common Stock or any securities convertible into or exercisable or exchangeable for Common Stock (including without limitation, Common Stock or such other securities which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the Securities and Exchange Commission and securities which may be issued upon exercise of a stock option or warrant) (collectively with the Common Stock, the "Lock-Up Securities"), (2) enter into any hedging, swap or other agreement or transaction that transfers, in whole or in part, any of the economic consequences of ownership of the Lock-Up Securities, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of Lock-Up Securities, in cash or otherwise, (3) make any demand for, or exercise any right with respect to, the registration of any Lock-Up Securities, or (4) publicly disclose the intention to do any of the foregoing. The undersigned acknowledges and agrees that the foregoing precludes the undersigned from engaging in any hedging or other transactions or arrangements (including, without limitation, any short sale or the purchase or sale of, or entry into, any put or call option, or combination thereof, forward, swap or any other derivative transaction or instrument, however described or defined) designed or intended, or which could reasonably be expected to lead to or result in, a sale or disposition or transfer (whether by the undersigned or any other person) of any economic consequences of ownership, in whole or in part, directly or indirectly, of any Lock-Up Securities, whether any such transaction or arrangement (or instrument provided for thereunder) would be settled by delivery of Lock-Up Securities, in cash or otherwise.

Notwithstanding the foregoing, the undersigned may:

(a) dispose of or transfer the undersigned's Lock-Up Securities:

(i) as a bona fide gift or gifts, or for bona fide estate planning purposes,

(ii) by will or intestacy or other testamentary document,

(iii) to any trust for the direct or indirect benefit of the undersigned or the immediate family of the undersigned, or if the undersigned is a trust, to a trustor or beneficiary of the trust or to the estate of a beneficiary of such trust (for purposes of this Letter Agreement, "immediate family" shall mean any relationship by blood, current or former marriage, domestic partnership or adoption, not more remote than first cousin),

(iv) to a corporation, partnership, limited liability company, trust or other entity of which the undersigned and the immediate family of the undersigned are the legal and beneficial owner of all of the outstanding equity securities or similar interests.

(v) to a nominee or custodian of a person or entity to whom a disposition or transfer would be permissible under clauses (i) through (iv) above,

(vi) if the undersigned is a corporation, partnership, limited liability company, trust or other business entity, (A) to another corporation, partnership, limited liability company, trust or other business entity that is an affiliate (as defined in Rule 405 promulgated under the Securities Act of 1933, as amended) of the undersigned, or to any investment fund or other entity controlling, controlled by, managing or managed by or under common control with the undersigned or affiliates of the undersigned (including, for the avoidance of doubt, where the undersigned is a partnership, to its general partner or a successor partnership or fund, or any other funds managed by such partnership), or (B) as part of a distribution to limited partners, members or shareholders of the undersigned,

(vii) by operation of law, such as pursuant to a qualified domestic order, divorce settlement, divorce decree or separation agreement,

(viii) to the Company from an employee of the Company upon death, disability or termination of employment, in each case, of such employee,

(ix) as part of a sale of the undersigned's Lock-Up Securities acquired in open market transactions after the pricing date for the Offering,

(x) to the Company in connection with the vesting, settlement, or exercise of restricted stock units, options, warrants or other rights to purchase shares of Common Stock (including, in each case, by way of "net" or "cashless" exercise), including for the payment of exercise price and tax and remittance payments due as a result of the vesting, settlement, or exercise of such restricted stock units, options, warrants or rights, provided that any such shares of Common Stock received upon such exercise, vesting or settlement shall be subject to the terms of this Letter Agreement, and provided further that any such restricted stock units, options, warrants or rights are held by the undersigned pursuant to an agreement or equity awards granted under a stock incentive plan or other equity award plan, each such agreement or plan which is described in the Preliminary Offering Memorandum and Offering Memorandum, or

(xi) pursuant to a bona fide third-party tender offer, merger, consolidation or other similar transaction that is approved by the Board of Directors of the Company and made to all holders of the Company's capital stock involving a Change of Control (as defined below) of the Company (for purposes hereof, "Change of Control" shall mean the transfer (whether by tender offer, merger, consolidation or other similar transaction), in one transaction or a series of related transactions, to a person or group of affiliated persons, of shares of capital stock if, after such transfer, such person or group of affiliated persons would hold at least a majority of the outstanding voting securities of the Company (or the surviving entity)); provided that in the event that such tender offer, merger, consolidation or other similar transaction is not completed, the undersigned's Lock-Up Securities shall remain subject to the provisions of this Letter Agreement;

provided that (A) in the case of any transfer or distribution pursuant to clause (a)(i), (ii), (iii), (iv), (v), (vi) and (vii), such transfer shall not involve a disposition for value and each donee, devisee, transferee or distributee shall execute and deliver to the Representative a lock-up letter in the form of this Letter Agreement, (B) in the case of any transfer or distribution pursuant to clause (a) (i), (ii), (iii), (iv), (v), (vi), (ix) and (x), no filing by any party (donor, donee, devisee, transferor, transferee, distributer or distributee) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or other public announcement shall be required or shall be made voluntarily in connection with such transfer or distribution (other than a filing on Form 5, or in the case of clause (a) (i) only, a filing on a Form 4) and (C) in the case of any transfer or distribution pursuant to clause (a)(vii) and (viii) it shall be a condition to such transfer that no public filing, report or announcement shall be voluntarily made and if any filing under Section 16(a) of the Exchange Act, or other public filing, report or announcement reporting a reduction in beneficial ownership of shares of Common Stock in connection with such transfer or distribution shall be legally required during the Restricted Period, such filing, report or announcement shall clearly indicate in the footnotes thereto the nature and conditions of such transfer.

(b) exercise outstanding options, settle restricted stock units or other equity awards or exercise warrants pursuant to plans described in the Preliminary Offering Memorandum and Offering Memorandum; provided that any Lock-Up Securities received upon such exercise, vesting or settlement shall be subject to the terms of this Letter Agreement;

(c) convert outstanding preferred stock, warrants to acquire preferred stock or convertible securities into shares of Common Stock or warrants to acquire shares of Common Stock; provided that any such shares of Common Stock or warrants received upon such conversion shall be subject to the terms of this Letter Agreement; and

(d) establish trading plans pursuant to Rule 10b5-1 under the Exchange Act for the transfer of shares of Lock-Up Securities; provided that (1) such plans do not provide for the transfer of Lock-Up Securities during the Restricted Period and (2) no filing by any party under the Exchange Act or other public announcement shall be required or made voluntarily in connection with such trading plan (other than the required disclosure on Form 10-Q or Form 10-K, as applicable, of the entrance into any trading plan during the relevant fiscal quarter).

In furtherance of the foregoing, the Company, and any duly appointed transfer agent for the registration or transfer of the securities described herein, are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Letter Agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Letter Agreement. All authority herein conferred or agreed to be conferred and any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal representatives of the undersigned. This Letter Agreement may be delivered via fac-simile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com or www.echosign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

The undersigned acknowledges and agrees that the Initial Purchasers have not provided any recommendation or investment advice nor have the Initial Purchasers solicited any action from the undersigned with respect to the Placement of the Securities and the undersigned has consulted their own legal, accounting, financial, regulatory and tax advisors to the extent deemed appropriate. The undersigned further acknowledges and agrees that, although the Representative may be required or choose to provide certain Regulation Best Interest and Form CRS disclosures to you in connection with the Placement, the Representative and the other Initial Purchasers are not making a recommendation to you to enter into this Letter Agreement, and nothing set forth in such disclosures is intended to suggest that the Representative or any Initial Purchaser is making such a recommendation.

The undersigned understands that, if (i) the Purchase Agreement does not become effective by September 30, 2023 or (ii) if the Purchase Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Securities to be sold thereunder. The undersigned understands that the Initial Purchasers are entering into the Purchase Agreement and proceeding with the Placement in reliance upon this Letter Agreement.

This Letter Agreement and any claim, controversy or dispute arising under or related to this Letter Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Very truly yours,

By: _____
Name:
Title:

Exhibit 10.2

Execution Version

CREDIT AGREEMENT

dated as of June 7, 2023

among

BREAD FINANCIAL HOLDINGS, INC.,
as Borrower,

THE GUARANTORS PARTY HERETO,

THE BANKS PARTY HERETO,

and

JPMORGAN CHASE BANK, N.A.,

as Administrative Agent

JPMORGAN CHASE BANK, N.A.,
BMO HARRIS BANK N.A.,
BNP PARIBAS,
CANADIAN IMPERIAL BANK OF COMMERCE, NEW YORK BRANCH,
KEYBANC CAPITAL MARKETS INC.,
THE BANK OF NOVA SCOTIA,
TRUIST SECURITIES, INC.,
ROYAL BANK OF CANADA
and U.S. BANK NATIONAL ASSOCIATION
as Joint Lead Arrangers and Joint Bookrunners

FIFTH THIRD BANK, NATIONAL ASSOCIATION,
as Documentation Agent

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This CREDIT AGREEMENT, dated as of June 7, 2023, is entered into by and among BREAD FINANCIAL HOLDINGS, INC., a Delaware corporation (the "Borrower"), the GUARANTORS from time to time party hereto, the BANKS from time to time party hereto, and JPMORGAN CHASE BANK, N.A., as Administrative Agent.

WHEREAS, the Borrower has requested that the Banks provide certain extensions of credit to the Borrower on the terms and conditions set forth in this Agreement;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1.1 Definitions. The following terms, as used herein, have the following meanings:

"Acquisition" means any acquisition, whether in a single transaction or series of related transactions, by the Borrower or any one or more of its Subsidiaries, or any combination thereof, of (a) all or a substantial part of the assets, or all or any substantial part of a going business or division, of any Person, whether through purchase of assets or securities, by merger or otherwise, (b) control of securities of an existing corporation or other Person having ordinary voting power (apart from rights accruing under special circumstances) to elect a majority of the board of directors (or other persons performing similar functions) of such corporation or other Person or (c) control of a greater than 50% ownership interest in any existing partnership, joint venture or other Person, but in each case excluding (i) acquisitions of, or from, Subsidiaries and (ii) acquisitions of Securitization Assets, directly or indirectly through the Acquisition of a Person owning Securitization Assets.

"Adjusted Daily Simple SOFR" means, for any day (a "Simple SOFR Rate Day"), a rate per annum equal to the greater of (a) the sum of (i) SOFR for the day (such day, a "SOFR Determination Day") that is five (5) U.S. Government Securities Business Days prior to (A) if such Simple SOFR Rate Day is a U.S. Government Securities Business Day, such Simple SOFR Rate Day or (B) if such Simple SOFR Rate Day is not a U.S. Government Securities Business Day, the U.S. Government Securities Business Day immediately preceding such Simple SOFR Rate Day, in each case, as such SOFR is published by the SOFR Administrator on the SOFR Administrator's Website; provided that if by 5:00 p.m. on the second (2^{nd}) U.S. Government Securities Business Day immediately following any SOFR Determination Day, SOFR in respect of such SOFR Determination Day has not been published on the SOFR Administrator's Website and a Benchmark Replacement Date with respect to Adjusted Daily Simple SOFR has not occurred, then SOFR for such SOFR Determination Day will be SOFR as published in respect of the first preceding U.S. Government Securities Business Day for which such SOFR was published on the SOFR Administrator's Website; provided further that SOFR as determined pursuant to this proviso shall be utilized for purposes of calculation of Adjusted Daily Simple SOFR for no more than three (3) consecutive Simple SOFR Rate Days and (ii) the Simple SOFR Adjustment and (b) the Floor. Any change in Adjusted Daily Simple SOFR due to a change in SOFR shall be effective from and including the effective date of such change in SOFR without notice to the Borrower.

"Adjusted Term SOFR" means, for purposes of any calculation, the rate per annum equal to (a) Term SOFR for such calculation plus (b) the Term SOFR Adjustment; provided that if Adjusted Term SOFR as so determined shall ever be less than the Floor, then Adjusted Term SOFR shall be deemed to be the Floor.

"Administrative Agent" means JPMorgan Chase Bank, N.A., in its capacity as agent for the Banks hereunder, and its successors in such capacity.

"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.

"Affected Loans" has the meaning set forth in Section 2.11(c).

"Affiliate" means (a) any Person that directly, or indirectly through one or more intermediaries, controls the Borrower (a "Controlling Person") or (b) any Person (other than the Borrower or a Subsidiary thereof) which is controlled by or is under common control with a Controlling Person. As used herein, the term "control" means possession, directly or indirectly, of the power to vote 10% or more of any class of voting securities of a Person or 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. The Affiliates of a Person shall include any officer or director of such Person.

"Agreement" means this Credit Agreement, as modified, supplemented, amended, restated (including any amendment and restatement hereof), extended, renewed or refinanced from time to time.

"AML Laws" means all laws, rules, and regulations of any jurisdiction applicable to any Bank, the Borrower or any of the Borrower's Subsidiaries from time to time concerning or relating to anti-money laundering, including, but not limited to, the Patriot Act.

"Anti-Corruption Laws" means all laws, rules, and regulations of any jurisdiction applicable to the Borrower or any of the Borrower's Subsidiaries from time to time concerning or relating to bribery or corruption, including, but not limited to, the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1, et.seq.

"Applicable Commitment Fee Percentage" means a rate per annum equal to the applicable rate specified in the pricing schedule attached hereto as Appendix I.

"Applicable Lending Office" means, with respect to any Bank, its Domestic Lending Office.

"Arranger" means, collectively, JPMORGAN CHASE BANK, N.A., BMO HARRIS BANK N.A., BNP PARIBAS, CANADIAN IMPERIAL BANK OF COMMERCE, NEW YORK BRANCH, KEYBANC CAPITAL MARKETS INC., THE BANK OF NOVA SCOTIA, TRUIST SECURITIES, INC., ROYAL BANK OF CANADA and U.S. BANK NATIONAL ASSOCIATION, in their capacities as joint lead arrangers and joint bookrunners.

"Assignment and Assumption Agreement" means an appropriately completed Assignment and Assumption Agreement in substantially the form of Exhibit A hereto.

"Available Tenor" means, as of any date of determination and with respect to any then-current Benchmark (a) if such Benchmark is 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 (b) otherwise, any payment period for interest calculated with reference to such Benchmark (or component thereof) that is or may be used for determining any frequency of making payments of interest calculated with reference to such Benchmark, in each case, as of such date and not including, for the avoidance of doubt, any tenor for such Benchmark that is then-removed from the definition of "Interest Period" pursuant to Section 8.8(c)(iv).

"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, 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" means each bank or other lender listed on the signature pages hereof, each assignee which becomes a Bank pursuant to Section 10.6(c), and their respective successors.

"Bank Insolvency Event" shall mean that (a) a Bank or its Parent is insolvent, or is generally unable to pay its debts as they become due, or admits in writing its inability to pay its debts as they become due, or makes a general assignment for the benefit of its creditors, (b) a Bank or its Parent is the subject of a bankruptcy, insolvency, reorganization, liquidation or similar proceeding, or a receiver, trustee, conservator, custodian or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other Governmental Authority acting in such capacity, has been appointed for such Bank or its Parent, or such Bank or its Parent has taken any action in furtherance of or indicating its consent to or acquiescence in any such proceeding or appointment, or (c) a Bank or its Parent has been adjudicated as, or determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent; provided that, for the avoidance of doubt, a Bank Insolvency Event shall not be deemed to have occurred solely by virtue of (i) the ownership or acquisition of any equity interest in or control of a Bank or a Parent thereof by a Governmental Authority or an instrumentality thereof or (ii) the appointment of an administrator, trustee, custodian, or other similar official by a Governmental Authority or an instrumentality thereof under or based on the law in the country where such Bank or such Parent is subject to home jurisdiction, if such Bank or such Parent is solvent and applicable law requires that such appointment not be disclosed, in each case so long as such ownership or acquisition or appointment, as applicable, does not result in or provide such Bank 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 Bank (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Bank.

"Bank Regulatory Authority" means the FRB, the Office of the Comptroller of the Currency within the United States Department of the Treasury, the Federal Deposit Insurance Corporation and any other relevant bank regulatory, including, without limitation, relevant state bank regulatory authorities, authority having jurisdiction over the Borrower or any Insured Subsidiary, as applicable.

"Bank Regulatory Requirements" means all applicable laws, statutes, ordinances, rules, regulations, orders, requirements, guidelines, interpretations, directives and requests (whether or not having the force of law) from and of, and plans, memoranda and agreements with, any Bank Regulatory Authority.

"Bankruptcy Code" has the meaning set forth in Section 9.3.

"Base Rate" means, for any day, a rate per annum equal to the highest of (a) the Prime Rate for such day, (b) the sum of 1/2 of 1% plus the Federal Funds Rate for such day, (c) Adjusted Term SOFR in effect on such day plus 1.00% and (d) 1.00%; each change in the Base Rate shall take effect simultaneously with the corresponding change or changes in the Prime Rate, the Federal Funds Rate or Adjusted Term SOFR, as applicable (provided that clause (c) shall not be applicable during any period in which Adjusted Term SOFR is unavailable or unascertainable).

"Base Rate Loan" means a Loan in U.S. Dollars which bears interest at the Base Rate pursuant to the provisions of Articles 2 or 8 hereof.

"Base Rate Margin" means a percentage per annum equal to the applicable percentage specified in the pricing schedule attached hereto as Appendix I.

"Benchmark" means, initially, Adjusted Daily Simple SOFR or Adjusted Term SOFR, as applicable; provided that if a Benchmark Transition Event has occurred with respect to Adjusted Daily Simple SOFR or Adjusted Term SOFR, as applicable, or the applicable then-current Benchmark, then "Benchmark" means the applicable Benchmark Replacement to the extent that such Benchmark Replacement has replaced such prior benchmark rate pursuant to Section 8.8(c)(i).

"Benchmark Replacement" means, with respect to any Benchmark Transition Event for any then-current Benchmark, the sum of: (a) the alternate benchmark rate that has been selected by the Administrative Agent and the Borrower as the replacement for such Benchmark giving due consideration to (i) any selection or recommendation of a replacement benchmark rate or the mechanism for determining such a rate by the Relevant Governmental Body or (ii) any evolving or then-prevailing market convention for determining a benchmark rate as a replacement to such then-current Benchmark for Dollar-denominated syndicated credit facilities and (b) the related Benchmark Replacement Adjustment; provided that, if such Benchmark Replacement as so determined would be less than the Floor, such Benchmark Replacement will be deemed to be the Floor for the purposes of this Agreement and the other Credit Documents.

"Benchmark Replacement Adjustment" means, with respect to any replacement of any then-current Benchmark with an Unadjusted Benchmark Replacement for any applicable Available Tenor (if applicable), 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 Dollar-denominated syndicated credit facilities.

"Benchmark Replacement Date" means the earliest to occur of the following events with respect to any then-current Benchmark:

(a) in the case of clause (a) or (b) of the definition of "Benchmark Transition Event," the later of (i) the date of the public statement or publication of information referenced therein and (ii) 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 (if applicable) of such Benchmark (or such component thereof); or

(b) in the case of clause (c) of the definition of "Benchmark Transition Event," the first date on which such Benchmark (or the published component used in the calculation thereof) has been determined and announced by the regulatory supervisor for the administrator of such Benchmark (or such component thereof) 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 (c) and even if any Available Tenor (if applicable) of such Benchmark (or such component thereof) continues to be provided on such date.

For the avoidance of doubt, if the applicable then-current Benchmark has any Available Tenors, the "Benchmark Replacement Date" will be deemed to have occurred in the case of clause (a) or (b) 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 any then-current Benchmark:

(a) 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 (if applicable) 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 (if applicable) of such Benchmark (or such component thereof);

(b) 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), the FRB, the Federal Reserve Bank of New York, 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 (if applicable) 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 (if applicable) of such Benchmark (or such component thereof); or

(c) 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) announcing that all Available Tenors (if applicable) 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, if the applicable then-current Benchmark has any Available Tenors, 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 Transition Start Date" means, in the case of a Benchmark Transition Event, the earlier of (a) the applicable Benchmark Replacement Date and (b) if such Benchmark Transition Event is a public statement or publication of information of a prospective event, the 90th day prior to the expected date of such event as of such public statement or publication of information (or if the expected date of such prospective event is fewer than 90 days after such statement or publication, the date of such statement or publication).

"Benchmark Unavailability Period" means, with respect to any then-current Benchmark, the period (if any) (x) beginning at the time that a Benchmark Replacement Date with respect to such Benchmark has occurred if, at such time, no Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Credit Document in accordance with Section 8.8(c) and (y) ending at the time that a Benchmark Replacement has replaced such Benchmark for all purposes hereunder and under any Credit Document in accordance with Section 8.8(c).

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

"Beneficial Ownership Regulation" means 31 CFR § 1010.230.

"Beneficiaries" has the meaning set forth in Section 9.1.

"Benefit Arrangement" means at any time an employee benefit plan within the meaning of Section 3(3) of ERISA which is not a Plan or a Multiemployer Plan and which is maintained or otherwise contributed to by any member of the ERISA Group.

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

"Borrower" has the meaning provided in the first paragraph of this Agreement.

"Borrowing" has the meaning set forth in Section 1.3.

"Business Day" means (a) for all purposes other than as set forth in clause (b) below, any day (other than a Saturday, Sunday or legal holiday) on which commercial banks in New York, New York, are open for the conduct of their commercial banking business and (b) with respect to all notices and determinations in connection with any payments of principal and interest on any Term SOFR Loan, Daily Simple SOFR Loan or any Base Rate Loan as to which the interest rate is determined by reference to Adjusted Term SOFR, any day that is a Business Day described in clause (a) and that is also a U.S. Government Securities Business Day.

"Capital Lease" means, at any time, a lease with respect to which the lessee is required concurrently to recognize the acquisition of an asset and the incurrence of a liability in accordance with GAAP; provided that, notwithstanding the foregoing, any obligations of a Person under a lease (whether existing now or entered into in the future) that is not (or would not be) a Capital Lease under GAAP as in effect on February 25, 2016 shall not be treated as a Capital Lease solely as a result of changes in GAAP, including, without limitation, those described in the Accounting Standards Update to Leases (Topic 842) issued on February 25, 2016 by the Financial Accounting Standards Board.

"Capital Stock" means (a) in the case of a corporation, capital stock, (b) in the case of an association or business entity, any and all shares, interests, participations, rights or other equivalents (however designated) of capital stock, (c) in the case of a partnership, partnership interests (whether general or limited), (d) in the case of a limited liability company, membership interests, (e) any other interest (including Preferred Interests) or participation in a Person that confers on the holder thereof the right to receive a share of the profits and losses of, or distributions of assets of, the issuing Person and (f) any and all warrants, rights or options to purchase any of the foregoing (other than Debt securities convertible into an equity interest).

"Cash Collateralize" means, in respect of any obligations, to provide and pledge (as a first priority perfected security interest) cash collateral for such obligations in Dollars with the Administrative Agent pursuant to documentation (which shall permit certain investments in cash equivalents reasonably satisfactory to the Administrative Agent, until the proceeds are applied to such obligations) in form and substance reasonably satisfactory to the Administrative Agent (and "Cash Collateral," "Cash Collateralized" and "Cash Collateralization" have the corresponding meanings).

"Cash Management Arrangement" means any agreement or other arrangement governing the provision of treasury or cash management services, including deposit accounts, overdraft, funds transfer, automated clearinghouse, zero balance accounts, cash pooling (including notional cash pooling), returned check, concentration, controlled disbursement, lockbox, account reconciliation and reporting, trade finance services, commercial credit cards, merchant card services, purchase or debit cards (including non-card e-payables services), and any other deposit or operating account relationships or other treasury, cash management or similar services, and in each case including any associated lines or extensions of credit and related customary collateral and security arrangements.

"CET1 Ratio" means the "common equity tier 1 capital ratio" (expressed as a percentage rounded to two decimal places), as defined by, and calculated in accordance with, the then-current U.S. federal Bank Regulatory Authority capital requirements applicable to each Insured Subsidiary.

"Change in Law" means (a) the adoption of any applicable law, rule or regulation after the Closing Date, (b) any change in any applicable law, rule or regulation, or any change in the interpretation, implementation or application thereof, by any Governmental Authority after the Closing Date, or (c) compliance by any Bank (or its Applicable Lending Office) or any Letter of Credit Issuer (or, for purposes of Section 8.3(b), by the Parent of such Bank or any Letter of Credit Issuer, if applicable) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the Closing Date; provided that for purposes of this Agreement, (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives in connection therewith and (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means the acquisition by 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) at any time of beneficial ownership of 35% or more of the outstanding Voting Stock of the Borrower on a fully-diluted basis; provided, that common stock owned by employees (either individually or through employee stock ownership or other stock-based benefit plans) of the Borrower and its Subsidiaries shall not be included in the calculation of ownership interests for purposes of this definition or any "change of control."

"Class" means, when used in reference to any Loan, whether such Loan is a Revolving Loan, Swing Loan or Term Loan and, when used in reference to any Commitment, whether such Commitment is a Revolving Credit Commitment or a Term Loan Commitment.

"Closing Date" means June 7, 2023.

"Code" means the U.S. Internal Revenue Code of 1986, as amended from time to time, and the regulations promulgated and rulings issued thereunder. Section references to the Code are to the Code, as in effect on the Closing Date and any subsequent provisions of the Code, amendatory thereof, supplemental thereto or substituted therefor.

"Comenity Bank" means Comenity Bank, a Delaware state-chartered bank indirectly wholly-owned by the Borrower, including its successors and assigns.

"Comenity Capital Bank" means Comenity Capital Bank, a Utah industrial bank indirectly wholly-owned by the Borrower, including its successors and assigns.

"Commitments" means the Revolving Credit Commitments and the Term Loan Commitments.

"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.

"Conforming Changes" means, 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 "Base Rate," the definition of "Business Day," the definition of "U.S. Government Securities Business Day," the definition of "Interest Period" or any similar or analogous definition (or the addition of a concept of "interest period"), 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 Section 2.13 and other technical, administrative or operational matters) that the Administrative Agent (in consultation with the Borrower) reasonably decides may be appropriate to reflect the adoption and implementation of any such rate or to permit the use and 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 any such rate exists, in such other manner of administration as the Administrative Agent reasonably decides is reasonably necessary in connection with the administration of this Agreement and the other Credit Documents).

"Consolidated Net Income" of any Person means, for any fiscal period, the net income of such Person and its Consolidated Subsidiaries, determined on a consolidated basis for such period, exclusive of the effect of any extraordinary or other nonrecurring gain and loss and excluding all non-cash adjustments; provided that any cash payment made (or received) with respect to any such non-cash charge, expense or loss shall be subtracted (added) in computing Consolidated Net Income during the period in which such cash payment is made (or received).

"Consolidated Subsidiary" of any Person means, at any date, any Subsidiary or other entity the accounts of which would be consolidated with those of such Person in its consolidated financial statements if such statements were prepared as of such date.

"Consolidated Tangible Net Worth" means, as of any date of determination, stockholders' equity of the Borrower and its consolidated Subsidiaries minus the sum of intangible assets (net) and goodwill, in each case as those items appear on the consolidated balance sheet of the Borrower and its consolidated Subsidiaries on such date, all as determined in accordance with GAAP.

"Consolidated Total Assets" of any Person means total assets of such Person and its Subsidiaries, determined on a consolidated basis in accordance with GAAP less any amount of assets reflected therein to the extent that they have been sold or pledged pursuant to a Qualified Securitization Transaction on a balance sheet of such Person, all as determined in accordance with GAAP.

"Convertible Debt" means Debt issued by the Borrower (including any Subsidiary Guaranty thereof) which by its terms may be converted into or exchanged for equity securities of the Borrower or other securities or property following a merger event, reclassification or other change of the equity securities of the Borrower at the option of the Borrower or the holder of such Debt, including without limitation, Debt with respect to which the performance due by the Borrower may be measured in whole or in part by reference to the value of an equity security of the Borrower but may be satisfied in whole or in part in cash or a combination of cash and shares of such equity security (or other securities or property).

"Credit" means either the Revolving Credit or the Term Credit.

"Credit Document" means this Agreement, the Notes and each other document (including any additional guarantees) executed or delivered in connection herewith or therewith.

"Credit Party" means the Borrower and each Guarantor.

"Cumulative Available Amount" means the sum of (i) $100,000,000 per fiscal year, commencing with the fiscal year that commenced on January 1, 2023, (ii) the aggregate amount of Net Cash Proceeds received by the Borrower from Capital Stock issuances after the Closing Date (other than any issuance of Redeemable Stock), (iii) the aggregate amount received by the Borrower in cash as returns on Investments that were originally made in reliance on the Cumulative Available Amount and (iv) 50% of Consolidated Net Income of the Borrower and its consolidated Subsidiaries determined in accordance with GAAP for each fiscal quarter of the Borrower ending after the Closing Date; *minus* (i) any amount of the Cumulative Available Amount used to make Restricted Payments pursuant to Section 5.16(a)(v) after the Closing Date and prior to such time and (ii) any amount of the Cumulative Available Amount used to make Investments pursuant to Section 5.18(p) after the Closing Date and prior to such time.

"Daily Simple SOFR Loan" means any Loan bearing interest at a rate based on Adjusted Daily Simple SOFR, as provided in Section 2.6.

"Debt" of any Person means at any date, without duplication (a) all obligations of such Person for borrowed money, (b) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (c) all obligations of such Person to pay the deferred purchase price of property, except trade accounts payable arising in the ordinary course of business, (d) all obligations of such Person as lessee in respect of Capital Leases, (e) all non-contingent obligations (and, for purposes of Section 5.9, Section 5.14 and the definition of "Material Financial Obligations," all contingent obligations) of such Person to reimburse any bank or other Person in respect of amounts paid under a letter of credit or similar instrument, (f) all Debt secured by a Lien on any asset of such Person, whether or not such Debt is otherwise an obligation of such Person (and if such Debt is not otherwise an obligation of such Person, valued at the lesser of the amount of such Debt and the fair market value of the assets subject to such Lien), (g) all Debt of others Guaranteed by such Person (and if such Guaranty is limited, valued at the lesser of the amount of such Debt and the maximum amount of such Guaranty) and (h) Redeemable Stock of the Borrower or any of its Subsidiaries, valued at the amount of all obligations with respect to the redemption or repurchase thereof or the applicable liquidation preference. Notwithstanding the foregoing, there shall be excluded from Debt of any Person (i) any obligations of such Person under a Qualified Securitization Transaction that might otherwise constitute Debt of such Person, (ii) any obligations of such Person in respect of Qualifying Deposits, (iii) obligations arising out of the endorsement of negotiable instruments for collection in the ordinary course of business, (iv) customary indemnification obligations, (v) post-closing payments in connection with acquisitions and dispositions of assets in the form of purchase price adjustments, deferred compensation and similar obligations; provided that, at the time of closing of such acquisition or disposition, the amount of any such obligation is not determinable and, to the extent such obligation thereafter becomes fixed and finally determined, the amount is paid within 60 days thereafter, (vi) any earn-out obligation until such obligation appears in the liabilities section of the balance sheet of such Person, and (vii) obligations under or in connection with Cash Management Arrangements entered into in the ordinary course of business that might otherwise constitute Debt of such Person; provided, that any obligation described in clause (v) or (vi) above shall be excluded from Debt to the extent (A) such Person is indemnified for the payment thereof by a solvent Person or (B) amounts to be applied to the payment therefor are in escrow. For the avoidance of doubt, a Permitted Warrant Transaction shall not constitute Debt of the Borrower.

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

"Defaulting Bank" means, at any time, subject to Section 2.17(b), (a) any Bank that has failed for two (2) or more Business Days to comply with its obligations under this Agreement (i) to make a Loan unless such Bank has notified the Administrative Agent and the Borrower in writing that such failure is the result of such Bank's good faith determination that one or more conditions precedent to funding has not been satisfied (which conditions precedent, together with any applicable Default, will be specifically identified in such writing), (ii) to make a payment to the Letter of Credit Issuer in respect of a Letter of Credit or to the Swing Lender in respect of a Swing Loan or (iii) to make any other payment due hereunder, unless the subject of a good faith dispute (each a "funding obligation"), (b) any Bank that has notified the Administrative Agent in writing, or has stated publicly, that it does not intend to comply with any such funding obligation hereunder, unless such writing or public statement states that such position is based on such Bank's determination that one or more conditions precedent to funding cannot be satisfied (which conditions precedent, together with any applicable Default, will be specifically identified in such writing or public statement), (c) any Bank that has, for three (3) or more Business Days after written request of the Administrative Agent or the Borrower, failed to confirm in writing to the Administrative Agent and the Borrower that it will comply with its prospective funding obligations hereunder (provided that such Bank will cease to be a Defaulting Bank pursuant to this clause (c) upon the Administrative Agent's and the Borrower's receipt of such written confirmation), (d) any Bank with respect to which a Bank Insolvency Event has occurred and is continuing or (e) any Bank that becomes the subject of a Bail-In Action. Any determination reasonably made by the Administrative Agent that a Bank is a Defaulting Bank will be conclusive and binding, absent manifest error, and such Bank shall be deemed to be a Defaulting Bank (subject to Section 2.17(b)).

"Delinquency Ratio" means, for any calendar month, the percentage equivalent of a fraction (a) the numerator of which is the aggregate amount of all Managed Receivables the minimum payments on which are more than ninety (90) days contractually overdue and (b) the denominator of which is all Managed Receivables, in each case determined as of the last day of such calendar month.

"Derivatives Obligations" of any Person means all obligations of such Person in respect of any rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of the foregoing transactions), any transaction whose value is derived from another asset or security, or any combination of the foregoing transactions; provided, however, that, with respect to any Guarantor, Derivatives Obligations Guaranteed by such Guarantor shall exclude all Excluded Derivative Obligations.

"Dollars", "U.S. Dollars" and "$" means freely transferable lawful money of the United States of America.

"Domestic Lending Office" means, as to each Bank, its office identified as such on its Administrative Questionnaire or such other office as such Bank may hereafter designate as its Domestic Lending Office by notice to the Borrower and the Administrative Agent, which office shall be located in the United States.

"Domestic Subsidiary" means any Subsidiary of the Borrower incorporated or organized in the United States or any state or territory thereof.

"EDGAR" has the meaning set forth in Section 5.1(a).

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

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

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

"Effective Date" means the date all the conditions precedent in Section 3.2 are satisfied or waived in accordance with Section 10.5.

"Electronic Record" has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006.

"Electronic Signature" has the meaning assigned to that term in, and shall be interpreted in accordance with, 15 U.S.C. 7006.

"Eligible Bank" means a bank or trust company (i) that is organized and existing under the laws of the United States of America or Canada, or any state, territory, province or possession thereof or any member state of the European Union, (ii) that, as of the time of the making or acquisition of an Investment in such bank or trust company, has combined capital and surplus in excess of $500.0 million and (iii) the senior Debt of which is rated at least "A-2" by Moody's or at least "A" by S&P.

"Eligible Cash Equivalents" means any of the following Investments: (i) securities issued or directly and fully guaranteed or insured by the United States, Canada or a member state of the European Union or any agency or instrumentality thereof (*provided* that the full faith and credit of the United States, Canada or such member state is pledged in support thereof) maturing not more than one year after the date of acquisition; (ii) time deposits in and certificates of deposit of any Eligible Bank (or in any other financial institution to the extent the amount of such deposit is within the limits insured by the Federal Deposit Insurance Corporation), *provided* that such Investments have a maturity date not more than two years after the date of acquisition and that the weighted average life of all such Investments is one year or less from the respective dates of acquisition; (iii) repurchase obligations with a term of not more than 180 days for underlying securities of the types described in clause (i) above or clause (iv) below entered into with any Eligible Bank or securities dealers of recognized national standing; (iv) direct obligations issued by any state, province or territory of the United States or Canada or any political subdivision or public instrumentality thereof, *provided* that such Investments mature, or are subject to tender at the option of the holder thereof, within 365 days after the date of acquisition and, at the time of acquisition, have a rating of at least A from S&P's or A-2 or P-2 (or long term ratings of at least A3 or A-) from either S&P or Moody's, or with respect to municipal bonds, a rating of at least MIG 2 or VMIG 2 from Moody's (or equivalent ratings by any other nationally recognized rating agency); (v) commercial paper of any Person other than an Affiliate of the Borrower and other than structured investment vehicles, *provided* that such Investments have a rating permissible under clause (iv) above and mature within 270 days after the date of acquisition; (vi) overnight and demand deposits in and bankers' acceptances of any Eligible Bank; (vii) demand deposits in any bank or trust company to the extent insured by the Federal Deposit Insurance Corporation; (viii) in the case of a Foreign Subsidiary or any other Subsidiary that conducts business outside of the United States, demand deposits and time deposits that (a) are denominated in the currency of a country that is a member of the OECD or the currency of the country in which such Subsidiary is organized or conducts business and (b) are consistent with the Borrower's investment policy as in effect from time to time, *provided* that, in the case of time deposits, such Investments have a maturity date not more than two years after the date of acquisition and that the weighted average life of all such time deposits is one year or less from the respective dates of acquisition; (ix) money market funds (and shares of investment companies that are registered under the U.S. Investment Company Act of 1940, as amended) substantially all of the assets of which comprise Investments of the types described in clauses (i) through (vii); (x) United States dollars, or money in other currencies received in the ordinary course of business; (xi) asset-backed securities and corporate securities that are eligible for inclusion in money market funds; (xii) fixed maturity securities that are rated BBB- and above by S&P or Baa3 and above by Moody's; *provided* that the aggregate amount of Investments by any Person in fixed maturity securities that are rated BBB+, BBB or BBB- by S&P or Baa1, Baa2 or Baa3 by Moody's shall not exceed 20% of the aggregate amount of Investments in fixed maturity securities by such Person; and (xiii) instruments generally equivalent or similar to those referred to in clauses (i) through (vii) above or funds generally equivalent or similar to those referred to in clause (ix) above and comparable in credit quality and tenor to those referred to in such clauses and commonly used by corporations for cash management purposes in jurisdictions outside the United States to the extent advisable in connection with any business conducted by the Borrower or by any Subsidiary, all as determined in good faith by the Borrower.

"Eligible Transferee" means and includes a commercial bank, insurance company, financial institution, fund or other Person (other than a natural person, a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person or a Defaulting Bank) which regularly purchases interests in loans or extensions of credit of the types made pursuant to this Agreement, any other Person (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person) which would constitute a "qualified institutional buyer" within the meaning of Rule 144A under the Securities Act of 1933, as amended and as in effect on the Closing Date, or other "accredited investor" (other than a natural person or a holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural person) (as defined in Regulation D of the Securities Act of 1933, as amended and as in effect on the Closing Date).

"Environmental Laws" means any and all federal, state, provincial, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to the environment, the effect of the environment on human health or to emissions, discharges or releases of pollutants, contaminants, Hazardous Substances or wastes into the environment including, without limitation, ambient air, surface water, ground water, or land, or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, Hazardous Substances or wastes or the cleanup or other remediation thereof.

"ERISA" means the U.S. Employee Retirement Income Security Act of 1974, as amended, or any successor statute.

"ERISA Group" of any Person means such Person, any Subsidiary and all members of a controlled group of corporations and all trades or businesses (whether or not incorporated) under common control which, together with the Borrower or any Subsidiary, are treated as a single employer under Section 414 of the Code.

"Erroneous Payment" has the meaning assigned thereto in Section 7.13(a).

"Erroneous Payment Deficiency Assignment" has the meaning assigned thereto in Section 7.13(d).

"Erroneous Payment Impacted Class" has the meaning assigned thereto in Section 7.13(d).

"Erroneous Payment Return Deficiency" has the meaning assigned thereto in Section 7.13(d).

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

"Event of Default" has the meaning set forth in Section 6.1.

"Excluded Derivative Obligation" means, with respect to any Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Guarantor of such Swap Obligation (or any Guaranty 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 not to constitute an "eligible contract participant" as defined in the Commodity Exchange Act and the regulations thereunder at the time the Guaranty of such Guarantor becomes effective with respect to such related 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 Guaranty is or becomes illegal.

"Existing Credit Agreement" means that certain Amended and Restated Credit Agreement dated as of June 14, 2017 (as amended pursuant to the First Amendment dated as of June 16, 2017, the Second Amendment dated as of July 5, 2018, the Third Amendment, dated as of April 30, 2019, the Fourth Amendment, dated as of December 20, 2019, the Fifth Amendment, dated as of February 13, 2020, the Sixth Amendment, dated as of September 22, 2020, the Seventh Amendment, dated as of July 9, 2021 and the Eighth Amendment, dated as of December 13, 2022), by and among the Borrower, the guarantors from time to time party thereto, the financial institutions from time to time party thereto, and Wells Fargo Bank, as the Administrative Agent for such financial institutions.

"Extended Maturity Date" has the meaning set forth in Section 2.18.

"Extended Revolving Credit Commitment" means, with respect to any Extending Revolving Credit Bank at any time, the portion of such Bank's Revolving Credit Commitment extended pursuant to Section 2.18.

"Extended Term Loan" means, with respect to any Extending Term Loan Bank at any time, the portion of such Bank's outstanding Term Loan extended pursuant to Section 2.18.

"Extending Revolving Credit Bank" means any Bank that has agreed to extend all or a portion of its Revolving Credit Commitment until an Extended Maturity Date pursuant to Section 2.18.

"Extending Term Loan Bank" means any Bank that has agreed to extend all or a portion of its outstanding Term Loan until an Extended Maturity Date pursuant to Section 2.18.

"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 and any agreements entered into pursuant to Section 1471(b)(1) of the Code.

"Federal Funds Rate" means, for any day, the rate per annum (rounded upward, if necessary, to the nearest 1/100th of 1%) equal to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, that (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate quoted to the Administrative Agent on such day on such transactions as determined by the Administrative Agent. Notwithstanding the foregoing, if the Federal Funds Rate shall be less than zero, such rate shall be deemed to be zero for purposes of this Agreement.

"Financial Covenants" shall mean the covenants set forth in Sections 5.11, 5.13, 5.13A and 5.13B.

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

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

"Foreign Subsidiary" means each Subsidiary of the Borrower other than a Domestic Subsidiary.

"FRB" means the Board of Governors of the Federal Reserve System of the United States (or any successor thereto).

"Fronting Exposure" means, at any time there is a Defaulting Bank, (a) with respect to any Letter of Credit Issuer, such Defaulting Bank's Revolver Percentage of the Letter of Credit Outstandings with respect to Letters of Credit issued by such Letter of Credit Issuer other than Letter of Credit Outstandings as to which such Defaulting Bank's participation obligation has been reallocated to other Banks or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swing Lender, such Defaulting Bank's Revolver Percentage of outstanding Swing Loans made by the Swing Lender other than Swing Loans as to which such Defaulting Bank's participation obligation has been reallocated to other Banks.

"Fronting Fee" has the meaning set forth in Section 2.7(c).

"GAAP" has the meaning set forth in Section 1.2.

"Governmental Authority" means the government of the United States, 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 applicable supranational bodies (such as the European Union or the European Central Bank).

"Granting Bank" has the meaning set forth in Section 10.6(e).

"Guaranteed Obligations" has the meaning set forth in Section 9.1.

"Guarantor" means each Subsidiary of the Borrower that is listed as a Guarantor on the signature pages hereof or that becomes a Guarantor from time to time after the Closing Date pursuant to Section 5.20, in each case unless and until released pursuant to Section 5.20.

"Guarantor Supplement" means an appropriately completed Guarantor Supplement substantially in the form of Exhibit C hereto.

"Guaranty" by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, of such Person (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (b) entered into for the purpose of assuring in any other manner the holder of such Debt of the payment thereof to protect such holder against loss in respect thereof (in whole or in part), provided, that the term Guaranty shall not include endorsements for collection or deposit in the ordinary course of business. The term "Guarantee" used as a verb has a corresponding meaning.

"Hazardous Substances" means any toxic, radioactive, caustic or otherwise hazardous substance, including petroleum, its derivatives, by-products and other hydrocarbons, or any substance having any constituent elements displaying any of the foregoing characteristics.

"Hostile Acquisition" means the acquisition of the Capital Stock of a Person through a tender offer or similar solicitation of the owners of such Capital Stock that has not been approved (prior to such acquisition) by resolutions of the board of directors of such Person or by similar action if such Person is not a corporation, and as to which such approval has not been withdrawn.

"Incremental Amendment" has the meaning set forth in Section 2.16(c).

"Incremental Facility" has the meaning set forth in Section 2.16(a).

"Indemnitee" has the meaning set forth in Section 10.3(b).

"Insured Subsidiary" means a Subsidiary of the Borrower that is an "insured depository institution" under and as defined in the U.S. Federal Deposit Insurance Act (12 U.S.C. §1813(c)(2)) or any successor statute or that has an analogous status under the laws of Canada or any other country that is a member of the OECD or any political subdivision of any such country. As of the Closing Date, Comenity Bank and Comenity Capital Bank are Insured Subsidiaries.

"Insured Subsidiary Cash" means (a) cash and balances due from depository institutions, including, without limitation, noninterest-bearing balances and currency and coin and interest-bearing balances, and (b) available-for-sale securities constituting Eligible Cash Equivalents, in each case owned by, held by, or owing to, an Insured Subsidiary.

"Interest Period" means with respect to each Term SOFR Loan, the period commencing on the date of borrowing specified in the applicable Notice of Borrowing or on the date specified in the applicable Notice of Interest Period Election and ending one (1), three (3) or six (6) months thereafter, as the Borrower may elect in the applicable notice (or such other period as requested by the Borrower and agreed to by the applicable Banks); provided that:

(a) the Interest Period shall commence on the date of advance of or conversion to any Term SOFR Loan and, in the case of immediately successive Interest Periods, each successive Interest Period shall commence on the date on which the immediately preceding Interest Period expires;

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

(c) any Interest Period which begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (c) below, end on the last Business Day of a calendar month;

(d) any Interest Period for (i) any Loan (other than an Extended Term Loan) that would otherwise end after the Maturity Date shall end on the Maturity Date (unless such date is not a Business Day, in which case such Interest Period shall end on the latest Business Day to occur prior to the Maturity Date) and (ii) an Extended Term Loan that would otherwise end after the applicable Extended Maturity Date shall end on such Extended Maturity Date (unless such date is not a Business Day, in which case such Interest Period shall end on the latest Business Day to occur prior to such Extended Maturity Date);

(e) no tenor that has been removed from this definition pursuant to Section 8.8(c)(iv) shall be available for specification in any Notice of Borrowing or Notice of Interest Period Election.

"Investment" means any Acquisition or other investment in any Person, whether by means of share purchase, capital contribution, loan, Guaranty, time deposit or otherwise (but not including any demand deposit).

"Investment Grade Rating" means a rating equal to or higher than Baa3 (or the equivalent) by Moody's Investors Service, Inc. or any successor to its rating agency business and BBB- (or the equivalent) by Standard & Poor's, a division of The McGraw Hill Companies, Inc., or any successor to its rating agency business, or an equivalent rating by a "nationally recognized statistical rating organization" as defined in Section 3 of the Securities Exchange Act of 1934, as amended.

"L/C Participant" has the meaning set forth in Section 2A.5.

"L/C Supportable Obligations" means and includes obligations of the Borrower or its Subsidiaries incurred in the ordinary course of business as are reasonably acceptable to the Administrative Agent and the respective Letter of Credit Issuer and otherwise permitted to exist pursuant to the terms of this Agreement.

"Letter of Credit" has the meaning set forth in Section 2A.1(a).

"Letter of Credit Commitment" means U.S. $30,000,000 as the same may be reduced from time to time pursuant to Section 2.8.

"Letter of Credit Fee" has the meaning set forth in Section 2.7(b).

"Letter of Credit Issuer" means JPMorgan Chase Bank, N.A. in its individual capacity and any other Bank which at the request of the Borrower and with the consent of the Administrative Agent (in the Administrative Agent's reasonable discretion) agrees, in such Bank's sole discretion, to become a Letter of Credit Issuer for the purpose of issuing Letters of Credit.

"Letter of Credit Outstandings" means, at any time, the sum of, without duplication, (a) the aggregate Stated Amount of all outstanding Letters of Credit and (b) the aggregate Unpaid Drawings in respect of all Letters of Credit.

"Letter of Credit Request" has the meaning set forth in Section 2A.3(a).

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, hypothec, security interest or encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such asset. For the purposes of this Agreement, the Borrower or any Subsidiary shall be deemed to own subject to a Lien any asset which it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset.

"Limited Condition Transaction" means (i) any acquisition (including by way of merger) or similar Investment by the Borrower or one or more of its Subsidiaries, in each case whose consummation is not conditioned on the availability of, or on obtaining, third party financing (it being understood that such transaction may be subject to other conditions precedent, which conditions precedent may be amended, satisfied or waived in accordance with the terms of the applicable agreement) or (ii) redemption or repayment of Debt requiring irrevocable notice in advance of such redemption or repayment (provided that, solely for purposes of Section 3.3, such redemption or repayment does not need to require irrevocable notice in advance of such redemption or repayment).

"Liquidity" means, at any date of determination, the sum of (i) the amount of unrestricted cash and Eligible Cash Equivalents of the Credit Parties on such date and (ii) the aggregate unused amount of the Revolving Credit Commitments then in effect (but only to the extent that the Borrower, in its good faith judgment, could satisfy the conditions to borrowing at such time).

"Loan" means any Revolving Loan, Swing Loan or Term Loan made pursuant to Section 2.1; provided, that if any such Loan or Loans (or portions thereof) are combined or subdivided pursuant to a Notice of Interest Period Election, the term "Loan" shall refer to the combined principal amount resulting from such combination or to each of the separate principal amounts resulting from such subdivision, as the case may be.

"Managed Receivables" of any Person means for any date the principal amount of all Securitization Assets originated or acquired by such Person as of such date regardless of whether such Securitization Assets are determined, with respect to such Person's financial statements, to be "on-balance sheet" or "off-balance sheet."

"Material Adverse Effect" means (a) a material adverse change in, or material adverse effect upon, the business, financial condition or operations of the Borrower and its Consolidated Subsidiaries taken as a whole, (b) a material impairment of the ability of the Borrower and the Guarantors to perform their material obligations under the Credit Documents or (c) a material adverse effect upon the legality, validity, binding effect or enforceability against the Credit Parties of the Credit Documents or the material rights and remedies of the Administrative Agent and the Banks thereunder.

"Material Asset" means an asset or assets having a fair market value in excess of $50,000,000.

"Material Domestic Subsidiary" means each Domestic Subsidiary that is a Material Subsidiary.

"Material Financial Obligations" of any Person means a principal or face amount of Debt and/or payment or collateralization obligations in respect of Derivatives Obligations of such Person and/or one or more of its Subsidiaries, arising in one or more related or unrelated transactions, exceeding in the aggregate U.S. $150,000,000.

"Material Plan" means, at any time, a Plan or Plans having aggregate Unfunded Liabilities in excess of U.S. $150,000,000.

"Material Subsidiary" means (a) each Insured Subsidiary and (b) each direct or indirect Subsidiary which, together with its Subsidiaries, (i) owned as of the end of the most recently completed fiscal quarter (or, in the case of an acquired Subsidiary, on a pro forma basis would have owned) assets that represent in excess of 5% of the Consolidated Total Assets of the Borrower and its Consolidated Subsidiaries (including the total assets of each Insured Subsidiary and each Qualified Securitization Entity) as of the end of such fiscal quarter or (ii) generated (or, in the case of an acquired Subsidiary, on a pro forma basis would have generated) annual revenues in excess of 5% of the consolidated total revenues for the Borrower and its Consolidated Subsidiaries (including each Insured Subsidiary and each Qualified Securitization Entity) for the most recently completed fiscal year; provided that if, at any time and from time to time, Subsidiaries that are not Guarantors solely because they do not meet the thresholds set forth in clause (b)(i) or (b)(ii) above comprise in the aggregate on a pro forma basis more than (when taken together with the total assets of the Subsidiaries of such Subsidiaries as of the end of the most recently completed fiscal quarter) 10.0% of the Consolidated Total Assets of the Borrower and its consolidated Subsidiaries (including the total assets of each Insured Subsidiary and each Qualified Securitization Entity) as of the end of such fiscal quarter or more than (when taken together with the total revenues of the Subsidiaries of such Subsidiaries as of the end of the most recently completed fiscal year) 10.0% of the consolidated total revenues for the Borrower and its Consolidated Subsidiaries (including each Insured Subsidiary and each Qualified Securitization Entity) for the most recently completed fiscal year, then the Borrower shall, not later than 45 days after the date by which financial statements for the most recently completed fiscal quarter were required to be delivered (or such longer period as the Administrative Agent may agree in its reasonable discretion), (i) designate in writing to the Administrative Agent one or more of such Subsidiaries as "Material Subsidiaries" to the extent required such that the foregoing condition ceases to be true and (ii) cause such Subsidiary to become a Guarantor and comply with the requirements set forth in Section 5.20.

"Maturity Date" means the date that is three (3) years after the Effective Date.

"Moody's" means Moody's Investors Service, Inc. and any successor to its rating agency business.

"Multiemployer Plan" means at any time an employee pension benefit plan within the meaning of Section 4001(a)(3) of ERISA to which any member of the ERISA Group is then making or accruing an obligation to make contributions or has within the preceding five plan years made contributions, including for these purposes any Person which ceased to be a member of the ERISA Group during such five year period.

"Net Cash Proceeds" means (1) with respect to any sale, lease or other transfer of assets, the gross proceeds received by the Credit Parties and their Subsidiaries therefrom (including any cash, Eligible Cash Equivalents, deferred payment pursuant to, or by monetization of, a note receivable or otherwise, as and when received) less the sum of (i) the fees, costs and expenses relating to such sale or other transfer, including legal, accounting and investment banking fees, and brokerage and sales commissions, survey costs, title insurance premiums, and related search and recording charges, transfer taxes, deed or mortgage recording taxes, other customary expenses and consultant and other customary fees, and any relocation expenses incurred as a result thereof, (ii) taxes paid or reasonably estimated to be payable as a result thereof (including, in respect of any proceeds received in connection with any sale or other transfer of or by any Foreign Subsidiary or of any asset located or deemed located outside of the United States, deductions in respect of withholding taxes and similar taxes, fees, charges and penalties payable in connection with repatriation of such funds to the United States), provided that if any such estimated taxes exceed the amount of actual taxes required to be paid in cash in respect of such transaction, the amount of such excess shall constitute Net Cash Proceeds, (iii) distributions and other payments required to be made to holders of minority interests, royalty interests, stock appreciation rights or similar rights or interests in Subsidiaries or the assets or properties thereof as a result of such transaction, (iv) amounts required to be applied to the payment of principal, premium, if any, and interest on Debt (other than Debt under the Credit Documents) secured by a Lien on such sold or otherwise transferred assets (or a portion thereof), which Debt is required to be paid as a result of such transaction, and (v) deduction of appropriate amounts to be provided by the Credit Parties or any of their Subsidiaries as a reserve in accordance with GAAP against any liabilities associated with the sold or otherwise transferred asset and retained by the Credit Parties or any of their Subsidiaries after such sale or other transfer thereof, including pension and other post-employment benefit liabilities, liabilities related to environmental matters, indemnification obligations associated with such transaction and purchase price adjustments, provided that, to the extent and at the time any such amounts are released from such reserve, such released amounts shall constitute Net Cash Proceeds and (2) with respect to any issuance or incurrence of Debt (including Convertible Debt) or Capital Stock, the gross cash proceeds received by the Credit Parties and their Subsidiaries therefrom, net of all taxes and fees, commissions, costs, underwriting discounts and other fees and expenses incurred in connection therewith and, in the case of Convertible Debt, net of the payment of the premium for any related Permitted Convertible Debt Hedge Transaction. For the avoidance of doubt, any proceeds received upon the settlement, termination or unwind (whether optional or mandatory) of any Permitted Convertible Debt Hedge Transaction or any proceeds received from the sale of any Permitted Warrant Transaction shall be deemed not to give rise to "Net Cash Proceeds" hereunder.

"Non-Consenting Bank" means any Bank that does not approve any consent, waiver or amendment that (a) requires the approval of all Banks or all affected Banks in accordance with the terms of Section 10.5 and (b) has been approved by the Required Banks.

"Non-Defaulting Bank" means, at any time, a Bank that is not a Defaulting Bank.

"Non-Extended Term Loan" means any outstanding Term Loan that is not an Extended Term Loan.

"Note" has the meaning set forth in Section 2.4(d).

"Notice of Borrowing" has the meaning set forth in Section 2.2.

"Notice of Interest Period Election" has the meaning set forth in Section 2.9.

"Obligations" means (a) all amounts owing to the Administrative Agent or any Bank pursuant to the terms of this Agreement or any other Credit Document and (b) so long as there are amounts owing under clause (a), Derivatives Obligations (other than any Permitted Convertible Debt Hedge Transaction or any Permitted Warrant Transaction) from time to time owed to a Person that, at the time of incurrence thereof, was a Bank or an Affiliate of a Bank.

"OECD" means the Organization for Economic Co-operation and Development.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Asset Control.

"Other Taxes" has the meaning set forth in Section 8.4(a).

"Parent" means, with respect to any Bank, any Person controlling such Bank.

"Participant" has the meaning set forth in Section 10.6(b).

"Participant Register" has the meaning set forth in Section 10.6(b).

"Patriot Act" means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) as amended and in effect from time to time.

"Payment Office" means the office of the Administrative Agent located at JPMorgan Chase Bank, N.A., Attention: Loan and Agency Servicing, 131 S Dearborn St, Floor 04, Chicago, IL, 60603-5506, or such other office as the Administrative Agent may hereafter designate in writing as such to the other parties hereto.

"Payment Recipient" has the meaning assigned thereto in Section 7.13(a).

"PBGC" means the Pension Benefit Guaranty Corporation or any entity succeeding to any or all of its functions under ERISA.

"Percentage" means for any Bank its Revolver Percentage or Term Loan Percentage, as applicable; and where the term "Percentage" is applied on an aggregate basis, such aggregate percentage shall be calculated by aggregating the separate components of the Revolver Percentage and Term Loan Percentage, and expressing such components on a single percentage basis.

"Permitted Acquisition" means any Acquisition permitted pursuant to Section 5.18(c).

"Permitted Convertible Debt Hedge Transaction" means any call or capped call option (or substantively equivalent derivative transaction) relating to the Borrower's equity securities (or other securities or property following a merger event, reclassification or other change of the equity securities of the Borrower) purchased by the Borrower in connection with the issuance of any Convertible Debt that is a Specified Incurrence or otherwise permitted under Section 5.14 and settled in equity securities of the Borrower (or such other securities or property), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower's equity securities or such other securities or property), and cash in lieu of fractional shares of equity securities of the Borrower.

"Permitted Warrant Transaction" means any call option, warrant or right to purchase (or substantively equivalent derivative transaction) relating to the Borrower's equity securities (or other securities or property following a merger event, reclassification or other change of the equity securities of the Borrower) sold by the Borrower substantially concurrently with any purchase by the Borrower of a Permitted Convertible Debt Hedge Transaction and settled in equity securities of the Borrower (or such other securities or property), cash or a combination thereof (such amount of cash determined by reference to the price of the Borrower's equity securities or such other securities or property), and cash in lieu of fractional shares of equity securities of the Borrower.

"Person" means an individual, a corporation, a limited liability company, a partnership, an association, a trust or any other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Plan" means at any time an employee pension benefit plan (other than a Multiemployer Plan) which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code and either (a) is maintained, or contributed to, 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, or contributed to, by any Person which was at such time a member of the ERISA Group for employees of any Person which was at such time a member of the ERISA Group.

"Preferred Interests" as applied to the Capital Stock in any Person, means Capital Stock in such Person of any class or classes (however designated) that rank prior, as to the payment of dividends or as to the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of such Person, to shares of common Capital Stock in such Person.

"Prime Rate" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the U.S. or, if The Wall Street Journal ceases to quote such rate, the highest per annum interest rate published by the FRB in Federal Reserve Statistical Release H.15 (519) (Selected Interest Rates) as the "bank prime loan" rate or, if such rate is no longer quoted therein, any similar rate quoted therein (as determined by the Administrative Agent) or any similar release by the FRB (as determined by the Administrative Agent). Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

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

"Qualified ECP Guarantor" means, in respect of any Derivative Obligation, each Credit Party that at the time the relevant Guaranty becomes effective with respect to such Derivative Obligation 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 Securitization Entity" means a Person that is a special purpose entity used in connection with a Qualified Securitization Transaction.

"Qualified Securitization Transaction" means a securitization or other sale or financing of Securitization Assets.

"Qualifying Deposits" means deposits that (a) are of a type that are, or in the case of an eligible depositor would be, eligible to be insured by the U.S. Federal Deposit Insurance Corporation (or, in the case of an Insured Subsidiary organized under the laws of Canada or any other country that is a member of the OECD or any political subdivision of any such country, the Canada Deposit Insurance Corporation or any similar or corresponding entity or fund) or any successor entity or fund and (b) do not exceed the amount equal to (i) the sum of (A) the amount of Securitization Assets net of the allowance for doubtful accounts plus (B) Insured Subsidiary Cash at Insured Subsidiaries minus (ii) the aggregate amount of bonds and notes that are based on one or more pools of Securitization Assets, or collateralized by the cash flows from one or more pools of Securitization Assets, in each case as shown on the consolidated balance sheet of the Borrower and its Subsidiaries, or, in the case of Insured Subsidiary Cash, as shown on the balance sheet in the Consolidated Reports of Condition and Income for A Bank With Domestic Offices Only - FFIEC 041 for such Insured Subsidiary or other similar report prescribed by the Federal Financial Institutions Examination Council or replacement agency.

"Quarterly Date" has the meaning set forth in Section 2.6(a).

"Redeemable Stock" means Capital Stock of the Borrower or any of its Subsidiaries that is redeemable at the option of the holder thereof or that constitutes preferred stock.

"Refinanced Term Loans" has the meaning set forth in Section 10.5.

"Refunded Swing Loans" has the meaning set forth in Section 2.1(d).

"Refunding Date" has the meaning set forth in Section 2.1(e).

"Refunding Swing Loan" has the meaning set forth in Section 2.1(d).

"Regulation U" means Regulation U of the FRB, as in effect from time to time.

"Related Transaction" means, with respect to any Limited Condition Transaction, (i) any incurrence of Debt or Liens and (ii) any making of Restricted Payments, dispositions, Permitted Acquisitions or other Investments, in each case of clauses (i) and (ii), undertaken in connection with such Limited Condition Transaction.

"Relevant Governmental Body" means the FRB or the Federal Reserve Bank of New York, or a committee officially endorsed or convened by the FRB or the Federal Reserve Bank of New York, or any successor thereto.

"Replacement Term Loans" has the meaning set forth in Section 10.5.

"Required Banks" means, as of the date of determination thereof, Non-Defaulting Banks whose outstanding Revolving Loans and Term Loans and interests in Letters of Credit and Swing Loans, and Unused Revolving Credit Commitments and unused Term Loan Commitments constitute more than 50% of the sum of the total outstanding Revolving Loans and Term Loans, interests in Letters of Credit and Swing Loans, and Unused Revolving Credit Commitments and unused Term Loan Commitments of the Non-Defaulting Banks.

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

"Restricted Payment" means (a) any dividend or other distribution on any shares of a Person's (including any Credit Party's) Capital Stock (except dividends or distributions payable solely in shares of its Capital Stock and except dividends and distributions payable to the Borrower or any of its Subsidiaries) or (b) any payment on account of the purchase, redemption, retirement or acquisition of (i) any shares of a Person's (including any Credit Party's) Capital Stock or (ii) any option, warrant or other right to acquire shares of a Person's Capital Stock, but in each case not including (A) payments of cash, shares of the Borrower's Capital Stock (or other securities or property following a merger event, reclassification or other change of the equity securities of the Borrower) or a combination thereof made pursuant to the terms of Convertible Debt prior to or in connection with conversion, redemption, repurchase or maturity thereof, (B) payments made to the Borrower or any of its Subsidiaries, (C) payments made solely in shares of (or solely out of the net proceeds of a substantially concurrent issuance of) such Person's (including any Credit Party's) Capital Stock or options, warrants or other rights to acquire shares of such Persons' (including any Credit Party's) Capital Stock and (D) dividends, distributions and other payments occurring or deemed to occur upon (1) the exercise by the holder thereof of stock options, warrants or other convertible or exchangeable securities or (2) the withholding of a portion of any stock options, warrants or other convertible or exchangeable securities to pay for taxes payable on account of such grant or award or the exercise thereof.

"Revolver Percentage" means at any time for each Bank with a Revolving Credit Commitment, the percentage obtained by dividing such Bank's Revolving Credit Commitment by the Total Revolving Credit Commitment, provided that if the Total Revolving Credit Commitment has been terminated, the Revolver Percentage of each Bank shall be determined by dividing the percentage held by such Bank (including through participation interests in Letter of Credit Outstandings and Swing Loans) of the aggregate principal amount of all Revolving Loans, Swing Loans and Letter of Credit Outstandings.

"Revolving Credit" means the credit facility for making Revolving Loans and Swing Loans and issuing Letters of Credit described in Sections 2.1(a), 2.1(c) and 2A.1 hereof.

"Revolving Credit Commitment" means, (a) with respect to each Bank listed on the signature pages hereof, the amount set forth opposite its name on Schedule I hereto under the heading "Revolving Credit Commitment," (b) with respect to each assignee that becomes a Bank pursuant to Section 10.6(c), the amount of the Revolving Credit Commitment thereby assumed by it, and (c) with respect to any Bank that becomes a "Bank" pursuant to Section 2.16, the amount of such Bank's Revolving Credit Commitment set forth in the applicable Incremental Amendment, in each case as such amount may be increased pursuant to Section 2.16, increased or reduced from time to time pursuant to Section 10.6(c) or reduced from time to time pursuant to Section 2.8 or Section 6.1.

"Revolving Credit Exposure" means, as to any Bank that has a Revolving Credit Commitment at any time, the aggregate principal amount at such time of its outstanding Revolving Loans and such Bank's participation in Letter of Credit Outstandings and Swing Loans at such time.

"Revolving Loan" is defined in Section 2.1(a) hereof and, as so defined, includes a Base Rate Loan, a Daily Simple SOFR Loan or Term SOFR Loan, each of which is a Type of Revolving Loan hereunder.

"Revolving Note" has the meaning set forth in Section 2.4(d).

"S&P" means S&P Global Ratings, a business unit of Standard & Poor's Financial Services LLC, and any successor to its rating agency business.

"Sanctioned Country" means, at any time, a country, region or territory which is itself the subject or target of any Sanctions (at the time of this Agreement, the so - called Donetsk People's Republic, the so- called Luhansk People's Republic, the Crimea, Zaporizhzhia and Kherson Regions of Ukraine, Cuba, Iran, North Korea and Syria).

"Sanctioned Person" means, at any time, any Person subject or target of any Sanctions, including (a) any Person listed in any Sanctions-related list of designated Persons maintained by the U.S. government, including by 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, the European Union, any European Union member state, His Majesty's Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person located, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b) (including, without limitation for purposes of defining a Sanctioned Person, as ownership and control may be defined and/or established in and/or by any applicable laws, rules, regulations, or orders).

"Sanctions" means all economic or financial sanctions, trade embargoes or similar restrictions imposed, administered or enforced from time to time by (a) 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) the United Nations Security Council, the European Union, any European Union member state, His Majesty's Treasury of the United Kingdom or other relevant sanctions authority.

"SEC" means the Securities and Exchange Commission.

"Securitization Assets" means credit card receivables, other receivables, royalty and revenue streams, other financial assets, proceeds of the foregoing, and books, records and other related assets incidental to the foregoing.

"Simple SOFR Adjustment" a percentage equal to 0.10% per annum.

"Simple SOFR Rate Day" has the meaning specified in the definition of "Adjusted Daily Simple SOFR".

"SOFR" means a rate equal to the secured overnight financing rate as administered by the SOFR Administrator.

"SOFR Administrator" means the Federal Reserve Bank of New York (or a successor administrator of the secured overnight financing rate).

"SOFR Administrator's Website" means 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 Determination Day" has the meaning specified in the definition of "Adjusted Daily Simple SOFR".

"SOFR Loan" means any Daily Simple SOFR Loan or Term SOFR Loan.

"SOFR Margin" means a percentage per annum equal to the applicable percentage specified in the pricing schedule attached hereto as Appendix I.

"Solvent" means, 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 salable 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, and (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. For purposes of this definition, 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.

"SPC" has the meaning set forth in Section 10.6(e).

"Specified Incurrence" has the meaning set forth in Section 3.2.

"Specified Net Cash Proceeds" has the meaning set forth in Section 5.14(h).

"Specified Representations" means each of the representations and warranties set forth in Sections 4.1, 4.2(i), (ii) and (iv)(A), 4.3, 4.10 and the third sentence of Section 4.12.

"Stated Amount" of each Letter of Credit means the maximum amount available to be drawn thereunder (regardless of whether any conditions for drawing could then be met).

"Subsidiary" means, as to any Person, any corporation or other entity of which securities or other ownership interests having ordinary voting power to elect a majority of the board of directors or other persons performing similar functions are at the time directly or indirectly owned by such Person; unless otherwise specified, "Subsidiary" means a Subsidiary of the Borrower.

"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, including any such obligation in the form of a Guaranty.

"Swing Borrowing" means a Borrowing pursuant to Section 2.1(c).

"Swing Lender" means JPMorgan Chase Bank, N.A. and any Bank that agrees in its sole discretion, with the consent of the Administrative Agent and the Borrower, to replace JPMorgan Chase Bank, N.A. as the Swing Lender hereunder.

"Swing Loan Limit" means U.S. $65,000,000, as the same may be reduced from time to time pursuant to Section 2.8.

"Swing Loan Refund Amount" has the meaning set forth in Section 2.1(d).

"Swing Loans" has the meaning set forth in Section 2.1(c).

"Swing Note" has the meaning set forth in Section 2.4(d).

"Taxes" is defined in Section 8.4(a).

"Term Credit" means the credit facility for the Term Loans described in Section 2.1(b) hereof.

"Term Loan" is defined in Section 2.1(b) hereof and, in each case, includes Base Rate Loans, Daily Simple SOFR Loans or Term SOFR Loans, each of which is a Type of Term Loan hereunder. The Term Loans include Extended Term Loans and Non-Extended Term Loans.

"Term Loan Commitment" means, with respect to each Bank listed on the signature pages hereof, the obligation of such Bank to make Term Loans in the principal amount equal to the amount set forth opposite such Bank's name on Schedule I attached hereto.

"Term Loan Commitment Termination Date" means the earliest to occur of (a) the date on which the Term Loan Commitments have been reduced to $0 as a result of the funding thereof in full or the termination thereof in accordance with Section 2.8 or Section 6.1, and (b) December 31, 2023.

"Term Loan Percentage" means, for each Bank, the percentage of the Term Loan Commitments represented by such Bank's Term Loan Commitment or, if the Term Loan Commitments have been terminated or have expired, the percentage held by such Bank of the aggregate principal amount of all Term Loans then outstanding.

"Term Note" is defined in Section 2.4(d) hereof.

"Term SOFR" means, for any calculation, the Term SOFR Reference Rate at approximately 5:00 a.m., Chicago time, for a tenor comparable to the applicable Interest Period on the day (such day, the "Term SOFR Determination Day") that is two (2) U.S. Government Securities Business Days prior to the first day of such Interest Period, as such rate is published by the Term SOFR Administrator; provided, however, that if as of 5:00 p.m. (New York City time) on any Term SOFR Determination Day 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 five (5) U.S. Government Securities Business Days prior to such Term SOFR Determination Day.

"Term SOFR Adjustment" means a percentage equal to 0.10% per annum.

"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 Loan" means any Loan bearing interest at a rate based on Adjusted Term SOFR (other than pursuant to the Adjusted Term SOFR component of the definition of "Base Rate"), as provided in Section 2.6.

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

"Total Revolving Credit Commitment" means the aggregate amount of the Revolving Credit Commitments of each of the Banks.

"Type" means the type of Loan determined according to the interest option applicable thereto; *i.e.*, whether a Base Rate Loan, Daily Simple SOFR Loan or Term SOFR Loan.

"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.

"Unadjusted Benchmark Replacement" means the Benchmark Replacement excluding the Benchmark Replacement Adjustment.

"Unfunded Liabilities" means, with respect to any Plan at any time, the amount (if any) by which (a) the value of all benefit liabilities under such Plan, determined on a plan termination basis using the assumptions prescribed by the PBGC for purposes of Section 4044 of ERISA, exceeds (b) the fair market value of all Plan assets allocable to such liabilities under Title IV of ERISA (excluding any accrued but unpaid contributions), all determined as of the then most recent valuation date for such Plan, but only to the extent that such excess represents a potential liability of a member of the ERISA Group to the PBGC or any other Person under Title IV of ERISA.

"United States" means the United States of America, including the States and the District of Columbia, but excluding its territories and possessions.

"Unpaid Drawing" has the meaning set forth in Section 2A.4(a).

"Unused Revolving Credit Commitments" means, at any time, the difference between the Total Revolving Credit Commitment then in effect and the aggregate outstanding principal amount of Revolving Loans and Letter of Credit Outstandings.

"U.S. Dollars" and "U.S. $" shall mean freely transferable lawful money of the United States of America.

"U.S. Government Securities Business Day" means any day except for (a) a Saturday, (b) a Sunday or (c) 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; provided, that for purposes of notice requirements in Sections 2.2, 2.9 and 2.10, in each case, such day is also a Business Day.

"Voting Stock" of any Person means the equity interests of such Person that are, under ordinary circumstances, entitled to vote in the election of the board of directors or other persons performing similar functions of such Person.

"Wholly-Owned Subsidiary" means, as to any Person, any corporation or other entity 100% of whose Voting Stock (other than director's qualifying shares) is at the time owned by such Person and/or one or more Wholly-Owned Subsidiaries of such Person.

"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 1.2 Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein shall be interpreted, all accounting determinations hereunder shall be made, and all financial statements required to be delivered hereunder shall be prepared in accordance with generally accepted accounting principles in the United States as in effect from time to time, applied on a basis consistent (except for changes concurred in by the Borrower's independent public accountants) with the most recent audited consolidated financial statements of the Borrower and its Consolidated Subsidiaries delivered to the Banks ("GAAP"); provided that, (a) all calculations of financial covenants and corresponding accounting terms shall include for all periods covered thereby pro forma adjustments for the actual historical financial performance of, and identifiable cost savings associated with, such entities or assets acquired as permitted under Section 5.18, (b) if the Borrower notifies the Administrative Agent that the Borrower wishes to amend any covenant in Article 5 or any definition directly or indirectly used therein or in Appendix I to eliminate the effect of any change in generally accepted accounting principles on the operation of such covenant (or if the Administrative Agent notifies the Borrower that the Required Banks wish to amend Article 5 or any definition directly or indirectly used therein or in Appendix I for such purpose), then the Borrower's compliance with such covenant and determinations made pursuant to any such definition or Appendix I shall be determined on the basis of generally accepted accounting principles in effect immediately before the relevant change in generally accepted accounting principles became effective, until either such notice is withdrawn or such covenant, definition or Appendix I is amended in a manner satisfactory to the Borrower and the Required Banks, and (c) matters relating to Capital Leases, related Debt and other related matters shall be interpreted in accordance with the proviso in the definition of the term "Capital Lease". In addition, the CET1 Ratio shall be calculated in accordance with U.S. federal Bank Regulatory Authority capital requirements applicable to each Insured Subsidiary as in effect from time to time (the "Applicable Banking Requirements"); provided that if the Borrower notifies the Administrative Agent that the Borrower wishes to amend Section 5.13B or any definition directly or indirectly used therein to eliminate the effect of any change in Applicable Banking Requirements on the operation of such covenant (or if the Administrative Agent notifies the Borrower that the Required Banks wish to amend Section 5.13B or any definition directly or indirectly used therein for such purpose), then the Borrower's compliance with such covenant and determinations made pursuant to any such definition shall be determined on the basis of Applicable Banking Requirements in effect immediately before the relevant change in Applicable Banking Requirements became effective, until either such notice is withdrawn or Section 5.13B or such definition is amended in a manner satisfactory to the Borrower and the Required Banks.

SECTION 1.3 Types of Borrowings. The term "Borrowing" denotes the aggregation of Loans under a Credit of one or more Banks to be made to the Borrower pursuant to Article 2 on the same date, all of which Loans are of the same Type (subject to Article 8) and, except in the case of Base Rate Loans or Daily Simple SOFR Loans, have the same initial Interest Period.

SECTION 1.4 Divisions. For all purposes under the Credit Documents, in connection with any division or plan of division under Delaware law (or any comparable event under a different jurisdiction's laws) (a "Statutory Division"): (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 Capital Stock at such time. The term "merge" set forth in Section 5.7 shall include any Statutory Division and Section 5.20 shall include any Material Domestic Subsidiary resulting from a Statutory Division.

SECTION 1.5 Rates. The Administrative Agent does not warrant or accept any responsibility for, and shall not have any liability with respect to, (a) the continuation of, administration of, submission of, calculation of or any other matter related to Adjusted Daily Simple SOFR, SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or 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 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 8.8(c), will be similar to, or produce the same value or economic equivalence of, or have the same volume or liquidity as, Adjusted Daily Simple SOFR, SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR, Term SOFR or any other Benchmark prior to its discontinuance or unavailability, or (b) the effect, implementation or composition of any Conforming Changes. The Administrative Agent and its Affiliates or other related entities may engage in transactions that affect the calculation of Adjusted Daily Simple SOFR, SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR, or Term SOFR, any alternative, successor or replacement rate (including any Benchmark Replacement) or any relevant adjustments thereto and such transactions may be adverse to the Borrower. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain Adjusted Daily Simple SOFR, SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, or any other Benchmark, any component definition thereof or rates referred to in the definition thereof, in each case pursuant to the terms of this Agreement, and shall have no liability to the Borrower, any Bank 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.

SECTION 1.6 Limited Condition Transactions. Notwithstanding anything in this Agreement or any other Credit Document to the contrary, when (a) determining compliance with any provision of this Agreement that requires that no Default or Event of Default has occurred, is continuing or would result therefrom, (b) making or determining the accuracy of any representations and warranties or (c) solely for purposes of Section 3.3, calculating pro forma compliance with the Financial Covenants, in each case, in connection with any Limited Condition Transaction or any Related Transactions with respect thereto, the date of determination shall, at the option of the Borrower (the Borrower's election to exercise such option in connection with any Limited Condition Transaction, an "***LCT Election***"), be deemed to be the date the definitive acquisition agreements or the date of delivery of irrevocable notice (or, in the case of a redemption or repayment of Debt in the form of a tender offer, at the time of launch thereof), as applicable, or in respect of any Related Transaction, any similar event (and not the time of consummation) for such Limited Condition Transaction are entered into or delivered (such date, the "***LCT Test Date***"), and if, after giving effect to such Limited Condition Transaction and any Related Transactions with respect thereto, on a pro forma basis as if they had occurred on the first day of the then most recently ended period of four consecutive fiscal quarters (for income statement purposes) or at the end of such most recently ended period of four consecutive fiscal quarters (for balance sheet purposes), the Borrower would have been permitted to consummate such Limited Condition Transaction and such Related Transactions with respect thereto on the relevant LCT Test Date, then, so long as no Event of Default specified in clauses 6.1(g) and 6.1(h) has occurred and is continuing on the date such Limited Condition Transaction is consummated, such default provision, representation, warranty or other provision shall be deemed to have been complied with. For the avoidance of doubt, if the Borrower has made an LCT Election and any of the ratios, tests, baskets or default provisions for which compliance was determined or tested as of the LCT Test Date are exceeded as a result of fluctuations in any such ratio, test or basket or otherwise, at or prior to the consummation of the relevant transaction or action, such baskets, tests or ratios will not be deemed to have been exceeded as a result of such fluctuations. If the Borrower has made an LCT Election for any Limited Condition Transaction, then in connection with any calculation of any ratio, test, basket availability, default provision, representation or warranty with respect to the incurrence of Debt or Liens, the making of Restricted Payments, dispositions, Permitted Acquisitions, other Investments, or any merger, dissolution, liquidation or consolidation (each of the foregoing, a "***Subsequent Transaction***") following the relevant LCT Test Date and prior to the earlier of the date on which such Limited Condition Transaction is consummated or the date that the definitive agreement for such Limited Condition Transaction is terminated (or, if applicable, the irrevocable notice of similar event is terminated or expires or the tender offer is abandoned (as determined by the Borrower in good faith)) without consummation of such Limited Condition Transaction, for purposes of determining whether such Subsequent Transaction is permitted under this Agreement, any such ratio, test, basket, default provision, representation or warranty shall be required to be satisfied on a pro forma basis assuming such Limited Condition Transaction and any Related Transactions with respect thereto have been consummated on the first day of the then most recently ended period of four consecutive fiscal quarters; provided that with respect to any such Subsequent Transaction that is a Restricted Payment, any such ratio, test, basket, default provision, representation or warranty shall also be calculated on a pro forma basis assuming such Limited Condition Transaction and any Related Transactions with respect thereto have not been consummated. Notwithstanding anything to the contrary set forth herein, it is understood and agreed that this Section 1.6 shall not limit the conditions set forth in Section 3.3 with respect to any proposed Borrowing under the Revolving Credit facility or any proposed issuance of a Letter of Credit (in each case, whether such proposed Borrowing or issuance is in connection with a Limited Condition Transaction or otherwise).

ARTICLE 2

THE CREDITS

SECTION 2.1 Commitments to Lend. (a) Revolving Loans. At any time on or after the Effective Date and prior to the Maturity Date (or if applicable, the relevant Extended Maturity Date), each Bank with a Revolving Credit Commitment severally agrees, on the terms and conditions set forth in this Agreement, to make loans (each a "Revolving Loan" and, collectively, the "Revolving Loans") to the Borrower pursuant to this Section 2.1(a) from time to time in U.S. Dollars in amounts such that all Revolving Loans made by such Bank to the Borrower at any one time outstanding, when combined with such Bank's Revolver Percentage of all Swing Loans and Letter of Credit Outstandings at such time, shall not exceed the amount of its Revolving Credit Commitment. Each Borrowing under this Section 2.1(a), shall be in an amount equal to U.S. $5,000,000 or any larger multiple of U.S. $1,000,000 (except that such Borrowing may be in the aggregate amount of the then unutilized Revolving Credit Commitments) and shall be made from the several Banks ratably in proportion to their respective Revolving Credit Commitments. Revolving Loans shall either be Base Rate Loans, Daily Simple SOFR Loans or Term SOFR Loans. Within the foregoing limits, the Borrower may borrow under this Section 2.1(a), prepay Revolving Loans to the extent permitted by Section 2.10, and reborrow at any time prior to the Maturity Date (or, if applicable, the relevant Extended Maturity Date).

(b) Term Loans. Each Bank with a Term Loan Commitment severally agrees, on the terms and conditions set forth in this Agreement, to make loans (each a "Term Loan" and, collectively, the "Term Loans") to the Borrower pursuant to this Section 2.1(b) in U.S. Dollars in an amount equal to its Term Loan Commitment. The Borrowing under this Section 2.1(b) shall be made in one or more Borrowings on and after the Effective Date in an amount equal to U.S. $5,000,000 or any larger multiple of $1,000,000 (except that such Borrowing may be in the aggregate amount of the remaining Term Loan Commitments) and until the Term Loan Commitment Termination Date from the several Banks ratably in proportion to their respective Term Loan Commitments. The Term Loan Commitments shall expire on the Term Loan Commitment Termination Date. Term Loans shall either be Base Rate Loans, Daily Simple SOFR Loans or Term SOFR Loans. No amount repaid or prepaid on any Term Loans may be borrowed again.

(c) Swing Loans. From time to time on or after the Effective Date and prior to the Maturity Date (or, if applicable, the relevant Extended Maturity Date), the Swing Lender may elect in its sole discretion, on the terms and conditions set forth in this Agreement, to make loans (each a "Swing Loan" and, collectively, the "Swing Loans") to the Borrower pursuant to this Section 2.1(c) from time to time in U.S. Dollars in amounts such that (i) Swing Loans made by the Swing Lender to the Borrower does not at any time exceed the Swing Loan Limit and (ii) the sum of all Revolving Loans and all Swing Loans at such time, when added to all Letter of Credit Outstandings at such time, does not exceed the Total Revolving Credit Commitment. Each Borrowing under this Section 2.1(c) shall be in an amount of at least U.S. $2,500,000. Within the foregoing limits, the Borrower may borrow under this Section 2.1(c), repay or prepay Swing Loans and reborrow at any time prior to the Maturity Date (or, if applicable, the relevant Extended Maturity Date).

(d) Refunding of Swing Loans with Syndicated Loans. Provided that no condition described in Section 3.3 was knowingly waived by the Swing Lender with respect to the making of such Swing Loan, the Swing Lender, at any time and from time to time in its sole and absolute discretion, may on behalf of the Borrower (which hereby irrevocably directs the Swing Lender to act on its behalf), on notice given by the Swing Lender no later than 11:30 a.m. (New York time) on the proposed date of Borrowing for the Base Rate Loans, request each Bank with a Revolving Credit Commitment to make, and each such Bank hereby agrees to make, a Revolving Loan which shall be a Base Rate Loan (a "Refunding Swing Loan"), under Section 2.1(a) in an amount (with respect to each such Bank, its "Swing Loan Refund Amount") equal to such Bank's Revolver Percentage of the aggregate principal amount of such Swing Loans (the "Refunded Swing Loans") outstanding on the date of such notice, to repay the Swing Lender. Unless any of the events described in Section 6.1(g) or (h) with respect to the Borrower shall have occurred and be continuing or the Revolving Credit Commitments shall have been terminated in full (in which case the procedures of Section 2.1(e) shall apply), each Bank with a Revolving Credit Commitment shall make such Base Rate Loan available to the Administrative Agent at its Payment Office in immediately available funds, not later than 1:30 p.m. (New York time), on the date of such notice. The Administrative Agent shall pay the proceeds of such Base Rate Loans to the Swing Lender, which shall immediately apply such proceeds to repay its Refunded Swing Loans. Effective on the day such Base Rate Loans are made, the portion of the Swing Loans so paid shall no longer be outstanding as Swing Loans, shall no longer be due as Swing Loans under the Swing Note held by the Swing Lender, and shall be due as Base Rate Loans hereunder and under the respective Revolving Notes, if any, issued to the Banks (including the Swing Lender) in accordance with their respective ratable share of the Revolving Credit Commitments. The Borrower authorizes the Swing Lender to charge the Borrower's accounts with the Administrative Agent (up to the amount available in each such account) in order to immediately pay the amount of such Refunded Swing Loans to the extent amounts received from the Banks are not sufficient to repay in full such Refunded Swing Loans. The Swing Lender agrees to give notice to the Borrower should it decide to refund Swing Loans with Revolving Loans pursuant to this Section 2.1(d); provided, that such Swing Lender's failure to give such notice (or any delay therein) does not affect the validity or the effectiveness of such Notice of Borrowing or the refunding of Swing Loans pursuant thereto.

(e) Purchase of Participations in Swing Loans. Provided that no condition described in Section 3.3 was knowingly waived by the Swing Lender with respect to the making of such Swing Loan, if prior to the time Revolving Loans would have otherwise been made pursuant to Section 2.1(d), one of the events described in Section 6.1(g) or (h) with respect to the Borrower shall have occurred and be continuing or the Revolving Credit Commitments shall have been terminated in full, each Bank with a Revolving Credit Commitment shall, on the date such Base Rate Loans were to have been made pursuant to the notice referred to in Section 2.1(d) (the "Refunding Date"), purchase an undivided participating interest in the Swing Loans in an amount equal to such Bank's Swing Loan Refund Amount. On and after the Refunding Date, the related Swing Loan will accrue interest as though such Swing Loan were a Base Rate Loan. On the Refunding Date, each Bank with a Revolving Credit Commitment shall transfer to the Swing Lender, in immediately available funds, such Bank's Swing Loan Refund Amount, and upon receipt thereof such Bank shall be deemed to have purchased an undivided participating interest in such Swing Loans as of such date of receipt, in the Swing Loan Refund Amount of such Bank.

(f) Payments on Participated Swing Loans. At any time after a Swing Lender has received from any Bank such Bank's Swing Loan Refund Amount pursuant to Section 2.1(e) and such Swing Lender receives any payment on account of the Swing Loans in which the Banks have purchased participations pursuant to Section 2.1(e), such Swing Lender will promptly distribute to each such Bank its ratable share (determined on the basis of the Swing Loan Refund Amounts of all of the Banks) of such payment (appropriately adjusted, in the case of interest payments, to reflect the period of time during which such Bank's participating interest was outstanding and funded); provided, however, that in the event that such payment received by such Swing Lender is required to be returned, such Bank will return to such Swing Lender any portion thereof previously distributed to it by such Swing Lender.

(g) Obligations to Refund or Purchase Participations in Swing Loans Absolute. Each Bank's obligation to transfer the amount of a Base Rate Loan to the Swing Lender as provided in Section 2.1(d) or to purchase a participating interest pursuant to Section 2.1(e) shall be absolute and unconditional and shall not be affected by any circumstance, including, without limitation, (i) any set-off, counterclaim, recoupment, defense or other right which such Bank, or any other Person may have against the Swing Lender or any other Person, (ii) the occurrence or continuance of a Default or the reduction of the Revolving Credit Commitments, (iii) any adverse change in the condition (financial or otherwise) of any Credit Party or Subsidiary of a Credit Party or any other Person, (iv) any breach of this Agreement by a Credit Party, any other Bank or any other Person or (v) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing.

SECTION 2.2 Notice of Borrowing. (a) The Borrower shall give the Administrative Agent notice (a "Notice of Borrowing") in respect of the Borrowing of Loans, other than Swing Loans and Refunding Swing Loans, not later than (w) 12:00 p.m. (New York time) on the Business Day of the Borrowing if such Borrowing is to be a Base Rate Borrowing, (x) 1:00 p.m. (New York time) on the third U.S. Government Securities Business Day immediately preceding the date of the Borrowing if such Borrowing is to be a Term SOFR Borrowing, and (y) 1:00 p.m. (New York time) on the third U.S. Government Securities Business Day immediately preceding the date of the Borrowing if such Borrowing is to be a Daily Simple SOFR Loan Borrowing, specifying:

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

(ii) what Type of Loans are to be borrowed and whether the Loans comprising such Borrowing are to bear interest initially at the Base Rate, Adjusted Daily Simple SOFR or Adjusted Term SOFR;

(iii) (A) in the case of a Term SOFR Borrowing, the duration of the initial Interest Period applicable thereto, subject to the provisions of the definition of Interest Period and (B) in the case of a Base Rate Borrowing, the date, if any, on which such Revolving Loan will be converted to a Term SOFR Loan; and

(iv) the aggregate amount of such Borrowing.

(b) The Borrower shall give the Swing Lender a Notice of Borrowing in respect of Swing Loans not later than 2:00 p.m. (New York time) on the date of Borrowing of such Swing Loans (which shall be a Business Day), specifying the amount of such Borrowing.

(c) Refunding Swing Loans shall be made on the notice provided in Section 2.1(d).

SECTION 2.3 Notice to Banks Funding of Loans. (a) Upon receipt of a Notice of Borrowing (other than a Swing Borrowing), the Administrative Agent shall promptly notify each Bank of the contents thereof and of such Bank's share of such Borrowing and such Notice of Borrowing shall not thereafter be revocable by the Borrower, except that, notwithstanding the foregoing, any Notice of Borrowing may state that such Notice of Borrowing is conditioned upon the effectiveness of any other transaction, in which case such Notice of Borrowing may be revoked or its effectiveness deferred by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(b) Not later than 2:30 p.m. (New York time) on the date of each Borrowing, each Bank shall make available its share of such Borrowing, in funds immediately available to the Administrative Agent at its Payment Office. The Swing Lender shall make the proceeds of its Swing Loan available to the Borrower no later than 3:00 p.m. (New York time) on the date requested. Unless the Administrative Agent determines that any applicable condition specified in Article 3 has not been satisfied, the Administrative Agent will make the funds so received from the Banks available to the Borrower at the Payment Office.

(c) Unless the Administrative Agent shall have received notice from a Bank prior to the date of any Borrowing that such Bank will not make available to the Administrative Agent such Bank's share of such Borrowing, the Administrative Agent may assume that such Bank has made such share available to the Administrative Agent on the date of such Borrowing in accordance with Section 2.3(b) and the Administrative Agent may, in reliance upon such assumption, make available to the Borrower on such date a corresponding amount. If and to the extent that such Bank shall not have so made such share available to the Administrative Agent, such Bank and the Borrower severally agree to repay to the Administrative Agent forthwith on demand such corresponding amount together with interest thereon, for each day from the date such amount is made available to the Borrower until the date such amount is repaid to the Administrative Agent, at (i) in the case of the Borrower, a rate per annum equal to the higher of the cost to the Administrative Agent of funding the amount so advanced by the Administrative Agent to fund such Bank's Loan, as reasonably determined by the Administrative Agent, and the interest rate applicable thereto pursuant to Section 2.6 and (ii) in the case of such Bank, from the date the related advance was made by the Administrative Agent to the date two (2) Business Days after payment by such Bank is due hereunder, the Federal Funds Rate and thereafter at the Base Rate. If such Bank shall repay to the Administrative Agent such corresponding amount, such amount so repaid shall constitute such Bank's Loan included in such Borrowing for purposes of this Agreement.

SECTION 2.4 Evidence of Indebtedness. (a) Each Bank shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Bank resulting from each Loan made by such Bank from time to time, including the amounts of principal and interest payable and paid to such Bank from time to time hereunder.

(b) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period with respect thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Bank hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder from the Borrower and each Bank's share thereof.

(c) The entries maintained in the accounts maintained pursuant to paragraphs (a) and (b) above shall be *prima facie* evidence of the existence and amounts of the Obligations therein recorded; provided, however, that the failure of the Administrative Agent or any Bank to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Obligations in accordance with their terms.

(d) Any Bank may request that its Loans be evidenced by a promissory note or notes in the forms of Exhibit B-1 (in the case of its Revolving Loans and referred to herein as a "Revolving Note"), B-2 (in the case of its Swing Loans and referred to herein as a "Swing Note"), or B-3 (in the case of Term Loans and referred to herein as "Term Note"), as applicable (the Revolving Notes, the Swing Note and Term Notes being hereinafter referred to collectively as the "Notes" and individually as a "Note"). In such event, the Borrower shall prepare, execute and deliver to such Bank a Note or Notes, as applicable, payable to the order of such Bank. Thereafter, the Loans evidenced by such Note or Notes and interest thereon shall at all times (including after any assignment pursuant to Section 10.6) be represented by one or more Notes payable to the order of the payee named therein or any assignee pursuant to Section 10.6, except to the extent that any such Bank or assignee subsequently returns any such Note for cancellation and requests that such Loans once again be evidenced as described in Sections 2.4(a) and (b) above.

SECTION 2.5 Maturity of Loans. (a) Revolving Loans and Swing Loans. Subject to the provisions of Section 2.8 and Article 6, the Revolving Credit Commitments shall terminate and the principal amount of all then outstanding Revolving Loans and Swing Loans, together with accrued interest thereon, shall be due and payable in full on the Maturity Date (or, if applicable, the relevant Extended Maturity Date).

(b) Term Loans. The Borrower unconditionally promises to pay to the Administrative Agent for the account of each Bank the then unpaid principal amount of the Term Loan of such Bank in consecutive quarterly installments payable on the last Business Day of each of March, June, September and December (each a "Loan Installment Date") (commencing with the last Business Day of the first full fiscal quarter following the first date on which such Term Loan is funded), with each such installment being an aggregate principal amount for all Banks equal to the aggregate outstanding principal amount of the Term Loans funded prior to the applicable Loan Installment Date times (x) for each such payment made on or prior to the first anniversary of the Effective Date, 0.625% per quarter, (y) for each such payment made after the first anniversary of the Effective Date but on or prior to the second anniversary of the Effective Date 1.25% per quarter and (z) for each such payment made after the second anniversary of the Effective Date, 2.50% per quarter, with the remaining principal amount of Term Loans then outstanding due and payable in full on the Maturity Date, together with accrued and unpaid interest on the principal amount to be paid but excluding the date of such payment, in each case of the foregoing clauses (x), (y) and (z) as the amounts of individual installments may be adjusted pursuant to Section 2.10 (and, if applicable, as may be required pursuant to Article 6 or Section 2.18); provided that to the extent not previously paid (A) the aggregate unpaid principal balance of the Non-Extended Term Loans shall be due and payable on the Maturity Date and (C) the aggregate unpaid principal balance of the Extended Term Loans shall be due and payable as provided in Section 2.5(c).

(c) In addition to the principal payments listed in Section 2.5(b), the Borrower unconditionally promises to pay to the Administrative Agent for the account of each Extending Term Loan Bank the then unpaid principal amount of the Extended Term Loan of such Bank in installments payable on the dates as agreed to pursuant to Section 2.18, provided that to the extent not previously paid the aggregate unpaid principal balances of the Extended Term Loans shall be due and payable on the applicable Extended Maturity Dates.

SECTION 2.6 Interest Rates. (a) Each Base Rate Loan shall bear interest on the outstanding principal amount thereof, for each day from the date such Loan is made (or converted pursuant to Article 8) until it becomes due, at a rate per annum equal to the Base Rate plus the Base Rate Margin for such day. Such interest shall be payable quarterly in arrears on the last day of each March, June, September and December in each year (each, a "Quarterly Date") and, with respect to the principal amount of any Base Rate Loan converted to a SOFR Loan, on each date a Base Rate Loan is so converted. Any overdue principal of or interest on any Base Rate Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the sum of 2% plus the rate otherwise applicable to Base Rate Loans for such day.

(b) Each Term SOFR Loan shall bear interest on the outstanding principal amount thereof, for each day during each Interest Period applicable thereto, at a rate per annum equal to the sum of the SOFR Margin for such day plus Adjusted Term SOFR applicable to such Interest Period. Such interest shall be payable for each Interest Period on the last day thereof and, in the case of an Interest Period of six months, the date occurring three months after the first day of such Interest Period. Any overdue principal of, or interest on, any Term SOFR Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the higher of (i) the sum of 2% plus the SOFR Margin for such day plus the average rate per annum (rounded upward, if necessary, to the next higher 1/100 of 1%) of the respective rates per annum at which one day (or, if such amount due remains unpaid more than three (3) Business Days, then for such other period of time not longer than three months as the Administrative Agent may select) deposits in U.S. Dollars in an amount approximately equal to such overdue payment due to the Administrative Agent is offered to the Administrative Agent in the interbank market for the applicable period determined as provided above (or, if the circumstances described in clause (a) or (b) of Section 8.8 shall exist, at a rate per annum equal to the sum of 2% plus the rate applicable to Base Rate Loans for such day) and (ii) the sum of 2% plus the SOFR Margin for such day plus Adjusted Term SOFR applicable to such Loan at the date such payment was due.

(c) Each Daily Simple SOFR Loan shall bear interest on the outstanding principal amount thereof, for each day such Loan is outstanding, at a rate per annum equal to the sum of the SOFR Margin for such day plus Adjusted Daily Simple SOFR. Such interest shall be payable quarterly in arrears on each Quarterly Date and, with respect to the principal amount of any Daily Simple SOFR Loan converted to a Base Rate Loan or Term SOFR Loan, on each date a Daily Simple SOFR Loan is so converted. Any overdue principal of, or interest on, any Daily Simple SOFR Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the higher of (i) the sum of 2% plus the SOFR Margin for such day plus the average rate per annum (rounded upward, if necessary, to the next higher 1/100 of 1%) of the respective rates per annum at which one day (or, if such amount due remains unpaid more than three (3) Business Days, then for such other period of time not longer than three months as the Administrative Agent may select) deposits in U.S. Dollars in an amount approximately equal to such overdue payment due to the Administrative Agent is offered to the Administrative Agent in the interbank market for the applicable period determined as provided above (or, if the circumstances described in clause (a) or (b) of Section 8.8 shall exist, at a rate per annum equal to the sum of 2% plus the rate applicable to Base Rate Loans for such day) and (ii) the sum of 2% plus the SOFR Margin for such day plus Adjusted Daily Simple SOFR applicable to such Loan at the date such payment was due.

(d) [reserved].

(e) Each Swing Loan shall bear interest on the outstanding principal amount thereof, for each day from the date such Swing Loan is made until it becomes due, at a rate per annum equal to the Base Rate for such day plus the Base Rate Margin. Such interest shall be payable on each Quarterly Date or, if earlier, on the date such Swing Loan becomes due or its Refunding Date. Any overdue principal of or interest on any Swing Loan shall bear interest, payable on demand, for each day until paid at a rate per annum equal to the sum of 2% plus the rate applicable to Swing Loans for such day.

(f) The Administrative Agent shall determine each interest rate applicable to the Loans hereunder. The Administrative Agent shall give prompt notice to the Borrower and the participating Banks of each rate of interest so determined, and its determination thereof shall be conclusive in the absence of manifest error.

(g) The Administrative Agent agrees to use its best efforts to furnish quotations as contemplated by this Section. If the Administrative Agent is unable to provide a quotation, the provisions of Section 8.8 shall apply.

SECTION 2.7 Fees. (a) During the period from and including the Effective Date to and including the date upon which the Total Revolving Credit Commitment is terminated, subject to Section 2.17(e), the Borrower shall pay to the Administrative Agent for the account of the Banks with Revolving Credit Commitments, ratably in proportion to their respective Revolving Credit Commitments, a commitment fee at the rate per annum equal to the Applicable Commitment Fee Percentage on the daily average Unused Revolving Credit Commitments. Accrued commitment fees shall be payable quarterly in arrears on each Quarterly Date and on the date of termination of the Revolving Credit Commitments in their entirety.

(b) Subject to Section 2.17(e), the Borrower agrees to pay to the Administrative Agent for distribution to each Bank with a Revolving Credit Commitment (based on each Bank's Revolver Percentage) a fee in respect of each Letter of Credit issued hereunder (the "Letter of Credit Fee"), for the period from and including the date of issuance of such Letter of Credit to and including the date of termination or expiration of such Letter of Credit, computed at a rate per annum equal to the SOFR Margin for Revolving Loans on the Stated Amount of such Letter of Credit. Accrued Letter of Credit Fees shall be due and payable quarterly in arrears on each Quarterly Date and on the first day after the termination of the Total Revolving Credit Commitment upon which no Letters of Credit remain outstanding. While any Event of Default exists or after acceleration, the Letter of Credit Fee shall be increased by 2.0%; provided, however, that in the absence of acceleration, such adjustment shall be made at the election of the Administrative Agent, acting at the request or with the consent of the Required Banks, with written notice to the Borrower.

(c) The Borrower agrees to pay to each Letter of Credit Issuer, for its own account, a fronting fee in respect of each Letter of Credit issued by such Letter of Credit Issuer (the "Fronting Fee"), for the period from and including the date of issuance of such Letter of Credit to and including the date of the termination of such Letter of Credit, computed at a rate equal to 1/8th of 1% per annum of the daily Stated Amount of such Letter of Credit. Accrued Fronting Fees shall be due and payable quarterly in arrears on each Quarterly Date and upon the first day after the termination of the Total Revolving Credit Commitment upon which no Letters of Credit remain outstanding.

(d) The Borrower agrees to pay, upon each drawing under, issuance of, or amendment to, any Letter of Credit, such amount as shall at the time of such event be the customary scheduled administrative charge which the applicable Letter of Credit Issuer is generally imposing in connection with such occurrence with respect to letters of credit.

(e) The Borrower shall pay to the Administrative Agent and the Arrangers such amounts as are agreed to from time to time.

(f) During the period from and including the Effective Date to and including the Term Loan Commitment Termination Date, subject to Section 2.17(e), the Borrower shall pay to the Administrative Agent for the account of the Banks with Term Loan Commitments, ratably in proportion to their respective Term Loan Commitments, a commitment fee at the rate per annum equal to the Applicable Commitment Fee Percentage on the actual daily amount of unused Term Loan Commitments. Accrued commitment fees shall be payable quarterly in arrears on each Quarterly Date and on the Term Loan Commitment Termination Date.

SECTION 2.8 Termination or Reduction of Commitments.

(a) Optional Reduction of Commitments. The Borrower may (x) upon at least three (3) Business Days' notice to the Administrative Agent (or such shorter period of time agreed by the Administrative Agent), (i) terminate the Term Loan Commitments at any time or (ii) ratably reduce from time to time by an aggregate amount of U.S. $5,000,000 or a larger multiple of U.S. $1,000,000 the aggregate amount of the Term Loan Commitments and (y) upon at least three (3) Business Days' notice to the Administrative Agent (or such shorter period of time agreed by the Administrative Agent) (i) terminate the Total Revolving Credit Commitment at any time, if no Revolving Loans or Letters of Credit are outstanding at such time or (ii) ratably reduce from time to time by an aggregate amount of U.S. $5,000,000 or a larger multiple of U.S. $1,000,000 the aggregate amount of the Total Revolving Credit Commitment in excess of the aggregate outstanding Revolving Loans, Swing Loans and Letter of Credit Outstandings. Any termination of the Total Revolving Credit Commitments below the Letter of Credit Commitment then in effect shall reduce the Letter of Credit Commitment then in effect by like amount. Any termination of the Total Revolving Credit Commitments below the Swing Loan Limit shall reduce the Swing Loan Limit then in effect by like amount. Upon receipt of a notice pursuant to this Section, the Administrative Agent shall promptly notify each Bank of the contents thereof.

(b) Mandatory Reduction of Commitments. The Total Revolving Credit Commitment (and the respective Revolving Credit Commitment of each Bank) shall terminate on the Maturity Date. The Term Loan Commitment shall terminate on the Term Loan Commitment Termination Date.

(c) Pro Rata Reduction. Each reduction to the Total Revolving Credit Commitment or Term Loan Commitments, as applicable, pursuant to this Section 2.8 shall be applied proportionately to reduce the Revolving Credit Commitment or Term Loan Commitment, as applicable of each Bank.

SECTION 2.9 Method of Electing Interest Rates for Loans. (a) The Loans included in a Borrowing shall be the Type of Loan specified by the Borrower in the applicable Notice of Borrowing given pursuant to Section 2.2. Thereafter, the Borrower shall deliver a notice (a "Notice of Interest Period Election") to the Administrative Agent not later than 1:00 p.m. (New York time) (i) if such Borrowing was initially a Base Rate Loan Borrowing or a Daily Simple SOFR Loan Borrowing, on the third U.S. Government Securities Business Days prior to the commencement of the first Interest Period with respect to the conversion of such Base Rate Loan or Daily Simple SOFR Loan into a Term SOFR Loan specifying the duration of such Interest Period, or (ii) if such Borrowing was a Term SOFR Loan Borrowing, the last day of the current Interest Period specifying the duration of the additional Interest Period which is to commence. Each Interest Period specified in a Notice of Interest Period Election shall comply with the provisions of the definition of "Interest Period." Notwithstanding the foregoing, the Borrower may not elect to convert any Loan into, or continue any Loan as, a Term SOFR Loan pursuant to any Notice of Interest Period Election if at the time such notice is delivered an Event of Default shall have occurred and be continuing.

(b) Each Notice of Interest Period Election shall specify:

(i) the Borrowing of Loans (or portion thereof) to which such notice applies;

(ii) the date on which the conversion or continuation selected in such notice is to be effective, which shall comply with the applicable clause of Section 2.9(a) above;

(iii) if the Loans comprising such Borrowing are to be converted, the new Type of Loans and, if the Loans being converted are to be Term SOFR Loans, the duration of the next succeeding Interest Period applicable thereto; and

(iv) if such Loans are to be continued as Term SOFR Loans for an additional Interest Period, the duration of such additional Interest Period.

(c) Upon receipt of a Notice of Interest Period Election from the Borrower pursuant to Section 2.9(a) above, the Administrative Agent shall promptly notify each Bank of the contents thereof and such notice shall not thereafter be revocable by the Borrower. If no Notice of Interest Period Election is timely received prior to the end of an Interest Period, the Borrower shall be deemed to have elected that such Loan be continued as a Base Rate Loan.

(d) An election by the Borrower to change or continue the rate of interest applicable to any Borrowing of Loans pursuant to this Section 2.9 shall not constitute a "Borrowing" subject to the provisions of Section 3.3.

SECTION 2.10 Optional Prepayments. (a) Subject, in the case of SOFR Loans, to Section 2.13, the Borrower may, (i) with same day notice to the Administrative Agent, prepay any Base Rate Loans, (ii) upon at least three (3) U.S. Government Securities Business Days' notice to the Administrative Agent, prepay any Daily Simple SOFR Loans, or (iii) upon at least three (3) U.S. Government Securities Business Days' notice to the Administrative Agent, prepay any Term SOFR Loans, in each case in whole at any time, or from time to time in part, without premium or penalty, in amounts of $5,000,000 or any larger multiple of $1,000,000, by paying the principal amount to be prepaid together with accrued interest thereon to the date of prepayment. Each such optional prepayment shall be applied to prepay Revolving Loans or Term Loans, as specified by the Borrower, shall be applied to Daily Simple SOFR Loans, Term SOFR Loans, or Base Rate Loans, as specified by the Borrower, and, subject to Section 2.10(d), shall be applied ratably to the Loans of the applicable Banks. Each prepayment of the Term Loans under this clause (a) shall be applied to reduce the scheduled quarterly installments of the Term Loans under Section 2.5(b) as directed by the Borrower (or in the absence of such direction, in direct order of maturity).

(b) Upon receipt of a notice of prepayment pursuant to this Section, the Administrative Agent shall promptly notify each Bank with Loans of the Credit and Type being prepaid outstanding of the contents thereof and of such Bank's ratable share (if any) of such prepayment and such notice shall not thereafter be revocable by the Borrower.

(c) The Borrower may elect to utilize the option set forth in Section 2.11(c) in connection with any optional prepayment.

(d) If some or all of the Term Loans are Extended Term Loans, all optional prepayments shall be applied pro rata to the Non-Extended Term Loans and the Extended Term Loans.

SECTION 2.11 Mandatory Prepayments. (a) Requirements. If on any date the sum of the aggregate outstanding Revolving Loans, Swing Loans and Letter of Credit Outstandings exceeds the Total Revolving Credit Commitment as then in effect, the Borrower shall repay on such date the principal of Swing Loans, and, if no Swing Loans are or remain outstanding, Revolving Loans in an aggregate amount equal to such excess. If, after giving effect to the repayment of all outstanding Swing Loans and Revolving Loans, the aggregate Letter of Credit Outstandings exceeds the Total Revolving Credit Commitment, the Borrower shall pay to the Administrative Agent, for the ratable benefit of the Banks, on such date an amount in cash equal to such excess (up to the aggregate amount of the Letter of Credit Outstandings at such time) and the Administrative Agent shall hold such payment as Cash Collateral for the Obligations. Notwithstanding anything to the contrary contained elsewhere in this Agreement, (i) all outstanding Revolving Loans made pursuant to an increase in the Revolving Credit Commitment pursuant to Section 2.16 shall be repaid in full as provided in the applicable Incremental Amendment, (ii) all outstanding Extended Term Loans and all Revolving Loans made pursuant to an Extended Revolving Credit Commitment shall be repaid in full on the applicable Extended Maturity Date, and (iii) all other Loans shall be repaid in full on the Maturity Date.

(b) Application. With respect to each prepayment of Revolving Loans required by Section 2.11(a), the Borrower may designate the Types of Revolving Loans which are to be prepaid and the specific Borrowing or Borrowings pursuant to which made, provided that for any such prepayment (i) Term SOFR Loans may be so designated for prepayment pursuant to this Section 2.11 only on the last day of an Interest Period applicable thereto unless all Term SOFR Loans with Interest Periods ending on such date of required prepayment and all Base Rate Loans have been paid in full; (ii) if any prepayment of SOFR Loans made pursuant to a single Borrowing shall reduce the outstanding Loans made pursuant to such Borrowing to an amount less than $5,000,000, such Borrowing shall be immediately converted into Base Rate Loans; and (iii) each prepayment of Revolving Loans pursuant to a Borrowing shall be applied pro rata among such Revolving Loans. In the absence of a designation by the Borrower as described in the preceding sentence, the Administrative Agent shall, subject to the above, make such designation in its sole discretion with a view, but no obligation, to minimize breakage costs.

(c) Cash Collateral to Avoid Breakage. Notwithstanding the provisions of Section 2.11(b), if at any time a mandatory prepayment of Loans pursuant to Section 2.11(a) above would result, after giving effect to the procedures set forth above, in the Borrower incurring breakage costs as a result of Term SOFR Loans being prepaid other than on the last day of an Interest Period applicable thereto (the "Affected Loans"), then the Borrower may in its sole discretion initially deposit a portion (up to 100%) of the amounts that otherwise would have been paid in respect of the Affected Loans with the Administrative Agent at its Payment Office (which deposit must be equal in amount to the amount of the Affected Loans not immediately prepaid) to be held as Cash Collateral for the obligations of the Borrower hereunder, with such Cash Collateral to be directly applied upon the first occurrence (or occurrences) thereafter of the last day of an Interest Period applicable to the relevant Loans (or such earlier date or dates as shall be requested by the Borrower), to repay an aggregate principal amount of such Loans equal to the Affected Loans not initially prepaid pursuant to this sentence. Notwithstanding anything to the contrary contained in the immediately preceding sentence, all amounts deposited as Cash Collateral pursuant to the immediately preceding sentence shall be held for the sole benefit of the Banks whose Loans would otherwise have been immediately prepaid with the amounts deposited and upon the taking of any action by the Administrative Agent or the Banks pursuant to the remedial provisions of Article 6, any amounts held as Cash Collateral pursuant to this Section 2.11(c) shall, subject to the requirements of applicable law, be immediately applied to repay such Loans.

(d) Mandatory Prepayment of Term Loans. The Borrower shall make mandatory principal prepayments of the Term Loans in amounts equal to:

(i) 100% of the aggregate Net Cash Proceeds from any sale or other transfer of assets made pursuant to Section 5.7(d) or Section 5.15(b) if required by Section 5.7(d)(3) or Section 5.15(b)(ii), as applicable;

(ii) 100% of the aggregate Net Cash Proceeds from the incurrence of Debt (including Convertible Debt) by the Borrower or any Subsidiary after the Closing Date (other than the Net Cash Proceeds from (x) any Incremental Facility, (y) subject to the immediately succeeding proviso, Debt (including Convertible Debt) permitted to be incurred pursuant to Section 5.14 and (z) any Specified Incurrence); provided that, the Borrower shall make mandatory principal prepayments of the Term Loans in an amount equal to 100% of any Specified Net Cash Proceeds to the extent required by Section 5.14(h) and

(iii) 100% of the aggregate Net Cash Proceeds from any issuance of Capital Stock after the Effective Date (other than any such issuances after the Closing Date the aggregate gross proceeds of which do not exceed U.S. $200,000,000 (for the avoidance of doubt, measured exclusive of the Net Cash Proceeds from any Specified Incurrence) so long as the proceeds of such issuances shall be used by the Borrower to make Acquisitions or other Investments permitted hereunder).

Prepayments under this clause (d) shall be made within three (3) Business Days after the date of receipt of the applicable Net Cash Proceeds; provided that if any such Net Cash Proceeds are received prior to the Effective Date, the Term Loan Commitments shall instead be ratably reduced by the amount of such Net Cash Proceeds. Each prepayment of the Term Loans under this clause (d) shall be applied to reduce the scheduled quarterly installments of the Term Loans in direct order of maturity (and thereafter, to reduce the amount of the Term Loans payable on the Maturity Date). The Borrower may elect to utilize the option set forth in Section 2.11(c) in connection with any mandatory prepayment pursuant this clause (d). For the avoidance of doubt, the Net Cash Proceeds from any Specified Incurrence will not be subject to any of the mandatory prepayments described above.

SECTION 2.12 General Provisions as to Payments. (a) The Borrower shall make each payment of principal of, and interest on, the Loans and of fees hereunder (i) not later than 1:00 p.m. (New York time) on the date when due, in immediately available funds, to the Administrative Agent at its Payment Office, and (ii) without any right to set-off, deduction or counterclaim by the Borrower. All payments made hereunder shall be made in U.S. Dollars in immediately available funds at the place of payment. The Administrative Agent will promptly distribute to each Bank its ratable share of each such payment received by the Administrative Agent for the account of the Banks. Whenever any payment of principal of, or interest on, the Base Rate Loans or of fees shall be due on a day which is not a Business Day, the date for payment thereof shall be extended to the next succeeding Business Day. Whenever any payment of principal of, or interest on, the SOFR Loans shall be due on a day which is not a Business Day, the date for payment thereof shall be extended to the next succeeding Business Day unless such Business Day falls in another calendar month, in which case the date for payment thereof shall be the next preceding Business Day. If the date for any payment of principal is extended by operation of law or otherwise, interest thereon shall be payable for such extended time.

(b) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Banks hereunder that the Borrower will not make such payment in full, the Administrative Agent may assume that the Borrower has made such payment in full to the Administrative Agent on such date and the Administrative Agent may, in reliance upon such assumption, cause to be distributed to each Bank on such due date an amount equal to the amount then due such Bank. If and to the extent that the Borrower shall not have so made such payment, each Bank shall repay to the Administrative Agent forthwith on demand such amount distributed to such Bank together with interest thereon, for each day from the date such amount is distributed to such Bank until the date such Bank repays such amount to the Administrative Agent, at the Federal Funds Rate for the first two (2) Business Days after such payment by such Bank is due, and thereafter, at the Base Rate.

SECTION 2.13 Funding Losses. If the Borrower makes any payment of principal with respect to any SOFR Loan or any SOFR Loan is prepaid, converted or becomes due (pursuant to Article 2, 6, or 8 or otherwise) on any day other than the last day of an Interest Period applicable thereto, or if the Borrower fails to borrow, prepay or continue any SOFR Loans after notice has been given to any Bank in accordance with Section 2.2, 2.9, or 2.10, the Borrower shall reimburse each Bank within fifteen (15) days after demand for any resulting loss or expense incurred by it (or by an existing or prospective Participant in the related Loan), including, without limitation, any loss incurred in obtaining, liquidating or employing deposits from third parties, but excluding loss of margin for the period after any such payment or conversion or failure to borrow, prepay, convert or continue, provided that such Bank shall have delivered to the Borrower a certificate as to the amount of such loss or expense, which certificate shall be conclusive in the absence of manifest error.

SECTION 2.14 Computation of Interest and Fees. Interest based on the Prime Rate hereunder and fees hereunder shall be computed on the basis of a year of 365 days (or 366 days in a leap year) and paid for the actual number of days elapsed (including the first day but excluding the last day). All other interest shall be computed on the basis of a year of 360 days and paid for the actual number of days elapsed (including the first day but excluding the last day if and only if such payment is made in accordance with the provisions of the first sentence of Section 2.12(a)).

SECTION 2.15 [Reserved.].

SECTION 2.16 Incremental Facilities. (a) The Borrower, on behalf of the Borrower and Guarantors, may, on any Business Day after the Term Loan Commitment Termination Date, request (x) one or more new term loan facilities or (y) an increase of the aggregate amount of the Revolving Credit Commitments or Term Loans (each of clauses (x) and (y) an "Incremental Facility"); provided, however, that: (i) the aggregate principal amount of Incremental Facilities incurred after the Effective Date shall not exceed $700,000,000; (ii) no approval or consent of any Bank shall be required except the Banks providing such Incremental Facility and the consents contemplated by clause (vi) below, (iii) any Incremental Facility shall be in an aggregate amount for all Banks of not less than $50,000,000 (or such lesser aggregate amount for all Banks as may be reasonably acceptable to the Administrative Agent), (iv) no Default or Event of Default shall have occurred and be continuing at the time of the request or the effective date of the Incremental Facility or will result therefrom (or, in the case of an Incremental Facility that will be used to finance a Limited Condition Transaction, no Default or Event of Default shall have occurred and be continuing on the LCT Test Date and no Event of Default specified in clauses 6.1(g) and 6.1(h) shall have occurred and be continuing on the date such Limited Condition Transaction is consummated), (v) all representations and warranties contained in Article 4 hereof shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) at the time of such request and on the effective date of such Incremental Facility (other than representations and warranties that relate to a specific date, which shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) as of such date) (limited in the case of any Limited Condition Transaction to the Specified Representations), and (vi) the Administrative Agent and, solely in the case of an increase of the aggregate amount of the Revolving Credit Commitments, each Letter of Credit Issuer and the Swing Lender shall have provided their written consent (which consents shall not be unreasonably withheld, conditioned or delayed).

(b) In order to request an Incremental Facility, the Borrower shall deliver written notice to the Administrative Agent at least five (5) Business Days (or such shorter period of time agreed by the Administrative Agent) prior to the desired effective date of such Incremental Facility identifying one or more existing or additional Banks and the amount of the Incremental Facility. Upon the effectiveness of an Incremental Facility in the form of a Revolving Credit Commitment increase, the new Banks (or, if applicable, existing Banks) (i) shall advance Revolving Loans in an amount sufficient such that after giving effect to its Revolving Loans each Bank shall have outstanding its respective Percentage of all Revolving Loans and (ii) shall acquire its Revolver Percentage of all participations in Letter of Credit Outstandings and Swing Loans. It shall be a condition to such effectiveness that (i) if any SOFR Loans are outstanding on the date of such effectiveness, Section 2.13 shall apply and (ii) in the case of an Incremental Facility in the form of a Revolving Credit Commitment increase, the Borrower shall not have terminated any portion of the Revolving Credit Commitments pursuant to Section 2.8 hereof. The Borrower and each Guarantor agree to deliver to the Administrative Agent such corporate due diligence documents as the Administrative Agent shall reasonably request in connection with any Incremental Facility. Promptly upon the effectiveness of any Incremental Facility, the Borrower shall execute and deliver new Notes to each requesting Bank. The effective date of any Incremental Facility shall be agreed upon by the Borrower and the Administrative Agent.

(c) Commitments in respect of any Incremental Facility shall become Commitments under this Agreement pursuant to an amendment (an "Incremental Amendment") to this Agreement and, as appropriate, the other Credit Documents, executed by the Borrower, each Guarantor, each Bank agreeing to provide such Incremental Facility, if any, each new Bank, if any, and the Administrative Agent. The Incremental Amendment shall not, except as specified in the preceding sentence, require the consent of any Bank, and may effect such amendments to this Agreement and the other Credit Documents as may be necessary, in the reasonable opinion of the Administrative Agent and the Borrower, to effect the provisions of this Section. The Banks hereby authorize the Administrative Agent to execute such other documents, instruments and agreements, including security agreements, as may be necessary in the reasonable opinion of the Administrative Agent to give effect to the Incremental Amendment. The effectiveness of any Incremental Amendment shall be subject to the satisfaction on the date thereof of such conditions as the parties thereto shall agree.

(d) The Borrower agrees to pay any reasonable out-of-pocket expenses of the Administrative Agent relating to any Incremental Facility or Incremental Amendment. Notwithstanding anything herein to the contrary, no Bank shall have any obligation to increase any of its Commitments and no Commitments shall be increased without its consent thereto, and each Bank may at its option, unconditionally and without cause, decline to provide an Incremental Facility.

SECTION 2.17 Defaulting Banks. (a) If any Bank with a Revolving Credit Commitment becomes, and during the period it remains, a Defaulting Bank, the following provisions shall apply, notwithstanding anything to the contrary in this Agreement:

(i) so long as no Default shall be continuing immediately before or after giving effect to such reallocation, all of such Defaulting Bank's participation in Letter of Credit Outstandings and Swing Loans will, subject to the limitation in the proviso below, automatically be reallocated (effective no later than one (1) Business Day after the Administrative Agent has actual knowledge that such Bank has become a Defaulting Bank) among the Non-Defaulting Banks pro rata in accordance with their respective Revolver Percentages (calculated as if the Defaulting Bank's Revolving Credit Commitment was reduced to zero and each Non-Defaulting Bank's Revolving Credit Commitment had been increased proportionately); provided that the sum of each Non-Defaulting Bank's total Revolving Credit Exposure may not in any event exceed the Revolving Credit Commitment of such Non-Defaulting Bank as in effect at the time of such reallocation; and

(ii) to the extent that any portion (the "unreallocated portion") of such Defaulting Bank's participation in Letter of Credit Outstandings and Swing Loans cannot be reallocated pursuant to clause (i) above for any reason, the Borrower will, not later than two (2) Business Days after demand by the Administrative Agent (at the direction of any Letter of Credit Issuer and/or the Swing Lender), (y) Cash Collateralize the obligations of the Borrower to such Letter of Credit Issuer or the Swing Lender in respect of such exposure, as the case may be, in an amount at least equal to the aggregate amount of the unreallocated portion of such Defaulting Bank's participation in Letter of Credit Outstandings and Swing Loans or (z) make other arrangements satisfactory to the Administrative Agent, the Letter of Credit Issuer and the Swing Lender in their sole discretion to protect them against the risk of non-payment by such Defaulting Bank;

provided that, subject to Section 10.17, neither any such reallocation nor any payment by a Non-Defaulting Bank pursuant thereto nor any such Cash Collateralization or reduction will constitute a waiver or release of any claim the Borrower, the Administrative Agent, a Letter of Credit Issuer, the Swing Lender or any other Bank may have against such Defaulting Bank or cause such Defaulting Bank to be a Non-Defaulting Bank.

(b) Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of a Defaulting Bank (whether voluntary or mandatory, at maturity, pursuant to Article 6 or otherwise) or received by the Administrative Agent from a Defaulting Bank pursuant to Section 10.4 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 Bank to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Bank to the Letter of Credit Issuer or the Swing Lender hereunder; *third*, to Cash Collateralize the unreallocated portion of such Defaulting Bank's participation in Letter of Credit Outstandings and Swing Loans in accordance with Section 2.17(a)(ii); *fourth*, as the Borrower may request (so long as no Default or Event of Default exists), to the funding of any Loan or funded participation in respect of which such Defaulting Bank 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 (A) satisfy such Defaulting Bank's potential future funding obligations with respect to Loans and funded participations under this Agreement and (B) Cash Collateralize future unreallocated portions of such Defaulting Bank's participation in Letter of Credit Outstandings and Swing Loans with respect to future Letters of Credit and Swing Loans issued under this Agreement in accordance with Section 2.17(a)(ii); *sixth*, to the payment of any amounts owing to the Banks, the Letter of Credit Issuer or the Swing Lender as a result of any judgment of a court of competent jurisdiction obtained by any Bank, such Letter of Credit Issuer or the Swing Lender against such Defaulting Bank as a result of such Defaulting Bank'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 as a result of any judgment of a court of competent jurisdiction obtained by the Borrower against such Defaulting Bank as a result of such Defaulting Bank's breach of its obligations under this Agreement; and *eighth*, to such Defaulting Bank or as otherwise directed by a court of competent jurisdiction; provided that if (1) such payment is a payment of the principal amount of any Loans or funded participations in Letters of Credit or Swing Loans in respect of which such Defaulting Bank has not fully funded its appropriate share, and (2) such Loans were made or the related Letters of Credit or Swing Loans were issued at a time when the conditions set forth in Section 3.3 were satisfied or waived, such payment shall be applied solely to pay the Loans of, and funded participations in Letters of Credit or Swing Loans owed to, all Non-Defaulting Banks on a pro rata basis prior to being applied to the payment of any Loans of, or funded participations in Letters of Credit or Swing Loans owed to, such Defaulting Bank until such time as all Loans and funded and unfunded participations in Letter of Credit Outstandings and Swing Loans are held by the Banks pro rata in accordance with the Revolving Credit Commitments under the applicable Revolving Credit without giving effect to Section 2.17(a)(i). Any payments, prepayments or other amounts paid or payable to a Defaulting Bank that are applied (or held) to pay amounts owed by a Defaulting Bank or to post Cash Collateral pursuant to this Section 2.17(b) shall be deemed paid to and redirected by such Defaulting Bank, and each Bank irrevocably consents hereto.

(c) If the Borrower, the Administrative Agent, the Letter of Credit Issuers and the Swing Lender agree in writing in their discretion that any Defaulting Bank has ceased to be a Defaulting Bank, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice, and subject to any conditions set forth therein, that Bank will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Banks or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swing Loans to be held pro rata by the Banks in accordance with their Percentage under the applicable Credit without giving effect to Section 2.17(a), whereupon such Bank will cease to be a Defaulting Bank; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrower while that Bank was a Defaulting Bank; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Bank to Non-Defaulting Bank will constitute a waiver or release of any claim of any party hereunder arising from that Bank's having been a Defaulting Bank.

(d) So long as any Bank is a Defaulting Bank, no Letter of Credit Issuer will be required to issue, amend, extend, renew or increase any Letter of Credit unless it is reasonably satisfied that the Borrower has complied with the requirements of Section 2A.1(a)(iii).

(e) No Defaulting Bank shall be entitled to receive any commitment fee pursuant to Section 2.7(a) or (f) or Letter of Credit Fee for any period during which that Bank is a Defaulting Bank. With respect to any commitment fee pursuant to Section 2.7(a) or Letter of Credit Fee not required to be paid to any Defaulting Bank pursuant to this clause (e), the Borrower shall (x) pay to each Non-Defaulting Bank that portion of any such fee otherwise payable to such Defaulting Bank with respect to such Defaulting Bank's participation in Letters of Credit or Swing Loans that has been reallocated to such Non-Defaulting Bank pursuant to Section 2.17(a)(i), (y) pay to each Letter of Credit Issuer and Swing Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Bank to the extent allocable to such Letter of Credit Issuer or Swing Lender's Fronting Exposure to such Defaulting Bank, and (z) not be required to pay the remaining amount of any such fee.

SECTION 2.18 Extensions. Notwithstanding anything herein to the contrary, at any time after the Effective Date, and from time to time, the Borrower may request and any Bank may agree to extend the maturity date applicable to all or any portion of its Term Loan (including any Extended Term Loan) or Revolving Credit Commitment (including any Extended Revolving Credit Commitment) to a date (such date as such Bank and the Borrower shall agree upon being an "Extended Maturity Date") after the Maturity Date or after an Extended Maturity Date, as applicable; provided that, for the avoidance of doubt, no Bank shall be required to agree to any such extension. Any such extensions under this Section 2.18 shall only require the consent of the Borrower, such Bank, the Administrative Agent (in the case of the Administrative Agent, which consent shall not be unreasonably withheld, delayed or conditioned), and, solely with respect to any Extended Revolving Credit Commitment, the Swing Lender and the Letter of Credit Issuer (in each case, which consent shall not be unreasonably withheld, delayed or conditioned), and this Agreement may be amended accordingly as needed to implement such extension for such Bank, but as conditions to any such extension (i) the Borrower's request for such extension shall be in a minimum amount of $50,000,000 of Term Loans or Revolving Credit Commitments, as applicable (or, if less, the remaining amount of Term Loans or Revolving Credit Commitments having the same Maturity Date or Extended Maturity Date), (ii) the request for such extension and the opportunity to extend its Term Loan or Revolving Credit Commitment, as applicable, shall be made available pro rata to all Banks holding Term Loans or Revolving Credit Commitments, as applicable, with the same Maturity Date or Extended Maturity Date, as applicable, (iii) no Default shall have occurred and be continuing as of the effective date of the extension or will result therefrom, and (iv) all representations and warranties contained in Article 4 hereof shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) as of the effective date of such extension (other than representations and warranties that relate to a specific date, which shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) as of such specific date).

ARTICLE 2A

LETTERS OF CREDIT

SECTION 2A.1 Letters of Credit. (a) Subject to and upon the terms and conditions set forth herein, the Borrower may request a Letter of Credit Issuer at any time and from time to time on or after the Effective Date and prior to the thirtieth day immediately preceding the Maturity Date to issue a standby letter of credit for the account of the Borrower in support of L/C Supportable Obligations (each such letter of credit, a "Letter of Credit" and, collectively, the "Letters of Credit"), and subject to and upon the terms and conditions set forth herein such Letter of Credit Issuer shall issue from time to time, irrevocable Letters of Credit in such form as may be approved by such Letter of Credit Issuer and the Administrative Agent. Notwithstanding anything herein to the contrary, those certain letters of credit issued for the account of the Borrower by the Administrative Agent or the Administrative Agent's affiliate and listed on Schedule 2A.1 hereof (the "Existing Letters of Credit") shall each constitute a "Letter of Credit" herein for all purposes of this Agreement with the Borrower as the applicant therefor, to the same extent, and with the same force and effect as if the Existing Letters of Credit had been issued under this Agreement at the request of the Borrower. Notwithstanding the foregoing, no Letter of Credit Issuer shall be under any obligation to issue any Letter of Credit if at the time of such issuance:

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

(ii) such Letter of Credit Issuer shall have received notice from the Borrower or the Required Banks prior to the issuance of such Letter of Credit of the type described in clause (v) of Section 2A.1(b); or

(iii) the Administrative Agent or such Letter of Credit Issuer has received notice from any Bank that it does not intend to participate in such Letter of Credit pursuant to Section 2A.5, or any Bank is a Defaulting Bank hereunder, unless the Borrower and such Letter of Credit Issuer shall have entered into arrangements reasonably satisfactory to such Letter of Credit Issuer to eliminate the risk of such Bank's failure to participate in Letters of Credit (including Cash Collateralizing the amount of such Bank's obligation).

(b) Notwithstanding the foregoing, (i) no Letter of Credit shall be issued, the Stated Amount of which, when added to the Letter of Credit Outstandings (exclusive of Unpaid Drawings which are repaid on the date of, and prior to the issuance of, the respective Letter of Credit) at such time, would exceed either (x) the Letter of Credit Commitment or (y) when added to the Revolving Loans and Swing Loans then outstanding, the Total Revolving Credit Commitment at such time; (ii) each Letter of Credit shall have an expiry date occurring not later than one year after such Letter of Credit's date of issuance (although any Letter of Credit may be extendible (whether automatically or otherwise) for successive periods of up to 12 months, but not beyond the fifth Business Day preceding the Maturity Date), on terms reasonably acceptable to the respective Letter of Credit Issuer and in no event shall any Letter of Credit have an expiry date occurring later than the fifth Business Day preceding the Maturity Date unless the relevant Letter of Credit is (x) cash collateralized in an amount equal to 100% of the face value thereof or (y) backstopped, in each case, pursuant to arrangements reasonably satisfactory to the Letter of Credit Issuer thereof; (iii) each Letter of Credit shall be denominated in U.S. Dollars; (iv) each Letter of Credit shall be payable only on a sight basis and upon conditions, if any, set forth therein; and (v) no Letter of Credit Issuer shall issue any Letter of Credit after it has received written notice from the Borrower or the Required Banks that a Default exists until such time as such Letter of Credit Issuer shall have received written notice of (x) rescission of such notice from the party or parties originally delivering the same or (y) waiver of such Default by the Required Banks.

(c) Upon the occurrence of an event giving rise to the operation of Section 2A.1(a)(iii), the Borrower shall have the right, if no Default then exists, to replace such Bank in accordance with Section 8.7.

SECTION 2A.2 Minimum Stated Amount. The initial Stated Amount of each Letter of Credit shall be not less than $100,000 or such lesser amount as shall be reasonably acceptable to the respective Letter of Credit Issuer.

SECTION 2A.3 Letter of Credit Requests; Notices of Issuance; Reports. (a) Whenever the Borrower desires that a Letter of Credit be issued, the Borrower shall give the Administrative Agent and the respective Letter of Credit Issuer a written request (including by way of telecopier) prior to 1:00 p.m. (New York time) at least three (3) Business Days (or such shorter period as may be acceptable to such Letter of Credit Issuer) prior to the proposed date (which shall be a Business Day) of issuance (each a "Letter of Credit Request"), which Letter of Credit Request shall include any other documents that such Letter of Credit Issuer customarily requires in connection therewith.

(b) The respective Letter of Credit Issuer shall, promptly after each issuance of a Letter of Credit by it, give the Administrative Agent, each Bank and the Borrower written notice of the issuance of such Letter of Credit, accompanied, if requested, by a copy of the Letter of Credit or Letters of Credit issued by it.

SECTION 2A.4 Agreement to Repay Letter of Credit Drawings. (a) The Borrower hereby agrees to reimburse the respective Letter of Credit Issuer, by making payment to the Administrative Agent at the Payment Office (which funds the Administrative Agent shall promptly forward to such Letter of Credit Issuer), for any payment or disbursement made by such Letter of Credit Issuer under any Letter of Credit issued by it (each such amount so paid or disbursed until reimbursed, an "Unpaid Drawing") immediately after, and in any event on the date on which, the Borrower is notified by such Letter of Credit Issuer of such payment or disbursement with interest on the amount so paid or disbursed by such Letter of Credit Issuer, to the extent not reimbursed prior to 1:00 p.m. (New York time) on the date of such payment or disbursement, from and including the date paid or disbursed to but not including the date such Unpaid Drawing is paid by the Borrower at a rate per annum which shall be the interest rate applicable to Revolving Loans maintained as Base Rate Loans, as in effect from time to time (plus an additional 2% per annum if not reimbursed by the third Business Day after the date of such notice of payment or disbursement), such interest also to be payable on demand. Each Letter of Credit Issuer shall provide the Borrower prompt notice of any payment or disbursement made by it under any Letter of Credit issued by it, although the failure of, or delay in, giving any such notice shall not release or diminish the obligations of the Borrower under this Section 2A.4(a) or under any other Section of this Agreement.

(b) The Borrower's obligation under this Section 2A.4 to reimburse the respective Letter of Credit Issuer with respect to Unpaid Drawings (including, in each case, interest thereon) shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Borrower may have or have had against such Letter of Credit Issuer, the Administrative Agent or any Bank, including, without limitation, any defense based upon the failure of any payment under a Letter of Credit to conform to the terms of the Letter of Credit or any non-application or misapplication by the beneficiary of the proceeds of such payment; provided, however, that the Borrower shall not be obligated to reimburse any Letter of Credit Issuer for any wrongful payment made by such Letter of Credit Issuer under a Letter of Credit as a result of acts or omissions constituting willful misconduct or gross negligence (as determined by a court of competent jurisdiction) on the part of such Letter of Credit Issuer.

SECTION 2A.5 Letter of Credit Participations. (a) Immediately upon the issuance by any Letter of Credit Issuer of a Letter of Credit, such Letter of Credit Issuer shall be deemed to have sold and transferred to each Bank with a Revolving Credit Commitment, and each such Bank (each an "L/C Participant") shall be deemed irrevocably and unconditionally to have purchased and received from such Letter of Credit Issuer, without recourse or warranty, an undivided interest and participation, to the extent of such Bank's Revolver Percentage, in such Letter of Credit, each substitute letter of credit, each payment made thereunder and the obligations of the Borrower under this Agreement with respect thereto (although the Letter of Credit Fee shall be payable directly to the Administrative Agent for the account of the Banks as provided in Section 2.7(b) and the L/C Participants shall have no right to receive any portion of any Fronting Fees) and any security therefor or guaranty pertaining thereto. Upon any change in the Revolving Credit Commitments or Revolver Percentages of the Banks pursuant to Section 2.16 or 10.6(c), it is hereby agreed that, with respect to all outstanding Letters of Credit and Unpaid Drawings, there shall be an automatic adjustment to the participations pursuant to this Section 2A.5 to reflect the new Revolver Percentages of the Banks.

(b) In determining whether to pay under any Letter of Credit, the respective Letter of Credit Issuer shall not have any obligation relative to the L/C Participants other than to determine that any documents required to be delivered under such Letter of Credit have been delivered and that they substantially comply on their face with the requirements of such Letter of Credit. Any action taken or omitted to be taken by any Letter of Credit Issuer under or in connection with any Letter of Credit if taken or omitted in the absence of gross negligence or willful misconduct (as determined by a court of competent jurisdiction) shall not create for such Letter of Credit Issuer any resulting liability.

(c) In the event that the respective Letter of Credit Issuer makes any payment under any Letter of Credit and the Borrower shall not have reimbursed such amount in full to such Letter of Credit Issuer pursuant to Section 2A.4(a), such Letter of Credit Issuer shall promptly notify the Administrative Agent, and the Administrative Agent shall promptly notify each L/C Participant of such failure, and each L/C Participant shall promptly and unconditionally pay to the Administrative Agent for the account of such Letter of Credit Issuer, the amount of such L/C Participant's Revolver Percentage of such payment in the currency of such payment and in same day funds; provided, however, that no L/C Participant shall be obligated to pay to the Administrative Agent its Revolver Percentage of such unreimbursed amount for any wrongful payment made by such Letter of Credit Issuer under a Letter of Credit as a result of acts or omissions constituting willful misconduct or gross negligence (as determined by a court of competent jurisdiction) on the part of such Letter of Credit Issuer. If the Administrative Agent so notifies any L/C Participant required to fund an Unpaid Drawing under a Letter of Credit prior to 1:00 p.m. (New York time) on any Business Day, such L/C Participant shall make available to the Administrative Agent for the account of the respective Letter of Credit Issuer (which funds the Administrative Agent shall promptly forward to the Letter of Credit Issuer) such Participant's Revolver Percentage of the amount of such payment on such Business Day in same day funds. If and to the extent such L/C Participant shall not have so made its Revolver Percentage of the amount of such Unpaid Drawing available to the Administrative Agent for the account of such Letter of Credit Issuer, such L/C Participant agrees to pay to the Administrative Agent for the account of such Letter of Credit Issuer, forthwith on demand such amount, together with interest thereon, for each day from such date until the date such amount is paid to the Administrative Agent for the account of such Letter of Credit Issuer at the Federal Funds Rate for the first two (2) Business Days after such payment by such Bank is due, and thereafter, at the Base Rate. The failure of any L/C Participant to make available to the Administrative Agent for the account of the respective Letter of Credit Issuer its Revolver Percentage of any Unpaid Drawing under any Letter of Credit shall not relieve any other L/C Participant of its obligation hereunder to make available to the Administrative Agent for the account of the respective Letter of Credit Issuer its Revolver Percentage of any payment under any Letter of Credit on the date required, as specified above, but no L/C Participant shall be responsible for the failure of any other L/C Participant to make available to the Administrative Agent for the account of such Letter of Credit Issuer such other L/C Participant's Revolver Percentage of any such payment.

(d) Whenever the respective Letter of Credit Issuer receives a payment of a reimbursement obligation as to which the Administrative Agent has received for the account of such Letter of Credit Issuer any payments from the L/C Participants pursuant to clause (c) above, such Letter of Credit Issuer shall pay to the Administrative Agent and the Administrative Agent shall promptly pay to each L/C Participant which has paid its Revolver Percentage thereof, in the applicable currency, and in same day funds, an amount equal to such L/C Participant's Revolver Percentage of the principal amount thereof and interest thereon accruing at the Federal Funds Rate.

(e) The obligations of the L/C Participants to make payments to the Administrative Agent for the account of the respective Letter of Credit Issuer with respect to Letters of Credit shall be irrevocable and not subject to counterclaim, set-off or other defense or any other qualification or exception whatsoever (provided that no L/C Participant shall be required to make payments resulting from the Letter of Credit Issuer's gross negligence or willful misconduct (as determined by a court of competent jurisdiction)) and shall be made in accordance with the terms and conditions of this Agreement under all circumstances, including, without limitation, any of the following circumstances:

(i) any lack of validity or enforceability of this Agreement or any of the other Credit Documents;

(ii) the existence of any claim, set-off, defense or other right which the Borrower or any of its Subsidiaries may have at any time against a beneficiary named in a Letter of Credit, any transferee of any Letter of Credit (or any Person for whom any such transferee may be acting), the Administrative Agent, the respective Letter of Credit Issuer, any Bank or other Person, whether in connection with this Agreement, any Letter of Credit, the transactions contemplated herein or any unrelated transactions (including any underlying transaction between the Borrower or any of its Subsidiaries and the beneficiary named in any such Letter of Credit);

(iii) any draft, certificate or other document presented under the Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect;

(iv) the surrender or impairment of any security for the performance or observance of any of the terms of any of the Credit Documents; or

(v) the occurrence of any Default.

(f) To the extent the respective Letter of Credit Issuer is not indemnified for same by the Borrower, the L/C Participants will reimburse and indemnify the Letter of Credit Issuer, in proportion to their respective Revolver Percentages, for and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, judgments, suits, costs, expenses or disbursements of whatsoever kind or nature which may be imposed on, asserted against or incurred by such Letter of Credit Issuer in performing its respective duties in any way relating to or arising out of its issuance of Letters of Credit; provided that no L/C Participant shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements resulting from such Letter of Credit Issuer's gross negligence or willful misconduct (as determined by a court of competent jurisdiction).

SECTION 2A.6 Increased Costs. If any Change in Law shall either (i) impose, modify or make applicable any reserve, deposit, capital adequacy, liquidity requirement or similar requirement against Letters of Credit issued by any Letter of Credit Issuer or any L/C Participant's participation therein, or (ii) shall impose on such Letter of Credit Issuer or any L/C Participant's any other conditions affecting this Agreement, any Letter of Credit or such L/C Participant's participation therein; and the result of any of the foregoing is to increase the cost to such Letter of Credit Issuer or such L/C Participant of issuing, maintaining or participating in any Letter of Credit or of maintaining its obligation to issue any such Letter of Credit, or to reduce the amount of any sum received or receivable by such Letter of Credit Issuer or such L/C Participant hereunder (other than any increased cost or reduction in the amount received or receivable resulting from a change in the rate of taxes or similar charges), then, upon demand to the Borrower by such Letter of Credit Issuer or such L/C Participant (a copy of which notice shall be sent by such Letter of Credit Issuer or such L/C Participant to the Administrative Agent), the Borrower shall pay to such Letter of Credit Issuer or such L/C Participant such additional amount or amounts as will compensate such Letter of Credit Issuer or such L/C Participant for such increased cost or reduction. A certificate submitted to the Borrower by the respective Letter of Credit Issuer or such L/C Participant, as the case may be (a copy of which certificate shall be sent by such Letter of Credit Issuer or such L/C Participant to the Administrative Agent) setting forth the basis for the determination of such additional amount or amounts necessary to compensate such Letter of Credit Issuer or such L/C Participant shall be conclusive and binding on the Borrower absent manifest error, although the failure to deliver any such certificate shall not release or diminish any of the Borrower's obligations to pay additional amounts pursuant to this Section 2A.6 upon the subsequent receipt thereof. The Borrower's obligations under this Section 2A.6 are limited as set forth in Section 8.6.

ARTICLE 3

CONDITIONS

SECTION 3.1 Conditions to Closing Date. The obligations of the Banks to establish the Commitments hereunder and of any Letter of Credit Issuer to establish the Letter of Credit Commitment hereunder are, in each case, subject solely to the following conditions precedent; provided that, for the avoidance of doubt, the Borrower shall not be entitled to request any Loan or Letter of Credit hereunder prior to the Effective Date):

(a) The Administrative Agent shall have received the following documents:

(i) an opinion of counsel for the Credit Parties in a form reasonably acceptable to the Administrative Agent and covering such matters relating to the transactions contemplated hereby as the Administrative Agent or the Required Banks may reasonably request; and

(ii) all documents the Administrative Agent may reasonably request relating to the corporate authority and incumbency of each Credit Party which is a party hereto or any other Credit Document and the validity of this Agreement and each other Credit Document, all in form and substance reasonably satisfactory to the Administrative Agent; and

(iii) copies of this Agreement executed by the Borrower, each Guarantor and each of the Banks;

(b) At the time of and immediately after the Closing Date, no Default or Event of Default shall have occurred and be continuing; and

(c) The representations and warranties of the Credit Parties contained in this Agreement shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) on and as of the Closing Date (other than representations and warranties that relate to a specific date, which shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) as of such date).

Without limiting the generality of the provisions of Section 7.5(b), for purposes of determining compliance with the conditions specified in this Section 3.1, the Administrative Agent and each 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 Bank unless the Administrative Agent shall have received notice from such Bank prior to the proposed Closing Date specifying its objection thereto.

SECTION 3.2 Conditions to Effective Date. The obligation of the Banks to make any Loan hereunder and of any Letter of Credit Issuer to issue or amend any Letter of Credit is subject to the satisfaction of each of the following conditions in addition to, and without limitation of, the applicable conditions set forth in Sections 3.3 and 3.4:

(a) The satisfaction of the conditions set forth in Section 3.1;

(b) The Administrative Agent shall have received documentation, in form and substance reasonably acceptable to the Administrative Agent, evidencing the termination of the Existing Credit Agreement and the repayment of all obligations owing thereunder (other than indemnities and similar obligations that customarily survive termination of credit facilities), which repayment may be made with the proceeds of the initial Loans hereunder;

(c) The Borrower and each other Credit Party shall have provided to the Administrative Agent and each requesting Bank (in each case, at least 2 Business Days prior to the Effective Date, to the extent reasonably requested in writing to the Borrower at least 5 Business Days prior to the Effective Date) (i) the documentation and other information requested by the Administrative Agent or any requesting Bank in order to comply with requirements of any AML Laws and any applicable “know your customer” rules and regulations and (ii) to the extent the Borrower qualifies as a “legal entity customer” under the Beneficial Ownership Regulation, a Beneficial Ownership Certification;

(d) The Borrower shall have paid or made arrangements to pay contemporaneously with closing (i) to the Administrative Agent, the Arrangers and the Banks the fees set forth or referenced in Section 2.7 and any other accrued and unpaid fees or commissions with respect to the credit facilities governed by this Agreement as agreed in writing by the Borrower and (ii) all reasonable fees, charges and disbursements of counsel to the Administrative Agent (directly to such counsel if requested by the Administrative Agent, but limited to the reasonable fees, charges and disbursements of one external counsel to the Administrative Agent and, if necessary, one local counsel in each relevant jurisdiction); and

(e) On or after the Closing Date but on or prior to the Effective Date (including any such incurrence, establishment or issuance made on the Effective Date substantially concurrently with the effectiveness of the Commitments hereunder), the Borrower shall have incurred, established or issued an aggregate of at least $1,550,000,000 in aggregate principal amount (or in the case of common or preferred equity, gross proceeds) in the form of (i) Term Loan Commitments, (ii) Revolving Credit Commitments, and (iii) (x) equity or equity-related securities, including Convertible Debt and/or (y) unsecured debt securities (this clause (iii), the "Specified Incurrences"); provided that the aggregate principal amount (or in the case of common or preferred equity, gross proceeds) of the Specified Incurrences shall not be less than $250,000,000.

The Administrative Agent shall notify the Borrower and the Banks of the Effective Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, the Effective Date shall not occur, and this Agreement and the obligations of the parties hereunder shall automatically terminate if each of the foregoing conditions is not satisfied (or waived pursuant to Section 10.5) at or prior to 11:59 p.m., New York City time, on September 5, 2023.

SECTION 3.3 Each Revolving Loan Borrowing and each Issuance or Amendment of a Letter of Credit. The obligation of the Banks to make each Revolving Loan hereunder and of any Letter of Credit Issuer to issue or amend each Letter of Credit is subject at the time of such Revolving Loan or issuance or amendment of such Letter of Credit solely to the satisfaction of the following conditions:

(a) the satisfaction of the conditions set forth in Sections 3.1 and 3.2;

(b) receipt by the Administrative Agent of a Notice of Borrowing as required by Section 2.2;

(c) the fact that, immediately after any Borrowing of Revolving Loans or any issuance or amendment of a Letter of Credit, the aggregate of all Revolving Loans made hereunder plus all Swing Loans and Letter of Credit Outstandings will not exceed the Total Revolving Credit Commitments in effect;

(d) the fact that, immediately before and after such Borrowing or such issuance or amendment of a Letter of Credit, no Default or Event of Default shall have occurred and be continuing; and

(e) the fact that the representations and warranties of the Credit Parties contained in this Agreement shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) on and as of the date of such Borrowing or such issuance or amendment of a Letter of Credit (other than representations and warranties that relate to a specific date, which shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) as of such date).

Each Borrowing and each issuance or amendment of a Letter of Credit hereunder shall be deemed to be a representation and warranty by the Borrower on the date of such Borrowing as to the facts specified in clauses (c), (d) and (e) of this Section 3.3.

No Bank shall have any obligation to make a Revolving Loan hereunder and no Letter of Credit Issuer shall have any obligation to issue a Letter of Credit hereunder at any time unless all conditions precedent in this Section 3.3 have been satisfied before or at such time. The conditions precedent are included for the exclusive benefit of the Administrative Agent and the Banks. In the event that any one more Banks makes available a Loan or any one or more Letter of Credit Issuers issues a Letter of Credit at the request of the Borrower notwithstanding that any one or more of the conditions precedent thereto have not been satisfied in whole or in part, such waiver shall not operate as to waive the right of the Administrative Agent, the Banks and the Letter of Credit Issuers to require strict compliance thereafter.

SECTION 3.4 Each Term Loan Borrowing. The obligation of the Banks to make each Term Loan hereunder prior to the Term Loan Commitment Termination Date is subject at the time of such Term Loan Borrowing solely to the satisfaction of the following conditions:

(a) the satisfaction of the conditions set forth in Sections 3.1 and 3.2;

(b) receipt by the Administrative Agent of a Notice of Borrowing as required by Section 2.2;

(c) the fact that, immediately before and after such Borrowing, no Event of Default shall have occurred and be continuing (or, in the case of Term Loans that will be used to finance a Limited Condition Transaction, no Event of Default shall have occurred and be continuing on the LCT Test Date);

(d) the fact that the representations and warranties of the Credit Parties contained in this Agreement shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) on and as of the date of such Borrowing (other than representations and warranties that relate to a specific date, which shall be true and correct in all material respects (where not already qualified by materiality, otherwise in all respects) as of such date) (limited in the case of any Limited Condition Transaction to the Specified Representations, which in the case of a Limited Condition Transaction shall instead be made on the LCT Test Date); and

(e) at the time of and immediately after giving effect to the making of the Term Loans, the Borrower and its Subsidiaries shall be in compliance with the Financial Covenants (or, in the case of Term Loans that will be used to finance a Limited Condition Transaction, the Borrower and its Subsidiaries shall be in pro forma compliance with the Financial Covenants as of the LCT Test Date).

Each Borrowing hereunder shall be deemed to be a representation and warranty by the Borrower on the date of such Borrowing as to the facts specified in clauses (c), (d) and (e) of this Section 3.3.

ARTICLE 4

REPRESENTATIONS AND WARRANTIES

The Borrower represents and warrants that:

SECTION 4.1 Existence and Power. Each Credit Party is a corporation, limited liability company, partnership or other organization, duly organized and validly existing and, where applicable, in good standing under the laws of the jurisdiction of its organization, and has all corporate or other powers and all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted except where the failure to do so would not reasonably be expected to have a Material Adverse Effect. No Credit Party nor any Subsidiary thereof is an Affected Financial Institution.

SECTION 4.2 Corporate and Governmental Authorization; No Contravention. The execution, delivery and performance by each Credit Party of the Credit Documents to which it is a party (i) are within the corporate or other powers of such Credit Party, (ii) have been duly authorized by all necessary corporate or other action, (iii) require no action by or in respect of, or filing with, any Governmental Authority except where the failure to do so could not reasonably be expected to have a Material Adverse Effect, (iv) do not contravene, or constitute a default under, (A) any provision of applicable law or regulation or of the articles of association, the organizational certificate, bylaws or other constitutional documents, as applicable, of such Credit Party or (B) any agreement, judgment, injunction, order, decree or other instrument binding upon the Borrower or any of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect and (v) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of its Subsidiaries. Neither the Borrower (or any of its directors or officers) nor any Insured Subsidiary (or any of its directors or officers) is a party to, or subject to, any agreement with, or specific directive or order issued by, any federal or state bank or thrift regulatory authority which restricts the payment of dividends by any Insured Subsidiary to the Borrower; and no action or administrative proceeding is pending or, to the Borrower's knowledge, threatened against the Borrower or any Insured Subsidiary or any of their directors or officers which seeks to impose any such restriction, in each case that could reasonably be expected to have a Material Adverse Effect.

SECTION 4.3 Binding Effect. This Agreement and the other Credit Documents have been duly executed and delivered by each Credit Party and constitute valid and binding agreements of the Borrower and each other Credit Party which is a party thereto, and each Note, when executed and delivered in accordance with this Agreement, will constitute a valid and binding obligation of the Borrower, in each case enforceable in accordance with its terms.

SECTION 4.4 Financial Information. (a) The consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of December 31, 2022, and the related consolidated statements of income, retained earnings and cash flows for the fiscal year then ended, reported on by Deloitte, and the unaudited interim consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of March 31, 2023 and the related consolidated statements of income, retained earnings and cash flows for the three months then ended, copies of which have been delivered to each of the Banks, fairly present in all material respects the consolidated financial position of the Borrower and its Consolidated Subsidiaries as of such dates and their consolidated results of operations and cash flows for the periods then ended, subject, in the case of unaudited financial statements, to the absence of footnotes and to year end adjustments.

(b) Since December 31, 2022 there has been no material adverse change in the business, financial position or operations of the Borrower and its Consolidated Subsidiaries, considered as a whole.

(c) Except as disclosed in the financial statements delivered pursuant to Section 4.4(a) there were as of the Closing Date no liabilities or obligations with respect to the Borrower or any of its Subsidiaries of any nature whatsoever (whether absolute, accrued, contingent or otherwise and whether or not due) which, either individually or in aggregate, could reasonably be expected to have a Material Adverse Effect. As of the Closing Date, the Borrower knows of no basis for the assertion against it or any of its Subsidiaries of any liability or obligation of any nature whatsoever that is not disclosed in the financial statements delivered pursuant to Section 4.4(a) which, either individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect; provided, that the representations and warranties in this clause (c) shall not apply to any action, suit, proceeding or governmental investigation set forth on Schedule 4.5.

(d) The Borrower and its Consolidated Subsidiaries, on a consolidated basis, are Solvent.

SECTION 4.5 Litigation. There is no action, suit, proceeding or governmental investigation pending against, or to the knowledge of the Borrower threatened against or affecting, the Borrower or any of its Subsidiaries before any court or arbitrator or any other Governmental Authority in which there is, in the good faith judgment of the Borrower, a reasonable possibility of a decision which could reasonably be expected to have a Material Adverse Effect; provided, that this representation and warranty shall not apply to any action, suit, proceeding or governmental investigation set forth on Schedule 4.5.

SECTION 4.6 Compliance with ERISA. To the best of the Borrower's knowledge after reasonable investigation: (a) Each member of the ERISA Group has fulfilled its obligations under the minimum funding standards of ERISA and the Code with respect to each Plan and is in compliance in all material respects with the presently applicable provisions of ERISA and the Code with respect to each Plan. No member of the ERISA Group has (i) sought a waiver of the minimum funding standard under Section 412 of the Code in respect of any Plan, (ii) failed to make any contribution or payment to any Plan or Multiemployer Plan or in respect of any Benefit Arrangement, or made any amendment to any Plan or Benefit Arrangement, which has resulted or could result in the imposition of a Lien or the posting of a bond or other security under ERISA or the Code or (iii) incurred any liability under Title IV of ERISA other than a liability to the PBGC for premiums under Section 4007 of ERISA.

(b) Each Foreign Pension Plan has been maintained in substantial compliance with its terms and with the requirements of any and all applicable laws, statutes, rules, regulations and orders and has been maintained, where required, in good standing with applicable regulatory authorities. All material contributions required to be made with respect to a Foreign Pension Plan have been timely made. Neither the Borrower nor any of its Subsidiaries has incurred any material obligation in connection with the termination of or withdrawal from any Foreign Pension Plan. The Borrower and its Subsidiaries do not maintain or contribute to any Foreign Pension Plan the obligations with respect to which could reasonably be expected to have a Material Adverse Effect.

SECTION 4.7 Environmental Matters. To the best of the Borrower's knowledge after reasonable investigation: Each of the Borrower and its Subsidiaries has obtained all material environmental, health and safety permits, licenses and other authorizations required under all Environmental Laws to carry on its business as now being or as proposed to be conducted except for such permits, licenses and other authorizations the failure to obtain, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. Each of such permits, licenses and authorizations is in full force and effect and the Borrower and its Subsidiaries is in material compliance with the terms and conditions thereof, and is also in material compliance with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in any applicable Environmental Law or in any regulation, code, plan, order, decree, judgment, injunction, notice or demand letter issued, entered, promulgated or approved thereunder except for such failure to comply, individually or in the aggregate, as could not reasonably be expected to result in a Material Adverse Effect. In addition, no notice, notification, demand, request for information, citations, summons or order has been issued, no complaint has been filed, no penalty has been assessed and no investigation or review is pending or threatened by any governmental or other entity with respect to any alleged failure by the Borrower or any of its Subsidiaries to have any environmental, health or safety permit, license or other authorization required under any Environmental Law in connection with the conduct of the business of the Borrower or any of its Subsidiaries or with respect to any generation, treatment, storage, recycling, transportation, discharge or disposal, or any release of any Hazardous Substance generated or handled by the Borrower or any of its Subsidiaries except for such matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. There have been no environmental investigations, studies, audits, tests, reviews or other analyses conducted by or that are in the possession of the Borrower or any of its Subsidiaries in relation to any site or facility now or previously owned, operated or leased by the Borrower or any of its Subsidiaries which have not been made available to the Administrative Agent and the Banks except for such matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

SECTION 4.8 Taxes. The Borrower and its Subsidiaries have filed all United States Federal and Canadian income tax returns and all other material tax returns which are required to be filed by them and have paid all taxes due pursuant to such returns or pursuant to any assessment received by the Borrower or any Subsidiary, except such taxes, if any, as are being contested in good faith and by appropriate proceedings. The charges, accruals and reserves on the books of the Borrower and its Subsidiaries in respect of taxes or other governmental charges are, in the opinion of the Borrower, adequate.

SECTION 4.9 Subsidiaries. Each of the Borrower's Subsidiaries, if any, is duly organized, validly existing and, where applicable, in good standing under the laws of its jurisdiction of organization, and has all corporate or other organizational powers and all material governmental licenses, authorizations, consents and approvals required to carry on its business as now conducted except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

SECTION 4.10 Investment Company. The Borrower is not an "investment company" within the meaning of the U.S. Investment Company Act of 1940, as amended.

SECTION 4.11 Full Disclosure. All information (other than projections) heretofore furnished by the Borrower to the Administrative Agent or any Bank for purposes of or in connection with this Agreement is, and all such information hereafter furnished by the Borrower to the Administrative Agent or any Bank will be, complete and correct in all material respects on the date as of which such information is stated or certified and such information does not or will not, as of the date which such information is stated or certified, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not materially misleading in light of the circumstances under which such statements are made. All projections heretofore furnished by the Borrower to the Administrative Agent or any Bank for purposes of or in connection with this Agreement have been or will be prepared in good faith based upon reasonable assumptions; it being understood that such projections are not to be viewed as facts and are subject to significant uncertainties and contingencies, many of which are beyond the control of the Borrower; no assurance can be given that any particular projections will be realized and actual results may differ and such differences may be material.

SECTION 4.12 AML Laws; Anti-Corruption Laws and Sanctions. The Borrower has implemented and maintains in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, applicable AML Laws and applicable Sanctions. None of (a) the Borrower or any Subsidiary or their respective directors or officers or (b) to the knowledge of the Borrower, (1) any of their respective employees or Affiliates, or (2) any agent of the Borrower or any Subsidiary or other Affiliate that will act in any capacity in connection with or benefit from the credit facility established by this Agreement, (i) is a Sanctioned Person, or (ii) is in violation of AML Laws, Anti-Corruption Laws, or Sanctions. No Borrowing, Letter of Credit, or use of proceeds of any Borrowing or Letter of Credit, including the funding of all or a portion of the purchase price of any Permitted Acquisition, nor any repayment of Borrowings or reimbursement of any payment made pursuant to any Letter of Credit, will cause a violation of AML Laws, Anti-Corruption Laws or applicable Sanctions by any Person participating in the transactions contemplated by this Agreement, whether as lender, borrower, guarantor, agent, or otherwise. The Borrower represents that neither it nor any of its Subsidiaries, or, to the knowledge of the Borrower, any other Affiliate, is as of the Closing Date engaged in, or intends to engage in, any dealings or transactions with, or for the benefit of, any Sanctioned Person or with or in any Sanctioned Country.

SECTION 4.13 Ownership of Insured Subsidiaries. Subject to Section 5.15(b), each Insured Subsidiary is a Wholly-Owned Subsidiary of the Borrower.

ARTICLE 5

COVENANTS

The Borrower and each Guarantor, as the case may be, agree that, commencing with the Effective Date and for so long as any Bank has any Commitment hereunder or any amount payable hereunder or under any Note remains unpaid:

SECTION 5.1 Information. The Borrower will deliver to the Administrative Agent for delivery to each of the Banks:

(a) as soon as available and in any event within ninety (90) days after the end of each fiscal year of the Borrower, the consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such fiscal year and the related consolidated statements of income, cash flows, and changes in common stockholders' equity, each for such fiscal year, setting forth in comparative form the figures for the previous fiscal year and certified by Deloitte or another independent public accounting firm of nationally recognized standing (it being understood that the public availability as posted on the Electronic Data Gathering, Analysis and Retrieval System ("EDGAR") by the Borrower of annual reports on Form 10-K of the Borrower and its Consolidated Subsidiaries shall satisfy the requirements of this Section 5.1(a) to the extent such annual reports include the information specified herein);

(b) as soon as available and in any event within forty-five (45) days after the end of each of the first three fiscal quarters of the Borrower, the consolidated balance sheet of the Borrower and its Consolidated Subsidiaries as of the end of such quarter and the related consolidated statements of income and cash flows for such quarter and for the portion of the Borrower's fiscal year ended at the end of such quarter, setting forth in comparative form the figures for the corresponding quarter and the corresponding portion of the Borrower's previous fiscal year, all certified (subject to normal year-end adjustments and the absence of footnotes) to fairly present in all material respects, such financial condition, and as to GAAP and consistency by the treasurer or chief financial officer of the Borrower (it being understood that the public availability as posted on EDGAR by the Borrower of quarterly reports on Form 10-Q of the Borrower and its Consolidated Subsidiaries shall satisfy the requirements of this Section 5.1(b) to the extent such quarterly reports include the information specified herein);

(c) simultaneously with the delivery of each set of financial statements referred to in clauses (a) and (b) above, a certificate of the treasurer or chief financial officer of the Borrower, (i) setting forth in reasonable detail the calculations required to establish whether the Borrower was in compliance with the requirements of Sections 5.11, 5.13, 5.13A and 5.13B and (ii) stating whether any Default exists on the date of such certificate and, if any Default then exists, setting forth the details thereof and the action which the Borrower is taking or proposes to take with respect thereto;

(d) [Reserved];

(e) within forty-five (45) days after the beginning of each fiscal year of the Borrower, a budget in form reasonably satisfactory to the Administrative Agent (including budgeted statements of consolidated income, consolidated cash flows, and consolidated balance sheets) prepared by the Borrower for each of the four quarters of such fiscal year, accompanied by a statement of the treasurer or chief financial officer of the Borrower to the effect that, to the best of such officer's knowledge, the budget is a reasonable estimate for the period covered thereby;

(f) within five (5) days after any officer of any Credit Party obtains knowledge of any Default, if such Default is then continuing, a certificate of the treasurer or chief financial officer of the Borrower setting forth the details thereof and the action which the Borrower or such Credit Party is taking or proposes to take with respect thereto;

(g) promptly after the mailing thereof to the public shareholders of the Borrower, copies of all financial statements, reports and proxy statements so mailed (it being understood that the public availability as posted on EDGAR by the Borrower of any such financial statements, reports and proxy statements shall satisfy the requirements of this Section 5.1(g));

(h) promptly upon the filing thereof, copies of all registration statements (other than the exhibits thereto and any registration statements on Form S-8 or its equivalent) and reports on Forms 10-K, 10-Q and 8-K (or their equivalents) which the Borrower or any other Credit Party shall have filed with the SEC (it being understood that the public availability as posted on EDGAR by the Borrower of any such registration statements and reports shall satisfy the requirements of this Section 5.1(h));

(i) promptly upon discovery of the fact that any member of the ERISA Group (i) gives or is required to give notice to the PBGC of any "reportable event" (as defined in Section 4043 of ERISA) with respect to any Plan which might constitute grounds for a termination of such Plan under Title IV of ERISA, or knows that the plan administrator of any Plan has given or is required to give notice of any such reportable event, a copy of the notice of such reportable event given or required to be given to the PBGC; (ii) receives notice of complete or partial withdrawal liability under Title IV of ERISA or notice that any Multiemployer Plan is in reorganization, is insolvent or has been terminated, a copy of such notice; (iii) receives notice from the PBGC under Title IV of ERISA of an intent to terminate, impose liability (other than for premiums under Section 4007 of ERISA) in respect of, or appoint a trustee to administer any Plan, a copy of such notice; (iv) applies for a waiver of the minimum funding standard under Section 412 of the Code, a copy of such application; (v) gives notice of intent to terminate any Plan under Section 4041(c) of ERISA, a copy of such notice and other information filed with the PBGC; (vi) gives notice of withdrawal from any Plan pursuant to Section 4063 of ERISA, a copy of such notice; or (vii) fails to make any payment or contribution to any Plan, Foreign Pension Plan or Multiemployer Plan or in respect of any Benefit Arrangement or makes any amendment to any Plan, Foreign Pension Plan or Benefit Arrangement which has resulted or could result in the imposition of a Lien or the posting of a bond or other security, a certificate of the treasurer of the Borrower setting forth details as to such occurrence and action, if any, which the Borrower, the applicable Credit Party or the applicable member of the ERISA Group is required or proposes to take;

(j) to the extent permitted by applicable law, promptly upon the receipt or execution thereof, (i) notice by the Borrower or any Insured Subsidiary that (1) it has received a request or directive from any federal, state or other regulatory agency which requires it to submit a capital maintenance or restoration plan that restricts the payment of dividends by any Insured Subsidiary to the Borrower or (2) it has submitted a capital maintenance or restoration plan to any federal, state or other regulatory agency or has entered into a memorandum or agreement with any such agency, in each case which plan, memorandum or agreement restricts the payment of dividends by any Insured Subsidiary to the Borrower, and (ii) copies of any such plan, memorandum, or agreement, unless disclosure is prohibited by the terms thereof or by law, rule or regulation and, after the Borrower or such Insured Subsidiary has in good faith attempted to obtain the consent of such regulatory agency, such agency will not consent to the disclosure of such plan, memorandum, or agreement to the Banks;

(k) prompt notice if the Borrower, any Subsidiary or any other Credit Party shall receive any notification from any governmental authority alleging a violation of any applicable law or any inquiry which could reasonably be expected to have a Material Adverse Effect;

(l) prompt notice of any Person becoming a Material Subsidiary;

(m) prompt notice of the sale, transfer or other disposition of any Material Asset of the Borrower, any Subsidiary or any other Credit Party to any Person other than the Borrower, any Subsidiary or any other Credit Party other than a sale, transfer or other disposition (x) made in the ordinary course of business or (y) made in accordance with this Agreement;

(n) [Reserved];

(o) promptly after knowledge thereof shall have come to the attention of any responsible officer of the Borrower, written notice of any threatened (in writing) or pending litigation or governmental or arbitration proceeding or labor controversy, in each case other than litigation or proceedings disclosed on Schedule 4.5, against the Borrower or any Subsidiary or any of their property which could reasonably be expected to have a Material Adverse Effect;

(p) from time to time such additional information regarding the financial position or business of the Credit Parties and their Subsidiaries (including non-financial information and examination reports and supervisory letters to the extent permitted by applicable regulatory authorities) as the Administrative Agent, at the request of any Bank, may reasonably request; provided, that the Credit Parties and their Subsidiaries shall have no obligation to disclose any information (i) that is subject to attorney-client or similar privilege or constitutes attorney work product or (ii) in respect of which disclosure is prohibited by applicable law or any confidentiality agreement; and

(q) prompt notice to the Administrative Agent and each Bank that previously received a Beneficial Ownership Certification (or a certification that the Borrower qualifies for an express exclusion to the "legal entity customer" definition under the Beneficial Ownership Regulation) of any change in the information provided in the Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified therein (or, if applicable, the Borrower ceasing to fall within an express exclusion to the definition of "legal entity customer" under the Beneficial Ownership Regulation) and promptly upon the reasonable request of the Administrative Agent or any Bank, provide the Administrative Agent or directly to such Bank, as the case may be, any information or documentation requested by it for purposes of complying with the Beneficial Ownership Regulation.

SECTION 5.2 Payment of Obligations. Each Credit Party will pay and discharge, and will cause each Subsidiary to pay and discharge, at or before maturity, all their respective material obligations and liabilities (including, without limitation, tax liabilities and claims of materialmen, warehousemen and the like which if unpaid might by law give rise to a Lien), except where the same (i) may be contested in good faith by appropriate proceedings, and will maintain, and will cause each Subsidiary to maintain, in accordance with GAAP, appropriate reserves for the accrual of any of the same or (ii) could not reasonably be expected to result in a Material Adverse Effect.

SECTION 5.3 Maintenance of Property; Insurance. (a) Each Credit Party will keep, and will cause each Subsidiary to keep, all property useful and necessary in its business in good working order and condition, ordinary wear and tear excepted, except to the extent the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

(b) Each Credit Party will, and will cause each Subsidiary to, maintain (either in the name of the Borrower or in its own name) with financially sound and responsible insurance companies, insurance on all their respective properties in at least such amounts, against at least such risks and with such risk retention as are usually maintained, insured against or retained, as the case may be, in the same general area by companies of established repute engaged in the same or a similar business and will furnish to the Banks, upon request from the Administrative Agent, information presented in reasonable detail as to the insurance so carried.

SECTION 5.4 Conduct of Business and Maintenance of Existence. Each Credit Party will continue, and will cause each Subsidiary to continue, to engage in business of the same general type as now conducted by such Credit Party and/or reasonably related, similar, incidental, complementary, ancillary, corollary, synergistic or related businesses or reasonable extensions, development or expansion thereof, and will preserve, renew and keep in full force and effect, and will cause each Subsidiary to preserve, renew and keep in full force and effect their respective existence and their respective rights, privileges and franchises necessary or desirable in the normal conduct of business; provided, that nothing in this Section 5.4 shall prohibit (i) a merger, consolidation, sale, lease or other transfer that is otherwise permitted by Section 5.7 or (ii) the termination of the existence of any Subsidiary (including a Subsidiary that is a Guarantor) if the Borrower in good faith determines that such termination is in the best interest of the Borrower and is not materially disadvantageous to the Banks. For the avoidance of doubt, any Insured Subsidiary may convert its charter to another form of bank charter and may consummate any necessary transactions in connection therewith.

SECTION 5.5 Compliance with Laws. Each Credit Party will comply, and cause each Subsidiary to comply, in all respects with all applicable laws, ordinances, rules, regulations, and requirements of governmental authorities (including, without limitation, Environmental Laws and ERISA and the rules and regulations thereunder) except (i) where the necessity of compliance therewith is contested in good faith by appropriate proceedings or (ii) to the extent that failure to comply therewith could not reasonably be expected to result in a Material Adverse Effect. The Borrower will maintain in effect policies and procedures designed to ensure compliance by the Borrower, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws, applicable AML Laws and applicable Sanctions.

SECTION 5.6 Inspection of Property, Books and Records. The Credit Parties will keep, and will cause each Subsidiary to keep, proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities; and will permit, and will cause each Subsidiary to permit, representatives of any Bank, at such Bank's expense, to visit and inspect any of their respective properties, to examine and make abstracts from any of their respective books and records and to discuss their respective affairs, finances and accounts with their respective officers and independent public accountants, all at such reasonable times and as often as may reasonably be desired.

SECTION 5.7 Mergers and Sales of Assets. The Credit Parties will not (x) consolidate or merge with or into any other Person or (y) sell, lease or otherwise transfer, directly or indirectly, any substantial part of the assets of any Credit Party and its Subsidiaries, taken as a whole, to any other Person; except that the following shall be permitted, but in the case of clauses (a)(ii), (a)(iii), (a)(iv) (if subject to the proviso therein), (c) and (d) below, only so long as no Default shall have occurred and be continuing both before and after giving effect thereto:

(a) (i) any Credit Party may merge with or into the Borrower or any Subsidiary, provided that (x) in the case of any merger involving the Borrower, the Borrower is the surviving entity of such merger any (y) in the case of any merger involving any Credit Party other than the Borrower, a Credit Party is the surviving entity of such merger, (ii) any Person may be merged with or into any Credit Party pursuant to an acquisition permitted by this Agreement (including Section 5.18), provided that such Credit Party is the surviving entity of such merger, (iii) any Credit Party (other than the Borrower) may be merged with or into any Person pursuant to an acquisition permitted by Section 5.18, provided that if required by Section 5.20 the surviving entity becomes a Guarantor within the time period specified in Section 5.20 pursuant to documentation in compliance with Section 5.20 and (iv) any Credit Party may sell or otherwise transfer assets to the Borrower or any Subsidiary, provided that sales or other transfers of assets under this clause (iv) by a Credit Party to a Subsidiary that is not a Credit Party shall not exceed the greater of (x) $100,000,000 and (y) 0.50% of Consolidated Total Assets;

(b) the sale or other transfer of Securitization Assets;

(c) assets sold and leased back in the normal course of the Borrower's business;

(d) sales, leases and other transfers of assets; provided that (1) such sale, lease or other transfer shall be made for fair market value (as determined by the Borrower in good faith) at the time of such sale, lease or other transfer (or if such sale, lease or other transfer is made pursuant to a legally binding commitment, at the time such commitment is entered into), (2) immediately before and after giving effect thereto, no Default or Event of Default shall have occurred and be continuing, and (3) in the case (and only the case) of any sale, lease or other transfer made in reliance on this clause (d) for total consideration in excess of $50,000,000, (x) no less than 75% of the total consideration received with respect to such sale, lease or other transfer shall be cash, Eligible Cash Equivalents and the assumption of liabilities, and (y) the Net Cash Proceeds therefrom are applied as required by Section 2.11(d));

(e) Restricted Payments that are not prohibited by Section 5.16 and Investments that are not prohibited by Section 5.18;

(f) the sale or other transfer of any Permitted Warrant Transaction and any exercise, settlement, termination or unwind (whether optional or mandatory) thereof; and

(g) the exercise, settlement, termination or unwind (whether optional or mandatory) of any Permitted Convertible Debt Hedge Transaction.

SECTION 5.8 Use of Proceeds. The proceeds of (x) the Term Loans made under this Agreement will be used by the Borrower to refinance existing Debt and to pay fees, expenses and premiums in connection therewith and (y) the Revolving Loans made under this Agreement will be used by the Borrower to finance the general corporate and working capital needs of the Borrower and its Subsidiaries including, without limitation, the refinancing of existing indebtedness, the financing of Investments, payment of dividends and repurchases of Capital Stock of the Borrower. None of the proceeds of any Loan made hereunder will be used, directly or indirectly, for the purpose, whether immediate, incidental or ultimate, of buying or carrying any "margin stock" within the meaning of Regulation U if such use would violate Regulation U or Regulation X of the FRB, as in effect from time to time. The Borrower will not, directly or, to the Borrower's knowledge, indirectly, use the proceeds of the Loans, or lend, contribute or otherwise make available such proceeds to any Subsidiary, other Affiliate, joint venture partner or other Person, (A) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws or AML Laws, (B) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country, or involving any goods originating in or with a Sanctioned Person or Sanctioned Country, or (C) in any manner that would result in the violation of any Sanctions by any Person (including any Person participating in the transactions contemplated hereunder, whether as underwriter, advisor, lender, investor or otherwise).

SECTION 5.9 Negative Pledge. Neither a Credit Party nor any Subsidiary will create, assume or suffer to exist any Lien on any asset now owned or hereafter acquired by it, except:

(a) Liens existing on the Effective Date and listed on Schedule 5.9 hereto; provided that such Liens shall not apply to any other property or assets of such Credit Party or its Subsidiaries other than after-acquired property that is affixed or incorporated into the property or assets covered by such Lien and proceeds and products thereof;

(b) any Lien existing on any asset of any Person at the time such Person becomes a Subsidiary and not created in contemplation of such event, so long as such Lien does not attach to any other asset of such Subsidiary;

(c) any Lien on any asset securing Debt incurred or assumed for the purpose of financing all or any part of the cost of acquiring such asset, provided that such Lien attaches only to such asset acquired and attaches concurrently with or within ninety (90) days after the acquisition thereof;

(d) any Lien on any asset of any Person existing at the time such Person is merged or consolidated with or into a Credit Party or its Subsidiary and not created in contemplation of such event, so long as such Lien does not attach to any other asset of such Credit Party or its Subsidiaries;

(e) any Lien existing on any asset prior to the acquisition thereof by a Credit Party or a Subsidiary and not created in contemplation of such acquisition;

(f) any Lien arising out of the amendment, modification, restatement, renewal, refunding, replacement, extension or refinancing of any Debt secured by any Lien permitted by any of the other clauses of this Section, provided that the amount of such Debt is not increased (except as permitted by another clause of this Section 5.9) and is not secured by any additional assets;

(g) Liens arising in the ordinary course of its business which (i) do not secure Debt or Derivatives Obligations, (ii) do not secure any obligation in an amount exceeding U.S. $5,000,000 and (iii) do not in the aggregate materially detract from the value of the assets secured or materially impair the use thereof in the operation of such Credit Party or Subsidiary's business;

(h) Liens arising in connection with Qualified Securitization Transactions;

(i) Liens securing Debt permitted under Section 5.14(d) hereof;

(j) Liens incurred or deposits or pledges (1) made in the ordinary course of business (i) in connection with workers' compensation, unemployment insurance and other types of social security, (ii) to secure the payment or performance of tenders, statutory or regulatory obligations, bids, leases, contracts (including contracts to provide customer care services, billing services, transaction processing services and other services), performance and return of money bonds and other similar obligations, including letters of credit and bank guarantees required or requested by the United States, any State thereof or any foreign government or any subdivision, department, agency, organization or instrumentality of any of the foregoing in connection with any contract or statute (exclusive of obligations for the payment of borrowed money), or (iii) to cover anticipated costs of future redemptions of awards under loyalty marketing programs; (2) required or requested by any regulatory authority having jurisdiction over any Insured Subsidiary in favor of any such regulatory authority or its nominee or made to comply or maintain compliance with Section 5.15 or any plan, memorandum or agreement with, or any order, request or directive from, any such regulatory authority; or (3) made to secure obligations under or in connection with Cash Management Arrangements in the ordinary course of business;

(k) Liens securing the Obligations; and

(l) [reserved]

(m) Liens not otherwise permitted by the foregoing clauses of this Section 5.9 securing Debt or other obligations in an aggregate principal or face amount at any date not to exceed the greater of (x) $250,000,000 and (y) 1.00% of Consolidated Total Assets.

In each case set forth above, notwithstanding any stated limitation on the assets or property that may be subject to such Lien, a permitted Lien on a specified asset or property or group or type of assets or property may include Liens on all improvements, additions and accessions thereto, assets and property affixed or appurtenant thereto, and all products and proceeds thereof, including dividends, distributions, interest and increases in respect thereof.

SECTION 5.10 End of Fiscal Years and Fiscal Quarters. The Borrower shall cause its fiscal year, and shall cause each of its Subsidiaries' fiscal years, to end on December 31 and shall cause its and each of its Subsidiaries' fiscal quarters to coincide with calendar quarters.

SECTION 5.11 Liquidity. The Borrower shall not permit Liquidity to be less than $150,000,000 at any time.

SECTION 5.12 Reserved.

SECTION 5.13 Delinquency Ratio. The Borrower shall not permit the average of the Delinquency Ratios for Comenity Bank and Comenity Capital Bank, in the aggregate, for the most recently ended three consecutive calendar months ending on the last day of any fiscal quarter to exceed 4.50%.

SECTION 5.13A Minimum Consolidated Tangible Net Worth. At all times, the Borrower will not permit Consolidated Tangible Net Worth to be less than the sum of (a) 70% of Consolidated Tangible Net Worth as of the end of the fiscal quarter ended March 31, 2023 (the "Measurement FQ"), plus (b) 25% of cumulative net income of the Borrower and its Consolidated Subsidiaries determined in accordance with GAAP for each fiscal quarter commencing with the first fiscal quarter subsequent to the Measurement FQ (excluding any fiscal quarter in which net income of the Borrower and its Consolidated Subsidiaries is negative), plus (c) 25% of the aggregate net cash proceeds received by the Borrower in consideration for the issuance of Capital Stock of the Borrower (other than issuances to (i) any Subsidiary or (ii) any current or former director, officer or employee, or estate, heir or family member thereof, or otherwise in connection with an employee benefit plan or similar arrangement) after the end of the Measurement FQ.

SECTION 5.13B CET1 Ratio. Each Insured Subsidiary will not permit the CET1 Ratio to be less than 10% at any time.

SECTION 5.14 Debt Limitation. The Borrower shall not, and shall not permit any of its Subsidiaries, whether now existing or created in the future, to create or incur any Debt other than:

(a) (i) any Debt created or incurred by the Borrower or such Subsidiary on or before the Effective Date and (ii) any Debt incurred pursuant to Specified Incurrences and, in each case, extensions, renewals, refinancings, refundings and replacements thereof, provided that, except to the extent otherwise permitted under another clause of this Section 5.14, the amount of such Debt is not increased at the time of such extension, renewal, refinancing, refunding or replacement other than by an amount equal to the sum of accrued interest on the Debt being extended, renewed, refinanced, refunded or replaced, any prepayment premiums thereon and all fees, costs, expenses and original issue discount associated with such transaction;

(b) any Debt owed to the Borrower or a Subsidiary by the Borrower or a Subsidiary;

(c) issuances by Insured Subsidiaries of deposits, certificates of deposit and other items to the extent no Default results therefrom pursuant to the other covenants contained in this Article 5;

(d) obligations of the Borrower or its Subsidiaries as lessee in respect of Capital Leases and Guaranties thereof;

(e) loans and letter of credit reimbursement obligations outstanding from time to time under this Agreement;

(f) Debt incurred by the Borrower and its Subsidiaries in the nature of a purchase price adjustment in connection with a Permitted Acquisition;

(g) Debt of any Person that is acquired by the Borrower or any Subsidiary and becomes a Subsidiary or is merged with or into the Borrower or any Subsidiary after the Effective Date and Debt secured by an asset acquired by the Borrower or any Subsidiary after the Effective Date, and, in each case, refinancings, renewals, extensions, refundings and replacements thereof in a principal amount not to exceed the aggregate principal amount of such Debt then outstanding plus the amount of accrued and unpaid interest on such Debt, and, in each case, Debt incurred after such acquisition pursuant to any unexpired unfunded commitments that existed at the time of such acquisition, if (A) such original Debt or commitment was in existence on the date such Person became a Subsidiary or merged with or into the Borrower or any Subsidiary or on the date that such asset was acquired, as the case may be, (B) such original Debt or commitment was not created in contemplation of such Person becoming a Subsidiary or merging with or into the Borrower or any Subsidiary or such asset being acquired, as the case may be, and (C) immediately after giving effect pro forma to the acquisition of such Person or asset by the Borrower or any Subsidiary, as the case may be, no Default or Event of Default shall have occurred and be continuing, including, without limitation, under Section 5.18 of this Agreement;

(h) Debt of the Borrower and its Subsidiaries (including in the form of Convertible Debt) in a principal amount not to exceed the greater of (x) $500,000,000 and (y) 2.0% of Consolidated Total Assets in the aggregate at any one time outstanding, so long as immediately after giving effect thereto, no Default or Event of Default shall have occurred and be continuing; provided that (x) any such Debt that matures earlier than 91 days after the latest of the Maturity Date and any Extended Maturity Date in effect as of the time when such Debt under this clause (h) is incurred (and, in the case of amortizing Debt, fixed installments thereof that mature earlier than such date) shall not exceed the greater of (x) $250,000,000 and (y) 1.0% of Consolidated Total Assets in the aggregate at any one time outstanding and (y) if any Term Loans are outstanding at such time, the Net Cash Proceeds of such Debt (other than Net Cash Proceeds of such Debt in an aggregate amount not to exceed the greater of $350,000,000 and 1.0% of Consolidated Total Assets (any such Net Cash Proceeds not excluded from the mandatory prepayment requirement pursuant to this parenthetical, "Specified Net Cash Proceeds")) shall be applied to make a mandatory prepayment of Term Loans in accordance with Section 2.11(d);

(i) Debt of the Borrower and its Subsidiaries (including in the form of Convertible Debt) incurred to refinance all or a portion of the Term Loans; provided that (x) no such Debt shall mature earlier than 91 days after the latest of the Maturity Date and any Extended Maturity Date in effect as of the time when such Debt under this clause (i) is incurred and (y) except to the extent otherwise permitted under another clause of this Section 5.14, the amount of such Debt is not increased at the time of such refinancing other than by an amount equal to the sum of accrued interest on the Debt being refinanced, refunded, any prepayment premiums thereon and all fees, costs, expenses and original issue discount associated with such transaction;

(j) Debt of Foreign Subsidiaries in a principal amount not to exceed the greater of (x) $175,000,000 and (y) 0.75% of Consolidated Total Assets in the aggregate at any one time outstanding and Guaranties by the Borrower and its Subsidiaries of such Debt;

(k) Debt of the Borrower and its Subsidiaries in the form of earn-out obligations, purchase price adjustments, deferred compensation and similar obligations, in each case, incurred or assumed in connection with the acquisition or disposition of any business, assets or Capital Stock of a Subsidiary otherwise permitted under this Agreement;

(l) Debt of the Borrower and its Subsidiaries (including in the form of Convertible Debt) incurred to refinance all or a portion of the Borrower's 7.000% senior notes due January 15, 2026 and to pay the cost of any related Permitted Convertible Debt Hedge Transaction and any refinancing thereof; provided that (x) after giving pro forma effect to the application of the proceeds of such Debt, no Term Loans shall be outstanding, (y) no such Debt shall mature earlier than 91 days after the latest maturity date for the Revolving Credit facility and (z) except to the extent otherwise permitted under another clause of this Section 5.14, the amount of such Debt is not increased at the time of such refinancing other than by an amount equal to the sum of accrued interest on the Debt being refinanced, refunded, any prepayment premiums thereon and all fees, costs, expenses and original issue discount associated with such transaction; and

(m) Debt of the Borrower and its Subsidiaries in respect of Derivatives Obligations incurred in the ordinary course of business and not for speculative purposes.

For purposes of determining compliance with this Section 5.14, in the event that an item of Debt or any portion thereof meets the criteria of more than one of the exceptions described above, the Borrower, in its sole discretion, may classify, and from time to time may reclassify, all or any portion of such item of Debt between or among such exceptions in any manner such that the item of Debt would be permitted to be created or incurred at the time of such classification or reclassification, as applicable.

SECTION 5.15 Capitalization and Ownership of Insured Subsidiaries.

(a) The Borrower shall, at all times, cause all Insured Subsidiaries to be "well capitalized" within the meaning of U.S. 12 C.F.R. 208.43(b)(1) or any successor regulation and such Insured Subsidiaries at no time be reclassified by any relevant agency as anything other than "well capitalized."

(b) The Borrower shall, at all times, cause Comenity Bank and Comenity Capital Bank (or such bank's successor following a charter conversion) to remain Wholly-Owned Subsidiaries of the Borrower, except that, if Comenity Capital Bank transfers all of its assets (other than its bank charter and *de minimis* assets) to Comenity Bank, the Borrower and its Subsidiaries may sell or otherwise transfer the bank charter and remaining assets of Comenity Capital Bank if (i) such transaction complies with the requirements of Section 5.7(d) as if such transaction were a sale by a Credit Party and (ii) the Net Cash Proceeds therefrom are applied as required by Section 2.11(d).

SECTION 5.16 Restricted Payments; Required Dividends.

(a) Neither the Borrower nor any of its Subsidiaries will declare or make any Restricted Payment other than: (i) the declaration and payment of Restricted Payments made in accordance with the terms of Section 5.16(b) below, (ii) the declaration and payment of Restricted Payments made to the Borrower or any other Credit Party, (iii) the declaration and payment of Restricted Payments made by a Subsidiary that is not a Credit Party (other than any Insured Subsidiary) to a Wholly-Owned Subsidiary that is not a Credit Party, (iv) employee stock repurchases in an aggregate amount not to exceed $50,000,000 per fiscal year (including for the fiscal year that commenced on January 1, 2023), (v) so long as no Event of Default is continuing or would result therefrom, Restricted Payments up to the Cumulative Available Amount; provided that at the time of such Restricted Payment the Borrower's CET1 Ratio shall be at least 11% on a pro forma basis, (vi) Restricted Payments occurring or deemed to occur (A) upon the non-cash acquisition or exercise of stock options, warrants or other equity-based compensation or (B) in connection with the payment of taxes payable on account of such acquisition or exercise, (vii) so long no Default or Event of Default is continuing or would result therefrom, the declaration and payment of Restricted Payments in an aggregate amount not to exceed $75,000,000 per fiscal year (including for the fiscal year that commenced on January 1, 2023); provided that, in the case of this clause (vii), at the time of such Restricted Payment the Borrower's CET1 Ratio shall be at least 11% on a pro forma basis, (viii) Borrower may purchase any Permitted Convertible Debt Hedge Transaction and perform its obligations and exercise its rights thereunder and (ix) Borrower may make any payments and/or deliveries required by the terms of, and otherwise perform its obligations under, any Permitted Warrant Transaction (including, without limitation, making payments and/or deliveries due upon exercise and settlement or termination or unwind thereof). Notwithstanding anything herein to the contrary, a Default or Event of Default will not prohibit the payment of any Restricted Payment pursuant to clause (vii) above within 65 days after the date of declaration thereof (or the giving of irrevocable notice thereof, as applicable), if at the date of declaration or the giving of such notice such payment would have complied with the provisions of this Agreement.

(b) Subject to Section 5.15, the Borrower shall cause each Domestic Subsidiary (to the extent permitted under any applicable law, rule or regulation, judgment, injunction, order, directive, request or decree of any governmental authority or any memorandum or agreement with any federal, state or other regulatory agency) to take all such necessary corporate actions to declare cash dividends, payable to the shareholder of such Subsidiary, in an aggregate amount, if any, equal to all amounts that are then due and owing and remain outstanding after the date of payment therefor pursuant to the terms of this Agreement.

SECTION 5.17 Change of Business. The Borrower will not, and will not permit any of its Subsidiaries to, materially alter the character of the business of the Borrower and its Subsidiaries, taken as a whole, from that conducted on, or contemplated by the Borrower's public announcements as of, the Effective Date.

SECTION 5.18 Investments. The Borrower will not, and will not permit any of its Subsidiaries to, make any Investment other than:

(a) Investments existing on the Effective Date;

(b) Investments (i) by the Borrower or any Subsidiary in any Credit Party, (ii) by a Wholly-Owned Subsidiary that is not a Credit Party (other than any Insured Subsidiary) in another Wholly-Owned Subsidiary that is not a Credit Party, (iii) by the Borrower or any Subsidiary in any Insured Subsidiary to the extent reasonably necessary for such Insured Subsidiary to maintain compliance with all applicable Bank Regulatory Requirements and all applicable agreements, including this Agreement, (iv) [reserved] and (v) in addition to Investments permitted by other clauses (i) through (iv) above, by any Credit Party in any Wholly-Owned Subsidiary that is not a Credit Party in an aggregate outstanding amount not to exceed the greater of (x) $100,000,000 and (y) 0.50% of Consolidated Total Assets;

(c) Acquisitions; provided that (i) the Borrower and its Subsidiaries shall be in compliance with all provisions of this Agreement, including all financial covenants, both before and after giving effect thereto, with such financial covenants to be calculated on a pro forma basis as if such Acquisition had been consummated on the first day of the then most recently ended period of four consecutive fiscal quarters and giving effect to the actual historical financial performance of such acquired entity or assets, (ii) no Default or Event of Default shall be continuing or would result therefrom (or, in the case of a Limited Condition Transaction, no Default or Event of Default shall have occurred and be continuing on the LCT Test Date), (iii) except for Acquisitions with consideration consisting of only Capital Stock of the Borrower, the Borrower shall have pro forma Liquidity of not less than $200,000,000, and (iv) such Acquisition is not a Hostile Acquisition, (v) the Required Banks have approved in writing any Acquisition with aggregate cash consideration in excess of $200,000,000;

(d) Investments in cash and Eligible Cash Equivalents;

(e) Guaranties permitted pursuant to Section 5.14;

(f) purchases of assets in the ordinary course of business;

(g) acquisitions of Securitization Assets, directly or indirectly through the Acquisition of a Person owning Securitization Assets;

(h) receivables owing to the Borrower or any of its Subsidiaries and advances to and deposits with customers and suppliers, in each case if created, acquired or made in the ordinary course of business;

(i) Investments received in compromise or resolution of obligations of trade creditors, suppliers or customers that were acquired in the ordinary course of business of the Borrower or any of its Subsidiaries, including pursuant to any plan of reorganization or similar arrangement upon the bankruptcy or insolvency of any trade creditor, supplier or customer, or received in compromise or resolution of litigation, arbitration or other disputes;

(j) payroll, travel and similar advances to cover matters that are expected at the time of such advances ultimately to be treated as expenses for accounting purposes and that are made in the ordinary course of business;

(k) Investments received as consideration in connection with a sale, lease or other transfer of assets permitted under Section 5.7(d);

(l) direct or indirect Investments by any Insured Subsidiary in any other Insured Subsidiary;

(m) Investments by Insured Subsidiaries that are necessary or advisable to comply with applicable Bank Regulatory Requirements;

(n) Derivatives Obligations incurred in the ordinary course of business;

(o) the purchase of any Permitted Convertible Debt Hedge Transaction by the Borrower and the performance of its obligations thereunder; and

(p) so long as no Event of Default is continuing or would result therefrom, Investments up to the Cumulative Available Amount; provided that at the time of such Investment, the Borrower's CET1 Ratio shall be at least 11% on a pro forma basis.

For purposes of determining the amount of any Investment outstanding for purposes of this Section 5.18, such amount shall be deemed to be the amount of such Investment when made, purchased or acquired (without adjustment for subsequent increases or decreases in the value of such Investment) less any amount realized in respect of such Investment upon the sale, collection or return of capital (not to exceed the original amount invested).

SECTION 5.19 No Restrictions. Except as provided herein, the Borrower will not, and will not permit any Subsidiary to, directly or indirectly create or otherwise cause or suffer to exist or become effective any consensual encumbrance or restriction of any kind on the ability of any Insured Subsidiary to: (a) pay dividends or make any other distribution on any Subsidiary's Capital Stock or other equity interests owned by the Borrower or any other Subsidiary, (b) pay any indebtedness owed to the Borrower or any other Subsidiary, (c) make loans or advances to the Borrower or any other Subsidiary or (d) sell, lease or transfer any of its property or assets to the Borrower or any other Subsidiary, except encumbrances and restrictions of the types described below:

(i) encumbrances and restrictions contained in this Agreement and the other Credit Documents;

(ii) customary supermajority voting provisions and other customary provisions with respect to the disposition or distribution of assets, each contained in corporate charters, bylaws, stockholders' agreements, limited liability company agreements, partnership agreements, joint venture agreements and other similar agreements;

(iii) encumbrances and restrictions required by laws, rules and regulations relating to Insured Subsidiaries or any plan, memorandum or agreement with, or any order, request or directive from, or by, any regulatory authority having jurisdiction over such Insured Subsidiary or any of their businesses;

(iv) customary restrictions in agreements governing Liens permitted under Section 5.9 provided that such restrictions relate solely to the property subject to such Lien;

(v) encumbrances and restrictions contained in any merger agreement or any agreement for the sale or other disposition of an asset, including, without limitation, the Capital Stock or other equity interest of a Subsidiary, provided, that such restriction is limited to the asset that is the subject of such agreement for sale or disposition and such disposition is made in compliance with Section 5.7;

(vi) encumbrances and restrictions contained in contracts (other than relating to Debt) entered into in the ordinary course of business that do not, in the aggregate, detract from the value of the property or assets of the Borrower or any Subsidiary in any material manner (including, without limitation, non-assignment provisions in leases and licenses);

(vii) encumbrances and restrictions contained in agreements governing Debt permitted under Section 5.14;

(viii) any encumbrance or restriction contained in any agreement, instrument or Capital Stock or other equity interest of a Person, or with respect to any property or asset, acquired after the Effective Date (including by merger or consolidation) as in effect at the time of such acquisition (except to the extent such agreement, instrument or Capital Stock was incurred in connection with or in contemplation of such acquisition), which encumbrance or restriction is not applicable to any Person, or any property or assets, as applicable, other than the Person, or the property or assets so acquired;

(ix) any encumbrance or restriction contained in any agreement, instrument or Capital Stock or other equity interest of a Qualified Securitization Entity, or with respect to any Securitization Assets, which encumbrance or restriction is not applicable to any Person, or any assets, as applicable, other than such Qualified Securitization Entity or such Securitization Assets;

(x) encumbrances and restrictions contained in customary lock-up agreements entered into in connection with a proposed sale or issuance of Capital Stock or other equity interest;

(xi) customary encumbrances and restrictions contained in swap contracts and Derivative Obligations;

(xii) encumbrances and restrictions arising out of Preferred Interests relating to the payment of dividends and distributions with respect to other Capital Stock; and

(xiii) encumbrances and restrictions contained in any agreement or instrument, Capital Stock or other equity interest that amends, modifies, restates, renews, increases, supplements, refunds, replaces, extends or refinances any agreement, instrument or Capital Stock or equity interest described in clauses (i)-(xii) of this Section, from time to time, in whole or in part, provided that the encumbrances or restrictions set forth therein are not more restrictive than those contained in the predecessor agreement, instrument or Capital Stock or other equity interest.

SECTION 5.20 Guarantors. The Borrower will (a) cause each Material Domestic Subsidiary to execute this Agreement as a Guarantor (and from and after the Closing Date cause each Material Domestic Subsidiary to execute and deliver to the Administrative Agent, as promptly as possible, but in any event within forty-five (45) days after becoming a Material Domestic Subsidiary of the Borrower (or, in the case of any Subsidiary acquired or created in connection with a Permitted Acquisition, within ninety (90) days after becoming a Material Domestic Subsidiary of the Borrower) (or, in either case, such longer period as the Administrative Agent may agree in its reasonable discretion), an executed Guarantor Supplement to become a Guarantor hereunder (whereupon such Subsidiary shall become a "Guarantor" under this Agreement)), and (b) deliver and cause each such Subsidiary to deliver customary resolutions, opinions of counsel, and such other customary documentation as the Administrative Agent may reasonably request, all in form and substance reasonably satisfactory to the Administrative Agent; provided, however, that upon the Borrower's written request of and certification to the Administrative Agent that a Subsidiary is no longer a Material Domestic Subsidiary, the Administrative Agent shall release such Subsidiary from its duties and obligations hereunder and under its Guarantor Supplement; provided, further, that if such Subsidiary subsequently qualifies as a Material Domestic Subsidiary, it shall be required to re-execute the Guarantor Supplement and re-deliver such resolutions, opinions of counsel, and such other customary documentation as the Administrative Agent may reasonably request. Notwithstanding the foregoing, the provisions of this Section 5.20 shall not be applicable with respect to Insured Subsidiaries, Qualified Securitization Entities and Subsidiaries of Foreign Subsidiaries, Insured Subsidiaries and Qualified Securitization Entities. In addition to the Subsidiaries that are required to become Guarantors pursuant to the foregoing, the Borrower may, at its sole election at any time and from time to time, cause any other Subsidiary to become a Guarantor (an "Elective Guarantor") by executing and delivering to the Administrative Agent an executed Guarantor Supplement, together with customary resolutions, opinions of counsel and such other customary documentation as the Administrative Agent may reasonably request. The Borrower may cause any Elective Guarantor that has not since become a Material Domestic Subsidiary to cease being a Guarantor at any time by notice to the Administrative Agent.

As of the Closing Date, Lon Inc. and Lon Operations LLC have been added as Elective Guarantors. Such entities shall not be subject to the release provision in the final sentence of the prior paragraph, but shall be subject to the release/reinstatement provisions applicable to Material Domestic Subsidiaries set forth above and the release provisions in Section 9.1(d) (to the extent not inconsistent with this sentence).

SECTION 5.21 Government Regulation. The Borrower will not, and will not permit any of its Subsidiaries to, (a) be or become specifically targeted at any time by any law, regulation or list of any Governmental Authority of the United States (including, without limitation, the lists identifying Sanctioned Persons) that prohibits or limits the Banks, any Letter of Credit Issuer or the Administrative Agent from making any advance or extension of credit to the Borrower or from otherwise conducting business with the Credit Parties, or (b) fail to provide documentary and other evidence of the identity of the Credit Parties as may be reasonably requested by the Banks or the Administrative Agent at any time to enable the Banks or the Administrative Agent to verify the identity of the Credit Parties or to comply with any applicable law or regulation, including, without limitation, AML Laws.

SECTION 5.22 Limitation on Negative Pledge Clauses. Neither any Credit Party nor any Subsidiary shall enter into or suffer to exist or become effective any agreement that prohibits or limits the ability of such Credit Party or Subsidiary to create, incur, assume or suffer to exist any Lien upon any of its assets or revenues, whether now owned or hereafter acquired, to secure the Obligations, other than (a) this Agreement and the other Credit Documents, (b) any agreement governing any Liens not prohibited by Section 5.9 (provided that, in each case under this clause (b), other than with respect to Section 5.9(k), any prohibition or limitation contained therein relates only to the asset or assets subject to such Lien permitted thereby), (c) any agreement in existence on the Effective Date, including, without limitation, the indentures dated as of December 20, 2019 and September 22, 2020, with the Borrower, as issuer, and in each case the supplemental indentures thereto in existence on the Effective Date, (d) any agreement with respect to customary supermajority voting provisions and other customary provisions with respect to the disposition or distribution of assets, each contained in corporate charters, bylaws, stockholders' agreements, limited liability company agreements, partnership agreements, joint venture agreements and other similar agreements, (e) any agreement with any Governmental Authority, (f) any merger agreement or any agreement for the sale or other disposition of an asset, including the Capital Stock or other securities or obligations of a Subsidiary, if such disposition is made in compliance with this Agreement, including Section 5.7 of this Agreement, (g) any agreements (other than relating to Debt) entered into in the ordinary course of business that do not, in the aggregate, detract from the value of the property or assets of the Borrower or any Subsidiary in any material manner (including non-assignment provisions in leases and licenses), (h) any agreement governing Debt that does not have an Investment Grade Rating at the time of incurrence of such Debt if the negative pledge prohibitions and limitations in such agreement are not more restrictive in any material respect than the negative pledge prohibitions and limitations contained in this Agreement, (i) any agreement governing Debt that has an Investment Grade Rating at the time of incurrence of such Debt, (j) any agreement of a Person, or with respect to any property or asset, acquired after the Effective Date (including by merger or consolidation) as in effect at the time of such acquisition (except to the extent such agreement was incurred in connection with or in contemplation of such acquisition), if the negative pledge prohibitions and limitations in such agreement are not applicable to any Person, or any property or assets, as applicable, other than the Person, or the property or assets, so acquired, (k) any agreement of a Qualified Securitization Entity, or with respect to any Securitization Assets, if the negative pledge prohibitions and limitations in such agreement are not applicable to any Person, or any assets, as applicable, other than such Qualified Securitization Entity or such Securitization Assets, (l) any agreement prohibiting or limiting the ability of a Foreign Subsidiary, Insured Subsidiary, Qualified Securitization Entity or a Subsidiary of a Foreign Subsidiary, Insured Subsidiary or Qualified Securitization Entity to create, incur, assume or suffer to exist Liens on its assets to secure the Obligations, (m) any agreement imposed by a customer or supplier in the ordinary course of business restricting cash or other deposits or net worth of a Credit Party or Subsidiary, (n) any agreement governing any Derivatives Obligations that constitute Obligations if (1) such agreement requires such Derivatives Obligations to be equally and ratably secured with obligations for borrowed money under this Agreement or any other Credit Document, or (2) a termination event or termination right under such agreement would exist if such Derivatives Obligations are not equally and ratably secured with obligations for borrowed money under this Agreement or any other Credit Document, (o) any agreement that amends, modifies, restates, renews, increases, supplements, refunds, replaces, extends or refinances any agreement described in this Section 5.22 from time to time, in whole or in part, if the negative pledge prohibitions and limitations in such agreement are not materially more restrictive, taken as a whole, than the negative pledge prohibitions and limitations in the agreement so amended, modified, restated, renewed, increased, supplemented, refunded, replaced, extended or refinanced and (p) any agreement governing equity or equity-related securities (including Convertible Debt) and debt securities under a Specified Incurrence.

In each case set forth above, notwithstanding any stated limitation on the assets or property that may be subject to such prohibition or limitation, any such prohibition or limitation with respect to a specified asset or property or group or type of assets or property may also apply to all improvements, additions and accessions thereto, assets and property affixed or appurtenant thereto, and all products and proceeds thereof, including dividends, distributions, interest and increases in respect thereof.

ARTICLE 6

DEFAULTS

SECTION 6.1 Events of Default. If one or more of the following events ("Events of Default") shall have occurred and be continuing:

(a) the Borrower shall fail (i) to pay when due any principal of any Loan or Unpaid Drawing or (ii) to pay within five (5) Business Days from the date due any interest, any fees or any other amount payable hereunder;

(b) any Credit Party shall fail to observe or perform any covenant contained in Article 5 (other than those contained in Sections 5.1 through 5.3 inclusive, Section 5.5, Section 5.6 and Section 5.16(b));

(c) any Credit Party shall fail to observe or perform any covenant or agreement contained in this Agreement (other than those covered by clause (a) or (b) above) for thirty (30) days after notice thereof has been given to the applicable Credit Party by the Administrative Agent at the request of the Required Banks;

(d) any representation, warranty, certification or statement made by any Credit Party in any Credit Document or in any certificate, financial statement or other document delivered pursuant to this Agreement shall prove to have been incorrect in any material respect when made (or deemed made);

(e) any Credit Party or any Subsidiary of any of them shall fail to make any payment or payments, individually or in the aggregate, of at least $150,000,000 in respect of any Material Financial Obligations when due or within any applicable grace period;

(f) any event or condition shall occur (other than (I) (x) the occurrence of any event that permits holders of any Convertible Debt to convert such Debt and (y) the conversion of any Convertible Debt, in either case, into equity securities of the Borrower (or other securities or property following a merger event, reclassification or other change of the equity securities of the Borrower), cash or a combination thereof, (II) the exercise by the Borrower of any redemption right under any Convertible Debt, and (III) (x) the occurrence of any event that permits holders of any Convertible Debt to require the repurchase of such Convertible Debt in connection with a "fundamental change" thereunder, and (y) the exercise by holders of any such right) which results in the acceleration of the maturity of any Material Financial Obligation of any Credit Party or any Subsidiary of a Credit Party or enables (or, with the giving of notice or lapse of time or both, would enable) the holder of such Material Financial Obligation or any Person acting on such holder's behalf to accelerate the maturity thereof;

(g) (i) any Credit Party, any Domestic Subsidiary or any Material Subsidiary of any of them shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver (which for the purposes hereof include a receiver and manager or an interim receiver), liquidator, custodian, examiner or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of, or taking possession by any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing or (ii) any Insured Subsidiary that is a Material Subsidiary shall (x) cease to be a federally insured depositary institution (or the Canadian equivalent thereof), or a cease and desist order which is material and adverse to the conduct of such Insured Subsidiary's business or assets shall be issued against the Borrower or any such Insured Subsidiary pursuant to applicable federal, state or other law applicable to banks or thrifts or (y) fail to comply with any formal order of any Bank Regulatory Authority acting pursuant to its lawful authority to impose such an order on such Insured Subsidiary, the failure to comply with such order would reasonably be expected to have a Material Adverse Effect;

(h) an involuntary case or other proceeding shall be commenced against any Credit Party, any Domestic Subsidiary or any Material Subsidiary of any of them seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian, examiner or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) days; or an order for relief shall be entered against any Credit Party, any Domestic Subsidiary or any Material Subsidiary of any of them under the federal bankruptcy laws as now or hereafter in effect;

(i) any member of the ERISA Group shall fail to pay when due an amount or amounts aggregating in excess of U.S. $150,000,000 which it shall have become liable to pay under Title IV of ERISA; or notice of intent to terminate a Material Plan shall be filed under Title IV of ERISA by any member of the ERISA Group, any plan administrator or any combination of the foregoing; or the PBGC shall institute proceedings under Title IV of ERISA to terminate, to impose liability (other than for premiums under Section 4007 of ERISA) in respect of, or to cause a trustee to be appointed to administer any Material Plan; or a condition shall exist by reason of which the PBGC would be entitled to obtain a decree adjudicating that any Material Plan must be terminated; or there shall occur a complete or partial withdrawal from, or a default, within the meaning of Section 4219(c)(5) of ERISA, with respect to, one or more Multiemployer Plans which could cause one or more members of the ERISA Group to incur a current payment obligation in excess of U.S. $150,000,000;

(j) judgments or orders for the payment of money aggregating in excess of U.S. $150,000,000 (in excess of amounts covered by independent third-party insurance as to which the insurer has been notified of such judgment or order and does not deny coverage) shall be rendered against the Borrower or any of its Subsidiaries and such judgments or orders shall continue unsatisfied and unstayed for a period of sixty (60) days;

(k) a Change of Control shall occur; or

(l) any Guarantor shall revoke its guaranty provided for in Article 9 of this Agreement or assert that its guaranty provided for in Article 9 of this Agreement is unenforceable or otherwise invalid except as permitted hereunder;

then, and in every such event, the Administrative Agent shall (i) if requested by the Required Banks, by notice to the Borrower terminate the Commitments and they shall thereupon terminate, (ii) if requested by the Required Banks, by notice to the Borrower declare the Loans (together with accrued interest thereon and any accrued but unpaid commitment fee) to be, and the Loans shall thereupon become, immediately due and payable without presentment, demand, notice of acceleration, notice of intent to accelerate, protest or other notice of any kind, all of which are hereby waived by the Borrower; provided, that in the case of any of the Events of Default specified in clause 6.1(g) or 6.1(h) above with respect to the Borrower, without any notice to the Borrower or any other act by the Administrative Agent or the Banks, the Commitments shall thereupon terminate and the Loans (together with accrued interest thereon and any accrued but unpaid commitment fee) shall become immediately due and payable without presentment, demand, notice of acceleration, notice of intent to accelerate, protest or other notice of any kind, all of which are hereby waived by the Borrower and (iii) if requested by the Required Banks: (x) terminate any Letter of Credit which may be terminated in accordance with its terms; (y) direct the Borrower to deposit (and the Borrower hereby agrees upon receipt of such notice, or upon the occurrence of any Event of Default specified in clauses 6.1(g) and 6.1(h) in respect of the Borrower, it will deposit) with the Administrative Agent, at its Payment Office, Cash Collateral in respect of Letters of Credit then outstanding equal to the aggregate Stated Amount of all Letters of Credit then outstanding; and (z) apply any Cash Collateral held pursuant to this Agreement to repay the Obligations.

ARTICLE 7

THE AGENT

SECTION 7.1 Appointment and Authorization. Each Bank irrevocably appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers under this Agreement and the Notes as are delegated to the Administrative Agent by the terms hereof or thereof, together with all such powers as are reasonably incidental thereto. Except as provided in Section 7.8, the provisions of this Article are solely for the benefit of the Administrative Agent, the Banks and the Letter of Credit Issuer, and neither the Borrower nor any Subsidiary thereof shall have rights as a third-party beneficiary of any of such provisions.

SECTION 7.2 Administrative Agent and Affiliates. The Administrative Agent shall have the same rights and powers under this Agreement as any other Bank and may exercise or refrain from exercising the same as though it were not the Administrative Agent, and the Administrative Agent and its affiliates may accept deposits from, lend money to, and generally engage in any kind of business with the Borrower or any Subsidiary or affiliate of the Borrower as if it were not the Administrative Agent.

SECTION 7.3 Action by Administrative Agent. The obligations of the Administrative Agent hereunder are only those expressly set forth herein. Without limiting the generality of the foregoing, the Administrative Agent shall not be required to take any action with respect to any Default, except as expressly provided in Article 6. The Administrative Agent shall not be deemed to have knowledge of any Default or Event of Default unless and until notice of such Default or Event of Default (stating that it is a "notice of Default" or a "notice of an Event of Default") is given to the Administrative Agent in writing by the Borrower, a Bank or a Letter of Credit Issuer. Nothing in this Agreement shall require the Administrative Agent to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

SECTION 7.4 Consultation with Experts. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower and/or any Guarantor), independent public accountants and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it in good faith in accordance with the advice of such counsel, accountants or experts.

SECTION 7.5 Liability of Administrative Agent.

(a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents, and its duties hereunder and thereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

(i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default or Event of Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that the Administrative Agent is required to exercise as directed in writing by the Required Banks (or such other number or percentage of the Banks as shall be expressly provided for herein or in the other Credit Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Credit Document or applicable law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any bankruptcy, insolvency, reorganization, liquidation or similar proceeding or that may effect a forfeiture, modification or termination of property of a Defaulting Bank in violation of any bankruptcy, insolvency, reorganization, liquidation or similar proceeding; and

(iii) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower or any of its Subsidiaries or Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) Neither the Administrative Agent nor any of its affiliates nor any of their respective directors, officers, agents or employees shall be liable for any action taken or not taken by it in connection herewith (i) with the consent or at the request of the Required Banks (or, when expressly required hereby, such different number of Banks required to consent to or request such action or inaction) or (ii) in the absence of its own gross negligence or willful misconduct (such absence to be presumed unless otherwise determined by a court of competent jurisdiction by a final and non-appealable judgment). Neither the Administrative Agent nor any of its affiliates nor any of their respective directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into or verify (i) any statement, warranty or representation made in connection with this Agreement or any Borrowing hereunder; (ii) the contents of any certificate, report or other document delivered in connection with any Credit Document, (iii) the performance or observance of any of the covenants or agreements of the Borrower or any Guarantor; (iv) the satisfaction of any condition specified in Article 3, except receipt of items required to be delivered to the Administrative Agent; or (v) the validity, effectiveness or genuineness of this Agreement, the Notes or any other instrument or writing furnished in connection herewith. The Administrative Agent shall not incur any liability by acting in reliance upon any notice, consent, certificate, statement, or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine or to be signed by the proper party or parties. The Administrative Agent also may rely upon any statement made to it orally or by telephone and reasonably believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. Without limiting the generality of the foregoing, the use of the term "agent" in this Agreement 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 merely as a matter of market custom and is intended to create or reflect only an administrative relationship between independent contracting parties.

SECTION 7.6 Indemnification. Each Bank shall, ratably in accordance with its respective Percentage, indemnify the Administrative Agent, its affiliates and their respective directors, officers, agents and employees (to the extent not reimbursed by the Borrower, and without relieving the Borrower of its obligations under Section 10.3) against any cost, expense (including counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from such indemnitee's gross negligence or willful misconduct) that such indemnitees may suffer or incur in connection with this Agreement or any action taken or omitted by such indemnitees hereunder. The obligations of the Banks under this Section shall survive the termination of this Agreement.

SECTION 7.7 Credit Decision. Each Bank represents and warrants that (i) the Credit Documents set forth the terms of a commercial lending facility, (ii) it is engaged in making, acquiring or holding commercial loans and in providing other facilities set forth herein as may be applicable to such Bank, in each case in the ordinary course of business, and not for the purpose of purchasing, acquiring or holding any other type of financial instrument (and each Bank agrees not to assert a claim in contravention of the foregoing), (iii) it has, independently and without reliance upon the Administrative Agent or any other Bank, and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement, and to make, acquire or hold Loans hereunder and (iv) it is sophisticated with respect to decisions to make, acquire and/or hold commercial loans and to provide other facilities set forth herein, as may be applicable to such Bank, and either it, or the Person exercising discretion in making its decision to make, acquire and/or hold such commercial loans or to provide such other facilities, is experienced in making, acquiring or holding such commercial loans or providing such other facilities. Each Bank also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Bank, 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 Borrower and its 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 Credit Document or any related agreement or any document furnished hereunder or thereunder.

SECTION 7.8 Successor Administrative Agent. The Administrative Agent may resign at any time by giving notice thereof to the Banks and the Borrower. Upon any such resignation, the Required Banks shall have the right to appoint a successor Administrative Agent, subject to the consent of the Borrower if no Event of Default exists (such consent not to be unreasonably withheld). If no successor Administrative Agent shall have been so appointed by the Required Banks, and shall have accepted such appointment, within thirty (30) days after the retiring Administrative Agent gives notice of resignation, then the retiring Administrative Agent may, on behalf of the Banks, appoint a successor Administrative Agent, subject to the consent of the Borrower if no Event of Default exists (such consent not to be unreasonably withheld), which shall be a commercial bank organized under the laws of the United States of America or of any State thereof and having a combined capital and surplus of at least U.S. $500,000,000. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder, other than Section 10.15; provided that, whether or not a successor has been appointed, such resignation shall become effective in accordance with such notice and at the end of such thirty (30) day period. After any retiring Administrative Agent's resignation hereunder as Administrative Agent, the provisions of this Article shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Administrative Agent.

SECTION 7.9 Reliance by the Administrative Agent. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Bank or a Letter of Credit Issuer, the Administrative Agent may presume that such condition is satisfactory to such Bank or such Letter of Credit Issuer unless the Administrative Agent shall have received notice to the contrary from such Bank or such Letter of Credit Issuer prior to the making of such Loan or the issuance of such Letter of Credit.

SECTION 7.10 Letter of Credit Issuer and Swing Lender. Each Letter of Credit Issuer shall act on behalf of the Banks with respect to any Letters of Credit issued by it and the documents associated therewith, and the Swing Lender shall act on behalf of the Banks with respect to the Swing Loans made hereunder. Each Letter of Credit Issuer and the Swing Lender shall each have all of the benefits and immunities (i) provided to the Administrative Agent in this Article 7 with respect to any acts taken or omissions suffered by such Letter of Credit Issuer in connection with Letters of Credit issued by it or proposed to be issued by it and the documents pertaining to such Letters of Credit or by the Swing Lender in connection with Swing Loans made or to be made hereunder as fully as if the term "Administrative Agent", as used in this Article 7, included each Letter of Credit Issuer and the Swing Lender with respect to such acts or omissions and (ii) as additionally provided in this Agreement with respect to each Letter of Credit Issuer or Swing Lender, as applicable.

SECTION 7.11 Other Agents. None of the Persons identified in this Agreement as the Syndication Agent or a Documentation Agent, Arranger or Bookrunner shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Banks as such. Without limiting the foregoing, none of such Banks shall have or be deemed to have a fiduciary relationship with any Bank.

SECTION 7.12 Delegation of Duties; Administrative Agent Individually.

(a) The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document 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 by or through their respective Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors. The exculpatory provisions of this Article shall apply to any such sub-agent and to the Administrative Agent's, any such sub-agent's and its and their respective Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors, and shall apply to their respective activities in connection with the syndication of the Credit as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and nonappealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

(b) With respect to its Commitments, Loans (including Swing Loans) and Letters of Credit, the Person serving as the Administrative Agent shall have and may exercise the same rights and powers hereunder and is subject to the same obligations and liabilities as and to the extent set forth herein for any other Bank or Letter of Credit Issuer, as the case may be. The terms "Banks", "Letter of Credit Issuers", "Required Banks" and any similar terms shall, unless the context clearly otherwise indicates, include the Administrative Agent in its individual capacity as a Bank, Letter of Credit Issuer or as one of the Required Banks, as applicable. The Person serving as the Administrative Agent and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of banking, trust or other business with, the Borrower, any Subsidiary or any Affiliate of any of the foregoing as if such Person was not acting as the Administrative Agent and without any duty to account therefor to the Banks or the Letter of Credit Issuers.

SECTION 7.13 Erroneous Payments.

(a) Each Bank and any other party hereto hereby severally agrees that if (i) the Administrative Agent notifies (which such notice shall be conclusive absent manifest error) such Bank or any other Person that has received funds from the Administrative Agent or any of its Affiliates, either for its own account or on behalf of a Bank (each such recipient, a "Payment Recipient") that the Administrative Agent has determined in its sole discretion that any funds received by such Payment Recipient were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Payment Recipient) or (ii) any Payment Recipient receives any payment 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, as applicable, (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) with respect to such payment, prepayment or repayment, as applicable, or (z) that such Payment Recipient otherwise becomes aware was transmitted or received in error or by mistake (in whole or in part) then, in each case, (A) an error in payment shall be presumed to have been made (any such amounts specified in clauses (i) or (ii) of this Section 7.13(a), whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise; individually and collectively, an "Erroneous Payment") and (B) such Payment Recipient is deemed to have knowledge of such error at the time of its receipt of such Erroneous Payment; provided that nothing in this Section shall require the Administrative Agent to provide any of the notices specified in clauses (i) or (ii) above. Each Payment Recipient agrees that it shall not assert any right or claim to any Erroneous Payment, and hereby waives 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 Payments, including without limitation waiver of any defense based on "discharge for value" or any similar doctrine.

(b) Without limiting the immediately preceding clause (a), each Payment Recipient agrees that, in the case of clause (a)(ii) above, it shall promptly notify the Administrative Agent in writing of such occurrence.

(c) In the case of either clause (a)(i) or (a)(ii) above, 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 upon demand from the Administrative Agent such Payment Recipient shall (or, shall cause any Person who received any portion of an Erroneous Payment on its behalf to), promptly, but in all events no later than one Business Day 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 and 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 at the at the greater of the Federal Funds Rate and an overnight rate determined by the Administrative Agent to be customary in the place of disbursement or payment for the settlement of international banking transactions.

(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 (c), from any Bank that is a Payment Recipient or an Affiliate of a Payment Recipient (such unrecovered amount as to such Bank, an "Erroneous Payment Return Deficiency"), then at the sole discretion of the Administrative Agent and upon the Administrative Agent's written notice to such Bank (i) such Bank shall be deemed to have made a cashless assignment of the full face amount of the portion of its Loans (but not its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the "Erroneous Payment Impacted Class") to the Administrative Agent or, at the option of the Administrative Agent, the Administrative Agent's applicable lending affiliate in an amount that is 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") plus any accrued and unpaid interest on such assigned amount, without further consent or approval of any party hereto and without any payment by the Administrative Agent or its applicable lending affiliate as the assignee of such Erroneous Payment Deficiency Assignment. Without limitation of its rights hereunder, the Administrative Agent may cancel any Erroneous Payment Deficiency Assignment at any time by written notice to the applicable assigning Bank and upon such revocation all of the Loans assigned pursuant to such Erroneous Payment Deficiency Assignment shall be reassigned to such Bank without any requirement for payment or other consideration. The parties hereto acknowledge and agree that (1) any assignment contemplated in this clause (d) shall be made without any requirement for any payment or other consideration paid by the applicable assignee or received by the assignor, (2) the provisions of this clause (d) shall govern in the event of any conflict with the terms and conditions of Section 10.6 and (3) the Administrative Agent may reflect such assignments in the Register without further consent or action by any other Person.

(e) Each party hereto hereby agrees that (i) in the event 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 Administrative Agent (1) shall be subrogated to all the rights of such Payment Recipient with respect to such amount and (2) is authorized to set off, net and apply any and all amounts at any time owing to such Payment Recipient under any Credit Document, or otherwise payable or distributable by the Administrative Agent to such Payment Recipient from any source, against any amount due to the Administrative Agent under this Section 7.13 or under the indemnification provisions of this Agreement, (ii) the receipt of an Erroneous Payment by a Payment Recipient shall not for the purpose of this Agreement be treated as a payment, prepayment, repayment, discharge or other satisfaction of any Obligations owed by the Borrower or any other Credit 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 Borrower or any other Credit Party for the purpose of making a payment on the Obligations and (iii) to the extent that an Erroneous Payment was in any way or at any time credited as payment or satisfaction of any of the Obligations, the Obligations or any part thereof that were so credited, and all rights of the Payment Recipient, as the case may be, shall be reinstated and continue in full force and effect as if such payment or satisfaction had never been received.

(f) Each party's obligations under this Section 7.13 shall survive the resignation or replacement of the Administrative Agent or any transfer of right or obligations by, or the replacement of, a Bank, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations (or any portion thereof) under any Credit Document.

(g) Nothing in this Section 7.13 will constitute a waiver or release of any claim of any party hereunder arising from any Payment Recipient's receipt of an Erroneous Payment.

ARTICLE 8

CHANGE IN CIRCUMSTANCES

SECTION 8.1 [Reserved].

SECTION 8.2 Illegality. If any Change in Law shall make it unlawful or impossible for any Bank to make, maintain or fund its SOFR Loans and such Bank shall so notify the Administrative Agent, the Administrative Agent shall forthwith give notice thereof to the other Banks and the Borrower whereupon until such Bank notifies the Borrower and the Administrative Agent that the circumstances giving rise to such suspension no longer exist, the obligation of such Bank to make SOFR Loans, or to convert outstanding Loans into SOFR Loans shall be suspended. Before giving any notice to the Administrative Agent pursuant to this Section, such Bank shall designate a different Applicable Lending Office if such designation will avoid the need for giving such notice and will not, in the judgment of such Bank, be otherwise disadvantageous to such Bank. If such notice is given, each SOFR Loan of such Bank then outstanding shall be converted to a Base Rate Loan either (a) in the case of a Term SOFR Loan, (i) on the last day of the then current Interest Period applicable to such Loan if such Bank may lawfully continue to maintain and fund such Loan to such day or (ii) immediately if such Bank shall determine that it may not lawfully continue to maintain and fund such Loan to such day or (b) in the case of a Daily Simple SOFR Loan immediately if such Bank shall determine that it may not lawfully continue to maintain and fund such Loan.

SECTION 8.3 Increased Cost and Reduced Return. (a) If any Change in Law shall impose, modify or deem applicable any reserve (including pursuant to regulations issued from time to time by the FRB 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 of the FRB, as amended and in effect from time to time)), special deposit, compulsory loan, insurance assessment or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Bank (or its Applicable Lending Office) or shall impose on any Bank (or its Applicable Lending Office) any other condition affecting its Loans, its Note(s) or its obligation to make Loans and the result of any of the foregoing is to increase the cost to such Bank (or its Applicable Lending Office) of making, converting, continuing or maintaining any Loan or of maintaining its obligation to issue any such Loan, or to reduce the amount of any sum received or receivable by such Bank (or its Applicable Lending Office) under this Agreement or under its Note(s) with respect thereto, by an amount deemed by such Bank to be material, then, within fifteen (15) days after demand by such Bank (with a copy to the Administrative Agent), the Borrower shall pay to such Bank such additional amount or amounts as will compensate such Bank for such increased cost or reduction.

(b) If any Bank shall have reasonably determined that any Change in Law has or would have the effect of reducing the rate of return on capital of such Bank (or its Parent) as a consequence of such Bank's obligations hereunder or the Loans made by, or participations in Letters of Credit or Swing Loans held by, such Bank or the Letters of Credit issued by any Letter of Credit Issuer, to a level below that which such Bank (or its Parent) could have achieved but for such adoption, change, request or directive (taking into consideration its policies with respect to capital adequacy or liquidity requirements) by an amount deemed by such Bank to be material, then from time to time, within fifteen (15) days after demand by such Bank (with a copy to the Administrative Agent), the Borrower shall pay to such Bank such additional amount or amounts as will compensate such Bank (or its Parent) for such reduction.

(c) Each Bank will promptly (and in any event within the period specified in Section 8.6(a)) notify the Borrower and the Administrative Agent of any Change in Law of which it has knowledge which will entitle such Bank to compensation pursuant to this Section and will designate a different Applicable Lending Office if such designation will avoid the need for, or reduce the amount of, such compensation and will not, in the judgment of such Bank, be otherwise disadvantageous to such Bank. A certificate of any Bank claiming compensation under this Section and setting forth the additional amount or amounts to be paid to it hereunder shall be conclusive in the absence of manifest error. In determining such amount, such Bank may use any reasonable averaging and attribution methods.

SECTION 8.4 Taxes. (a) For the purposes of this Section 8.4, the following terms have the following meanings:

"Taxes" means any and all present or future taxes, duties, levies, imposts, deductions, charges or withholdings with respect to any payment by the Borrower or the applicable Guarantor, as the case may be, pursuant to this Agreement or under any Note, and all liabilities with respect thereto, excluding (i) in the case of each Bank and the Administrative Agent, taxes imposed on its income, receipts, capital and franchise or similar taxes imposed on it, by a jurisdiction under the laws of which such Bank or the Administrative Agent (as the case may be) is organized or in which its principal executive office is located or, in the case of each Bank, in which its Applicable Lending Office is located and (ii) in the case of each Bank, any United States federal withholding tax imposed on such payments but only to the extent that such Bank is subject to United States federal withholding tax at the time such Bank first becomes a party to this Agreement.

"Other Taxes" means any present or future stamp or documentary taxes and any other excise or property taxes, or similar charges or levies, which arise from any payment made pursuant to this Agreement or under any Note or from the execution or delivery of, or otherwise with respect to, this Agreement or any Note.

(b) Any and all payments by the Borrower or the applicable Guarantor, as the case may be, to or for the account of any Bank or the Administrative Agent hereunder or under any Note shall be made without deduction for any Taxes or Other Taxes; provided, that, if the Borrower or the applicable Guarantor, as the case may be, shall be required by law to deduct any Taxes or Other Taxes from any such payments (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section 8.4) such Bank or the Administrative Agent (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower or the applicable Guarantor, as the case may be, shall make such deductions, and (iii) the Borrower or the applicable Guarantor, as the case may be, shall pay the full amount deducted to the relevant taxation authority or other authority in accordance with applicable law.

(c) The Borrower agrees to indemnify each Bank and the Administrative Agent for the full amount of Taxes or Other Taxes (including, without limitation, any Taxes or Other Taxes imposed or asserted by any jurisdiction on amounts payable under this Section 8.4) paid by such Bank or the Administrative Agent (as the case may be) and any liability (including penalties, interest and expenses) arising therefrom or with respect thereto. This indemnification shall be paid within fifteen (15) days after such Bank or the Administrative Agent (as the case may be) makes demand therefor.

(d) Each Bank organized under the laws of a jurisdiction outside the United States, on or prior to the date of its execution and delivery of this Agreement in the case of each Bank listed on the signature pages hereof and on or prior to the date on which it becomes a Bank in the case of each other Bank, and from time to time thereafter if requested in writing by the Borrower (but only so long as such Bank remains lawfully able to do so), shall provide the Borrower and the Administrative Agent with Internal Revenue Service form W-8 BEN-E, W-8 BEN or W-8ECI, as appropriate, or any successor form prescribed by the Internal Revenue Service, certifying that such Bank is entitled to benefits under an income tax treaty to which the United States is a party which exempts the Bank from United States withholding tax or reduces the rate of withholding tax on payments of interest for the account of such Bank or certifying that the income receivable pursuant to this Agreement is effectively connected with the conduct of a trade or business in the United States.

(e) For any period with respect to which a Bank has failed to provide the Borrower or the Administrative Agent with the appropriate form pursuant to Section 8.4(d) or Section 8.4(g) (unless such failure is due to a change in treaty, law or regulation occurring subsequent to the date on which such form originally was required to be provided), such Bank shall not be entitled to indemnification under Section 8.4(b) or (c) with respect to Taxes imposed by the United States; provided that if a Bank, which is otherwise exempt from or subject to a reduced rate of withholding tax, becomes subject to Taxes because of its failure to deliver a form required hereunder, the Borrower shall take such steps as such Bank shall reasonably request to assist such Bank to recover such Taxes.

(f) If the Borrower is required to pay additional amounts to or for the account of any Bank pursuant to this Section, then such Bank will change the jurisdiction of its Applicable Lending Office if, in the judgment of such Bank, such change (i) will eliminate or reduce any such additional payment which may thereafter accrue and (ii) is not otherwise disadvantageous to such Bank.

(g) If a payment made to a Bank under this Agreement would be subject to United States federal withholding tax imposed by FATCA if such Bank were to fail to comply with the applicable reporting requirements of FATCA, such Bank shall deliver to the Borrower and the Administrative Agent, at the time or times prescribed by law and at such time or times reasonably requested by either the Borrower 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 either the Borrower or the Administrative Agent, as applicable, as may be advisable or necessary for either the Borrower or the Administrative Agent, as applicable, to comply with its obligations under FATCA, to determine that such Bank has complied with such Bank's obligations under FATCA or to determine the amount to deduct and withhold from such payment.

SECTION 8.5 Base Rate Loans Substituted for Affected SOFR Loans. If (i) the obligation of any Bank to make, or convert outstanding Loans to, SOFR Loans has been suspended pursuant to Section 8.2 or (ii) any Bank has demanded compensation under Section 8.3 or 8.4 with respect to its SOFR Loans and the Borrower shall, by at least five Business Days' prior notice to such Bank through the Administrative Agent, have elected that the provisions of this Section 8.5 shall apply to such Bank, then, unless and until such Bank notifies the Borrower that the circumstances giving rise to such suspension or demand for compensation no longer exist:

(a) all Loans which would otherwise be made by such Bank as (or continued as or converted into) SOFR Loans shall instead be Base Rate Loans (on which interest and principal shall be payable contemporaneously with the related SOFR Loans of the other Banks); and

(b) after each of its SOFR Loans has been repaid (or converted to a Base Rate Loan), all payments of principal which would otherwise be applied to repay such SOFR Loans shall be applied to repay its Base Rate Loans instead.

If such Bank notifies the Borrower that the circumstances giving rise to such notice no longer apply, the principal amount of each such Base Rate Loan shall be converted into Daily Simple SOFR Loans.

SECTION 8.6 Limitations on Reimbursement. (a) The Borrower shall not be required to pay to any Bank reimbursement with regard to any costs or expenses under Section 2A.6 or Article 8 incurred more than ninety (90) days prior to the date of the relevant Bank's demand therefor; provided that if the event giving rise to such claim is retroactive, then the 90-day period referred to above shall be extended to include the period of retroactive effect.

(b) None of the Banks shall be permitted to pass through to the Borrower charges and costs under Section 2A.6 or Article 8 on a discriminatory basis (*i.e.,* which are not also passed through by such Bank to other customers of such Bank similarly situated where such customer is subject to documents providing for such pass through).

(c) If the obligation of any Bank to make a Daily Simple SOFR Loan or Term SOFR Loan has been suspended under Section 8.2 or 8.5 for more than three consecutive months, or any Bank has requested compensation under Section 8.3, then the Borrower, provided no Default exists, shall have the right to replace such Bank in accordance with Section 8.7.

SECTION 8.7 Replacement of Banks. If the Borrower is entitled to replace a Bank pursuant to the provisions of Section 2A.1(c), Section 8.6 or Section 10.5 or if any Bank is a Defaulting Bank or a Non-Consenting Bank, then the Borrower may, at its sole expense and effort, upon notice to such Bank and the Administrative Agent, require such Bank to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 10.6), all of its interests, rights (other than its existing rights to payments pursuant to Section 2A.6, 8.3 and 8.4) and obligations under this Agreement and the related Credit Documents to an Eligible Transferee that shall assume such obligations (which assignee may be another Bank, if a Bank accepts such assignment), provided that:

(a) the Borrower shall have paid to the Administrative Agent the assignment fee (if any) specified in Section 10.6(c);

(b) such Bank shall have received payment of an amount equal to 100% of the outstanding principal of its Loans and Unpaid Drawings, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under Section 2.13) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts);

(c) in the case of any such assignment resulting from a claim for compensation under Section 2A.1(c) or 8.3 or payments required to be made pursuant to Section 8.4, such assignment will result in a reduction in such compensation or payments thereafter;

(d) such assignment does not conflict with applicable laws; and

(e) in the case of an assignment resulting from a Bank becoming a Non-Consenting Bank, the applicable assignee shall have consented to the applicable amendment, waiver or consent.

A Bank shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Bank or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply.

SECTION 8.8 Changed Circumstances.

(a) Circumstances Affecting Benchmark Availability. Subject to clause (c) below, in connection with any request for a SOFR Loan or a conversion to or continuation thereof or otherwise, if for any reason (i) the Administrative Agent shall determine (which determination shall be conclusive and binding absent manifest error) that reasonable and adequate means do not exist for ascertaining Adjusted Daily Simple SOFR pursuant to the definition thereof or Adjusted Term SOFR with respect to a proposed Term SOFR Loan on or prior to the first day of the applicable Interest Period or (ii) the Required Banks shall determine (which determination shall be conclusive and binding absent manifest error) that Adjusted Daily Simple SOFR or Adjusted Term SOFR, as applicable, does not adequately and fairly reflect the cost to such Banks of making or maintaining any such Loan during, with respect to Adjusted Term SOFR, such Interest Period and, in the case of clause (ii), the Required Banks have provided notice of such determination to the Administrative Agent, then, in each case, the Administrative Agent shall promptly give notice thereof to the Borrower and the Banks. Upon notice thereof by the Administrative Agent to the Borrower, any obligation of the Banks to make SOFR Loans, and any right of the Borrower to convert any Loan to or continue any Loan as a SOFR Loan, shall be suspended (to the extent of the affected SOFR Loans or the affected Interest Periods) until the Administrative Agent (with respect to clause (ii), at the instruction of the Required Banks) revokes such notice. Upon receipt of such notice, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of SOFR Loans (to the extent of the affected SOFR Loans or the affected Interest Periods) or, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans in the amount specified therein and (B) any outstanding affected SOFR Loans will be deemed to have been converted into Base Rate Loans (I) with respect to any Daily Simple SOFR Loans, immediately and (II) with respect to any Term SOFR Loans, at the end of the applicable Interest Period. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.13.

(b) Laws Affecting SOFR Availability. If, after the date hereof, the introduction of, or any change in, any applicable law or any change in the interpretation or administration thereof by any Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by any of the Banks (or any of their respective Applicable Lending Offices) with any request or directive (whether or not having the force of law) of any such Governmental Authority, central bank or comparable agency, shall make it unlawful or impossible for any of the Banks (or any of their respective Applicable Lending Offices) to honor its obligations hereunder to make or maintain any SOFR Loan, or to determine or charge interest based upon SOFR, Adjusted Daily Simple SOFR, the Term SOFR Reference Rate, Adjusted Term SOFR or Term SOFR, such Bank shall promptly give notice thereof to the Administrative Agent and the Administrative Agent shall promptly give notice to the Borrower and the other Banks (an "Illegality Notice"). Thereafter, until each affected Bank notifies the Administrative Agent and the Administrative Agent notifies the Borrower that the circumstances giving rise to such determination no longer exist, (i) any obligation of the Banks to make Daily Simple SOFR Loans or Term SOFR Loans, as applicable, and any right of the Borrower to convert any Loan to a Daily Simple SOFR Loan or a Term SOFR Loan or to continue any Loan as a Daily Simple SOFR Loan or a Term SOFR Loan, as applicable, shall be suspended and (ii) if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of "Base Rate". Upon receipt of an Illegality Notice, the Borrower shall, if necessary to avoid such illegality, upon demand from any Bank (with a copy to the Administrative Agent), prepay or, if applicable, convert all affected SOFR Loans to Base Rate Loans (in each case, if necessary to avoid such illegality, the Administrative Agent shall compute the Base Rate without reference to clause (c) of the definition of "Base Rate") (A) with respect to any Daily Simple SOFR Loans, on the Quarterly Date therefor and (B) with respect to any Term SOFR Loans, on the last day of the Interest Period therefor, if all affected Banks may lawfully continue to maintain such SOFR Loans to such day, or immediately, if any Bank may not lawfully continue to maintain such SOFR Loans to such day. Upon any such prepayment or conversion, the Borrower shall also pay accrued interest on the amount so prepaid or converted, together with any additional amounts required pursuant to Section 2.13.

(c) Benchmark Replacement Setting.

(i) Benchmark Replacement Setting. Notwithstanding anything to the contrary herein or in any other Credit Document, upon the occurrence of a Benchmark Transition Event with respect to any Benchmark, the Administrative Agent and the Borrower may amend this Agreement to replace such Benchmark with a Benchmark Replacement. Any such amendment with respect to a Benchmark Transition Event will become effective at 5:00 p.m. on the fifth (5^{th}) Business Day after the Administrative Agent has posted such proposed amendment to all affected Banks and the Borrower so long as the Administrative Agent has not received, by such time, written notice of objection to such amendment from Banks comprising the Required Banks. No replacement of a Benchmark with a Benchmark Replacement pursuant to this Section 8.8(c)(i) will occur prior to the applicable Benchmark Transition Start Date.

(ii) Benchmark Replacement Conforming Changes. In connection with the use, administration, adoption or implementation of a Benchmark Replacement, 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 Credit 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 Credit Document. The Administrative Agent will promptly notify the Borrower and the Banks of the effectiveness of any Conforming Changes in connection with the use or administration of any Benchmark.

(iii) Notices; Standards for Decisions and Determinations. The Administrative Agent will promptly notify the Borrower and the Banks 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 promptly notify the Borrower of the removal or reinstatement of any tenor of a Benchmark pursuant to Section 8.8(c)(iv). Any determination, decision or election that may be made by the Administrative Agent or, if applicable, any Bank (or group of Banks) pursuant to this Section 8.8(c), 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 Credit Document, except, in each case, as expressly required pursuant to this Section 8.8(c).

(iv) Unavailability of Tenor of Benchmark. Notwithstanding anything to the contrary herein or in any other Credit Document, at any time (including in connection with the implementation of a Benchmark Replacement), (A) if any then-current Benchmark is a term rate (including the Term SOFR Reference Rate) and either (1) 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 (2) 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 (1) is subsequently displayed on a screen or information service for a Benchmark (including a Benchmark Replacement) or (2) 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's receipt of notice of the commencement of a Benchmark Unavailability Period with respect to a given Benchmark, (A) the Borrower may revoke any pending request for a borrowing of, conversion to or continuation of any affected SOFR Loans to be made, converted or continued during any Benchmark Unavailability Period and, failing that, the Borrower will be deemed to have converted any such request into a request for a borrowing of or conversion to Base Rate Loans and (B) any outstanding affected SOFR Loans will be deemed to have been converted to Base Rate Loans (I) with respect to any Daily Simple SOFR Loans, immediately and (II) with respect to any Term SOFR Loans, at the end of the applicable Interest Period. During any Benchmark Unavailability Period with respect to any Benchmark or at any time that a tenor for any then-current Benchmark is not an Available Tenor, the component of Base Rate based upon the then-current Benchmark that is the subject of such Benchmark Unavailability Period or such tenor for such Benchmark, as applicable, will not be used in any determination of Base Rate.

ARTICLE 9

PERFORMANCE AND PAYMENT GUARANTY

SECTION 9.1 Unconditional and Irrevocable Guaranty. (a) The Guarantors hereby jointly and severally, unconditionally and irrevocably undertake and agree with and for the benefit of the Administrative Agent and the Banks and each of their respective permitted assignees (collectively, the "Beneficiaries") to cause the due payment, performance and observance by the Borrower and its assigns of all of the Obligations, terms, covenants, conditions, agreements and undertakings on the part of the Borrower, to be paid, performed or observed under any Credit Document in accordance with the terms thereof including, without limitation, any agreement of the Borrower to pay any amounts due with respect to the Loans, under this Agreement or any other amounts due and owing under any Credit Document together with all costs and expenses (including without limitation reasonable legal fees and disbursements and all interest, costs, fees, and charges after the entry of an order for relief against the Borrower or any other obligor in a case under the United States Bankruptcy Code or any similar proceeding, whether or not such interest, costs, fees and charges would be an allowed claim against the Borrower or any such obligor in any such proceeding) incurred by the Administrative Agent or any Bank in enforcing its or their rights under this Article 9 (all such Obligations, terms, covenants, conditions, agreements and undertakings on the part of the Borrower to be paid, performed or observed by the Borrower being collectively called the "Guaranteed Obligations"). In the event that the Borrower shall fail in any manner whatsoever to pay, perform or observe any of the Guaranteed Obligations when the same shall be required to be paid, performed or observed under such Credit Document (after giving effect to any cure period), then each of the Guarantors will itself jointly and severally duly pay, perform or observe, or cause to be duly paid, performed or observed, such Guaranteed Obligation, and it shall not be a condition to the accrual of the obligation of any Guarantor hereunder to pay, perform or observe any Guaranteed Obligation (or to cause the same to be paid, performed or observed) that the Administrative Agent, the Banks or any of their permitted assignees shall have first made any request of or demand upon or given any notice to any Guarantor or to the Borrower or its successors or assigns, or have instituted any action or proceeding against any Guarantor or the Borrower or its successors or assigns in respect thereof. Notwithstanding anything to the contrary contained in this Section 9.1 the obligations of the respective Guarantors hereunder in respect of the Borrower are expressly limited to the Guaranteed Obligations.

(b) The Guarantors each agree that its obligations under this Agreement shall be joint and several and irrevocable. In the event that under applicable law (notwithstanding the Guarantors' agreement regarding the joint and several and irrevocable nature of its obligations hereunder) any Guarantor shall have the right to revoke its guaranty under this Agreement, this Agreement shall continue in full force and effect as to such Guarantor until a written revocation hereof specifically referring hereto, signed by such Guarantor, is actually received by the Administrative Agent, delivered as provided in Section 10.1 hereof. Any such revocation shall not affect the right of the Administrative Agent or any other Beneficiary to enforce their respective rights under this Agreement with respect to (i) any Guaranteed Obligation (including any Guaranteed Obligation that is contingent or unmatured) which arose on or prior to the date the aforementioned revocation was received by the Administrative Agent or (ii) any other Guarantor. If the Administrative Agent, or its permitted assignees takes any action in reliance on this Agreement after any such revocation by a Guarantor but prior to the receipt by the Administrative Agent of said written notice, the rights of the Administrative Agent, any other Beneficiary or such permitted assignee with respect thereto shall be the same as if such revocation had not occurred.

(c) Notwithstanding any other provision hereof, the right of recovery against each Guarantor under this Article 9 shall not exceed $1.00 less than the lowest amount which would render such Guarantor's obligations under this Article 9 void or voidable under applicable law, including, without limitation, fraudulent conveyance law.

(d) In the event of the sale or other disposition in compliance with this Agreement of all of the Capital Stock of a Subsidiary that is a Guarantor to any Person that is not an Affiliate of the Borrower, or upon the Borrower's satisfaction with respect to a Guarantor of the release requirements set forth in Section 5.20, then, in each such event, such Guarantor's Guaranty of the Guaranteed Obligations shall be terminated and such Guarantor shall be released from its duties and obligations under this Agreement (including, without limitation, Section 9.12) and under any Guarantor Supplement to which it is a party, subject to the requirement that a Material Domestic Subsidiary must become a Guarantor pursuant to Section 5.20.

SECTION 9.2 Enforcement. The Administrative Agent and its permitted assignees may proceed to enforce the obligations of the Guarantors under this Agreement without first pursuing or exhausting any right or remedy which the Administrative Agent or its permitted assignees may have against the Borrower, any other Person or any collateral under the Credit Documents.

SECTION 9.3 Obligations Absolute. To the extent permitted by law, the applicable Guarantor will perform its obligations under this Agreement regardless of any law now or hereafter in effect in any jurisdiction affecting any of the terms of this Agreement or any document delivered in connection with this Agreement or the rights of the Administrative Agent or its permitted assignees with respect thereto. The obligations of each Guarantor under this Agreement shall be absolute and unconditional irrespective of:

(a) any lack of validity or enforceability or the discharge or disaffirmance (by any Person, including a trustee in bankruptcy) of the Guaranteed Obligations, the Loans, any Credit Document or any collateral or any document, or any other agreement or instrument relating thereto;

(b) any exchange, release, discharge or non-perfection of any collateral or any release or amendment or waiver of or consent to departure from any other guaranty, for all or any of the Guaranteed Obligations;

(c) any failure to obtain any authorization or approval from or other action by, or to notify or file with, any Governmental Authority required in connection with the performance of such obligations by the Borrower or any Guarantor; or

(d) any impossibility or impracticality of performance, illegality, *force majeure*, any act of any government or any other circumstance which might constitute a legal or equitable defense available to, or a discharge of, the Borrower or any Guarantor, or any other circumstance, event or happening whatsoever, whether foreseen or unforeseen and whether similar or dissimilar to anything referred to above in this Section 9.3.

Each Guarantor further agrees that its obligations under this Agreement shall not be limited by any valuation or estimation made in connection with any proceedings involving the Borrower or any Guarantor filed under the U.S. Bankruptcy Code of 1978, as amended (the "Bankruptcy Code"), whether pursuant to Section 502 of the Bankruptcy Code or any other Section thereof. Each Guarantor further agrees that the Administrative Agent shall be under no obligation to marshal any assets in favor of or against or in payment of any or all of the Guaranteed Obligations. Each Guarantor further agrees that, to the extent that a payment or payments are made by or on behalf of the Borrower to the Administrative Agent, which payment or payments or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to the Borrower, the estate, trustee, receiver or any other party relating to the Borrower, including, without limitation, any Guarantor, under any bankruptcy law, state, or federal law, common law or equitable cause then, to the extent of such payment or repayment, the Guaranteed Obligations or part thereof which had been paid, reduced or satisfied by such amount shall be reinstated and continued in full force and effect as of the date such initial payment, reduction or satisfaction occurred. The obligations of any Guarantor under this Agreement shall not be discharged except by performance as provided herein or as otherwise provided in Section 9.1(d).

SECTION 9.4 Waiver. Each Guarantor hereby waives promptness, diligence, notice of acceleration, notice of intent to accelerate, notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and any Credit Document and any requirement that the Administrative Agent or its permitted assignees exhaust any right or take any action against the Borrower, any other Person or any collateral under the Credit Documents.

SECTION 9.5 Subrogation. No Guarantor will exercise or assert any rights which it may acquire by way of subrogation under this Agreement unless and until all of the Guaranteed Obligations shall have been paid and performed in full. If any payment shall be made to any Guarantor on account of any subrogation rights at any time when all of the Guaranteed Obligations shall not have been paid and performed in full each and every amount so paid will be held in trust for the benefit of the Beneficiaries and forthwith be paid to the appropriate Beneficiary in accordance with this Agreement and the appropriate Credit Document, to be credited and applied to the Guaranteed Obligations to the extent then unsatisfied, in accordance with the terms of this Agreement or any document delivered in connection with this Agreement, as the case may be. In the event (i) the Guarantors shall have satisfied any of the Guaranteed Obligations and (ii) all of the Guaranteed Obligations shall have been paid and performed in full, the Administrative Agent will, at the Guarantors' request and expense, execute and deliver to the Guarantors appropriate documents, without recourse and without representation or warranty of any kind, necessary to evidence or confirm the transfer by way of subrogation to the Guarantors of the rights of the Beneficiaries or any permitted assignee, as the case may be, with respect to the Guaranteed Obligations to which the Guarantors shall have become entitled by way of subrogation, and thereafter the Beneficiaries and their respective permitted assignees shall have no responsibility to the Guarantors or any other Person with respect thereof.

SECTION 9.6 Survival. All covenants made by the Guarantors herein shall be considered to have been relied upon by the Administrative Agent and the Banks and shall survive regardless of any investigation made by the Administrative Agent or any Bank or on the Administrative Agent's behalf.

SECTION 9.7 Guarantors' Consent to Assigns. Each Bank may assign or participate out all or any portion of its Commitment or the Loans in accordance with Section 10.6 of this Agreement, and each Guarantor agrees to recognize any such assignee or participant as a successor and assignee of such Bank hereunder, with all rights of such Bank hereunder.

SECTION 9.8 Continuing Agreement. Article 9 under this Agreement is a continuing agreement and shall remain in full force and effect until all of the Borrower's Obligations have been satisfied in full.

SECTION 9.9 Entire Agreement. Each Guarantor acknowledges and agrees that the guarantee delivered by it hereunder is delivered free of any conditions and no representations have been made to any Guarantor affecting the liability of such Guarantor under its guarantee hereunder. Each Guarantor confirms and agrees that the guarantee contained herein is in addition to and not in substitution for any other guarantee held or which may hereafter be held by the Administrative Agent or any Bank. The rights, remedies and benefits in this Article 9 are cumulative and not in substitution for or exclusive of any other rights or remedies or benefits which the Administrative Agent or the Banks may otherwise have.

SECTION 9.10 Application. All monies received by the Administrative Agent or the Banks under the guarantee contained in this Article 9 may be applied against such part or parts of the Guaranteed Obligations as the Administrative Agent and the Banks may see fit and they shall at all times and from time to time have the right to change any appropriation of monies received by it or them and to reapply the same against any other part or parts of the Guaranteed Obligations as it or they may see fit, notwithstanding any previous application howsoever made.

SECTION 9.11 Benefit to Guarantors. The Borrower and the Guarantors are engaged in related businesses and integrated to such an extent that the financial strength and flexibility of the Borrower has a direct impact on the success of each Guarantor. Each Guarantor will derive substantial direct and indirect benefit from the extensions of credit hereunder.

SECTION 9.12 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 Credit Party to honor all of its obligations under this Article 9 in respect of Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 9.12 for the maximum amount of such liability that can be hereby incurred without rendering its obligations under this Section 9.12, or otherwise under this Article 9, voidable under applicable law relating to fraudulent conveyance or fraudulent transfer, and not for any greater amount). The obligations of each Qualified ECP Guarantor under this Section 9.12 shall remain in full force and effect until all Guaranteed Obligations (other than contingent indemnification obligations) have been paid in full and all Commitments have been terminated or such Qualified ECP Guarantor's Guaranty of the Guaranteed Obligations has been terminated in accordance with Section 9.1(d). Each Qualified ECP Guarantor intends that this Section 9.12 constitute, and this Section 9.12 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each other Credit Party for all purposes of Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

ARTICLE 10

MISCELLANEOUS

SECTION 10.1 Notices.

(a) Generally. All notices, requests and other communications to any party hereunder shall be in writing (including bank wire, facsimile transmission or similar writing) and shall be given to such party: (i) in the case of a Credit Party, at its address or facsimile number set forth on the signature pages hereof, (ii) in the case of any Bank or the Administrative Agent, at its address or facsimile number set forth on the applicable Administrative Questionnaire or (iii) in the case of any party, at such other address or facsimile number as such party may hereafter specify for the purpose by notice to the Administrative Agent and the Borrower. Each such notice, request or other communication shall be effective (A) if given by facsimile transmission, when transmitted to the facsimile number specified in this Section 10.1 and confirmation of receipt is received (except that, if not given during normal business hours for the recipient, such notice shall be deemed to have been given at the opening of business on the next Business Day), (B) if given by mail, 72 hours after such communication is deposited in the mails with first class postage prepaid, addressed as aforesaid or (C) if given by any other means, when delivered at the address specified in this Section; provided that notices to the Administrative Agent under Article 2 or Article 8 shall not be effective until received.

(b) Electronic Communications. Notices and other communications to the Banks and the Letter of Credit Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Bank or any Letter of Credit Issuer pursuant to Article 2 unless such Bank, the Letter of Credit Issuer, as applicable, and the Administrative Agent have agreed to receive notices under any Section thereof by electronic communication and have agreed to the procedures governing such communications. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

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

(c) Platform. (i) The Borrower agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Letter of Credit Issuers and the other Banks by posting the Communications on Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system (the "Platform").

(ii) Although the Platform and its primary web portal are secured with generally-applicable security procedures and policies implemented or modified by the Administrative Agent from time to time (including, as of the Closing Date, a user ID/password authorization system) and the Platform is secured through a per-deal authorization method whereby each user may access the Platform only on a deal-by-deal basis, each of the Banks, each of the Letter of Credit Issuers and the Borrower acknowledges and agrees that the distribution of material through an electronic medium is not necessarily secure, that the Administrative Agent is not responsible for approving or vetting the representatives or contacts of any Bank or Letter of Credit Issuer that are added to the Platform, and that there may be confidentiality and other risks associated with such distribution. Each of the Banks, each of the Letter of Credit Issuers and the Borrower hereby approves distribution of the Communications through the Platform and understands and assumes the risks of such distribution.

(iii) The Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, 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 the Platform. In no event shall the Administrative Agent or any of its Affiliates (collectively, the "Agent Parties") have any liability to the Borrower, any Bank or any other Person for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of the Administrative Agent's transmission of communications through the Platform. "Communications" means, collectively, any notice, demand, communication, information, document or other material that the Borrower provides to the Administrative Agent pursuant to this Agreement or the transactions contemplated therein which is distributed to the Administrative Agent, any Bank or any Letter of Credit Issuer by means of electronic communications pursuant to this Section, including through the Platform.

SECTION 10.2 No Waivers. No failure or delay by the Administrative Agent or any Bank in exercising any right, power or privilege hereunder or under any Note shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

SECTION 10.3 Expenses; Indemnification; Limitation of Liability. (a) The Borrower shall pay (i) all reasonable out-of-pocket expenses of the Administrative Agent, including fees and disbursements of counsel for the Administrative Agent in connection with the preparation and administration of this Agreement and the other Credit Documents, any waiver or consent hereunder or any amendment hereof or any Default or alleged Default hereunder (but limited, in the case of this clause (i) to the reasonable fees, charges and disbursements of one external counsel to the Administrative Agent, and if necessary, one local counsel in each relevant jurisdiction) and (ii) if an Event of Default occurs and is continuing, all out-of-pocket expenses incurred by the Administrative Agent and each Bank, including (without duplication) the fees and disbursements of outside counsel, in connection with such Event of Default and collection, bankruptcy, insolvency and other enforcement proceedings resulting therefrom.

(b) The Borrower agrees to indemnify the Administrative Agent and each Bank, their respective affiliates and the respective directors, officers, agents and employees of the foregoing (each an "Indemnitee") and hold each Indemnitee harmless from and against any and all liabilities, losses, damages, costs and expenses of any kind, including, without limitation, the reasonable fees and disbursements of counsel, which may be incurred by such Indemnitee in connection with any investigative, administrative or judicial proceeding (whether or not such Indemnitee shall be designated a party thereto) brought or threatened relating to or arising out of this Agreement or any actual or proposed use of proceeds of Loans hereunder, whether brought by a third party or by any Credit Party, IN ALL CASES, WHETHER OR NOT CAUSED BY OR ARISING, IN WHOLE OR IN PART, OUT OF THE COMPARATIVE, CONTRIBUTORY, OR SOLE NEGLIGENCE OF SUCH INDEMNIFIED PARTY; provided, that no Indemnitee shall have the right to be indemnified hereunder for (i) such Indemnitee's own gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final non-appealable judgment or (ii) for any loss (A) resulting from any dispute solely among the Indemnitees (other than any claims (1) against an Indemnitee in its capacity as or in fulfilling its role as an agent or arranger or any similar role under this Agreement or any other Credit Document or (2) arising out of any act or omission of the Borrower or any Subsidiary of the Borrower or any of their respective Affiliates) or (B) resulting from a claim brought by the Borrower or any other Credit Party against an Indemnitee for a breach in bad faith of such Indemnitee's obligations hereunder or under any other Credit Document as determined by a court of competent jurisdiction in a final non-appealable judgment.

(c) Each Credit Party agrees not to assert any claim for special, indirect, consequential or punitive damages against any Indemnitee, and the Banks agree not to assert any such claim against any Credit Party, on any theory of liability, arising out of or otherwise relating to the Notes, this Agreement, any of the transactions contemplated herein or the actual or proposed use of the proceeds of any Loan or Letter of Credit; provided that nothing contained in this sentence will limit any Credit Party's indemnification or reimbursement obligations to the extent such indirect, special, punitive or consequential damages are included in any third party claim in connection with which such Indemnitee is entitled to indemnification or reimbursement hereunder.

SECTION 10.4 Sharing of Set-Offs.

(a) If an Event of Default shall have occurred and be continuing, each Bank and each Letter of Credit Issuer is hereby authorized at any time and from time to time, to the fullest extent permitted by applicable law, to setoff and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held, and other obligations (in whatever currency), but excluding payroll, escrow, trust and other special purpose accounts, in each case whether such setoff is based on common law rights, contractual rights, or statutory rights, at any time owing, by such Bank or such Letter of Credit Issuer, to or for the credit or the account of the Borrower or any other Credit Party against any and all of the obligations of the Borrower or such Credit Party now or hereafter existing under this Agreement or any other Credit Document to such Bank or such Letter of Credit Issuer, irrespective of whether or not such Bank or Letter of Credit Issuer shall have made any demand under this Agreement or any other Credit Document and although such obligations of the Borrower or such Credit Party may be owed to a branch or office of such Bank or such Letter of Credit Issuer different from the branch, office or Affiliate holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Bank shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Bank from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Letter of Credit Issuers, and the Banks, and (y) the Defaulting Bank shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Bank as to which it exercised such right of setoff. The rights of each Bank and each Letter of Credit Issuer under this Section are in addition to other rights and remedies (including other rights of setoff) that such Bank or such Letter of Credit Issuer may have. Each Bank and Letter of Credit Issuer agrees to notify the Borrower and the Administrative Agent promptly after any such setoff and application; provided that the failure to give such notice shall not affect the validity of such setoff and application.

(b) Each Bank agrees that if it shall, by exercising any right of set-off or counterclaim or otherwise, receive payment of a proportion of the aggregate amount of principal and interest due with respect to any Loan, Unpaid Drawing or Note held by it which is greater than the proportion received by any other Bank in respect of the aggregate amount of principal and interest due with respect to any Loan, Unpaid Drawing or Note held by such other Bank, the Bank receiving such proportionately greater payment shall purchase such participations in the Loan, Unpaid Drawing or Notes, as applicable, held by the other Banks, and such other adjustments shall be made, as may be required so that all such payments of principal and interest with respect to the Loan, Unpaid Drawing or Notes held by the Banks shall be shared by the Banks in accordance with their applicable Percentages; provided, that nothing in this Section 10.4(b) shall impair the right of any Bank to exercise any right of set-off or counterclaim it may have and to apply the amount subject to such exercise to the payment of indebtedness of the Borrower other than its indebtedness hereunder. Each Borrower agrees, to the fullest extent it may effectively do so under applicable law, that any holder of a participation in a Loan, Unpaid Drawing or Note, whether or not acquired pursuant to the foregoing arrangements, may exercise rights of set-off or counterclaim and other rights with respect to such participation as fully as if such holder of a participation were a direct creditor of the Borrower in the amount of such participation.

SECTION 10.5 Amendment or Waiver, etc. Neither this Agreement nor any other Credit Document nor any terms hereof or thereof may be changed, waived, discharged or terminated unless such change, waiver, discharge or termination is in writing signed by the respective Credit Parties party thereto and the Required Banks (or by the Administrative Agent with the consent of the Required Banks) and delivered to the Administrative Agent; provided that no such change, waiver, discharge or termination shall, (a) without the consent of each affected Bank, (i) extend any scheduled maturity of any Loan, Unpaid Drawing or Note, or reduce the rate of interest or fees or extend the time of payment of principal, interest or fees, or reduce the principal amount thereof (except to the extent repaid in cash) (provided that any amendment or modification to the financial definitions in this Agreement or to Section 2.14 or pursuant to Section 1.2 shall not constitute a reduction in the rate of interest or any fees for purposes of this clause (a)) or (ii) subordinate the Obligations (or any portion thereof) in right of payment to any other Debt unless such subordination is expressly permitted as of the Closing Date or (b) without the consent of each Bank (i) release all or substantially all of the value of the Guaranties of the Borrower's Obligations by the Guarantors (except, in the case of any Guarantor, in connection with the sale of such Guarantor in accordance with the terms of this Agreement or as otherwise provided in Section 5.20), (ii) amend, modify or waive any provision of this Section 10.5, (iii) reduce the percentage specified in the definition of Required Banks (it being understood that, (A) with the consent of the Required Banks, additional extensions of credit pursuant to this Agreement may be included in the determination of the Required Banks on substantially the same basis as the extensions of Commitments are included on the Closing Date and (B) pursuant to Section 2.16, the Revolving Credit Commitments may be increased), (iv) amend or modify any provision of Section 10.6 to add any additional consent requirements necessary to effect any assignment or participation thereunder, (v) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement, (vi) amend any Section which would alter the pro rata sharing of payments required thereby or (vii) amend or waive any condition precedent to the occurrence of the Effective Date set forth in Section 3.2; provided, further, that no such change, waiver, discharge or termination shall (1) without the consent of each Letter of Credit Issuer amend, modify or waive any provision of Article 2A or alter its rights or obligations with respect to Letters of Credit, (2) without the consent of the Swing Lender amend, modify or waive any provision of Section 2.1(c) through (g) or alter its rights or obligations with respect to Swing Loans, (3) increase the Commitments of any Bank over the amount thereof then in effect without the consent of such Bank (it being understood that waivers or modifications of conditions precedent, covenants, Defaults or of a mandatory reduction in the Total Revolving Credit Commitments shall not constitute an increase of the Commitment of any Bank, and that an increase in the available portion of any Revolving Credit Commitment of any Bank shall not constitute an increase of the Revolving Credit Commitment of such Bank) or (4) without the consent of the Administrative Agent, amend, modify or waive any provision of Article 7 or any other provision as the same relates to the rights or obligations of the Administrative Agent,.

If any Bank does not consent to a proposed amendment, waiver, consent or release with respect to any Credit Document that requires the consent of each Bank and that has been approved by the Required Banks, the Borrower may replace such Non-Consenting Bank in accordance with Section 8.7; provided that such amendment, waiver, consent or release can be effected as a result of the assignment contemplated by such Section (together with all other such assignments required by the Borrower to be made pursuant to this paragraph).

Notwithstanding anything to the contrary herein, no Defaulting Bank shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that (A)(x) none of the Revolving Credit Commitment of such Defaulting Bank, the scheduled maturity of any Loan, Unpaid Drawing or Note of such Defaulting Bank or the time of payment of principal, interest or fees thereon may be increased or extended, and (y) neither the rate of interest or fees nor the principal amount of any Loan, Unpaid Drawing or Note of such Defaulting Bank may be reduced, in each case without the consent of such Defaulting Bank, and (B) any amendment, waiver, or consent hereunder that requires the consent of all Banks or each affected Bank that by its terms disproportionately and adversely affects any such Defaulting Bank relative to other affected Banks shall require the consent of such Defaulting Bank.

Notwithstanding anything to the contrary in this Agreement, (i) Incremental Amendments may be effected in accordance with Section 2.16 without the consent of any Person other than as specified in Section 2.16, (ii) amendments contemplated by Section 2.18 may be effected in accordance with Section 2.18 without the consent of any Person other than as specified in Section 2.18, and (iii) this Agreement may be amended with the written consent of the Administrative Agent, the Borrower and the Banks providing the relevant Replacement Term Loans (as defined below) to permit the refinancing of outstanding Term Loans ("Refinanced Term Loans") with a replacement term loan tranche hereunder ("Replacement Term Loans"); provided that, with respect to this clause (iii), (a) the aggregate principal amount of such Replacement Term Loans shall not exceed the aggregate principal amount of such Refinanced Term Loans plus accrued interest, fees and expenses related thereto, (b) neither the Base Rate Margin nor the SOFR Margin for such Replacement Term Loans shall be higher than the respective Base Rate Margin or the SOFR Margin for such Refinanced Term Loans, (c) the weighted average life to maturity of such Replacement Term Loans shall not be shorter than the weighted average life to maturity of such Refinanced Term Loans at the time of such refinancing (except to the extent of nominal amortization for periods where amortization has been eliminated as a result of prepayment of the applicable Term Loans) and (d) all other terms applicable to such Replacement Term Loans shall not be materially more restrictive to the Borrower and its Subsidiaries (as determined by the Borrower in good faith), when taken as a whole, than the terms of the Refinanced Term Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the latest final maturity of the Term Loans in effect immediately prior to such refinancing.

Notwithstanding anything to the contrary in this Agreement, the Administrative Agent and, if applicable, the Borrower may, without the consent of any Bank, enter into amendments or modifications to this Agreement or any of the other Credit Documents or enter into additional Credit Documents in order to implement any Benchmark Replacement or any Conforming Changes or otherwise effectuate the terms of Section 8.8 in accordance with the terms of Section 8.8.

SECTION 10.6 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, except that neither the Borrower nor any Guarantor may assign or otherwise transfer any of their respective rights under this Agreement without the prior written consent of all Banks.

(b) Any Bank may at any time grant to one or more banks or other institutions (each a "Participant") participating interests in its Commitments or any or all of its Loans. In the event of any such grant by a Bank of a participating interest to a Participant, whether or not upon notice to the Borrower and the Administrative Agent, such Bank shall remain responsible for the performance of its obligations hereunder, and the Borrower and the Administrative Agent shall continue to deal solely and directly with such Bank in connection with such Bank's rights and obligations under this Agreement. Any agreement pursuant to which any Bank may grant such a participating interest shall provide that such Bank shall retain the sole right and responsibility to enforce the obligations of the Borrower hereunder, including, without limitation, the right to approve any amendment, modification or waiver of any provision of this Agreement except to the extent such amendment or waiver would (i) extend the final scheduled maturity of any Loan or Note in which such participant is participating, or reduce the rate or extend the time of payment of interest or fees thereon (except in connection with a waiver of applicability of any post-default increase in interest rates) or reduce the principal amount thereof, or increase the amount of the participant's participation over the amount thereof then in effect (it being understood that a waiver of any Default or of a mandatory reduction in the Total Revolving Credit Commitment shall not constitute a change in the terms of such participation, and that an increase in any Commitment or Loan shall be permitted without the consent of any participant if the participant's participation is not increased as a result thereof) or (ii) consent to the assignment or transfer by the Borrower of any of its rights and obligations under this Agreement. In the case of any such participation, the participant shall not have any rights under this Agreement or any of the other Credit Documents (the participant's rights against such Bank in respect of such participation to be those set forth in the agreement executed by such Bank in favor of the participant relating thereto) and all amounts payable by the Borrower hereunder shall be determined as if such Bank had not sold such participation. The Borrower agrees that each Participant shall, to the extent provided in its participation agreement, be entitled to the benefits of Article 8 and Section 10.4 with respect to its participating interest. Each Bank that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrower, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Credit Documents (the "Participant Register"); provided that no Bank 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 Credit 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 Bank 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. An assignment or other transfer which is not permitted by Section 10.6(c) or (d) below shall be given effect for purposes of this Agreement only to the extent of a participating interest granted in accordance with this Section 10.6(b).

(c) Any Bank may (A) assign all or a portion of its Term Loans, Term Loan Commitments, Revolving Credit Commitments and related outstanding Obligations hereunder to (i) its parent company and/or any affiliate of such Bank which is at least 50% owned by such Bank or its parent company, (ii) to one or more Banks or (iii) in the case of a then existing Bank that is a fund that invests in bank loans, any other fund that invests in bank loans and is managed or advised by the same investment advisor of such Bank or by an Affiliate of such investment advisor or (B) assign all, or, if less than all, a portion equal to at least U.S. $5,000,000 in the aggregate for the assigning Bank, of such Term Loans, Term Loan Commitments, Revolving Credit Commitments and related outstanding Obligations hereunder to one or more Eligible Transferees, each of which assignees shall become a party to this Agreement as a Bank by execution of an Assignment and Assumption Agreement, provided that:

(i) at such time Schedule I shall be deemed modified to reflect the Revolving Credit Commitments and Term Loan Commitments of such new Bank and of the existing Banks,

(ii) upon the surrender of the relevant Notes by the assigning Bank (or, upon such assigning Bank's indemnifying the Borrower for any lost Note pursuant to a customary indemnification agreement) new Notes will be issued, at the Borrower's expense, to such new Bank and to the assigning Bank upon the request of such new Bank or assigning Bank, such new Notes to be in conformity with the requirements of Section 2.4 (with appropriate modifications) to the extent needed to reflect the revised Term Loans, Term Loan Commitments or Revolving Credit Commitments,

(iii) the consent of the Administrative Agent, each Letter of Credit Issuer and the Swing Lender shall be required in connection with any assignment to an Eligible Transferee pursuant to clause (B) above (which consent shall not be unreasonably withheld or delayed and, in the case of a Letter of Credit Issuer or Swing Lender shall only be required in connection with an assignment relating to the Revolving Credit),

(iv) so long as no Default or Event of Default exists, the consent of the Borrower shall be required in connection with any assignment to an Eligible Transferee pursuant to clause (B) above (which consent shall not be unreasonably withheld or delayed; provided that the Borrower 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),

(v) the Administrative Agent shall receive at the time of each such assignment, from the assigning or assignee Bank, the payment of a non-refundable assignment fee of U.S. $3,500, which fee shall not be subject to reimbursement from the Borrower unless such assignment shall be at the request of the Borrower to replace the assigning Bank, and

(vi) no such transfer or assignment will be effective until recorded by the Administrative Agent, which recordation shall be promptly made.

To the extent of any assignment pursuant to this Section 10.6(c), the assigning Bank shall be relieved of its obligations hereunder with respect to its assigned Revolving Credit Commitments and Term Loan Commitments. At the time of each assignment pursuant to this Section 10.6(c) to a Person which is not already a Bank hereunder and which is not a United States person (as such term is defined in Section 7701(a)(30) of the Code) for Federal income tax purposes, the respective assignee Bank shall, to the extent legally entitled to do so, provide to the Borrower the appropriate Internal Revenue Service forms described in Section 8.4(d) and Section 8.4(g).

(d) Any Bank may at any time pledge or assign all or any portion of its rights under this Agreement and its Note, if any, to a Federal Reserve Bank or other central bank. No such assignment shall release the transferor Bank from its obligations hereunder.

(e) Notwithstanding anything to the contrary contained herein, any Bank (a "Granting Bank") may grant to a special purpose funding vehicle (an "SPC"), identified as such in writing from time to time by the Granting Bank to the Administrative Agent and the Borrower, the option to provide to the Borrower all or any part of any Loan that such Granting Bank would otherwise be obligated to make to the Borrower pursuant to this Agreement; provided that (i) nothing herein shall constitute a commitment by any SPC to make any Loan and (ii) if an SPC elects not to exercise such option or otherwise fails to provide all or any part of such Loan, the Granting Bank shall be obligated to make such Loan pursuant to the terms hereof. The making of a Loan by an SPC hereunder shall utilize the Commitment of the Granting Bank to the same extent, and as if, such Loan were made by such Granting Bank. Each party hereto hereby agrees that no SPC shall be liable for any indemnity or similar payment obligation under this Agreement (all liability for which shall remain with the Granting Bank). In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior indebtedness of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings under the laws of the United States or any State thereof relating to claims, if any, under this Agreement. In addition, notwithstanding anything to the contrary contained in this Section 10.6(e), any SPC may (i) with notice to, but without the prior written consent of, the Borrower and the Administrative Agent and without paying any processing fee therefor, assign all or a portion of its interests in any Loans to the Granting Bank or to any financial institutions (consented to by the Borrower and Administrative Agent) providing liquidity and/or credit support to or for the account of such SPC to support the funding or maintenance of Loans and (ii) disclose on a confidential basis any non-public information relating to its Loans to any rating agency, commercial paper dealer or provider of any surety, guarantee or credit or liquidity enhancement to such SPC. This Section 10.6(e) may not be amended without the written consent of the SPC.

(f) No assignee, Participant or other transferee of any Bank's rights shall be entitled to receive any greater payment under Section 8.3 or 8.4 than such Bank would have been entitled to receive with respect to the rights transferred, unless such transfer is made (i) with the Borrower's prior written consent or (ii) by reason of the provisions of Section 8.2, 8.3 or 8.4 requiring such Bank to designate a different Applicable Lending Office under certain circumstances or (iii) at a time when the circumstances giving rise to such greater payment did not exist.

(g) The Administrative Agent, acting solely for this purpose as an agent of the Borrower, shall maintain at the Payment Office a copy of each assignment agreement delivered to it and a register for the recordation of the names and addresses of the Banks, and the Commitments of, and principal amounts of the Loans owing to, each Bank pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrower, the Administrative Agent and the Banks may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Bank hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Bank, at any reasonable time and from time to time upon reasonable prior notice.

(h) No participation or assignment pursuant to this Section 10.6 shall be made to the Borrower or any of its Affiliates or Subsidiaries.

(i) Notwithstanding anything to the contrary herein, if at any time the Swing Lender or a Letter of Credit Issuer assigns all of its Revolving Credit Commitments and Revolving Loans pursuant to Section 10.6(c) above, the Swing Lender or such Letter of Credit Issuer may terminate the outstanding Swing Loans or its Letter of Credit Commitment, as applicable. In such event, the Borrower shall be entitled to appoint another Non-Defaulting Bank to act as the successor Swing Lender or Letter of Credit Issuer hereunder, as applicable (with such Bank's consent); provided, however, that the failure of the Borrower to appoint a successor shall not affect the resignation of the Swing Lender or Letter of Credit Issuer. If the Swing Lender terminates the outstanding Swing Loans or a Letter of Credit Issuer assigns all of its Revolving Credit Commitment, it shall retain all of the rights of the Swing Lender and Letter of Credit Issuer, as applicable, provided hereunder with respect to Swing Loans made by it or Letters of Credit issued by it and outstanding as of the effective date of such termination or assignment, including the right to require Banks to make Revolving Loans or fund participations in outstanding Swing Loans pursuant to Section 2.1 and outstanding Letters of Credit pursuant to Article 2A.

SECTION 10.7 Collateral. Each of the Banks represents to the Administrative Agent and each of the other Banks that it in good faith is not relying upon any "margin stock" (as defined in Regulation U) as collateral in the extension or maintenance of the credit provided for in this Agreement.

SECTION 10.8 Governing Law; Submission to Jurisdiction. (a) THIS AGREEMENT AND EACH NOTE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK. The Borrower and Guarantors hereby submit to the exclusive jurisdiction of the United States District Court for the Southern District of New York, the Supreme Court of the State of New York, and any appellate court from any thereof for purposes of all legal proceedings arising out of or relating to this Agreement or the transactions contemplated hereby. The Borrower and Guarantors irrevocably waive, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such proceeding brought in such a court and any claim that any such proceeding brought in such a court has been brought in an inconvenient forum. Each of the parties hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

(b) [Reserved].

SECTION 10.9 Counterparts; Integration; Effectiveness; Survival; Electronic Execution. (a) Counterparts; Integration; Effectiveness; Survival. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. This Agreement constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof. This Agreement shall become effective upon receipt by the Administrative Agent of counterparts hereof signed by each of the parties hereto and each of the other conditions specified in Section 3.1 have been satisfied. Delivery of an executed counterpart to this Agreement or any other Credit Document by facsimile transmission or by electronic mail in pdf format shall be as effective as delivery of a manually executed counterpart hereof. The provisions of Sections 2.13, 2A.6, 8.3, 8.4, 8.6 and 10.3 and Article 7 shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the payment in full of the Obligations, the expiration or termination of the Letters of Credit and the Commitments or the termination of this Agreement or any provision hereof.

(b) Electronic Execution. The words "execute," "execution," "signed," "signature," "delivery" and words of like import in or related to this Agreement, any other Credit Document or any document, amendment, approval, consent, waiver, modification, information, notice, certificate, report, statement, disclosure, or authorization to be signed or delivered in connection with this Agreement or any other Credit Document or the transactions contemplated hereby shall be deemed to include Electronic Signatures or execution in the form of an Electronic Record, and contract formations on electronic platforms approved by the Administrative Agent, 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 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. Each party hereto agrees that any Electronic Signature or execution in the form of an Electronic Record shall be valid and binding on itself and each of the other parties hereto to the same extent as a manual, original signature. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance by the parties of a manually signed paper which has been converted into electronic form (such as scanned into PDF format), or an electronically signed paper converted into another format, for transmission, delivery and/or retention. Notwithstanding anything contained herein to the contrary, the Administrative Agent is under no obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by the Administrative Agent pursuant to procedures approved by it; provided that without limiting the foregoing, (i) to the extent the Administrative Agent has agreed to accept such Electronic Signature from any party hereto, the Administrative Agent and the other parties hereto shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of the executing party without further verification and (ii) upon the request of the Administrative Agent or any Bank, any Electronic Signature shall be promptly followed by an original manually executed counterpart thereof. Without limiting the generality of the foregoing, each party hereto hereby (A) agrees that, for all purposes, including without limitation, in connection with any workout, restructuring, enforcement of remedies, bankruptcy proceedings or litigation among the Administrative Agent, the Banks and any of the Credit Parties, electronic images of this Agreement or any other Credit Document (in each case, including with respect to any signature pages thereto) shall have the same legal effect, validity and enforceability as any paper original, and (B) waives any argument, defense or right to contest the validity or enforceability of the Credit Documents based solely on the lack of paper original copies of any Credit Documents, including with respect to any signature pages thereto.

SECTION 10.10 Waiver of Jury Trial. Each of the Borrower, the Administrative Agent and the Banks hereby irrevocably waives any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

SECTION 10.11 Limitation on Interest. It is the intention of the parties hereto to comply with all applicable usury laws, whether now existing or hereafter enacted. Accordingly, notwithstanding any provision to the contrary in this Agreement, the other Credit Documents or any other document evidencing, securing, guaranteeing or otherwise pertaining to indebtedness of the Borrower to the Banks, in no contingency or event whatsoever, whether by acceleration of the maturity of indebtedness of the Borrower to the Banks or otherwise, shall the interest contracted for, charged or received by any Bank exceed the maximum amount permissible under applicable law. If from any circumstances whatsoever fulfillment of any provisions of this Agreement, the other Credit Documents or any other document evidencing, securing, guaranteeing or otherwise pertaining to indebtedness of the Borrower to the Banks, at the time performance of such provision shall be due, shall involve transcending the limit of validity prescribed by law, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstances any Bank shall ever receive anything of value as interest or deemed interest by applicable law under this Agreement, the other Credit Documents or any other document evidencing, securing, guaranteeing or otherwise pertaining to indebtedness of the Borrower to the Banks or otherwise an amount that would exceed the highest lawful amount, such amount that would be excessive interest shall be applied to the reduction of the principal amount owing in connection with this Agreement or on account of any other indebtedness of the Borrower to the Banks, and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal owing in connection with this Agreement and such other indebtedness, such excess shall be refunded to the Borrower. In determining whether or not the interest paid or payable with respect to indebtedness of the Borrower to the Banks, under any specific contingency, exceeds the maximum nonusurious rate permitted under applicable law, the Borrower and the Banks shall, to the maximum extent permitted by applicable law, (a) characterize any non-principal payment as an expense, fee or premium rather than as interest, (b) exclude voluntary prepayments and the effects thereof, (c) amortize, prorate, allocate and spread the total amount of interest throughout the full term of such indebtedness so that the actual rate of interest on account of such indebtedness does not exceed the maximum amount permitted by applicable law, and/or (d) allocate interest between portions of such indebtedness, to the end that no such portion shall bear interest at a rate greater than that permitted by law. Notwithstanding the foregoing, if for any period of time interest on any of the Borrower's Obligations is calculated at the maximum rate permissible under applicable law rather than the applicable rate under this Agreement, and thereafter such applicable rate becomes less than the maximum rate permissible under applicable law, the rate of interest payable on the Borrower's Obligations shall remain at the maximum rate permissible under applicable law until the Banks have received the amount of interest which such Banks would have received during such period on the Borrower's Obligations had the rate of interest not been limited to the maximum rate permissible under applicable law during such period. The terms and provisions of this paragraph shall control and supersede every other conflicting provision of this Agreement and the other Credit Documents.

SECTION 10.12 [Reserved].

SECTION 10.13 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 Credit Document), the Borrower and each other Credit Party acknowledges and agrees and acknowledges its Affiliates' understanding that (i) the services regarding this Agreement provided by the Administrative Agent and/or the Banks are arm's-length commercial transactions between the Borrower, each other Credit Party and their respective Affiliates, on the one hand, and the Administrative Agent and the Banks, on the other hand, (ii) each of the Administrative Agent and the Banks is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the Borrower, any other Credit Party or any of their respective Affiliates, or any other Person, and (iii) neither the Administrative Agent nor any Bank has any obligation to the Borrower, any other Credit Party or any of their Affiliates with respect to the transaction contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents.

SECTION 10.14 Patriot Act. The Administrative Agent and each Bank that is subject to the requirements of the Patriot Act hereby notifies each Credit Party that pursuant to the requirements of the Patriot Act, it is required to obtain, verify, and record information that identifies such Credit Party, which information includes the name and address of such Credit Party and other information that will allow the Administrative Agent or such Bank, as applicable, to identify such Credit Party in accordance with the Patriot Act.

SECTION 10.15 Confidentiality. Each of the Administrative Agent, the Banks and the Letter of Credit Issuer 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, insurers and credit risk support providers, to the extent any such Person has a need to know such Information (it being understood that the Persons to whom such disclosure is made will first 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 (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Credit Document or any suit, action or proceeding relating to this Agreement or any other Credit Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section 10.15, to (A) any assignee of or participant in, or any prospective assignee of or participant in, any of its rights or obligations under this Agreement or (B) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower or any Subsidiary and its obligations, (g) with the prior written consent of the Borrower, (h) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section 10.15 or (B) becomes available to the Administrative Agent, any Bank or the Letter of Credit Issuer on a non-confidential basis from a source other than the Borrower or any Subsidiary or any of their directors, officers, employees or agents, including accountants, legal counsel and other advisors, (i) to rating agencies if requested or required by such agencies in connection with a rating relating to the Loans or Commitments hereunder, or (j) to entities which compile and publish information about the syndicated loan market, provided that only basic information about the pricing and structure of the transaction evidenced hereby may be disclosed pursuant to this Section 10.15(j). For purposes of this Section, "Information" means all information received from the Borrower or any of the Subsidiaries or from any other Person on behalf of the Borrower or any Subsidiary relating to the Borrower or any Subsidiary or any of their respective businesses including any information obtained pursuant to the inspection rights contained in Section 5.6, other than any such information that is available to the Administrative Agent, any Bank or the Letter of Credit Issuer on a non-confidential basis prior to disclosure by the Borrower or any of its Subsidiaries or from any other Person on behalf of the Borrower or any of the Subsidiaries.

SECTION 10.16 [Reserved].

SECTION 10.17 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Credit 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 Credit Document, to the extent such liability is unsecured, may be subject to the Write-Down and Conversion Powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

(a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any party hereto that is an Affected Financial Institution; and

(b) the effects of any Bail-In Action on any such liability, including, if applicable:

(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 Credit 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 10.18 Certain ERISA Matters.

(a) Each Bank (x) represents and warrants, as of the date such Person became a Bank party hereto, to, and (y) covenants, from the date such Person became a Bank party hereto to the date such Person ceases being a Bank party hereto, for the benefit of, the Administrative Agent, each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that at least one of the following is and will be true:

(i) such Bank is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Bank's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit or the Commitments;

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Bank's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement;

(iii) (A) such Bank 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 Bank 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 Bank, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Bank'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 Bank.

(b) In addition, unless either (1) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Bank or (2) a Bank has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Bank further (x) represents and warrants, as of the date such Person became a Bank party hereto, to, and (y) covenants, from the date such Person became a Bank party hereto to the date such Person ceases being a Bank party hereto, for the benefit of, the Administrative Agent, each Arranger and their respective Affiliates, and not, for the avoidance of doubt, to or for the benefit of the Borrower or any other Credit Party, that none of the Administrative Agent, any Arranger and their respective Affiliates is a fiduciary with respect to the assets of such Bank involved in such Bank's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Credit Document or any documents related hereto or thereto).

SECTION 10.19 Acknowledgment Regarding Any Supported QFCs. To the extent that the Credit Documents provide support, through a guarantee or otherwise, for any 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 FDIC 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 Credit 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 Credit 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 Credit 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 Bank 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 10.19, the following terms have the following meanings:

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

"Covered Entity" means any of the following:

(i) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b);

(ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or

(iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

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

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

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officers to execute and deliver this Agreement as of the date first above written.

BREAD FINANCIAL HOLDINGS, INC.,
as Borrower

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Executive Vice President, Chief Financial Officer

COMENITY SERVICING LLC,
as Guarantor

By: /s/ Mike Blackham
Name: Mike Blackham
Title: Vice President, Treasurer

LON INC.,
as Guarantor

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Chief Financial Officer

LON OPERATIONS LLC,
as Guarantor

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Chief Financial Officer

BREAD FINANCIAL PAYMENTS, INC.,
as Guarantor

By: /s/ Perry S. Beberman
Name: Perry S. Beberman
Title: Executive Vice President, Chief Financial Officer

JPMORGAN CHASE BANK, N.A.,
as Administrative Agent, a Bank, Swing Lender and Letter of Credit Issuer

By: /s/ Jennifer M. Dunneback
Name: Jennifer M. Dunneback
Title: Executive Director

BMO HARRIS BANK N.A.,
as a Bank

By: /s/ Chris Clark
Name: Chris Clark
Title: Managing Director

BNP PARIBAS,
as a Bank

By: /s/ Nicole Rodriguez
Name: Nicole Rodriguez
Title: Director

By: /s/ Valentin Detry
Name: Valentin Detry
Title: Vice President

[Signature Page to Credit Agreement]

Canadian Imperial Bank of Commerce, New York Branch,
as a Bank

By: /s/ Edward Turowski
Name: Edward Turowski
Title: Executive Director

[Signature Page to Credit Agreement]

KEYBANK NATIONAL ASSOCIATION,
as a Bank

By: /s/ David Raczka
Name: David Raczka
Title: Senior Vice President

[Signature Page to Credit Agreement]

THE BANK OF NOVA SCOTIA,
as a Bank

By: /s/ Aron Lau
Name: Aron Lau
Title: Director

[Signature Page to Credit Agreement]

Truist Bank, as a Bank

By: /s/ Jim C. Wright
Name: Jim C. Wright
Title: Vice President

[Signature Page to Credit Agreement]

ROYAL BANK OF CANADA, as a Bank

By: /s/ Joseph Simoneau
Name: Joseph Simoneau
Title: Authorized Signatory

[Signature Page to Credit Agreement]

U.S. BANK NATIONAL ASSOCIATION,
as a Bank

By: /s/ Callen M. Strunk
Name: Callen M. Strunk
Title: Vice President

[Signature Page to Credit Agreement]

FIFTH THIRD BANK, NATIONAL ASSOCIATION
as a Bank

By: /s/ Kelly Shield
Name: Kelly Shield
Title: Managing Director

[Signature Page to Credit Agreement]

Associated Bank, N.A., as a Bank

By: /s/ Christopher Neidhart
Name: Christopher Neidhart
Title: SVP

[Signature Page to Credit Agreement]

THE NORTHERN TRUST COMPANY,
as a Bank

By: /s/ Wicks Barkhausen
Name:Wicks Barkhausen
Title: Senior Vice President

[Signature Page to Credit Agreement]

CADENCE BANK, as a Bank

By: /s/ Madeline Harlan
Name: Madeline Harlan
Title: Senior Vice President

[Signature Page to Credit Agreement]

APPENDIX I

PRICING SCHEDULE

"SOFR Margin" means, (i) for any day during the period from the Effective Date to but excluding the first due date (the "First Due Date") of the compliance certificate and financial statements required pursuant to Section 5.1(a) or (b) (each such date, a "Due Date"), 2.000% per annum and (ii) thereafter, from and after each Due Date to but excluding the next succeeding Due Date, the applicable percentage per annum set forth in the Summary Pricing Matrix below in the appropriate column under the row corresponding to the Borrower's TCE Ratio as calculated for the last day of the fiscal quarter of the Borrower ended immediately prior to such Due Date; provided that (A) commencing with the first full fiscal quarter ending after the first anniversary of the Effective Date, the SOFR Margin for the Term Credit shall increase (as compared to the Summary Pricing Matrix below) (x) by 25 basis points in each fiscal quarter for four fiscal quarters and (y) by 50 basis points in each fiscal quarter thereafter and (B) at all times during which financial statements have not been delivered when required pursuant to Section 5.1(a) or (b), as the case may be, the SOFR Margin shall be Level V as set forth below.

"Base Rate Margin" means (i) for any day during the period from the Effective Date through but excluding the First Due Date, 1.000% per annum and (ii) thereafter, from and after each Due Date to but excluding the next succeeding Due Date, the applicable percentage per annum set forth below in the appropriate column under the row corresponding to the Borrower's TCE Ratio as calculated for the last day of the fiscal quarter of the Borrower ended immediately prior to such Due Date; provided that (A) commencing with the first full fiscal quarter ending after the first anniversary of the Effective Date, the Base Rate Margin for the Term Credit shall increase (as compared to the Summary Pricing Matrix below) (x) by 25 basis points in each fiscal quarter for four fiscal quarters and (y) by 50 basis points in each fiscal quarter thereafter and (B) at all times during which financial statements have not been delivered when required pursuant to Section 5.1(a) or (b), as the case may be, the Base Rate Margin shall be Level V as set forth below.

"Applicable Commitment Fee Percentage" means, (i) for any day during the period from the Effective Date through but excluding the First Due Date, 0.350% per annum and (ii) thereafter, from and after each Due Date to but excluding the next succeeding Due Date, the applicable percentage per annum set forth in the Summary Pricing Matrix below in the appropriate column under the row corresponding to the Borrower's TCE Ratio as calculated for the last day of the fiscal quarter of the Borrower ended immediately prior to such Due Date; provided that at all times during which financial statements have not been delivered when required pursuant to Section 5.1(a) or (b), as the case may be, the Applicable Commitment Fee Percentage shall be Level V as set forth below.

"TCE Ratio" means, at any time, the ratio of (a) Consolidated Tangible Net Worth to (b) Consolidated Total Assets minus the sum of intangible assets (net) and goodwill, in each case as those items appear on the consolidated balance sheet of the Borrower on such date, all as determined in accordance with GAAP.

Summary Pricing Matrix

Level	TCE Ratio	SOFR Margin	Base Rate Margin	Applicable Commitment Fee Percentage
I	> 12.0%	1.750%	0.750%	0.300%
II	> 8.0% but ≤ 12.0%	2.000%	1.000%	0.350%
III	> 4.0% but ≤ 8.0%	2.250%	1.250%	0.400%
IV	> 0.0% but ≤ 4.0%	2.500%	1.500%	0.450%
V	≤ 0.0%	2.750%	1.750%	0.500%

Exhibit 99.1

[DEALER]

[__], 2023

To: Bread Financial Holdings, Inc.
3095 Loyalty Circle
Columbus, Ohio 43219
Attention:

Re: [Base][Additional] Call Option Transaction

The purpose of this letter agreement (this "**Confirmation**") is to confirm the terms and conditions of the call option transaction entered into between [DEALER] ("**Dealer**") and Bread Financial Holdings, Inc. ("**Counterparty**") as of the Trade Date specified below (the "**Transaction**"). This letter agreement constitutes a "Confirmation" as referred to in the ISDA Master Agreement specified below. Each party further agrees that this Confirmation together with such ISDA Master Agreement evidence a complete binding agreement between Counterparty and Dealer as to the subject matter and terms of the Transaction to which this Confirmation relates, and shall supersede all prior or contemporaneous written or oral communications with respect thereto.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions (the "**Equity Definitions**"), as published by the International Swaps and Derivatives Association, Inc. ("**ISDA**") are incorporated into this Confirmation. In the event of any inconsistency between the Equity Definitions and this Confirmation, this Confirmation shall govern. Certain defined terms used herein are based on terms that are defined in the Offering Memorandum dated [__], 2023 (the "**Offering Memorandum**") relating to the [__]% Convertible Senior Notes due 2028 (as originally issued by Counterparty, the "**Convertible Notes**" and each USD 1,000 principal amount of Convertible Notes, a "**Convertible Note**") issued by Counterparty in an aggregate initial principal amount of USD [_____] (as increased by [up to][1] an aggregate principal amount of USD [_____] [if and to the extent that][2][pursuant to the exercise by][3] the Initial Purchasers (as defined herein) [exercise][4][of][5] their option to purchase additional Convertible Notes pursuant to the Purchase Agreement (as defined herein)) pursuant to an Indenture [to be][6] dated [__], 2023 between Counterparty and U.S. Bank Trust Company, National Association, as trustee (the "**Indenture**"). In the event of any inconsistency between the terms defined in the Offering Memorandum, the Indenture and this Confirmation, this Confirmation shall govern. The parties acknowledge that this Confirmation is entered into on the date hereof with the understanding that (i) definitions set forth in the Indenture which are also defined herein by reference to the Indenture and (ii) sections of the Indenture that are referred to herein will conform to the descriptions thereof in the Offering Memorandum. If any such definitions in the Indenture or any such sections of the Indenture differ from the descriptions thereof in the Offering Memorandum, the descriptions thereof in the Offering Memorandum will govern for purposes of this Confirmation. The parties further acknowledge that the Indenture section numbers used herein are based on the [draft of the Indenture last reviewed by Dealer as of the date of this Confirmation, and if any such section numbers are changed in the Indenture as executed, the parties will amend this Confirmation in good faith to preserve the intent of the parties][7][Indenture as executed][8]. Subject to the foregoing, references to the Indenture herein are references to the Indenture as in effect on the date of its execution, and if the Indenture is amended or supplemented following such date (other than any amendment or supplement (x) pursuant to Section 10.01(k) of the Indenture that, as determined by the Calculation Agent, conforms the Indenture to the description of Convertible Notes in the Offering Memorandum or (y) pursuant to Section 13.07 of the Indenture, subject, in the case of this clause (y), to the second paragraph under "Method of Adjustment" in Section 3), any such amendment or supplement will be disregarded for purposes of this Confirmation unless the parties agree otherwise in writing.

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1 Include in the Base Call Option Confirmation.
2 Include in the Base Call Option Confirmation.
3 Include in the Additional Call Option Confirmation.
4 Include in the Base Call Option Confirmation.
5 Include in the Additional Call Option Confirmation.
6 Insert if Indenture is not completed at the time of the Confirmation.
7 Include in the Base Call Option Confirmation. Include in the Additional Call Option Confirmation if it is executed before closing of the base deal.
8 Include in the Additional Call Option Confirmation, but only if the Additional Call Option Confirmation is executed after closing of the base deal.

Each party is hereby advised, and each such party acknowledges, that the other party has engaged in, or refrained from engaging in, substantial financial transactions and has taken other material actions in reliance upon the parties' entry into the Transaction to which this Confirmation relates on the terms and conditions set forth below.

1. This Confirmation evidences a complete and binding agreement between Dealer and Counterparty as to the terms of the Transaction to which this Confirmation relates. This Confirmation shall supplement, form a part of, and be subject to an agreement in the form of the 2002 ISDA Master Agreement (the "**Agreement**") as if Dealer and Counterparty had executed an agreement in such form on the Trade Date, but without any Schedule except for (i) the election of the laws of the State of New York as the governing law (without reference to choice of law doctrine); (ii) in respect of Section 5(a)(vi) of the Agreement, the election that the "Cross Default" provisions shall apply to Dealer with (a) a "Threshold Amount" with respect to Dealer of three percent of the shareholders' equity of [Dealer][[*Dealer Parent*] ("**Dealer Parent**")] as of the Trade Date, (b) the deletion of the phrase ", or becoming capable at such time of being declared," from clause (1) and (c) the following language added to the end thereof: "Notwithstanding the foregoing, a default under subsection (2) hereof shall not constitute an Event of Default if (x) the default was caused solely by error or omission of an administrative or operational nature, (y) funds were available to enable the party to make the payment when due and (z) the payment is made within two Local Business Days of such party's receipt of written notice of its failure to pay."; (iii) the modification that the term "Specified Indebtedness" shall have the meaning specified in Section 14 of the Agreement, except that such term shall not include obligations in respect of deposits received in the ordinary course of a party's banking business; and (iv) the modification that following the payment of the Premium, the condition precedent in Section 2(a)(iii) of the Agreement with respect to Events of Default or Potential Events of Default (other than an Event of Default or Potential Event of Default arising under Section 5(a)(ii), 5(a)(iv) or 5(a)(vii) of the Agreement) shall not apply to a payment or delivery owing by Dealer to Counterparty.[9] In the event of any inconsistency between provisions of the Agreement and this Confirmation, this Confirmation will prevail for the purpose of the Transaction to which this Confirmation relates. The parties hereby agree that no transaction other than the Transaction to which this Confirmation relates shall be governed by the Agreement.

2. The terms of the particular Transaction to which this Confirmation relates are as follows:

General Terms.

Trade Date:	[__], 2023
Effective Date:	The closing date of the [initial][10] issuance of the Convertible Notes [issued pursuant to the option to purchase additional Convertible Notes exercised on the date hereof][11]
Option Style:	"Modified American", as described under "Procedures for Exercise" below
Option Type:	Call
Buyer:	Counterparty
Seller:	Dealer
Shares:	The common stock of Counterparty, par value USD 0.01 per share (Exchange symbol "BFH").

9 To include a customary guarantee if Dealer is not the highest rated entity in group.
10 Include in the Base Call Option Confirmation.
11 Include in the Additional Call Option Confirmation.

Number of Options:	[_____][12]. For the avoidance of doubt, the Number of Options shall be reduced by any Options exercised by Counterparty. In no event will the Number of Options be less than zero.
Applicable Percentage:	[__]%
Option Entitlement:	A number equal to the product of the Applicable Percentage and [_____][13].
Strike Price:	USD [_____]
Cap Price:	USD [_____]
Premium:	USD [_____]
Premium Payment Date:	The Effective Date
Exchange:	The New York Stock Exchange
Related Exchange(s):	All Exchanges
Excluded Provisions:	Section 13.04(i) and Section 13.03 of the Indenture.

Procedures for Exercise.

Conversion Date:	With respect to any conversion of a Convertible Note (other than (x) any conversion of Convertible Notes with a Conversion Date occurring prior to the Free Convertibility Date or (y) any conversion of a Convertible Note in respect of which the "Holder" (as such term is defined in the Indenture) of such Convertible Note would be entitled to an increase in the Conversion Rate pursuant Section 13.03 of the Indenture (any such conversion described in clause (x) or clause (y), an "**Early Conversion**"), to which the provisions of Section 9(i)(i) of this Confirmation shall apply), the date on which the "Holder" (as such term is defined in the Indenture) of such Convertible Note satisfies all of the requirements for conversion thereof as set forth in Section 13.02(b) of the Indenture); *provided* that no Conversion Date shall be deemed to have occurred with respect to Exchanged Securities.
Free Convertibility Date:	March 15, 2028
Exchanged Securities:	With respect to any Conversion Date, any Convertible Notes with respect to which Counterparty makes the election described in Section 13.10 of the Indenture and the financial institution designated by Counterparty accepts such Convertible Notes in accordance with Section 13.10 of the Indenture, as long as Counterparty does not submit a Notice of Exercise in respect thereof.

12 For the Base Call Option Confirmation, this is equal to the number of Convertible Notes in principal amount of $1,000 initially issued on the closing date for the Convertible Notes. For the Additional Call Option Confirmation, this is equal to the number of additional Convertible Notes in principal amount of $1,000.

13 Insert the initial Conversion Rate for the Convertible Notes.

Expiration Time:	The Valuation Time
Expiration Date:	June 15, 2028, subject to earlier exercise.
Multiple Exercise:	Applicable, as described under "Automatic Exercise" and "Automatic Exercise of Remaining Repurchase Options After Free Convertibility Date" below.
Automatic Exercise:	Notwithstanding Section 3.4 of the Equity Definitions, on each Conversion Date occurring on or after the Free Convertibility Date, in respect of which a "Notice of Conversion" (as defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting "Holder", a number of Options equal to [(i)] the number of Convertible Notes in denominations of USD 1,000 as to which such Conversion Date has occurred [*minus* (ii) the number of Options that are or are deemed to be automatically exercised on such Conversion Date under the Base Call Option Transaction Confirmation letter agreement dated [__], 2023 between Dealer and Counterparty (the "**Base Call Option Confirmation**"),][14] shall be deemed to be automatically exercised; *provided* that such Options shall be exercised or deemed exercised only if Counterparty has provided a Notice of Exercise to Dealer in accordance with "Notice of Exercise" below. Notwithstanding the foregoing, in no event shall the number of Options that are exercised or deemed exercised hereunder exceed the Number of Options.
Automatic Exercise of Remaining Repurchase Options After Free Convertibility Date:	Notwithstanding anything herein or in Section 3.4 of the Equity Definitions to the contrary, unless Counterparty notifies Dealer in writing prior to 5:00 p.m. (New York City time) on the Expiration Date that it does not wish Automatic Exercise to occur, a number of Options equal to the lesser of (a) the Number of Options (after giving effect to the provisions opposite the caption "Automatic Exercise" above) as of 5:00 p.m. (New York City time) on the Expiration Date and (b) the Remaining Repurchase Options [*minus* the number of Remaining Options (as defined in the Base Call Option Transaction Confirmation)][15] (such lesser number, the "**Remaining Options**") will be deemed to be automatically exercised as if (i) a number of Convertible Notes (in denominations of USD 1,000 principal amount) equal to such number of Remaining Options were converted with a "Conversion Date" (as defined in the Indenture) occurring on or after the Free Convertibility Date and (ii) the Relevant Settlement Method applied to such Convertible Notes; *provided* that no such automatic exercise pursuant to this paragraph will occur if the Relevant Price for each Valid Day during the Settlement Averaging Period is less than or equal to the Strike Price. "**Remaining Repurchase Options**" shall mean the excess of (I) the aggregate number of Convertible Notes (in denominations of USD 1,000 principal amount) that were subject to Repayment Events (as defined below) (other than Repayment Events pursuant to the terms of the Indenture) described in clause (y) of Section 9(i)(iv) ("**Repurchase Events**") during the term of the Transaction *over* (II) the aggregate number of Repayment Options (as defined below) that were terminated hereunder relating to Repurchase Events during the term of the Transaction [and the number of Repayment Options (as defined in the Base Call Option Transaction Confirmation) terminated under the Base Call Option Transaction Confirmation relating to Repurchase Events (as defined therein) during the term of the "Transaction" under the Base Call Option Transaction Confirmation][16].

14 Include for Additional Call Option Confirmation only.
15 Insert for Additional Call Option Confirmation only.
16 Insert for Additional Call Option Confirmation only.

Notice of Exercise:	Notwithstanding anything to the contrary in the Equity Definitions or under "Automatic Exercise" above, but subject to "Automatic Exercise of Remaining Repurchase Options After Free Convertibility Date" above, in order to exercise any Options relating to Convertible Notes with a Conversion Date occurring on or after the Free Convertibility Date, Counterparty must notify Dealer in writing (which, for the avoidance of doubt, may be by email) before 5:00 p.m. (New York City time) on the Scheduled Valid Day immediately preceding the Expiration Date specifying the number of such Options; *provided* that, notwithstanding the foregoing, such notice (and the related exercise of Options hereunder) shall be effective if given after the applicable notice deadline specified above but prior to 5:00 P.M., New York City time, on the fifth Exchange Business Day following such notice deadline, in which event the Calculation Agent shall have the right to adjust Dealer's delivery obligation hereunder and the Settlement Date in a commercially reasonable manner, with respect to the exercise of such Options, as appropriate to reflect the additional commercially reasonable costs (including, but not limited to, losses as a result of hedging mismatches and market losses) and expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions (including the unwinding of any hedge position), solely resulting from Dealer not having received such notice prior to such notice deadline (it being understood that the adjusted delivery obligation described in the preceding proviso can never be less than zero and can never require any payment by Counterparty); *provided, further* that if the Relevant Settlement Method for such Options is (x) Cash Settlement or (y) Combination Settlement, Dealer shall have received a separate notice (the "**Notice of Final Settlement Method**") (which, for the avoidance of doubt, may be by email) in respect of all such Convertible Notes before 5:00 p.m. (New York City time) on the Free Convertibility Date specifying (1) the Relevant Settlement Method for such Options, and (2) if the settlement method for the related Convertible Notes is not Settlement in Cash (as defined below), the fixed amount of cash per Convertible Note that Counterparty has elected to deliver to "Holders" (as such term is defined in the Indenture) of the related Convertible Notes (the "**Specified Cash Amount**"). Counterparty acknowledges its responsibilities under applicable securities laws, and in particular Section 9 and Section 10(b) of the Exchange Act (as defined below) and the rules and regulations thereunder, in respect of any election of a settlement method with respect to the Convertible Notes.

Valuation Time:	At the close of trading of the regular trading session on the Exchange; *provided* that if the principal trading session is extended, the Calculation Agent shall determine the Valuation Time in its commercially reasonable discretion.
Market Disruption Event:	Section 6.3(a) of the Equity Definitions is hereby replaced in its entirety by the following: "'Market Disruption Event' means, with respect to any date (i) a failure by the primary U.S. national or regional securities exchange or market on which the Shares are then listed or admitted for trading to open for trading during its regular trading session on such date; or (ii) the occurrence or existence prior to 1:00 p.m., New York City time, on any Scheduled Valid Day for the Shares for more than one half-hour period in the aggregate during regular trading hours of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the relevant stock exchange or otherwise) in the Shares or in any options contracts or futures contracts relating to the Shares."

Settlement Terms.

Settlement Method:	For any Option, Net Share Settlement; *provided* that if the Relevant Settlement Method set forth below for such Option is not Net Share Settlement, then the Settlement Method for such Option shall be such Relevant Settlement Method, but only if Counterparty shall have notified Dealer of the Relevant Settlement Method in the Notice of Final Settlement Method for such Option.
Relevant Settlement Method:	In respect of any Option: (i) if Counterparty has elected, or is deemed to have elected, to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 13.02(a)(iv)(B) of the Indenture with a Specified Cash Amount equal to USD 1,000, then the Relevant Settlement Method for such Option shall be Net Share Settlement;

(ii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note in a combination of cash and Shares pursuant to Section 13.02(a)(iv)(B) of the Indenture with a Specified Cash Amount greater than USD 1,000, then the Relevant Settlement Method for such Option shall be Combination Settlement; and

(iii) if Counterparty has elected to settle its conversion obligations in respect of the related Convertible Note entirely in cash pursuant to Section 13.02(a)(iv)(A) of the Indenture (such settlement method, "**Settlement in Cash**"), then the Relevant Settlement Method for such Option shall be Cash Settlement.

Net Share Settlement:

If Net Share Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will deliver to Counterparty, on the relevant Settlement Date for each such Option, a number of Shares (the "**Net Share Settlement Amount**") equal to the sum, for each Valid Day during the Settlement Averaging Period for each such Option, of (i) (a) the Daily Option Value for such Valid Day, *divided by* (b) the Relevant Price on such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; *provided* that in no event shall the Net Share Settlement Amount for any Option exceed a number of Shares equal to the Applicable Limit for such Option *divided by* the Applicable Limit Price on the Settlement Date for such Option.

Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Net Share Settlement Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.

Combination Settlement:

If Combination Settlement is applicable to any Option exercised or deemed exercised hereunder, Dealer will pay or deliver, as the case may be, to Counterparty, on the relevant Settlement Date for each such Option:

(i) cash (the "**Combination Settlement Cash Amount**") equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (A) an amount (the "**Daily Combination Settlement Cash Amount**") equal to the lesser of (1) the product of (x) the Applicable Percentage and (y) the Specified Cash Amount *minus* USD 1,000 and (2) the Daily Option Value, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in clause (A) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Cash Amount for such Valid Day shall be deemed to be zero; and

(ii) Shares (the "**Combination Settlement Share Amount**") equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of a number of Shares for such Valid Day (the "**Daily Combination Settlement Share Amount**") equal to (A) (1) the Daily Option Value on such Valid Day *minus* the Daily Combination Settlement Cash Amount for such Valid Day, *divided by* (2) the Relevant Price on such Valid Day, *divided by* (B) the number of Valid Days in the Settlement Averaging Period; *provided* that if the calculation in sub-clause (A)(1) above results in zero or a negative number for any Valid Day, the Daily Combination Settlement Share Amount for such Valid Day shall be deemed to be zero;

	provided that in no event shall the sum of (x) the Combination Settlement Cash Amount for any Option and (y) the Combination Settlement Share Amount for such Option *multiplied by* the Applicable Limit Price on the Settlement Date for such Option, exceed the Applicable Limit for such Option. Dealer will pay cash in lieu of delivering any fractional Shares to be delivered with respect to any Combination Settlement Share Amount valued at the Relevant Price for the last Valid Day of the Settlement Averaging Period.
Cash Settlement:	If Cash Settlement is applicable to any Option exercised or deemed exercised hereunder, in lieu of Section 8.1 of the Equity Definitions, Dealer will pay to Counterparty, on the relevant Settlement Date for each such Option, an amount of cash (the "**Cash Settlement Amount**") equal to the sum, for each Valid Day during the Settlement Averaging Period for such Option, of (i) the Daily Option Value for such Valid Day, *divided by* (ii) the number of Valid Days in the Settlement Averaging Period; *provided* that in no event shall the Cash Settlement Amount for any Option exceed the Applicable Limit for such Option.
Daily Option Value:	For any Valid Day, an amount equal to (i) the Option Entitlement on such Valid Day, *multiplied by* (ii) (A) the lesser of the Relevant Price on such Valid Day and the Cap Price, *less* (B) the Strike Price on such Valid Day; *provided* that if the calculation contained in clause (ii) above results in a negative number, the Daily Option Value for such Valid Day shall be deemed to be zero. In no event will the Daily Option Value be less than zero.
Applicable Limit:	For any Option, an amount of cash equal to the Applicable Percentage *multiplied by* the excess of (i) the aggregate of (A) the amount of cash paid to the "Holder" (as such term is defined in the Indenture) of the related Convertible Note upon conversion of such Convertible Note and (B) the number of Shares, if any, delivered to the "Holder" (as such term is defined in the Indenture) of the related Convertible Note upon conversion of such Convertible Note *multiplied by* the Applicable Limit Price on the Settlement Date for such Option, over (ii) USD 1,000.

Applicable Limit Price:	On any day, the opening price as displayed under the heading "Op" on Bloomberg page BFH <equity> (or any successor thereto).
Valid Day:	A day on which (i) there is no Market Disruption Event and (ii) trading in the Shares generally occurs on the Exchange or, if the Shares are not then listed on the Exchange, on the principal other U.S. national or regional securities exchange on which the Shares are then listed or, if the Shares are not then listed on a U.S. national or regional securities exchange, on the principal other market on which the Shares are then listed or admitted for trading. If the Shares are not so listed or admitted for trading, "Valid Day" means a Business Day.
Scheduled Valid Day:	A day that is scheduled to be a Valid Day on the principal U.S. national or regional securities exchange on which the Shares are then listed or admitted for trading. If the Shares are not so listed or admitted for trading, "Scheduled Valid Day" means a Business Day.
Business Day:	Any day other than a Saturday or Sunday, that is neither a legal holiday nor a day on which commercial banks are authorized or required by law, regulation or executive order to close in the City of New York.
Relevant Price:	On any Valid Day, the per Share volume-weighted average price as displayed under the heading "Bloomberg VWAP" on Bloomberg page "BFH <equity> AQR" (or its equivalent successor if such page is not available) in respect of the period from the scheduled open of trading until the scheduled close of trading at the primary trading session on such Valid Day (or if such volume-weighted average price is unavailable at such time, the market value of one Share on such Valid Day, as determined by the Calculation Agent in a commercially reasonable manner using, if practicable, a volume-weighted average method). The Relevant Price will be determined without regard to after-hours trading or any other trading outside of the regular trading session trading hours.
Settlement Averaging Period:	For any Option and regardless of the Settlement Method applicable to such Option, the 50 consecutive Valid Days commencing on, and including, the 51st Scheduled Valid Day immediately prior to the Expiration Date.
Settlement Date:	For any Option, the second Business Day immediately following the final Valid Day of the Settlement Averaging Period for such Option.
Settlement Currency:	USD
Other Applicable Provisions:	The provisions of Sections 9.1(c), 9.8, 9.9 and 9.11 of the Equity Definitions will be applicable, except that all references in such provisions to "Physically-settled" shall be read as references to "Share Settled". "Share Settled" in relation to any Option means that Net Share Settlement or Combination Settlement is applicable to that Option.

Representation and Agreement: Notwithstanding anything to the contrary in the Equity Definitions (including, but not limited to, Section 9.11 thereof), the parties acknowledge that (i) any Shares delivered to Counterparty shall be, upon delivery, subject to restrictions and limitations arising from Counterparty's status as issuer of the Shares under applicable securities laws, (ii) Dealer may deliver any Shares required to be delivered hereunder in certificated form in lieu of delivery through the Clearance System and (iii) any Shares delivered to Counterparty may be "restricted securities" (as defined in Rule 144 under the Securities Act of 1933, as amended (the "**Securities Act**")).

3. Additional Terms applicable to the Transaction.

Adjustments applicable to the Transaction:

Potential Adjustment Events: Notwithstanding Section 11.2(e) of the Equity Definitions, a "Potential Adjustment Event" means an occurrence of any event or condition, as set forth in any Dilution Adjustment Provision, that would result in an adjustment under the Indenture to the "Conversion Rate" or the composition of a "Reference Property Unit" or to any "Closing Price," "Daily VWAP," "Daily Conversion Value," or "Daily Settlement Amount" (each as defined in the Indenture). For the avoidance of doubt, Dealer shall not have any delivery or payment obligation hereunder, and no adjustment shall be made to the terms of the Transaction, on account of (x) any distribution of cash, property or securities by Counterparty to holders of the Convertible Notes (upon conversion or otherwise) or (y) any other transaction in which holders of the Convertible Notes are entitled to participate, in each case, in lieu of an adjustment under the Indenture of the type referred to in the immediately preceding sentence (including, without limitation, pursuant to the third sentence of the second paragraph of Section 13.04(c) of the Indenture or the fourth sentence of Section 13.04(d) of the Indenture).

Method of Adjustment: Calculation Agent Adjustment, which means that, notwithstanding Section 11.2(c) of the Equity Definitions, upon any Potential Adjustment Event, the Calculation Agent shall make a corresponding adjustment to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction in a commercially reasonable manner.

Notwithstanding the foregoing and "Consequences of Merger Events / Tender Offers" below:

(i) if the Calculation Agent in good faith disagrees with any adjustment to the Convertible Notes that involves an exercise of discretion by Counterparty or its board of directors (including, without limitation, pursuant to Section 13.05 of the Indenture, Section 13.07 of the Indenture or any supplemental indenture entered into thereunder or in connection with any proportional adjustment or the determination of the fair value of any securities, property, rights or other assets), then in each such case, the Calculation Agent will, in good faith and in a commercially reasonable manner and, if applicable, consistent with the methodology set forth in the Indenture, determine the adjustment to be made to any one or more of the Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction; *provided* that, notwithstanding the foregoing, if any Potential Adjustment Event occurs during the Settlement Averaging Period but no adjustment was made to any Convertible Note under the Indenture because the relevant "Holder" (as such term is defined in the Indenture) was deemed to be a record owner of the underlying Shares on the related Conversion Date, then the Calculation Agent shall make a commercially reasonable adjustment, as determined by it, to the terms hereof in order to account for such Potential Adjustment Event;

(ii) in connection with any Potential Adjustment Event as a result of an event or condition set forth in Section 13.04(b) of the Indenture or Section 13.04(c) of the Indenture where, in either case, the period for determining "Y" (as such term is used in Section 13.04(b) of the Indenture) or "SP_0" (as such term is used in Section 13.04(c) of the Indenture), as the case may be, begins before Counterparty has publicly announced the event or condition giving rise to such Potential Adjustment Event, then the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, hedging mismatches and market losses) and commercially reasonable out-of-pocket expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such event or condition not having been publicly announced prior to the beginning of such period; and

(iii) if any Potential Adjustment Event is declared and (a) the event or condition giving rise to such Potential Adjustment Event is subsequently amended, modified, cancelled or abandoned, (b) the "Conversion Rate" (as defined in the Indenture) is otherwise not adjusted at the time or in the manner contemplated by the relevant Dilution Adjustment Provision based on such declaration or (c) the "Conversion Rate" (as defined in the Indenture) is adjusted as a result of such Potential Adjustment Event and subsequently re-adjusted (each of clauses (a), (b) and (c), a "**Potential Adjustment Event Change**") then, in each case, the Calculation Agent shall, in good faith and in a commercially reasonable manner, have the right to adjust any variable relevant to the exercise, settlement or payment for the Transaction as appropriate to reflect the costs (including, but not limited to, hedging mismatches and market losses) and commercially reasonable out-of-pocket expenses incurred by Dealer in connection with its hedging activities, with such adjustments made assuming that Dealer maintains commercially reasonable hedge positions, as a result of such Potential Adjustment Event Change.

Dilution Adjustment Provisions:	Sections 13.04(a), (b), (c), (d) and (e) and Section 13.05 of the Indenture.
Extraordinary Events applicable to the Transaction:	
Merger Events:	Applicable; *provided* that notwithstanding Section 12.1(b) of the Equity Definitions, a "Merger Event" means the occurrence of any event or condition set forth in the definition of "Share Exchange Event" in Section 13.07 of the Indenture.
Tender Offers:	Applicable; *provided* that notwithstanding Section 12.1(d) of the Equity Definitions, a "Tender Offer" means the occurrence of any event or condition set forth in Section 13.04(e) of the Indenture.
Consequences of Merger Events/ Tender Offers:	Notwithstanding Section 12.2 and Section 12.3 of the Equity Definitions, upon the occurrence of a Merger Event or a Tender Offer, the Calculation Agent shall make a corresponding adjustment in respect of any adjustment under the Indenture to any one or more of the nature of the Shares (in the case of a Merger Event), Strike Price, Number of Options, Option Entitlement and any other variable relevant to the exercise, settlement or payment for the Transaction, to the extent an analogous adjustment is required under Section 13.07 of the Indenture in respect of such Merger Event or Section 13.04(e) of the Indenture in respect of such Tender Offer, as the case may be, as determined in good faith and in a commercially reasonable manner by the Calculation Agent by reference to such Section, subject to the second paragraph under "Method of Adjustment"; *provided*, *however*, that such adjustment shall be made without regard to any adjustment to the "Conversion Rate" (as defined in the Indenture) pursuant to any Excluded Provision; *provided further* that if, with respect to a Merger Event or a Tender Offer, (i) the consideration for the Shares includes (or, at the option of a holder of Shares, may include) shares of an entity or person that is not a corporation or is not organized under the laws of the United States, any State thereof or the District of Columbia or (ii) the Counterparty to the Transaction following such Merger Event or Tender Offer will not be a corporation organized under the laws of the United States, any State thereof or the District of Columbia, then, in either case, Cancellation and Payment (Calculation Agent Determination) may apply at Dealer's reasonable election; *provided further* that, for the avoidance of doubt, adjustments shall be made pursuant to the provisions set forth above regardless of whether any Merger Event or Tender Offer gives rise to an Early Conversion.

Consequences of Announcement Events:	Modified Calculation Agent Adjustment as set forth in Section 12.3(d) of the Equity Definitions; *provided* that, in respect of an Announcement Event, (w) references to "Tender Offer" shall be replaced by references to "Announcement Event" and references to "Tender Offer Date" shall be replaced by references to "date of such Announcement Event", (x) the phrase "exercise, settlement, payment or any other terms of the Transaction (including, without limitation, the spread)" shall be replaced with the phrase "Cap Price (provided that in no event shall the Cap Price be less than the Strike Price)", (y) the phrases "whether within a commercially reasonable (as determined by the Calculation Agent) period of time prior to or after the Announcement Event," shall be inserted prior to the word "which" in the seventh line, and (z) for the avoidance of doubt, the Calculation Agent shall, in good faith and in a commercially reasonable manner, determine whether the relevant Announcement Event has had an economic effect on the Transaction (including, among other terms, the Strike Price and Cap Price) and, if so, shall adjust the Cap Price accordingly on one or more occasions on or after the date of the Announcement Event up to, and including, the Expiration Date, any Early Termination Date and/or any other date of cancellation, it being understood that (i) any adjustment in respect of an Announcement Event shall take into account any earlier adjustment relating to the same Announcement Event and (ii) in making any adjustment the Calculation Agent shall take into account volatility, liquidity or other factors before and after such Announcement Event. An Announcement Event shall be an "Extraordinary Event" for purposes of the Equity Definitions, to which Article 12 of the Equity Definitions is applicable.

Announcement Event:	(i) The public announcement by Counterparty, any subsidiary of Counterparty or any Valid Third-Party Entity (any such person or entity, a "**Relevant Party**") of (x) any transaction or event that, if completed, would constitute a Merger Event or Tender Offer, (y) any potential acquisition or disposition by Issuer and/or its subsidiaries where the aggregate consideration exceeds 35% of the market capitalization of Issuer as of the date of such announcement (an "**Acquisition Transaction**") or (z) the intention to enter into a Merger Event or Tender Offer or an Acquisition Transaction, (ii) the public announcement by Issuer of an intention to solicit or enter into, or to explore strategic alternatives or other similar undertaking that may include, a Merger Event or Tender Offer or an Acquisition Transaction or (iii) any subsequent public announcement by a Relevant Party (in the case of a transaction or intention pursuant to clause (i)) or Issuer (in the case of a transaction or intention pursuant to clause (ii)) of a change to a transaction or intention that is the subject of an announcement of the type described in clause (i) or (ii) of this sentence (including, without limitation, a new announcement, whether or not by the same party, relating to such a transaction or intention or the announcement of a withdrawal from, or the abandonment or discontinuation of, such a transaction or intention), as determined by the Calculation Agent. For the avoidance of doubt, the occurrence of an Announcement Event with respect to any transaction or intention shall not preclude the occurrence of a later Announcement Event with respect to such transaction or intention. For purposes of this definition of "Announcement Event," (A) "Merger Event" shall mean such term as defined under Section 12.1(b) of the Equity Definitions (but, for the avoidance of doubt, the remainder of the definition of "Merger Event" in Section 12.1(b) of the Equity Definitions following the definition of "Reverse Merger" therein shall be disregarded) and (B) "Tender Offer" shall mean such term as defined under Section 12.1(d) of the Equity Definitions; *provided* that (1) Section 12.1(d) of the Equity Definitions is hereby amended by (x) replacing "10%" with "25%" in the third line thereof and (y) replacing the words "voting shares of the Issuer" in the fourth line thereof with the word "Shares" and (2) Section 12.1(e) of the Equity Definitions is hereby amended by replacing the words "voting shares" in the first line thereof with the word "Shares".
Valid Third Party Entity:	In respect of any transaction or event, any third party that has a bona fide intent to enter into or consummate such transaction (it being understood and agreed that in determining, in a commercially reasonable manner, whether such third party has such a bona fide intent, the Calculation Agent shall take into consideration whether the relevant announcement by such party has had a material economic effect on the Shares and/or Options on the Shares).
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); *provided* that, in addition to the provisions of Section 12.6(a)(iii) of the Equity Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, The Nasdaq Global Select Market or The Nasdaq Global Market (or their respective successors), such exchange or quotation system shall thereafter be deemed to be the Exchange.

Additional Disruption Events:

Change in Law: Applicable; *provided* that Section 12.9(a)(ii) of the Equity Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase ", or public announcement of, the formal or informal interpretation", (ii) replacing the word "Shares" where it appears in clause (X) thereof with the words "Hedge Position" and (iii) replacing the parenthetical beginning after the word "regulation" in the second line thereof with the words "(including, for the avoidance of doubt and without limitation, (x) any tax law or (y) adoption, effectiveness or promulgation of new regulations authorized or mandated by existing statute)". Notwithstanding anything to the contrary in the Equity Definitions, a Change in Law described in clause (Y) of Section 12.9(a)(ii) of the Equity Definitions shall not constitute a Change in Law and instead shall constitute an Increased Cost of Hedging as described in Section 12.9(a)(vi) of the Equity Definitions, and any such determination of a Change in Law shall be consistently applied by the Determining Party across transactions similar to the Transaction and for counterparties similar to Counterparty.

Failure to Deliver: Applicable

Hedging Disruption: Applicable; *provided* that:

(i) Section 12.9(a)(v) of the Equity Definitions is hereby amended by inserting the following two phrases at the end of such Section:

"For the avoidance of doubt, the term "equity price risk" shall be deemed to include, but shall not be limited to, stock price and volatility risk. And, for the further avoidance of doubt, any such transactions or assets referred to in phrases (A) or (B) above must be available on commercially reasonable pricing terms."; and

(ii) Section 12.9(b)(iii) of the Equity Definitions is hereby amended by inserting in the third line thereof, after the words "to terminate the Transaction", the words "or a portion of the Transaction affected by such Hedging Disruption".

Increased Cost of Hedging:	Applicable solely with respect to a "Change in Law" described in clause (Y) of Section 12.9(a)(ii) of the Equity Definitions as set forth in the last sentence opposite the caption "Change in Law" above.
Hedging Party:	For all applicable Additional Disruption Events, Dealer.
Determining Party:	For all applicable Extraordinary Events, Dealer. All calculations and determinations by the Determining Party shall be made in good faith and in a commercially reasonable manner. The Determining Party will promptly (but in any event within five (5) Exchange Business Days), upon written notice from Counterparty, provide a statement displaying in reasonable detail the basis for such determination or calculation, as the case may be (including any quotations, market data or information from internal or external sources used in making such determination or calculation, it being understood that the Determining Party shall not be required to disclose any confidential information or proprietary models used by it in connection with such determination or calculation, as the case may be).
Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable
Hedging Adjustment:	For the avoidance of doubt, whenever Hedging Party, Determining Party or the Calculation Agent makes an adjustment, calculation or determination permitted or required to be made pursuant to the terms of this Confirmation or the Equity Definitions to take into account the effect of any event (other than an adjustment, calculation or determination made by reference to the Indenture), the Calculation Agent, Determining Party or Hedging Party, as the case may be, shall make such adjustment, calculation or determination in a commercially reasonable manner and by reference to the effect of such event on Dealer assuming that Dealer maintains a commercially reasonable hedge position.
4. <u>Calculation Agent.</u>	Dealer; *provided* that all calculations and determinations by the Calculation Agent (other than calculations or determinations made by reference to the Indenture, without discretion on the part of the Calculation Agent) shall be made in good faith and in a commercially reasonable manner and assuming for such purposes that Dealer is maintaining, establishing and/or unwinding, as applicable, a commercially reasonable hedge position; *provided further* that if an Event of Default of the type described in Section 5(a)(vii) of the Agreement with respect to which Dealer is the sole Defaulting Party occurs, Counterparty shall have the right to appoint a successor calculation agent which shall be a nationally recognized third-party dealer in over-the-counter corporate equity derivatives. The Calculation Agent agrees that it will promptly (but in any event within five (5) Exchange Business Days), upon written notice from Counterparty, provide a statement displaying in reasonable detail the basis for such determination, adjustment or calculation, as the case may be (including any quotations, market data or information from internal or external sources used in making such determination, adjustment or calculation, it being understood that the Calculation Agent shall not be required to disclose any confidential information or proprietary models used by it in connection with such determination, adjustment or calculation, as the case may be).

5. Account Details.

(a) Account for payments to Counterparty:

To be provided by Counterparty.

Account for delivery of Shares to Counterparty:

To be provided by Counterparty.

(b) Account for payments to Dealer:

[Bank:] [_____][17]
[SWIFT:] [_____]
[Bank Routing:] [_____]
[Acct Name:] [_____]
[Acct No.:] [_____]

Account for delivery of Shares from Dealer:

[_____]

6. Offices.

(a) The Office of Counterparty for the Transaction is: Inapplicable, Counterparty is not a Multibranch Party.

(b) The Office of Dealer for the Transaction is: [_____][Inapplicable; Dealer is not a Multibranch Party]

7. Notices.

(a) Address for notices or communications to Counterparty:

Bread Financial Holdings, Inc.
3095 Loyalty Circle
Columbus, Ohio 43219
Attention: [_____]
Telephone: [_____]
Email: [_____]

[17] Insert Dealer's account information.

(b) Address for notices or communications to Dealer:

[_____]

Attention: [_____]
Telephone: [_____]
Email: [_____]

[With a copy to:

[_____]

Attention: [_____]
Telephone: [_____]
Email: [_____]]

8. Representations and Warranties of Counterparty.

In addition to the representations and warranties in the Agreement, Counterparty hereby further represents and warrants to Dealer on the date hereof and on and as of the Premium Payment Date that:

(a) Counterparty has all necessary corporate power and authority to execute, deliver and perform its obligations in respect of the Transaction; such execution, delivery and performance have been duly authorized by all necessary corporate action on Counterparty's part; and this Confirmation has been duly and validly executed and delivered by Counterparty and constitutes its valid and binding obligation, enforceable against Counterparty in accordance with its terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights and remedies generally, and subject, as to enforceability, to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing (regardless of whether enforcement is sought in a proceeding at law or in equity) and except that rights to indemnification and contribution hereunder may be limited by federal or state securities laws or public policy relating thereto.

(b) Neither the execution and delivery of this Confirmation nor the incurrence or performance of obligations of Counterparty hereunder will conflict with or result in a breach of the certificate of incorporation or by-laws (or any equivalent documents) of Counterparty, or any applicable law or regulation, or any order, writ, injunction or decree of any court or governmental authority or agency, or any agreement or instrument to which Counterparty or any of its subsidiaries is a party or by which Counterparty or any of its subsidiaries is bound or to which Counterparty or any of its subsidiaries is subject, or constitute a default under, or result in the creation of any lien under, any such agreement or instrument.

(c) To the knowledge of Counterparty, no consent, approval, authorization, or order of, or filing with, any governmental agency or body or any court is required in connection with the execution, delivery or performance by Counterparty of this Confirmation, except such as have been obtained or made and such as may be required under the Securities Act or state securities laws; *provided* that Counterparty makes no representation or warranty regarding any such requirement that is applicable generally to the ownership of equity securities by Dealer or any of its affiliates solely as a result of it or any of such affiliate being financial institutions or broker-dealers.

(d) Counterparty is not and, after consummation of the transactions contemplated hereby, will not be required to register as an "investment company" as such term is defined in the Investment Company Act of 1940, as amended.

(e) Counterparty is an "eligible contract participant" (as such term is defined in Section 1a(18) of the Commodity Exchange Act, as amended, other than a person that is an eligible contract participant under Section 1a(18)(C) of the Commodity Exchange Act).

(f) Each of it and its affiliates is not, on the date hereof, in possession of any material non-public information with respect to Counterparty or the Shares.

(g) No state or local (including any non-U.S. jurisdiction's) law, rule, regulation or regulatory order applicable to the Shares would give rise to any reporting, consent, registration or other requirement (including without limitation a requirement to obtain prior approval from any person or entity) as a result of Dealer or its affiliates owning or holding (however defined) Shares.

(h) Counterparty (A) is capable of evaluating investment risks independently, both in general and with regard to all transactions and investment strategies involving a security or securities; (B) will exercise independent judgment in evaluating the recommendations of any broker-dealer or its associated persons, unless it has otherwise notified the broker-dealer in writing; and (C) has total assets of at least USD 50 million.

(i) The assets of Counterparty do not constitute "plan assets" within the meaning of 29 C.F.R. § 2510.3-101 under the Employee Retirement Income Security Act of 1974, as amended.

(j) On and immediately after the Trade Date and the Premium Payment Date, (A) the value of the total assets of Counterparty is greater than the sum of the total liabilities (including contingent liabilities) and the capital (as such terms are defined in Section 154 and Section 244 of the General Corporation Law of the State of Delaware) of Counterparty, (B) the capital of Counterparty is adequate to conduct the business of Counterparty, and Counterparty's entry into the Transaction will not impair its capital, (C) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature, (D) Counterparty will be able to continue as a going concern; (E) Counterparty is not "insolvent" (as such term is defined under Section 101(32) of the U.S. Bankruptcy Code (Title 11 of the United States Code) (the "**Bankruptcy Code**")) and (F) Counterparty would be able to purchase the number of Shares with respect to the Transaction in compliance with the laws of the jurisdiction of Counterparty's incorporation (including the adequate surplus and capital requirements of Sections 154 and 160 of the General Corporation Law of the State of Delaware).

(k) Counterparty represents and warrants that it has not applied, and shall not, without the consent of Dealer, until after the first date on which no portion of the Transaction remains outstanding following any final exercise and settlement, cancellation or early termination of the Transaction, apply, for a loan, loan guarantee, direct loan (as that term is defined in the Coronavirus Aid, Relief and Economic Security Act (the "**CARES Act**")) or other investment, or to receive any financial assistance or relief under any program or facility (collectively "**Financial Assistance**") that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) (i) requires under applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) as a condition of such Financial Assistance, that the Counterparty agree, attest, certify or warrant that it has not, as of the date specified in such condition, repurchased, or will not repurchase, any equity security of Counterparty, and that it has not, as of the date specified in the condition, made a capital distribution or will make a capital distribution, or (ii) where the terms of the Transaction would cause Counterparty under any circumstances to fail to satisfy any condition for application for or receipt or retention of the Financial Assistance (collectively "**Restricted Financial Assistance**"); *provided* that Counterparty may apply for Restricted Financial Assistance if (x) Counterparty either (a) determines based on advice of outside counsel reasonably satisfactory to the Dealer that the terms of the Transaction would not cause Counterparty to fail to satisfy any condition for application for or receipt or retention of such Financial Assistance based on the terms of the program or facility as of the date of such advice or (b) delivers to Dealer evidence or other guidance from a governmental authority with jurisdiction for such program or facility that the Transaction is permitted under such program or facility (either by specific reference to the Transaction or by general reference to transactions with the attributes of the Transaction in all relevant respects) and (y) on the basis of which Dealer consents to Counterparty's application for such Restricted Financial Assistance (such consent not to be unreasonably withheld or delayed). Counterparty further represents and warrants that the Premium is not being paid, in whole or in part, directly or indirectly, with funds received under or pursuant to any program or facility, including the U.S. Small Business Administration's "Paycheck Protection Program", that (a) is established under applicable law (whether in existence as of the Trade Date or subsequently enacted, adopted or amended), including without limitation the CARES Act and the Federal Reserve Act, as amended, and (b) requires under such applicable law (or any regulation, guidance, interpretation or other pronouncement of a governmental authority with jurisdiction for such program or facility) that such funds be used for specified or enumerated purposes that do not include the purchase of the Transaction (either by specific reference to the Transaction or by general reference to transactions with the attributes of the Transaction in all relevant respects).

(l) Counterparty is not a "Bank Holding Company" within the meaning of the Bank Holding Company Act of 1956, as amended.

(m) [Counterparty has received, read and understands the OTC Options Risk Disclosure Statement and a copy of the most recent disclosure pamphlet prepared by The Options Clearing Corporation entitled "Characteristics and Risks of Standardized Options".][18]

9. Other Provisions.

(a) *Opinions*. Counterparty shall deliver to Dealer an opinion of counsel, dated as of the Trade Date, with respect to the matters set forth in Sections 8(a) through (c) of this Confirmation (it being understood that such opinions of counsel shall be limited to the federal laws of the United States, the laws of the State of New York and the General Corporate Law of the State of Delaware, and may contain customary assumptions, limitations, exceptions and qualifications). Delivery of such opinion to Dealer shall be a condition precedent for the purpose of Section 2(a)(iii) of the Agreement with respect to each obligation of Dealer under Section 2(a)(i) of the Agreement.

(b) *Repurchase Notices*. Counterparty shall, on any day on which Counterparty effects any repurchase of Shares, promptly give Dealer a written notice (which, for the avoidance of doubt may be by email) of such repurchase (a "**Repurchase Notice**") on such day if following such repurchase, the number of outstanding Shares as determined on such day is (i) less than [__][19] million (in the case of the first such notice) or (ii) thereafter more than [__][20] million less than the number of Shares included in the immediately preceding Repurchase Notice; *provided* that, with respect to any repurchase of Shares pursuant to a plan under Rule 10b5-1 under the Exchange Act (as defined below), Counterparty may elect to satisfy such requirement by promptly giving Dealer written notice of entry into such plan, the maximum number of Shares that may be purchased thereunder and the approximate dates or periods during which such repurchases may occur (with such maximum number of Shares deemed repurchased on the date of such notice for purposes of this Section 9(b)). Counterparty agrees to indemnify and hold harmless Dealer and its affiliates and their respective officers, directors, employees, affiliates, advisors, agents and controlling persons (each, an "**Indemnified Person**") from and against any and all commercially reasonable losses (including losses relating to Dealer's commercially reasonable hedging activities as a consequence of becoming, or of the risk of becoming, a Section 16 "insider", including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to the Transaction), claims, damages, judgments, liabilities and reasonable and documented out-of-pocket expenses (including reasonable attorney's fees), joint or several, which an Indemnified Person may become subject to, as a result of Counterparty's failure to provide Dealer with a Repurchase Notice on the day and in the manner specified in this paragraph, and to reimburse, within 30 days, upon written request, each of such Indemnified Persons for any reasonable legal or other out-of-pocket expenses incurred in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against the Indemnified Person as a result of Counterparty's failure to provide Dealer with a Repurchase Notice in accordance with this paragraph, such Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the reasonable fees and expenses of such counsel related to such proceeding. Counterparty shall not be liable for any settlement of any proceeding contemplated by this paragraph that is effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding contemplated by this paragraph that is in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to such Indemnified Person. If the indemnification provided for in this paragraph is unavailable to an Indemnified Person or insufficient in respect of any commercially reasonable losses, claims, damages or liabilities referred to therein, then Counterparty hereunder, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (b) are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph shall remain operative and in full force and effect regardless of the termination of the Transaction.

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18 Include for applicable Dealers.

19 Insert the number of Shares outstanding that would cause Dealer's current position in the Shares underlying the Transaction (including the number of Shares underlying any additional transaction if the greenshoe is exercised in full, and any Shares under pre-existing call option transactions with Counterparty) to increase by 0.5%. To be based on Dealer with highest Applicable Percentage.

20 Insert the number of Shares that, if repurchased, would cause Dealer's current position in the Shares underlying the Transaction (including the number of Shares underlying any additional transaction if the greenshoe is exercised in full, and any Shares under pre-existing call option transactions with Counterparty) to increase by a further 0.5% from the threshold for the first Repurchase Notice. To be based on Dealer with highest Applicable Percentage.

(c) *Regulation M*. Counterparty is not on the Trade Date engaged in a distribution, as such term is used in Regulation M under the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), of any securities of Counterparty, other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M. Counterparty shall not, until the second Scheduled Trading Day immediately following the Trade Date, engage in any such distribution.

(d) *No Manipulation*. Counterparty is not entering into the Transaction to create actual or apparent trading activity in the Shares (or any security convertible into or exchangeable for the Shares) or to raise or depress or otherwise manipulate the price of the Shares (or any security convertible into or exchangeable for the Shares) or otherwise in violation of the Exchange Act.

(e) *Transfer or Assignment*.

(i) Counterparty shall have the right to transfer or assign its rights and obligations hereunder with respect to all, but not less than all, of the Options hereunder (such Options, the "**Transfer Options**"); *provided* that such transfer or assignment shall be subject to reasonable conditions that Dealer may impose, including but not limited, to the following conditions:

(A) With respect to any Transfer Options, Counterparty shall not be released from its notice and indemnification obligations pursuant to Section 9(b) or any obligations under Section 9(n) or 9(s) of this Confirmation;

(B) Any Transfer Options shall only be transferred or assigned to a third party that is a United States person (as defined in the Internal Revenue Code of 1986, as amended (the "**Code**"));

(C) Such transfer or assignment shall be effected on terms, including any reasonable undertakings by such third party (including, but not limited to, an undertaking with respect to compliance with applicable securities laws in a manner that, in the reasonable judgment of Dealer, will not expose Dealer to material risks under applicable securities laws) and execution of any documentation and delivery of legal opinions with respect to securities laws and other matters by such third party and Counterparty, as are requested and reasonably satisfactory to Dealer;

(D) Dealer will not, as a result of such transfer and assignment, be required to pay the transferee or assignee on any payment date or delivery date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Dealer would have been required to pay or deliver to Counterparty in the absence of such transfer and assignment;

(E) Dealer will not, as a result of such transfer or assignment, receive from the transferee or assignee on any payment date (after accounting for amounts paid by the transferee or assignee under Section 2(d)(i)(4) of the Agreement as well as any withholding or deduction of Tax from the payment) an amount less than it would have been entitled to receive from Counterparty in the absence of such transfer or assignment;

(F) An Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment;

(G) Without limiting the generality of clause (B), the transferee or assignee shall make such Payee Tax Representations and provide such tax documentation as may be reasonably requested by Dealer to permit Dealer to determine that results described in clauses (D) and (E) will not occur upon or after such transfer and assignment; and

(H) Counterparty shall be responsible for all reasonable costs and expenses, including reasonable counsel fees, incurred by Dealer in connection with such transfer or assignment.

(ii) Dealer may transfer or assign all or any part of its rights or obligations under the Transaction (A) without Counterparty's consent (but with prompt subsequent (but in no event more than two Exchange Business Days) written notice to Counterparty), to any affiliate of Dealer (1) that has a long-term issuer rating that is equal to or better than Dealer's credit rating at the time of such transfer or assignment, or (2) whose obligations hereunder will be guaranteed, pursuant to the terms of a customary guarantee in a form used by Dealer generally for similar transactions, by Dealer or Dealer's ultimate parent, as applicable (*provided* that in connection with any assignment or transfer pursuant to clause (A)(2) hereof, the guarantee of any guarantor of the relevant transferee's obligations under the Transaction shall constitute a Credit Support Document under the Agreement), or (B) with Counterparty's consent (such consent not to be unreasonably withheld or delayed), to any other third party financial institution that is a recognized dealer in the market for U.S. corporate equity derivatives and that has a long-term issuer rating equal to or better than the lesser of (1) the credit rating of Dealer at the time of the transfer or assignment and (2) A- by Standard and Poor's Financial Services LLC or its successor ("**S&P**"), or A3 by Moody's Investor Service, Inc. or its successor ("**Moody's**") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Dealer; *provided* that, in the case of any transfer or assignment described in clause (A) or (B) above, (I) such a transfer or assignment shall not occur unless an Event of Default, Potential Event of Default or Termination Event will not occur as a result of such transfer and assignment; and (II) at the time of such transfer or assignment the transfer or assignment does not result in a deemed exchange by Counterparty within the meaning of Section 1001 of the Code. In addition, (A) the transferee or assignee shall agree that following such transfer or assignment, Counterparty will not (x) receive from the transferee or assignee on any payment date or delivery date (after accounting for amounts paid by the transferee or assignee under Section 2(d)(i)(4) of the Agreement as well as any withholding or deduction of Tax from the payment or delivery) an amount or a number of Shares, as applicable, lower than the amount or the number of Shares, as applicable, that Counterparty would have been entitled to receive from Dealer in the absence of such transfer or assignment or (y) be required to pay such assignee or transferee on any payment date an amount under Section 2(d)(i)(4) of the Agreement greater than an amount that Counterparty would have been required to pay to Dealer in the absence of such transfer or assignment and (B) the transferee or assignee shall make such Payee Tax Representations and shall provide such tax documentation as may be reasonably requested by Counterparty including in order to permit Counterparty to make any necessary determinations pursuant to clause (A) of this sentence. If at any time at which (A) the Section 16 Percentage exceeds 8.0%, (B) the Option Equity Percentage exceeds 14.5%, or (C) the Share Amount exceeds the Applicable Share Limit (if any applies) (any such condition described in clauses (A), (B) or (C), an "**Excess Ownership Position**"), Dealer is unable after using its commercially reasonable efforts to effect a transfer or assignment of Options to a third party on pricing terms reasonably acceptable to Dealer and within a time period reasonably acceptable to Dealer such that no Excess Ownership Position exists (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions), then Dealer may designate any Exchange Business Day as an Early Termination Date with respect to a portion of the Transaction (the "**Terminated Portion**"), such that following such partial termination no Excess Ownership Position exists (after giving effect to such transfer or assignment and any resulting change in Dealer's commercially reasonable Hedge Positions). In the event that Dealer so designates an Early Termination Date with respect to a portion of the Transaction, a payment shall be made pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Options underlying the Terminated Portion, (2) Counterparty were the sole Affected Party with respect to such partial termination and (3) the Terminated Portion were the sole Affected Transaction (and, for the avoidance of doubt, the provisions of Section 9(l) shall apply to any amount that is payable by Dealer to Counterparty pursuant to this sentence as if Counterparty was not the Affected Party). The "**Section 16 Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Shares that Dealer and any of its affiliates or any other person subject to aggregation with Dealer for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act, or any "group" (within the meaning of Section 13 of the Exchange Act) of which Dealer is or may be deemed to be a part beneficially owns (within the meaning of Section 13 of the Exchange Act), without duplication, on such day (or, to the extent that for any reason the equivalent calculation under Section 16 of the Exchange Act and the rules and regulations thereunder results in a higher number, such higher number) and (B) the denominator of which is the number of Shares outstanding on such day. The "**Option Equity Percentage**" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the sum of (1) the product of the Number of Options and the Option Entitlement and (2) the aggregate number of Shares underlying any other call option transaction sold by Dealer to Counterparty, and (B) the denominator of which is the number of Shares outstanding. The "**Share Amount**" as of any day is the number of Shares that Dealer and any person whose ownership position would be aggregated with that of Dealer (Dealer or any such person, a "**Dealer Person**") under any law, rule, regulation, regulatory order or organizational documents or contracts of Counterparty that are, in each case, applicable to ownership of Shares, including, but not limited to, the Change in Bank Control Act of 1978, as amended ("**Applicable Restrictions**"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership under any Applicable Restriction, as determined by Dealer in its reasonable discretion. The "**Applicable Share Limit**" means a number of Shares equal to (A) the minimum number of Shares that could give rise to reporting or registration obligations (except for any filing requirements on Form 13F, Schedule 13D or Schedule 13G under the Exchange Act, in each case, as in effect on the Trade Date) or other requirements (including obtaining prior approval from any person or entity) of a Dealer Person, or could result in an adverse effect on a Dealer Person, under any Applicable Restriction as determined by Dealer in its reasonable discretion, *minus* (B) 1% of the number of Shares outstanding.

(iii) Notwithstanding any other provision in this Confirmation to the contrary requiring or allowing Dealer to purchase, sell, receive or deliver any Shares or other securities, or make or receive any payment in cash, to or from Counterparty, Dealer may designate any of its affiliates (each, a "**Dealer Designated Affiliate**") to purchase, sell, receive or deliver such Shares or other securities, or to make or receive such payment in cash, and otherwise to perform Dealer's obligations in respect of the Transaction and any such designee may assume such obligations; *provided*, that such Dealer Designated Affiliate shall comply with the provisions of the Transaction in the same manner as Dealer would have been required to comply. For the avoidance of doubt, the representations and covenants with respect to Section 9(aa)(i) and 9(aa)(ii) shall remain unaffected by such designation. Dealer shall be discharged of its obligations to Counterparty solely to the extent of any such performance.

(f) *Staggered Settlement*. If upon advice of counsel with respect to applicable legal and regulatory requirements, including any requirements relating to Dealer's commercially reasonable hedging activities hereunder, Dealer reasonably determines that it would not be practicable or advisable to deliver, or to acquire Shares to deliver, any or all of the Shares to be delivered by Dealer on any Settlement Date for the Transaction, Dealer may, by notice to Counterparty on or prior to any Settlement Date (a "**Nominal Settlement Date**"), elect to deliver the Shares on two or more dates (each, a "**Staggered Settlement Date**") as follows:

(i) in such notice, Dealer will specify to Counterparty the related Staggered Settlement Dates (each of which shall occur on or prior to such Nominal Settlement Date) and the number of Shares that it will deliver on each Staggered Settlement Date;

(ii) the aggregate number of Shares that Dealer will deliver to Counterparty hereunder on all such Staggered Settlement Dates will equal the number of Shares that Dealer would otherwise be required to deliver on such Nominal Settlement Date; and

(iii) if the Net Share Settlement terms or the Combination Settlement terms set forth above were to apply on the Nominal Settlement Date, then the Net Share Settlement terms or the Combination Settlement terms, as the case may be, will apply on each Staggered Settlement Date, except that the Shares otherwise deliverable on such Nominal Settlement Date will be allocated among such Staggered Settlement Dates as specified by Dealer in the notice referred to in clause (i) above.

(g) [*Insert any relevant agency provisions*][*Reserved*].

(h) [*Conduct Rules*. Each party acknowledges and agrees to be bound by the Conduct Rules of the Financial Industry Regulatory Authority applicable to transactions in options, and further agrees not to violate the position and exercise limits set forth therein.][*Reserved.*][21]

21 Include for applicable Dealers.

(i) *Additional Termination Events*.

(i) Notwithstanding anything to the contrary in this Confirmation, upon any Early Conversion in respect of which a "Notice of Conversion" (as such term is defined in the Indenture) that is effective as to Counterparty has been delivered by the relevant converting "Holder" (as such term is defined in the Indenture):

(A) Counterparty shall, within five Scheduled Trading Days of the Conversion Date for such Early Conversion, provide written notice (an "**Early Conversion Notice**") to Dealer specifying the number of Convertible Notes surrendered for conversion on such Conversion Date (such Convertible Notes, the "**Affected Convertible Notes**")**, and the giving of such Early Conversion Notice** shall constitute an Additional Termination Event as provided in this clause (i);

(B) upon receipt of any such Early Conversion Notice, Dealer shall designate an Exchange Business Day as an Early Termination Date (which Exchange Business Day shall be no earlier than one Scheduled Valid Day following the Conversion Date for such Early Conversion) with respect to the portion of the Transaction corresponding to a number of Options (the "**Affected Number of Options**") equal to the lesser of (x) the number of Affected Convertible Notes [*minus* the "Affected Number of Options" (as defined in the Base Call Option Confirmation), if any, that relate to such Affected Convertible Notes][22] and (y) the Number of Options as of the Conversion Date for such Early Conversion;

(C) any payment hereunder with respect to such termination shall be calculated pursuant to Section 6 of the Agreement as if (x) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the Affected Number of Options, (y) Counterparty were the sole Affected Party with respect to such Additional Termination Event and (z) the terminated portion of the Transaction were the sole Affected Transaction; *provided* that the amount payable with respect to such termination shall not be greater than (1) the Applicable Percentage, *multiplied by* (2) the Affected Number of Options, *multiplied by* (3) (x) the sum of (i) the amount of cash paid to the "Holder" (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note and (ii) the number of Shares delivered (if any) to the "Holder" (as such term is defined in the Indenture) of an Affected Convertible Note upon conversion of such Affected Convertible Note, *multiplied by* the Applicable Limit Price on the settlement date for the conversion of such Affected Convertible Note, *minus* (y) USD 1,000;

(D) for the avoidance of doubt, in determining the amount payable in respect of such Affected Transaction pursuant to Section 6 of the Agreement, the Calculation Agent shall assume that (x) the relevant Early Conversion and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (y) no adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (z) the corresponding Convertible Notes remain outstanding as if the circumstances related to such Early Conversion had not occurred; and

(E) the Transaction shall remain in full force and effect, except that, as of the Conversion Date for such Early Conversion, the Number of Options shall be reduced by the Affected Number of Options**.**

[22] Include in Additional Call Option Confirmation only.

(ii) Notwithstanding anything to the contrary in this Confirmation if an event of default with respect to Counterparty occurs under the terms of the Convertible Notes as set forth in Section 6.01 of the Indenture, which event of default has resulted in the Convertible Notes becoming due and payable under the terms thereof, then such event of default shall constitute an Additional Termination Event applicable to the Transaction and, with respect to such Additional Termination Event, (A) Counterparty shall be deemed to be the sole Affected Party, (B) the Transaction shall be the sole Affected Transaction and (C) Dealer shall be the party entitled to designate an Early Termination Date pursuant to Section 6(b) of the Agreement.

(iii) [Reserved].

(iv) Within five Scheduled Trading Days promptly following any Repayment Event (as defined below), Counterparty (x) in the case of a Repayment Event resulting from the redemption of any Convertible Notes by Counterparty or from the repurchase of any Convertible Notes by Counterparty upon the occurrence of a "Fundamental Change" (as defined in the Indenture), shall notify Dealer in writing of such Repayment Event and (y) in the case of a Repayment Event not described in clause (x) above, may notify Dealer of such Repayment Event, in each case, including the number of Convertible Notes subject to such Repayment Event (any such notice, a "**Repayment Notice**"); *provided* that no such Repayment Notice described in clause (y) above shall be effective unless it contains the representation by Counterparty set forth in Section 8(f) hereunder as of the date of such Repayment Notice [; *provided further* that any "Repayment Notice" delivered to Dealer pursuant to the Base Call Option Confirmation shall be deemed to be a Repayment Notice pursuant to this Confirmation and the terms of such Repayment Notice shall apply, *mutatis mutandis*, to this Confirmation][23]. Notwithstanding anything to the contrary in this Confirmation, the receipt by Dealer from Counterparty of any Repayment Notice shall constitute an Additional Termination Event as provided in this Section 9(i)(iv). Upon receipt of any such Repayment Notice, Dealer shall promptly designate an Exchange Business Day following receipt of such Repayment Notice (which in no event shall be earlier than the related settlement date for the relevant Repayment Event) as an Early Termination Date with respect to the portion of the Transaction corresponding to a number of Options (the "**Repayment Options**") equal to the lesser of (A) the number of such Convertible Notes specified in such Repayment Notice [*minus* the number of Repayment Options (as defined in the Base Call Option Confirmation), if any, that relate to such Convertible Notes (and for purposes of determining whether any Options under this Confirmation or under the Base Call Option Confirmation will be among the Repayment Options hereunder or under, and as defined in, the Base Call Option Confirmation, the Convertible Notes specified in such Repayment Notice shall be allocated first to the Base Call Option Confirmation until all Options thereunder are exercised or terminated)][24] and (B) the Number of Options as of the date Dealer designates such Early Termination Date and, as of such date, the Number of Options shall be reduced by the number of Repayment Options. Any payment hereunder with respect to such termination (the "**Repayment Unwind Payment**") shall be calculated pursuant to Section 6 of the Agreement as if (1) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Transaction and a Number of Options equal to the number of Repayment Options, (2) Counterparty were the sole Affected Party with respect to such Additional Termination Event, (3) the terminated portion of the Transaction were the sole Affected Transaction, (4) the relevant Repayment Event and any conversions, adjustments, agreements, payments, deliveries or acquisitions by or on behalf of Counterparty leading thereto had not occurred, (5) no **adjustments to the Conversion Rate have occurred pursuant to any Excluded Provision and (6) the corresponding Convertible Notes remain outstanding as if the circumstances related to such Repayment Event had not occurred**; *provided that*, in the event of a Repayment Event pursuant to Section 14.01 of the Indenture or Section 15.01 of the Indenture, the Repayment Unwind Payment shall not be greater than (x) the number of Repayment Options multiplied by (y) the product of (A) the Applicable Percentage and (B) the excess of (I) the amount paid by the Counterparty per Convertible Note pursuant to the relevant sections of the Indenture over (II) USD 1,000. "**Repayment Event**" means that (i) any Convertible Notes are repurchased (whether pursuant to Section 14.01 of the Indenture or Section 15.01 of the Indenture or otherwise) by Counterparty or any of its subsidiaries (including in connection with, or as a result of, a "Fundamental Change" (as defined in the Indenture), a redemption, a tender offer, exchange offer or similar transaction or for any other reason), (ii) any Convertible Notes are delivered to Counterparty in exchange for delivery of any property or assets of Counterparty or any of its subsidiaries (howsoever described), (iii) any principal of any of the Convertible Notes is repaid in full prior to the final maturity date of the Convertible Notes (other than upon acceleration of the Convertible Notes pursuant to Section 6.02 of the Indenture), or (iv) any Convertible Notes are exchanged by or for the benefit of the "Holders" (as such term is defined in the Indenture) thereof for any other securities of Counterparty or any of its affiliates (or any other property, or any combination thereof) pursuant to any exchange offer or similar transaction. For the avoidance of doubt, any conversion of Convertible Notes (whether into cash, Shares, a combination of cash and Shares or any "Reference Property" (as defined in the Indenture)) pursuant to the terms of the Indenture shall not constitute a Repayment Event. Counterparty acknowledges and agrees that if an Additional Termination Event has occurred under this Section 9(i)(iv), then any related Convertible Notes subject to a Repayment Event will be deemed to be cancelled and disregarded and no longer outstanding for all purposes hereunder.

23 Include for additional capped call.

24 Include for additional capped call

(j) *Amendments to Equity Definitions; Agreement*.

(i) Section 11.2(e)(vii) of the Equity Definitions is hereby replaced in its entirety with the words "any other corporate event involving the Issuer that has a material effect on the theoretical value of the Shares or the Options."

(ii) Section 12.6(a)(ii) of the Equity Definitions is hereby amended by (1) inserting "(1)" immediately following the word "means" in the first line thereof and (2) inserting immediately prior to the semi-colon at the end of subsection (B) thereof the following words: "or (2) the occurrence of any of the events specified in Section 5(a)(vii)(1) through (9) of the ISDA Master Agreement with respect to that Issuer".

(iii) Section 12.9(b)(i) of the Equity Definitions is hereby amended by replacing "either party may elect" with "Dealer may elect" or, if Counterparty represents to Dealer in writing at the time of such election that (i) it is not aware of any material nonpublic information with respect to Counterparty or the Shares and (ii) it is not making such election as part of a plan or scheme to evade compliance with the U.S. federal securities laws, Counterparty may elect".

(iv) Section 12.9(b)(vi) of the Equity Definitions is hereby amended by replacing subsection (C) with: "if Counterparty represents to Dealer in writing at the time of such election that (i) it is not aware of any material nonpublic information with respect to Counterparty or the Shares and (ii) it is not making such election as part of a plan or scheme to evade compliance with the U.S. federal securities laws, elect to terminate the Transaction as of that second Scheduled Trading Day".

(v) Section 12(a) of the Agreement is hereby amended by (1) deleting the phrase "or email" in the third line thereof and (2) deleting the phrase "or that communication is delivered (or attempted) or received, as applicable, after the close of business on a Local Business Day" in the final clause thereof.

(k) *No Setoff*. Each party waives any and all rights it may have to set off obligations arising under the Agreement and the Transaction against other obligations between the parties, whether arising under any other agreement, applicable law or otherwise.

(l) *Alternative Calculations and Payment on Early Termination and on Certain Extraordinary Events*. If (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to the Transaction or (b) the Transaction is cancelled or terminated upon the occurrence of an Extraordinary Event (except as a result of (i) a Nationalization, Insolvency or Merger Event in which the consideration to be paid to holders of Shares consists solely of cash, (ii) an Announcement Event, Merger Event or Tender Offer that is within Counterparty's control, or (iii) an Event of Default in which Counterparty is the Defaulting Party or a Termination Event in which Counterparty is the Affected Party other than an Event of Default of the type described in Section 5(a)(iii), (v), (vi), (vii) or (viii) of the Agreement or a Termination Event of the type described in Section 5(b) of the Agreement, in each case that resulted from an event or events outside Counterparty's control), and if Dealer would owe any amount to Counterparty pursuant to Section 6(d)(ii) of the Agreement or any Cancellation Amount pursuant to Article 12 of the Equity Definitions (any such amount, a "**Payment Obligation**"), then Dealer shall satisfy the Payment Obligation by the Share Termination Alternative (as defined below), unless (a) Counterparty gives irrevocable telephonic notice to Dealer, confirmed in writing within one Scheduled Trading Day, no later than 12:00 p.m. (New York City time) on the date of the Announcement Event, Merger Date, Tender Offer Date, Announcement Date (in the case of a Nationalization, Insolvency or Delisting), Early Termination Date or date of cancellation, as applicable, of its election that the Share Termination Alternative shall not apply, (b) Counterparty remakes the representation set forth in Section 8(f) as of the date of such election and (c) Dealer agrees, in its commercially reasonable discretion, to such election, in which case the provisions of Section 12.7 or Section 12.9 of the Equity Definitions, or the provisions of Section 6(d)(ii) of the Agreement, as the case may be, shall apply.

Share Termination Alternative:	If applicable, Dealer shall deliver to Counterparty the Share Termination Delivery Property on, or within a commercially reasonable period of time after, the date when the relevant Payment Obligation would otherwise be due pursuant to Section 12.7 or 12.9 of the Equity Definitions or Section 6(d)(ii) and 6(e) of the Agreement, as applicable, in satisfaction of such Payment Obligation in the manner reasonably requested by Counterparty free of payment.
Share Termination Delivery Property:	A number of Share Termination Delivery Units, as calculated by the Calculation Agent, equal to the Payment Obligation divided by the Share Termination Unit Price. The Calculation Agent shall adjust the Share Termination Delivery Property by replacing any fractional portion of a security therein with an amount of cash equal to the value of such fractional security based on the values used to calculate the Share Termination Unit Price.
Share Termination Unit Price:	The value of property contained in one Share Termination Delivery Unit, as determined by the Calculation Agent in its discretion by commercially reasonable means and notified by the Calculation Agent to Dealer at the time of notification of the Payment Obligation. For the avoidance of doubt, the parties agree that in determining the Share Termination Delivery Unit Price the Calculation Agent may consider the purchase price paid in connection with the purchase of Share Termination Delivery Property.

Share Termination Delivery Unit:	One Share or, if the Shares have changed into cash or any other property or the right to receive cash or any other property as the result of a Nationalization, Insolvency or Merger Event (any such cash or other property, the "**Exchange Property**"), a unit consisting of the type and amount of such Exchange Property received by a holder of one Share (without consideration of any requirement to pay cash or other consideration in lieu of fractional amounts of any securities) in such Nationalization, Insolvency or Merger Event, as determined by the Calculation Agent.
Failure to Deliver:	Applicable
Other applicable provisions:	If Share Termination Alternative is applicable, the provisions of Sections 9.8, 9.9 and 9.11 (as modified above) of the Equity Definitions and the provisions set forth opposite the caption "Representation and Agreement" in Section 2 will be applicable, except that all references in such provisions to "Physically-settled" shall be read as references to "Share Termination Settled" and all references to "Shares" shall be read as references to "Share Termination Delivery Units". "Share Termination Settled" in relation to the Transaction means that Share Termination Alternative is applicable to the Transaction.

(m) *Waiver of Jury Trial*. Each party waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in respect of any suit, action or proceeding relating to the Transaction. Each party (i) certifies that no representative, agent or attorney of either party has represented, expressly or otherwise, that such other party would not, in the event of such a suit, action or proceeding, seek to enforce the foregoing waiver and (ii) acknowledges that it and the other party have been induced to enter into the Transaction, as applicable, by, among other things, the mutual waivers and certifications provided herein.

(n) *Registration.* Counterparty hereby agrees that if, in the good faith reasonable judgment of Dealer, based on advice of counsel, the Shares ("**Hedge Shares**") acquired by Dealer for the purpose of hedging its obligations pursuant to the Transaction cannot be sold in the public market by Dealer without registration under the Securities Act, Counterparty shall, at its election, either (i) in order to allow Dealer to sell the Hedge Shares in a registered offering, make available to Dealer an effective registration statement under the Securities Act and enter into an agreement, in form and substance reasonably satisfactory to Dealer, substantially in the form of an underwriting agreement for a registered secondary offering by an issuer of comparable size in the same or in a similar industry; *provided, however*, that if Dealer, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then clause (ii) or clause (iii) of this paragraph shall apply at the election of Counterparty, (ii) in order to allow Dealer to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement purchase agreements customary for private placements of equity securities by an issuer of comparable size in the same or in a similar industry, in form and substance reasonably satisfactory to Dealer (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its commercially reasonable judgment, to compensate Dealer for any discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement), or (iii) purchase the Hedge Shares from Dealer at the then-current market price on such Exchange Business Days, and in the amounts and at such time(s), requested by Dealer.

(o) *Tax Disclosure*. Effective from the date of commencement of discussions concerning the Transaction, Counterparty and each of its employees, representatives, or other agents may disclose to any and all persons, without limitation of any kind, the tax treatment and tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to Counterparty relating to such tax treatment and tax structure.

(p) *Right to Extend*. Dealer may postpone or add, in whole or in part, any Valid Day or Valid Days during the Settlement Averaging Period or any other date of valuation, payment or delivery by Dealer, with respect to some or all of the Options hereunder, if Dealer reasonably determines, in its commercially reasonable judgment (in the case of clause (i) below) or based on the advice of counsel (in the case of clause (ii) below), that such action is reasonably necessary or appropriate (i) to preserve Dealer's commercially reasonable hedging or hedge unwind activity hereunder in light of existing liquidity conditions or (ii) to enable Dealer to effect transactions with respect to Shares in connection with its commercially reasonable hedging, hedge unwind or settlement activity hereunder in a manner that would, if Dealer were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal, regulatory or self-regulatory requirements, or with related policies and procedures applicable to Dealer; *provided* that such policies and procedures have been adopted by Dealer in good faith and are generally applicable in similar situations and applied in a non-discriminatory manner; *provided, further* that no such Valid Day or any other date of valuation, payment or delivery may be postponed or added more than 75 Valid Days after the original Valid Day or any other date of valuation, payment or delivery, as the case may be.

(q) *Status of Claims in Bankruptcy*. Dealer acknowledges and agrees that this Confirmation is not intended to convey to Dealer rights against Counterparty with respect to the Transaction that are senior to the claims of common stockholders of Counterparty in any United States bankruptcy proceedings of Counterparty; *provided* that nothing herein shall limit or shall be deemed to limit Dealer's right to pursue remedies in the event of a breach by Counterparty of its obligations and agreements with respect to the Transaction; *provided, further* that nothing herein shall limit or shall be deemed to limit Dealer's rights in respect of any transactions other than the Transaction.

(r) *Securities Contract; Swap Agreement*. The parties hereto intend for (i) the Transaction to be a "securities contract" and a "swap agreement" as defined in the Bankruptcy Code, and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 546(e), 546(g), 555 and 560 of the Bankruptcy Code, (ii) a party's right to liquidate the Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right" as described in the Bankruptcy Code, and (iii) each payment and delivery of cash, securities or other property hereunder to constitute a "margin payment" or "settlement payment" and a "transfer" as defined in the Bankruptcy Code.

(s) *Notice of Certain Other Events*. Counterparty covenants and agrees that:

(i) Promptly as reasonably practicable following the public announcement of the results of any election by the holders of Shares with respect to the consideration due upon consummation of any Merger Event, Counterparty shall give Dealer written notice of the weighted average of the types and amounts of consideration received by holders of Shares upon consummation of such Merger Event (the date of such notification, the "**Consideration Notification Date**"); *provided* that in no event shall the Consideration Notification Date be later than the date on which such Merger Event is consummated; and

(ii) (A) Counterparty shall give Dealer commercially reasonable advance (but in no event less than one Exchange Business Day prior to the relevant Adjustment Notice Deadline) written notice of the section or sections of the Indenture and, if applicable, the formula therein, pursuant to which any adjustment will be made to the Convertible Notes in connection with any Potential Adjustment Event (other than a Potential Adjustment in respect of the Dilution Adjustment Provision set forth in Section 13.04(b) or Section 13.04(d) of the Indenture) or Merger Event and (B) promptly following any such adjustment (including any Potential Adjustment in respect of the Dilution Adjustment Provision set forth in Section 13.04(b) or Section 13.04(d) of the Indenture), Counterparty shall give Dealer written notice of the details of such adjustment. The "**Adjustment Notice Deadline**" means (i) for any Potential Adjustment in respect of the Dilution Adjustment Provision set forth in Section 13.04(a) of the Indenture, the relevant "Ex-Dividend Date" (as such term is defined in the Indenture) or "Effective Date" (as such term is defined in the Indenture), as the case may be, (ii) for any Potential Adjustment in respect of the Dilution Adjustment Provision in the first formula set forth in Section 13.04(c) of the Indenture, the first "Trading Day" (as such term is defined in the Indenture) of the period referred to in the definition of "SP_0" in such formula, (iii) for any Potential Adjustment in respect of the Dilution Adjustment Provision in the second formula set forth in Section 13.04(c) of the Indenture, the first "Trading Day" (as such term is defined in the Indenture) of the "Valuation Period" (as such term is defined in the Indenture), (iv) for any Potential Adjustment in respect of the Dilution Adjustment Provision set forth in Section 13.04(e) of the Indenture, the first "Trading Day" (as such term is defined in the Indenture) of the period referred to in the definition of "SP'" in the formula in such Section, and (v) for any Merger Event, the effective date of such Merger Event (or, if earlier, the first day of any valuation or similar period in respect of such Merger Event).

(t) *Wall Street Transparency and Accountability Act*. In connection with Section 739 of the Wall Street Transparency and Accountability Act of 2010 ("**WSTAA**"), the parties hereby agree that neither the enactment of WSTAA or any regulation under the WSTAA, nor any requirement under WSTAA or an amendment made by WSTAA, shall limit or otherwise impair either party's otherwise applicable rights to terminate, renegotiate, modify, amend or supplement this Confirmation or the Agreement, as applicable, arising from a termination event, force majeure, illegality, increased costs, regulatory change or similar event under this Confirmation, the Equity Definitions incorporated herein, or the Agreement (including, but not limited to, rights arising from Change in Law, Hedging Disruption, Increased Cost of Hedging, an Excess Ownership Position, or Illegality (as defined in the Agreement)).

(u) *Agreements and Acknowledgements Regarding Hedging*. Counterparty understands, acknowledges and agrees that: (A) at any time on and prior to the Expiration Date, Dealer and its affiliates may buy or sell Shares or other securities or buy or sell options or futures contracts or enter into swaps or other derivative securities in order to adjust its hedge position with respect to the Transaction; (B) Dealer and its affiliates also may be active in the market for Shares other than in connection with hedging activities in relation to the Transaction; (C) Dealer shall make its own determination as to whether, when or in what manner any hedging or market activities in securities of Issuer shall be conducted and shall do so in a manner that it deems appropriate to hedge its price and market risk with respect to the Relevant Prices; and (D) any market activities of Dealer and its affiliates with respect to Shares may affect the market price and volatility of Shares, as well as the Relevant Prices, each in a manner that may be adverse to Counterparty.

(v) *Early Unwind*. In the event the sale of the ["Firm Securities"][25]["Option Securities"][26] (as defined in the Purchase Agreement (the "**Purchase Agreement**") dated as of [__], 2023, between Counterparty and J.P. Morgan Securities LLC, as representative of the Initial Purchasers party thereto (the "**Initial Purchasers**")) is not consummated with the Initial Purchasers for any reason, or Counterparty fails to deliver to Dealer opinions of counsel as required pursuant to Section 9(a), in each case by 5:00 p.m. (New York City time) on the Premium Payment Date, or such later date as agreed upon by the parties (the Premium Payment Date or such later date the "**Early Unwind Date**"), the Transaction shall automatically terminate (the "**Early Unwind**"), on the Early Unwind Date and (i) the Transaction and all of the respective rights and obligations of Dealer and Counterparty under the Transaction shall be cancelled and terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with the Transaction either prior to or after the Early Unwind Date. Each of Dealer and Counterparty represents and acknowledges to the other that upon an Early Unwind, all obligations with respect to the Transaction shall be deemed fully and finally discharged.

25 Insert for Base Call Option Confirmation.
26 Insert for Additional Call Option Confirmation.

(w) *Payment by Counterparty*. In the event that, following payment of the Premium, (i) an Early Termination Date occurs or is designated with respect to the Transaction as a result of a Termination Event or an Event of Default (other than an Event of Default arising under Section 5(a)(ii) or 5(a)(iv) of the Agreement) and, as a result, Counterparty owes to Dealer an amount calculated under Section 6(e) of the Agreement, or (ii) Counterparty owes to Dealer, pursuant to Section 12.7 or Section 12.9 of the Equity Definitions, an amount calculated under Section 12.8 of the Equity Definitions, such amount shall be deemed to be zero.

(x) *Other Adjustments Pursuant to the Equity Definitions*. Notwithstanding anything to the contrary in this Confirmation, solely for the purpose of adjusting the Cap Price, the terms "Potential Adjustment Event," "Merger Event," and "Tender Offer" shall each have the meanings assigned to such term in the Equity Definitions (as amended by Section 9(j)(i) or, if applicable, by the definition of "Announcement Event", and provided that for purposes of the foregoing (1) Section 12.1(d) of the Equity Definitions shall be amended by (x) replacing "10%" with "25%" in the third line thereof and (y) replacing the words "voting shares of the Issuer" in the fourth line thereof with the word "Shares" and (2) Section 12.1(e) of the Equity Definitions is hereby amended by replacing the words "voting shares" in the first line thereof with the word "Shares"), and upon the occurrence of a Merger Date, the occurrence of a Tender Offer Date, or declaration by Counterparty of the terms of any Potential Adjustment Event, respectively, as such terms are defined in the Equity Definitions, the Calculation Agent shall determine whether such occurrence or declaration, as applicable, has had a material economic effect on the Transaction (including, among other terms, the Strike Price and Cap Price) and, if so, shall adjust the Cap Price as the Calculation Agent determines appropriate to account for the economic effect on the Transaction of such occurrence or declaration, as applicable; *provided* that in no event shall the Cap Price be less than the Strike Price. Solely for purposes of a Potential Adjustment Event under this Section 9(x), (i) "Extraordinary Dividend" means any cash dividend on the Shares other than a regular, quarterly cash dividend in an amount equal to the Regular Dividend, (ii) the parties agree that (x) open market Share repurchases at prevailing market prices and (y) Share repurchases through a dealer pursuant to accelerated share repurchases, forward contracts or similar transactions that are entered into at prevailing market prices and in accordance with customary market terms for transactions of such type to repurchase the Shares shall not be considered Potential Adjustment Events, in each case, to the extent that, after giving effect to such transactions, the aggregate number of Shares repurchased during the term of the Transaction pursuant to all transactions described in this sub-clause would not exceed 20% of the number of Shares outstanding as of the Trade Date, as determined by the Calculation Agent and (iii) in the case of Sections 11.2(e)(i), (ii)(A) and (iv) of the Equity Definitions, no adjustments will be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares but, for the avoidance of doubt, solely in the case of Sections 11.2(e)(ii)(B) through (D), (iii), (v), (vi) and (vii) of the Equity Definitions, adjustments shall be made to account solely for changes in volatility, expected dividends, stock loan rate or liquidity relative to the relevant Shares.

(y) *Dividends*. If at any time during the period from and including the Effective Date, to but excluding the Expiration Date, (i) an ex-dividend date for a regular quarterly cash dividend occurs with respect to the Shares (an "**Ex-Dividend Date**"), and that dividend is less than the Regular Dividend on a per Share basis, or (ii) no Ex-Dividend Date for a regular quarterly cash dividend occurs with respect to the Shares in any quarterly dividend period of Counterparty, then the Calculation Agent will adjust the Cap Price to account for the economic effect on the Transaction of such dividend or lack thereof. "**Regular Dividend**" shall mean USD 0.21 per Share per quarter. Upon any adjustment to the "Dividend Threshold" (as defined in the Indenture) for the Convertible Notes pursuant to the Indenture, the Calculation Agent will make a corresponding adjustment to the Regular Dividend for the Transaction.

(z) *[Insert preferred form of U.S. QFC Stay Rule language for each Dealer, if applicable*.]

(aa) *Tax Matters*.

(i) *Payee Tax Representations*. For the purpose of Section 3(f) of the Agreement, the parties make the following representations, as applicable:

(A) Counterparty is a corporation created or organized in the United States or under the laws of the United States. It is "exempt" within the meaning of Treasury Regulation section 1.6049-4(c) from information reporting on U.S. Internal Revenue Service Form 1099 and backup withholding.

(B) [Dealer is a national banking association organized and existing under the laws of the United States of America. It is "exempt" within the meaning of Treasury Regulation section 1.6049-4(c) from information reporting on U.S. Internal Revenue Service Form 1099 and backup withholding.]

(ii) *Tax Forms*. For the purpose of Section 4(a)(i) of the Agreement:

(A) Counterparty shall provide Dealer with a valid and duly executed U.S. Internal Revenue Service Form W-9, or any successor thereto, (i) on or before the date of execution of this Confirmation, (ii) promptly upon reasonable demand by Dealer and (iii) promptly upon learning that any such tax form previously provided by Counterparty has become obsolete or incorrect.

(B) [Dealer shall provide Counterparty with a valid and duly executed U.S. Internal Revenue Service Form W-9, or any successor thereto, (i) on or before the date of execution of this Confirmation, (ii) promptly upon reasonable demand by Dealer and (iii) promptly upon learning that any such tax form previously provided by Counterparty has become obsolete or incorrect.]

(iii) *Foreign Account Tax Compliance Ac*t. "Indemnifiable Tax", as defined in Section 14 of the Agreement, shall not include any U.S. federal withholding tax imposed or collected pursuant to Sections 1471 through 1474 of the Code, any current or future regulations or official interpretations thereof, any agreement entered into pursuant to Section 1471(b) of the Code, or any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement entered into in connection with the implementation of such Sections of the Code (a "**FATCA Withholding Tax**"). For the avoidance of doubt, a FATCA Withholding Tax is a Tax the deduction or withholding of which is required by applicable law for the purposes of Section 2(d) of the Agreement.

(iv) *Section 871(m) Protocol*. Dealer and Counterparty hereby agree that this Agreement shall be treated as a Covered Master Agreement (as that term is defined in the 2015 Section 871(m) Protocol published by the International Swaps and Derivatives Association, Inc. on November 2, 2015, as may be amended or modified from time to time (the "**2015 Section 871(m) Protocol**")) and this Agreement shall be deemed to have been amended in accordance with the modifications specified in the Attachment to the 2015 Section 871(m) Protocol. If there is any inconsistency between this provision and a provision in any other agreement executed between the parties, this provision shall prevail unless such other agreement expressly overrides the provisions of the 871(m) Protocol.

(bb) [*Insert additional Dealer boilerplate, if applicable*.]

[*Signature Pages Follow*.]

Please confirm that the foregoing correctly sets forth the terms of our agreement by executing this Confirmation and returning it to [Dealer].

Very truly yours,

[**Dealer**]

By: _____
Name:
Title:

[*Signature Page to [Base][Additional] Capped Call Cofnirmation*]

Accepted and confirmed
as of the Trade Date:

BREAD FINANCIAL HOLDINGS, INC.

By: _____
Name:
Title:

[*Signature Page to [Base][Additional] Capped Call Cofnirmation*]

Exhibit 99.2

bread financial.

BREAD FINANCIAL ANNOUNCES PRICING OF PRIVATE OFFERING OF $275 MILLION OF NEW CONVERTIBLE SENIOR NOTES

Columbus, Ohio, June 8, 2023 – Bread Financial Holdings, Inc. (NYSE: BFH) ("Bread Financial" or the "Company") announced today the pricing of its private offering of $275 million in aggregate principal amount of its 4.25% convertible senior notes due 2028 (the "Convertible Notes") in a private placement (the "Offering") to eligible purchasers under Rule 144A of the Securities Act of 1933, as amended (the "Securities Act"). In connection with the Offering, if the initial purchasers sell more than $275 million principal amount of Convertible Notes, the Company has granted the initial purchasers the right to purchase, for settlement within a 13-day period beginning on, and including, the date the Convertible Notes are first issued, up to an additional $41.25 million aggregate principal amount of Convertible Notes. The sale of the Convertible Notes is expected to close on or about June 13, 2023, subject to customary closing conditions, and is expected to result in approximately $265.5 million in net proceeds to the Company, after deducting the initial purchasers' discount and estimated offering expenses payable by the Company (assuming no exercise of the initial purchasers' option) but before deducting the cost of the capped call transactions referred to below.

The Company intends to use $34.1 million of the net proceeds from the Offering to fund the cost of entering into the capped call transactions described below and intends to use the remainder of such net proceeds in connection with the refinancing of the Company's existing credit agreement.

If the initial purchasers exercise their option to purchase additional Convertible Notes, the Company expects to use a portion of the additional net proceeds to fund the cost of entering into additional capped call transactions described below and the remaining net proceeds to further repay in part the outstanding loans under the Company's existing credit agreement.

The Convertible Notes will be senior, unsecured obligations of the Company, and accrue interest at a rate of 4.25% per annum, payable semi-annually in arrears on June 15 and December 15 of each year, beginning on December 15, 2023. The Convertible Notes will mature on June 15, 2028 unless repurchased, redeemed or converted in accordance with their terms prior to such date.

The initial conversion rate for the Convertible Notes is 26.0247 shares of the Company's common stock per $1,000 principal amount of Convertible Notes (which is equivalent to an initial conversion price of approximately $38.43 per share, which represents a premium of approximately 25.0% over the last reported sale price per share of the Company's common stock on June 8, 2023). Prior to the close of business on the business day immediately preceding March 15, 2028, the Convertible Notes will be convertible only upon satisfaction of certain conditions and during certain periods; thereafter, the Convertible Notes will be convertible at any time until the close of business on the second scheduled trading day immediately preceding the maturity date. The Company will settle conversions by paying cash up to the aggregate principal amount of the Convertible Notes to be converted and paying or delivering, as the case may be, cash, shares of the Company's common stock or a combination of cash and shares of the Company's common stock, at the Company's election, in respect of the remainder, if any, of the Company's conversion obligation in excess of the aggregate principal amount of the Convertible Notes being converted, based on the then applicable conversion rate. The Convertible Notes will be guaranteed, on a full, joint and several basis, by each of the Company's domestic subsidiaries that guarantees the Company's obligations under its existing senior notes and its senior credit facilities.

Holders of the Convertible Notes will have the right to require the Company to repurchase all or a portion of their Convertible Notes at 100% of their principal amount, plus any accrued and unpaid interest, upon the occurrence of certain corporate events constituting a "fundamental change" as defined in the indenture governing the Convertible Notes. The Company may not redeem the Convertible Notes prior to June 21, 2026. The Company may redeem for cash all or any portion of the Convertible Notes, at its option, on a redemption date occurring on or after June 21, 2026 and before the 51st scheduled trading day before the maturity date, but only if the last reported sale price of the Company's common stock has been at least 130% of the conversion price then in effect for a specified period of time. The redemption price will equal 100% of the principal amount of the Convertible Notes to be redeemed, plus any accrued and unpaid interest to, but excluding, the redemption date.

In connection with the pricing of the Convertible Notes, the Company entered into privately negotiated capped call transactions with certain of the initial purchasers or their affiliates and other financial institutions (the “option counterparties”). The capped call transactions are expected to initially cover, subject to anti-dilution adjustments substantially similar to those applicable to the Convertible Notes, the number of shares of the Company's common stock underlying the Convertible Notes. If the initial purchasers exercise their option to purchase additional Convertible Notes, the Company expects to enter into additional capped call transactions with the option counterparties.

The capped call transactions are expected generally to reduce the potential dilution to the Company's common stock upon any conversion of the Convertible Notes and/or offset any potential cash payments the Company is required to make in excess of the principal amount of converted notes, as the case may be. If, however, the market price per share of the Company's common stock, as measured under the terms of the capped call transactions, exceeds the cap price of the capped call transactions, there would nevertheless be dilution and/or there would not be an offset of such potential cash payments, in each case, to the extent that such market price exceeds the cap price of the capped call transactions. The cap price of the capped call transactions will initially be $61.48 per share, which represents a premium of 100% over the last reported sale price per share of the Company’s common stock on June 8, 2023, and is subject to customary adjustments under the terms of the capped call transactions.

In connection with establishing their initial hedges of the capped call transactions, the option counterparties or their respective affiliates expect to enter into various derivative transactions with respect to the Company’s common stock and/or purchase shares of the Company’s common stock concurrently with or shortly after the pricing of the Convertible Notes. This activity could increase (or reduce the size of any decrease in) the market price of the Company’s common stock or the Convertible Notes at that time.

In addition, the option counterparties or their respective affiliates may modify their hedge positions by entering into or unwinding various derivatives with respect to the Company’s common stock and/or purchasing or selling shares of the Company’s common stock or other securities of the Company in secondary market transactions following the pricing of the Convertible Notes and prior to the maturity of the Convertible Notes (and (x) are likely to do so during any conversion reference period related to a conversion of the Convertible Notes, following any redemption of the Convertible Notes by the Company, or following any repurchase of the Convertible Notes by the Company in connection with any fundamental change and (y) are likely to do so following any repurchase of the Convertible Notes by the Company other than in connection with any such redemption or any fundamental change if the Company elects to unwind a corresponding portion of the capped call transactions in connection with such repurchase). This activity could also cause or avoid an increase or decrease in the market price of the Company's common stock or the Convertible Notes, which could affect the holders’ ability to convert the Convertible Notes and, to the extent the activity occurs following conversion or during any conversion reference period related to a conversion of the Convertible Notes, it could affect the amount and value of the consideration that holders will receive upon conversion of the Convertible Notes.

The Convertible Notes were offered through a private placement, and the offer and sale of the Convertible Notes, the guarantees and the shares of the Company's common stock, if any, issuable upon conversion of the Convertible Notes will not be registered under the Securities Act or any state securities law. The Convertible Notes and the shares of the Company's common stock, if any, issuable upon conversion of the Convertible Notes may not be offered or sold in the United States absent registration or an applicable exemption from registration under the Securities Act and applicable state securities laws. Accordingly, the Convertible Notes were offered only to persons reasonably believed to be "qualified institutional buyers" under Rule 144A of the Securities Act.

This news release shall not constitute an offer to sell or the solicitation of an offer to sell or the solicitation of an offer to buy any securities, nor shall there be any sale of securities in any jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction. This news release shall not constitute an offer to purchase, or a redemption notice for, any of the Company's outstanding 4.750% Senior Notes due 2024.

About Bread Financial™

Bread Financial™ (NYSE: BFH) is a tech-forward financial services company providing simple, personalized payment, lending and saving solutions. The company creates opportunities for its customers and partners through digitally enabled choices that offer ease, empowerment, financial flexibility and exceptional customer experiences. Driven by a digital-first approach, data insights and white-label technology, Bread Financial delivers growth for its partners through a comprehensive product suite, including private label and co-brand credit cards, installment lending, and buy now, pay later (BNPL). Bread Financial also offers direct-to-consumer solutions that give customers more access, choice and freedom through its branded **Bread Cashback™ American Express® Credit Card** and **Bread Savings™** products.

Headquartered in Columbus, Ohio, Bread Financial is powered by its 7,500+ global associates and is committed to sustainable business practices.

Forward-looking Statements

This news release contains forward-looking statements, including, but not limited to, statements related to the proposed refinancing transactions, the Convertible Notes offering and the capped call transactions. Forward-looking statements may otherwise generally be identified by the use of the words such as "believe," "expect," "anticipate," "estimate," "intend," "project," "plan," "likely," "may," "should" or other words or phrases of similar import. Similarly, statements that describe our business strategy, outlook, objectives, plans, intentions or goals also are forward-looking statements. Examples of forward-looking statements include, but are not limited to, statements we make regarding, and the guidance we give with respect to, our anticipated operating or financial results, future financial performance and outlook, future dividend declarations, and future economic conditions.

We believe that our expectations are based on reasonable assumptions. Forward-looking statements, however, are subject to a number of risks and uncertainties that are difficult to predict and, in many cases, beyond our control. Accordingly, our actual results could differ materially from the projections, anticipated results or other expectations expressed in this release, and no assurances can be given that our expectations will prove to have been correct. Factors that could cause the outcomes to differ materially include, but are not limited to, the following: macroeconomic conditions, including market conditions, inflation, rising interest rates, unemployment levels and the increased probability of a recession, and the related impact on consumer payment rates, savings rates and other behavior; global political and public health events and conditions, including the ongoing war in Ukraine and the continuing effects of the global COVID-19 pandemic; future credit performance, including the level of future delinquency and write-off rates; the loss of, or reduction in demand from, significant brand partners or customers in the highly competitive markets in which we compete; the concentration of our business in U.S. consumer credit; inaccuracies in the models and estimates on which we rely, including the amount of our allowance for credit losses and our credit risk management models; the inability to realize the intended benefits of acquisitions, dispositions and other strategic initiatives; our level of indebtedness and ability to access financial or capital markets; pending and future legislation, regulation, supervisory guidance, and regulatory and legal actions, including, but not limited to, those related to financial regulatory reform and consumer financial services practices, as well as any such actions with respect to late fees, interchange fees or other charges; impacts arising from or relating to the transition of our credit card processing services to third party service providers that we completed in 2022; failures or breaches in our operational or security systems, including as a result of cyberattacks, unanticipated impacts from technology modernization projects or otherwise; and any tax liability, disputes or other adverse impacts arising out of or relating to the spinoff of our former LoyaltyOne segment or the recent bankruptcy filings of Loyalty Ventures Inc. and certain of its subsidiaries. The foregoing factors, along with other risks and uncertainties that could cause actual results to differ materially from those expressed or implied in forward-looking statements, are described in greater detail under the headings “Risk Factors” and “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in our Annual Report on Form 10-K for the most recently ended fiscal year, which may be updated in Item 1A of, or elsewhere in, our Quarterly Reports on Form 10-Q filed for periods subsequent to such Form 10-K. Our forward-looking statements speak only as of the date made, and we undertake no obligation, other than as required by applicable law, to update or revise any forward-looking statements, whether as a result of new information, subsequent events, anticipated or unanticipated circumstances or otherwise.

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